

# Moving From Condemnation to Action

## *The Case for the European Union to Impose Restrictive Measures on Serious Human Rights Abusers in the Maldives*

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## I. EXECUTIVE SUMMARY

The Maldives, a nation that comprises nearly 1,200 small islands<sup>2</sup> in the middle of the Indian Ocean well-known for its white sand beaches and beautiful blue seas, is in turmoil under President Abdulla Yameen and his repressive regime. Officials from the European Union (E.U.) have publicly criticized Yameen's government and its widespread human rights abuses, but further action is required, as Yameen remains intransigent even in the face of global condemnation.

This report recommends the **Council of the European Union adopt a Council decision and regulation imposing human rights-based sanctions in response to the crisis in the Maldives, including targeted asset freezes and travel bans**, for those implicated in major human rights abuses in the Maldives.

The Maldives has long been one of Asia's poorest nations, and was ranked 105 out of 188 countries on the Human Development Index in 2015, as published by the United Nations Development Programme.<sup>3</sup> But poverty is far from the only concern for the more than 390,000 people<sup>4</sup> who reside in the Maldives. In 2008, the country held its first democratic elections, in which Mohamed Nasheed, a longtime champion of human rights, defeated President Maumoon Gayoom, ending his 30-years in office. Unfortunately, the respite was short-lived, as President Nasheed was pushed out of office in a coup in 2012. In a subsequent election marred by numerous irregularities and interference by the Maldivian Supreme Court, former President Gayoom's half-brother Abdulla Yameen ultimately prevailed over President Nasheed. Yameen remains in power today.

The past four years under Yameen's rule have been marked by an increasingly broad range of human rights abuses, including arbitrary arrest and detention, torture, enforced disappearance, harassment, and intimidation of human rights defenders, dissidents, and others critical of the regime.<sup>5</sup> The political opposition and civil society groups face an environment of perpetual fear.<sup>6</sup> Yameen and his allies are able to perpetuate their widespread assault on liberty and security, unfettered by domestic law in light of Yameen's interference in and control over the legislature and judiciary, which has resulted in impunity for human rights abusers who align themselves with Yameen.<sup>7</sup>

Over the past two weeks, the situation has rapidly escalated, necessitating urgent action. On 1 February 2018, in a dramatic reversal of its previous support facilitating Yameen's repression, the Supreme Court of the Maldives issued a decision that ordered the

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<sup>2</sup> *Maldives*, THE WORLD FACTBOOK, last update Jan. 3, 2018, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/mv.html> [hereinafter *Maldives World Factbook*].

<sup>3</sup> *Human Development Report 2015*, UN DEVELOPMENT PROGRAMME, 2015, available at <http://hdr.undp.org/en/composite/HDI>.

<sup>4</sup> *Maldives World Factbook*, supra note 2.

<sup>5</sup> *Maldives: State of Emergency an Alarming Development in Continuing Crackdown on Human Rights*, AMNESTY INT'L, Nov. 4, 2015, available at <http://www.amnestyusa.org/news/press-releases/maldives-state-of-emergency-an-alarming-development-in-continuing-crackdown-on-human-rights>.

<sup>6</sup> *Amnesty Says Human Rights in Maldives Deteriorating*, AL JAZEERA, Apr. 23, 2015, available at <http://www.aljazeera.com/news/2015/04/amnesty-human-rights-maldives-deteriorating-150423141730292.html>.

<sup>7</sup> Ahmed Naish, *President Warns Maldivians to Be Wary of 'Traitorous Plotters'*, MALDIVES INDEPENDENT, Nov. 3, 2015, available at <http://maldivesindependent.com/politics/president-warns-maldivians-to-be-wary-of-traitorous-plotters-119298>.

reversal of the convictions of nine political prisoners, including Nasheed, and the reinstatement of 12 Members of Parliament who had previously been declared by the Maldives Election Commission as stripped of their seats for having tried to join the opposition.<sup>8</sup> In response, Attorney General Mohamed Anil, Chief of Defense General Ahmed Shiyam, and Commissioner of Police Abdulla Nawaz added that if the Supreme Court declared Yameen removed from office they would advise the military and police not to enforce such an order.<sup>9</sup> Two of the 12 MPs, Abdulla Sinan and Ilham Ahmed, were arrested after flying back to the Maldives after months in exile.<sup>10</sup> In addition, the police announced they were investigating the Chief Justice and another Justice of the Supreme Court on allegations of bribery.<sup>11</sup>

Furthermore, on 5 February Yameen announced a state of emergency for 15 days,<sup>12</sup> effectively declaring *de facto* martial law.<sup>13</sup> The state security forces have assumed extraordinary powers and are being used to intimidate remaining justices on the Supreme Court bench. Within hours of the declaration of a state of emergency, two justices of the Supreme Court, the chief judicial administrator, and former president Maumoon Abdul Gayoom (1978–2008) were arrested and taken into police custody.<sup>14</sup> On 6 February, President Yameen claimed that he had faced down a “coup” and that the imposition of a state of emergency was necessary to “determine how deep this plot, this coup, goes.”<sup>15</sup> That same day, the remaining three justices of the Supreme Court reversed the order to release political prisoners.<sup>16</sup> On 7 February, the police accused Gayoom of playing a key role in the alleged coup, with the police claiming that Gayoom had bribed lawmakers and judges in a plot to overthrow the Government.<sup>17</sup> The two jailed justices, the chief judicial administrator, Gayoom’s son Faris Maumoon, and a number of others have since been accused of participating in the alleged coup, with police reporting that they discovered millions of US dollars and Maldivian rufiyaa in bribes connecting several of the arrested individuals.<sup>18</sup> Additionally, while the Maldives government has claimed that it is “open” to visits by foreign

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<sup>8</sup> *Order*, SUPREME COURT OF THE MALDIVES, No. 2018/SC-SJ/01, Feb. 1, 2018 [hereinafter *Supreme Court Order of Feb. 1, 2018*].

<sup>9</sup> *Maldives Orders Army to Resist Any Supreme Court Impeachment Order*, BBC, Feb. 4, 2018, available at <http://www.bbc.com/news/world-asia-42938139>.

<sup>10</sup> *MP Ilham, MP Sinan Arrested Upon Arrival*, VNEWS, Feb. 4, 2018, available at <http://www.vnews.mv/95122>.

<sup>11</sup> *No Obstacle to Enforcing Order: Supreme Court*, MALDIVES INDEPENDENT, Feb. 4, 2018, available at <http://maldivesindependent.com/politics/live-blog-mps-arrested-as-maldives-crisis-escalates-135623>.

<sup>12</sup> *State of Emergency Declared in Maldives*, CNN, Feb. 6, 2018, available at <https://www.cnn.com/2018/02/05/asia/maldives-state-emergency/index.html>.

<sup>13</sup> Shubhajit Roy, *Maldives Crisis: Ex-President Nasheed Seeks India's Help*, THE INDIAN EXPRESS, Feb. 7, 2018, available at <http://indianexpress.com/article/world/maldives-crisis-ex-president-nasheed-seeks-indias-help-abdulla-yameen-5053917/>

<sup>14</sup> *Opposition Leader Gayoom Arrested in Maldives*, AP, Feb. 6, 2018, available at <http://abcnews.go.com/International/wireStory/latest-maldives-government-declares-state-emergency-52848216> and *Maldives Rejects Meeting with European Diplomats*, NEW KERALA, Feb. 11, 2018, available at <https://www.newkerala.com/news/fullnews-326836.html>.

<sup>15</sup> *Maldives Leader Says Supreme Court Order Was a Coup*, LOS ANGELES TIMES, Feb. 6, 2018, available at <http://www.latimes.com/world/la-fg-maldives-state-of-emergency-20180206-story.html>.

<sup>16</sup> *Maldives Supreme Court Does U-Turn After Arrests*, BBC, Feb. 7, 2018, available at <http://www.bbc.com/news/world-asia-42965723>.

<sup>17</sup> Visham Mohamed, *Govt Invites Int'l Partners to Visit 'Safe' Maldives*, AVAS ONLINE, Feb. 8, 2018, available at <https://avas.mv/en/44468>.

<sup>18</sup> Visham Mohamed, *Maldives Police 'Uncover' New 'Evidence' in Alleged Coup Plot!*, AVAS ONLINE, Feb. 12, 2018, available at <https://avas.mv/en/44648>.

observers, Yameen has refused to meet with EU diplomats.<sup>19</sup> Police are cracking down on mass demonstrations of protestors calling for the release of political prisoners, prompting countries worldwide to issue travel warnings.<sup>20</sup> These actions have eviscerated the Constitution of the Maldives and should trigger a swift and forceful response from the international community.

The E.U. as a whole and Member States individually have publicly voiced numerous concerns regarding the human rights abuses carried out by the Maldivian government in recent years. But the E.U.'s condemnation of Yameen and his regime's ongoing human rights abuses – while exceptionally valuable – will only bring about the necessary result if accompanied by concrete action that carries real consequences for the top perpetrators of human rights abuses. In this particular case, the imposition of targeted human rights-based sanctions and travel bans, beginning on those mentioned above, would have a significant, direct, and material impact on senior Maldivian government officials and their allies perpetrating human rights abuses and would consequently improve the overall crisis.

In many other instances, the E.U. has refused to tolerate a foreign government carrying out repression and human rights abuses in a manner similar to the actions of the current regime in the Maldives. In those similar situations, the E.U. imposed targeted sanctions – action that unequivocally demonstrated that the E.U. would not stand idly by when liberty and democracy were threatened. Asset freezes and travel bans have proven to be effective in bringing about change in repressive governments, as well as in securing the human rights protection and long-term safety of those governed by such regimes.

As illustrated in-depth below, targeted sanction regimes have been imposed in Belarus, Burundi, Venezuela, and Zimbabwe. Like in the Maldives, people in those countries live in fear of their government, state security forces, and state intelligence agencies. This repressive regime wreaks havoc on the human-rights situation and fragile state of democracy in the Maldives, resulting in the deterioration of domestic stability and safety. In addition, the Maldives sits at a critical geostrategic location between East-West trade routes and is now strongly aligned with China. And, as noted by the European Parliament,<sup>21</sup> Yameen has failed to act in stopping the spread of Islamic radicalization; as a result, more than 200 Maldivians have traveled to Syria to fight for ISIS,<sup>22</sup> the greatest per capita of any country outside the Middle East.

The overall crisis in the Maldives poses a grave threat to regional security and compels the E.U. to take concrete action. Imposing sanctions would send an unmistakably clear message. It will embolden courageous human rights defenders, serve as an important

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<sup>19</sup> *Maldives Rejects Meeting with European Diplomats*, NEW KERALA, Feb. 11, 2018, available at <https://www.newkerala.com/news/fullnews-326836.html>.

<sup>20</sup> Hugh Morris, *Trouble in Paradise: Is It Safe to Visit the Maldives, the Idyllic Country with a Dark Side?*, THE TELEGRAM, Feb. 6, 2018, available at <http://www.telegraph.co.uk/travel/destinations/indian-ocean/articles/maldives-travel-advice-state-of-emergency-is-it-safe/>.

<sup>21</sup> *Resolution on the Situation in the Maldives*, EUROPEAN PARLIAMENT, P8\_TA(2015)0180, adopted Apr. 30, 2015, at K [hereinafter *European Parliament April 2015 Resolution on the Maldives*]; *Resolution on the Situation in the Maldives*, EUROPEAN PARLIAMENT, P8\_TA(2015)0464, adopted Dec. 17, 2015, at J [hereinafter *European Parliament December 2015 Resolution on the Maldives*]; and *Resolution on the Situation in the Maldives*, EUROPEAN PARLIAMENT, P8\_TA(2017)0383, adopted Oct. 5, 2017, at O [hereinafter *European Parliament October 2017 Resolution on the Maldives*].

<sup>22</sup> Orlando Crowcroft, *Inside the Battle for the Heart and Soul of the Maldives*, NEWSWEEK, Nov. 30, 2017, available at <http://www.newsweek.com/maldives-mohamed-nasheed-isis-tourism-723402>.

warning and deterrent against human rights abuses to others not yet on the sanctions list, and encourage other governments to impose sanctions of their own.

## II. HUMAN RIGHTS ABUSES IN THE MALDIVES

The Maldives is a party to the International Covenant on Civil and Political Rights (ICCPR), and must therefore abide by all its provisions.<sup>23</sup> In addition, the rights provided for in the ICCPR are binding on the Government because the 2008 Maldivian Constitution explicitly states that international treaties to which it is a party must be considered in applying rights and freedoms in the country:

When interpreting and applying the rights and freedoms contained within this Chapter, a court or tribunal shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom, and shall consider international treaties to which the Maldives is a party.<sup>24</sup>

The Maldives is also party to other international human rights conventions, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).<sup>25</sup> The Maldives has signed, but not yet ratified, the Convention for the Protection of All Persons from Enforced Disappearance.<sup>26</sup>

Yet despite these international and domestic obligations, during President Yameen's four years in office, the Maldives has regressed politically. Enforced disappearances, arbitrary arrests and detentions, state-sanctioned torture, and widespread intimidation and censorship have significantly increased.<sup>27</sup>

### A. Enforced Disappearances

Enforced disappearance is "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."<sup>28</sup>

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<sup>23</sup> *International Covenant on Civil and Political Rights*, GA Res 2200A (XXI), 21 U.N. GAOR Supp. (No. 16), UN Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, at art. 9(1) [hereinafter *ICCPR*]. See also *United Nations Treaty Status: ICCPR*, U.N. TREATY COLLECTION, available at [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREA TY&mtdsg\\_no=IV-4&chapter=4&lang=en#EndDec](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREA TY&mtdsg_no=IV-4&chapter=4&lang=en#EndDec) (noting that the Maldives acceded to the treaty on Sept. 19, 2006).

<sup>24</sup> CONSTITUTION OF THE REPUBLIC OF MALDIVES (2008), Art. 68, available at <http://www.majlis.gov.mv/en/wp-content/uploads/Constitution-english.pdf> (functional translation) (emphasis added).

<sup>25</sup> *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res. 39/46, UN GAOR 39<sup>th</sup> Sess., 1465 U.N.T.S. 85 entered into force Dec. 10, 1984.

<sup>26</sup> *International Convention for the Protection of All Persons from Enforced Disappearance*, G.A. Res. 61/77, UN GAOR 61st Sess., U.N. Doc. A/Res/61/77 (2006), 2716 U.N.T.S. 3, entered into force Dec. 23, 2010.

<sup>27</sup> Jake Flanagan, *The Maldives Is a Tropical Human-Rights Hell*, QUARTZ, Apr. 2, 2015, available at <http://qz.com/374617/the-maldives-are-a-tropical-human-rights-hell/>.

<sup>28</sup> *International Convention for the Protection of All Persons from Enforced Disappearance*, *supra* note 26, at Art. 2.

Enforced disappearances have been used to instill fear among critics of Yameen's administration. Individuals are routinely arrested, detained, or abducted by state authorities or their agents and held unlawfully, and the Government either officially denies or simply refuses to acknowledge the arrest and detention. Communication with the outside world is denied, leaving detainees without any legal protection.

The most well-known example of enforced disappearance in the Maldives is that of Ahmed Rilwan Abdulla, a *Minivan News* (newly renamed as the Maldives Independent) reporter known for his articles covering gang attacks on reporters and bloggers, migrant workers' rights, corruption, and religious fundamentalism. He was disappeared by the Maldivian government in 2014, and remains missing today.

In August 2014, Rilwan was last seen being forced at knifepoint into a vehicle parked outside his apartment in the middle of the night.<sup>29</sup> His family believes that his abduction and disappearance were a direct response to his writings about politics and Islamic extremism.<sup>30</sup>

The international community swiftly condemned the enforced disappearance. A Spokesperson for the U.N. High Commissioner for Human Rights immediately commented on Rilwan's case, and noted it was a particularly worrying sign "given that 15 journalists [had] reported receiving death threats through anonymous text messages just in the first week of August [2014]."<sup>31</sup> Amnesty International called for intensified efforts to hold those responsible for Rilwan's disappearance to account.<sup>32</sup> And Reporters Without Borders referred Rilwan's case to the U.N. Working Group on Enforced or Involuntary Disappearances in August 2015.<sup>33</sup>

While Maldives police have claimed that the investigation into Rilwan's disappearance is "a highly prioritised case,"<sup>34</sup> it is clear that the Government's response has been inadequate at best. In the months following Rilwan's disappearance, an online petition with 5,500 signatures calling for a thorough investigation was rejected by the Maldivian Parliament, and Yameen has been notably silent on Rilwan's disappearance.<sup>35</sup> One of the lead suspects, who was caught on camera following Rilwan, was released from police custody in November 2014 and is believed to have escaped to Syria, where he is thought to

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<sup>29</sup> Andrew Buncombe, *Ahmed Rilwan's Disappearance Is a Perfect Illustration of the Maldives' Ongoing Troubles*, THE INDEPENDENT, Sept. 9, 2014, available at <http://www.independent.co.uk/voices/comment/ahmed-rilwans-disappearance-is-a-perfect-illustration-of-the-maldives-ongoing-troubles-9721718.html>.

<sup>30</sup> *Id.*

<sup>31</sup> *Press Briefing Notes on Thailand and Maldives*, SPOKESPERSON FOR THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS, Aug. 19, 2014, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14954&LangID=E>.

<sup>32</sup> *Maldives: Bring to Justice Those Behind Abductions, Death Threats and Violence*, AMNESTY INT'L, Oct. 17, 2014, available at <https://www.amnesty.org/en/documents/asa29/002/2014/en/>.

<sup>33</sup> Zaheena Rasheed, *RSF Refers Case of Missing Maldives Journalist to UN*, MALDIVES INDEPENDENT, Aug. 31, 2015, available at <http://maldivesindependent.com/politics/rsf-refers-case-of-missing-maldives-journalist-to-un-116898>.

<sup>34</sup> *Ahmed Rilwan's Disappearance Is a Perfect Illustration*, *supra* note 29.

<sup>35</sup> *A Year Ago Today, Our Brother, Friend and Fellow Reporter Disappeared*, MALDIVES INDEPENDENT, Aug. 8, 2015, available at <http://maldivesindependent.com/feature-comment/a-year-ago-today-our-brother-friend-and-fellow-reporter-disappeared-116219>.

have died.<sup>36</sup> And it wasn't until April 2016 that police finally confirmed that Rilwan had in fact been abducted.<sup>37</sup>

In September 2016, the family's accusations were substantiated when *Stealing Paradise*, a documentary produced by *Al Jazeera*'s award-winning investigative unit, revealed evidence suggesting that Yameen had impeded the investigation into Rilwan's disappearance.<sup>38</sup> In December 2016, after repeatedly being told merely that the investigation is "ongoing," Rilwan's family took legal action against the police by filing a right to information request.<sup>39</sup>

## **B. Arbitrary Arrest and Detention**

International law prohibits the arbitrary arrest and detention of all persons. Specifically, the ICCPR prohibits the unlawful deprivation of an individual's liberty except "on such grounds and in accordance with such procedure as are established by law."<sup>40</sup> The ICCPR outlines additional rights related to freedom from arbitrary arrest and detention, including that an individual must be informed of the reasons for arrest when it occurs and of any charges; that the individual is entitled to challenge the deprivation of liberty in judicial proceedings; and that the individual is entitled to compensation where the deprivation of liberty was unlawful.<sup>41</sup>

The most notable case of arbitrary detention in the Maldives is that of former President Mohamed Nasheed, the country's first democratically-elected president. However, Nasheed's case is sadly consistent with the reality of an estimated 1,700 other activists, politicians, and students also facing arrest, detention, or charges based on politically-motivated grounds in the Maldives.<sup>42</sup> In fact, as illustrated below, nearly all of President Yameen's political rivals are behind bars, awaiting conviction, or in exile abroad despite the Supreme Court's order of 1 February 2018. Yameen has proven that he does not need evidence to obtain a conviction in the courts or favorable action in the Parliament. Nor does his administration merely target the most outspoken members of the opposition. Anyone perceived to be a threat to Yameen's power is at risk of targeted arrest. The persecution and prosecution of these political leaders, both high profile and less prominent, are indicative of the erosion of human rights and due process in the Maldives under Yameen's rule.

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<sup>36</sup> Zaheena Rasheed, *Rilwan Was Abducted, Confirms Police*, MALDIVES INDEPENDENT, Apr. 2, 2016, available at <http://maldivesindependent.com/crime-2/rilwan-was-abducted-after-hostile-surveillance-police-confirm-123185/comment-page-1>.

<sup>37</sup> *Id.*

<sup>38</sup> *Stealing Paradise*, AL JAZEERA, Sept. 2016, available at <http://www.aljazeera.com/investigations/stealing-paradise/>. See also Mohamed Visham, *Maldives Pres Impeded Probe Into Missing Journalist: Al Jazeera Expose*, MIHAARU, Sept. 7, 2016, available at <http://en.mihaaru.com/maldives-pres-impeded-probe-into-missing-journalist-jazeera-expose/>.

<sup>39</sup> Mohamed Junayd, *Rilwan's Family Goes to Court for Truth Behind Disappearance*, MALDIVES INDEPENDENT, Feb. 7, 2017, available at <http://maldivesindependent.com/politics/rilwans-family-goes-to-court-for-truth-behind-disappearance-128653>.

<sup>40</sup> ICCPR, *supra* note 23, at Art. 9.

<sup>41</sup> *Id.*, at Arts. 9, 14.

<sup>42</sup> *Government Must Deliver on Its Side of Talks Bargain*, MALDIVIAN DEMOCRATIC PARTY, July 24, 2015, available at <http://mdp.org.mv/archives/70453>.



*Former President Mohamed Nasheed*

President Nasheed was charged, arrested, tried, convicted, and sentenced for “terrorism” in the span of three weeks in February–March 2015. The charges related to the 2012 arrest and detention of a judge by the Maldives military. Amnesty International described Nasheed’s trial as a “deeply flawed and politically motivated trial [that] is a travesty of justice.”<sup>43</sup> In 2015, the U.N. Working Group on Arbitrary Detention found Nasheed was being held in violation of international law, and emphasized that it was “clearly impossible to invoke any legal basis justifying the deprivation of liberty of Mr. Nasheed.”<sup>44</sup> The Maldivian government engaged fully with the Working Group as it reviewed the case.<sup>45</sup>

In January 2016, the Government agreed to President Nasheed’s temporary release so he could travel to receive medical treatment in the U.K.<sup>46</sup> He remains in exile in the U.K., where he was granted asylum.<sup>47</sup>

In March 2017, new terrorism charges were leveled against Nasheed,<sup>48</sup> just days after he reached a political agreement with other prominent opposition leaders, including former President Maumoon Abdul Gayoom, to unite against current President Yameen’s increasingly authoritarian leadership and restore democracy in the Maldives.<sup>49</sup>

On 16 July 2017, former Vice President Ahmed Adeb, who served in Yameen’s administration, issued a statement unequivocally admitting that Nasheed’s imprisonment was “masterminded under direct Government scheming and influence . . . in order to stop [Nasheed] leading a political campaign.”<sup>50</sup> Adeb went on to say “I have before me evidence to prove that the judgement passed on Mr. Nasheed was meted out under heavy manipulation conducted against the presiding judges and on the judiciary as a whole.”<sup>51</sup> Yameen’s regime refuses to recognizing the Supreme Court’s order of 1 February 2018, which reversed his conviction and should enable him to run for president in the August 2018 presidential election. Yet Nasheed declared that he will return and try to run for president regardless. His case is also pending before the U.N. Human Rights Committee, which is expected to decide in its March/April 2018 session, if his disqualification to run for political office emanating from his arbitrary detention is also, in fact, arbitrary and in violation of The Maldives’ obligations under the ICCPR.

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<sup>43</sup> *Maldives: 13 Year Sentence for Former President ‘A Travesty of Justice’*, AMNESTY INT’L, Mar. 13, 2015, available at <https://www.amnesty.org/en/latest/news/2015/03/maldives-mohamed-nasheed-convicted-terrorism/>.

<sup>44</sup> *Mohamed Nasheed v. Government of The Maldives*, Opinion No. 33/2015, UN WORKING GROUP ON ARBITRARY DETENTION, adopted Sept. 4, 2015, at ¶ 95.

<sup>45</sup> *Id.*, at ¶ 47–69.

<sup>46</sup> Simon Osborne, *Mohamed Nasheed: Imprisoned Maldives Ex-President Flies to UK for Treatment*, THE INDEPENDENT, Jan. 18, 2016, available at <http://www.independent.co.uk/news/uk/home-news/mohamed-nasheed-imprisoned-former-president-of-maldives-flies-to-uk-for-treatment-a6820316.html>.

<sup>47</sup> Patrick Wintour, *Ex-President of the Maldives Granted Asylum in UK*, THE GUARDIAN, May 23, 2016, available at <https://www.theguardian.com/world/2016/may/23/ex-president-of-the-maldives-granted-asylum-in-uk-mohammed-nasheed>.

<sup>48</sup> *MDP Slams New Terrorism Charges Against Nasheed*, AVAS ONLINE, Mar. 29, 2017, available at <https://avas.mv/en/31493>. The charges are based on the alleged arbitrary detention of President Yameen during President Nasheed’s presidency.

<sup>49</sup> *Maldives’ First Democratic Leader, Ex-Strongman Sign Pact*, VOICE OF AMERICA, Mar. 25, 2017, available at <http://www.voanews.com/a/maldives-opposition-coalition/3781573.html>.

<sup>50</sup> See Government “Masterminded” President Nasheed’s 13-Year Jail Term: Former Vice President Adeb, PRESIDENT MOHAMED NASHEED, July 16, 2017, available at <https://raeesnasheed.com/archives/25809>.

<sup>51</sup> *Id.*

*Former Defense Minister Colonel Mohamed Nazim*

In January 2015, Defense Minister Colonel Mohamed Nazim was dismissed from his position based on allegations that he harbored weapons and explosives.<sup>52</sup> In March 2015, he was convicted on weapons smuggling charges and sentenced to 11 years in prison.<sup>53</sup> The sentence was upheld by the High Court, despite widespread condemnation over due process violations and an eight-month delay following the transfer of two of the five judges to regional courts.<sup>54</sup> In June 2016, the Supreme Court rejected Nazim's appeal, despite clear evidence that Nazim was framed.<sup>55</sup> Amnesty International submitted his case to the U.N. Working Group on Arbitrary Detention,<sup>56</sup> which found that Nazim's detention was arbitrary and the only "adequate remedy would be to release Nazim immediately."<sup>57</sup> The Government rejected the opinion of the Working Group,<sup>58</sup> and Nazim remains detained between house arrest and prison,<sup>59</sup> despite the Supreme Court order reversing his conviction.

In early June 2017, Nazim's brother, Adam Azim was arrested on blatantly trumped-up charges of "encouraging the illegal overthrow of the government"<sup>60</sup> and spent almost a full week in police custody<sup>61</sup> because he had been traveling internationally to campaign for Nazim's freedom and to discuss the state of democracy in the Maldives.<sup>62</sup>

*Former Defense Minister Tholhath Ibrahim Kaleyfaanu*

In April 2015, Nazim's predecessor, Tholhath Ibrahim Kaleyfaanu, was sentenced to 10 years in prison on a terrorism charge that was also the basis for the sham trial against

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<sup>52</sup> Ankit Panda, *Maldives Defense Minister Fired After Nighttime Raid*, THE DIPLOMAT, Jan. 22, 2015, available at <http://thediplomat.com/2015/01/maldives-defense-minister-fired-after-nighttime-raid/>.

<sup>53</sup> Zaheena Rasheed, *Ex-Defence Minister Nazim Found Guilty of Smuggling Weapons, Sentenced to 11 Years in Jail*, MINIVAN NEWS, Mar. 27, 2015, available at <https://minivannewsarchive.com/politics/ex-defence-minister-nazim-found-guilty-of-smuggling-weapons-sentenced-to-11-years-in-jail-94648>.

<sup>54</sup> Zaheena Rasheed, *Appeals Court Upholds Ex-Defence Minister's Arms Smuggling Conviction*, MALDIVES INDEPENDENT, Mar. 15, 2016, available at <http://maldivesindependent.com/politics/appeals-court-upholds-ex-defence-ministers-arms-smuggling-conviction-122832>.

<sup>55</sup> Mohamed Visham, *Maldives Top Court Throws Out Nazim's Appeal Despite New DNA Evidence*, MIHAARU, June 26, 2016, available at <http://en.mihaaru.com/maldives-top-court-throws-out-nazims-appeal-despite-new-dna-evidence/>.

<sup>56</sup> See Tweet from Abbas Faiz (Researcher at Amnesty International), Feb. 13, 2016, available at <https://twitter.com/tweetafaiz/status/698433330468012032> ("Amnesty International has submitted Col. Mohamed Nazim's case to the UN Working Group on Arbitrary Detention").

<sup>57</sup> *Mohamed Nazim v. Government of The Maldives*, Opinion No. 59/2016, UN WORKING GROUP ON ARBITRARY DETENTION, adopted Nov. 25, 2016, at ¶¶ 71–3.

<sup>58</sup> *The Government of Maldives Does Not Agree with the Opinion of the UN WGAD on Col (Rtd) Mohamed Nazim's Submission*, MALDIVES MINISTRY OF FOREIGN AFFAIRS, Jan. 30, 2017, available at <http://www.foreign.gov.mv/index.php/en/mediacentre/news/1868-the-government-of-maldives-does-not-agree-with-the-opinion-of-the-un-wgad-on-col-rtd-mohamed-nazim%E2%80%99s-submission>.

<sup>59</sup> See, e.g., *Sheikh Imran and Nazim Transferred to House Arrest*, MALDIVES INDEPENDENT, May 28, 2017, available at <http://maldivesindependent.com/politics/sheikh-imran-and-nazim-transferred-to-house-arrest-130196>, and *Aishath Shaany, Ex-Defence Minister Transferred to House Arrest Due to Maintenance Work at Maafushi Prison*, RAAJE, Dec. 14, 2017, available at <https://raaje.mv/en/news/23055>.

<sup>60</sup> *Adam Azim Arrested for 'Encouraging Overthrow of Government'*, MALDIVES INDEPENDENT, June 8, 2017, available at <http://maldivesindependent.com/politics/adam-azim-arrested-on-charges-of-calling-for-overthrow-of-government-131108>.

<sup>61</sup> *Adam Azim Released*, MALDIVES INDEPENDENT, June 14, 2017, available at <http://maldivesindependent.com/politics/adam-azim-released-131181>.

<sup>62</sup> *Adam Azim Arrested for 'Encouraging Overthrow of Government'*, *supra* note 60.

former President Nasheed.<sup>63</sup> In 2016, Ibrahim was moved to house arrest, and, in November 2017, his sentence was upheld by the High Court of the Maldives.<sup>64</sup>

*Former Deputy Speaker of the Parliament Ahmed Nazim*

In April 2015, former Deputy Speaker of the Parliament Ahmed Nazim (from the ruling Progressive Party of Maldives) was sentenced to 25 years in prison on allegations of corruption.<sup>65</sup> The charges came after Ahmed Adeeab, then Minister of Tourism, accused Nazim of defaming him.<sup>66</sup> Amnesty International noted that in Nazim's case, as well as others, "the right to a fair trial ha[d] been seriously undermined, and the Maldives authorities appeared to use the judiciary to pursue their own political goals."<sup>67</sup>

In December 2015, Nazim was permitted to travel to Singapore for spinal surgery.<sup>68</sup> Nazim then fled to the U.K., where he is seeking asylum.<sup>69</sup>

*Former Chairman of the Maldivian Democratic Party Ali Waheed*

In May 2015, Member of Parliament and then-chairman of the main opposition Maldivian Democratic Party Ali Waheed was also arbitrarily arrested in the wake of the 2015 May Day Rally.<sup>70</sup> At the time, the police provided no reason for his arrest to the public.<sup>71</sup> In June 2015, Waheed fled the Maldives for the U.K. after more than a month in detention.<sup>72</sup> In October 2016, while still in exile abroad, he was charged with terrorism for his "alleged" role in "inciting violence" at the 2015 May Day Rally.<sup>73</sup> He was granted political asylum by the U.K. in August 2016.<sup>74</sup>

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<sup>63</sup> Ahmed Naish, *Ex-defence Minister Jailed for 10 Years on Terrorism Charges*, MINIVAN NEWS, Apr. 11, 2015, available at <https://minivannewsarchive.com/tag/former-defence-minister-tholhath-ibrahim>.

<sup>64</sup> Dhana Kumar, *Maldives: High Court Upholds 10-Year Prison Term for Ex-Defence Minister for Arrest of Judge*, THE APOLITICAL, Nov. 21, 2017, available at <https://www.theapolitical.in/homenews/maldives-high-court-upholds-10-year-prison-term-ex-defence-minister-arrest-judge>.

<sup>65</sup> Zaheena Rasheed, *Ruling Party MP Nazim Jailed for 25 Years*, MINIVAN NEWS, Apr. 6, 2015, available at <https://minivannewsarchive.com/politics/ruling-party-mp-nazim-jailed-for-25-years-95803>.

<sup>66</sup> Shafaa Hameed, *Ex-MP Nazim Lodges Complaint Over Mistreatment*, MALDIVES INDEPENDENT, Sept. 15, 2015, available at <http://maldivesindependent.com/politics/ex-mp-nazim-lodges-complaint-over-mistreatment-117416>.

<sup>67</sup> *Maldives: Human Rights in Free Fall as Authorities Step up Crackdown*, AMNESTY INT'L, Apr. 23, 2015, available at <https://www.amnesty.org/en/press-releases/2015/04/maldives-human-rights-in-free-fall-as-authorities-step-up-crackdown/>.

<sup>68</sup> Mohamed Visham, *Maldives' Jailed Ex-Deputy Speaker 'Escaped' On Govt Travel Doc*, MALDIVES INDEPENDENT, June 23, 2016, available at <http://en.mihaaru.com/maldives-jailed-ex-deputy-speaker-escaped-on-govt-travel-doc/>.

<sup>69</sup> *Id.*

<sup>70</sup> *Maldives Arrests Leaders of Opposition Parties After Violent Protests*, THE GUARDIAN, May 2, 2015, available at <https://www.theguardian.com/world/2015/may/02/maldives-arrests-opposition-leaders-imran-abdulla-violent-protests>.

<sup>71</sup> *Id.*

<sup>72</sup> Hassan Moosa, *Ali Waheed Resigns as MUO Deputy Leader*, MALDIVES INDEPENDENT, Nov. 29, 2016, available at <http://maldivesindependent.com/politics/muo-deputy-leader-quits-opposition-127949>.

<sup>73</sup> Ahmed Naish, *MDP Chairperson Charged with Terrorism*, MALDIVES INDEPENDENT, Oct. 17, 2016, available at <http://maldivesindependent.com/politics/mdp-chairperson-charged-with-terrorism-127244>.

<sup>74</sup> Mohamed Saif Fathih, *Three More Opposition Figures Granted Asylum in the UK*, MALDIVES INDEPENDENT, Aug. 17, 2016, available at <http://maldivesindependent.com/politics/three-more-opposition-figures-granted-asylum-in-the-uk-126063>.

In September 2016, his Maldives passport was cancelled by the Maldives government shortly after *Al Jazeera's Stealing Paradise* documentary debuted.<sup>75</sup> In November 2016, Waheed resigned from the opposition to “make way for a person who lives in the Maldives” to assume a leadership position in the party.<sup>76</sup>

*Deputy Leader of the Jumhooree Party Ameen Ibrahim*

In May 2015, deputy leader of the opposition *Jumhooree* Party Ameen Ibrahim was also arbitrarily arrested in connection with the 2015 May Day Rally,<sup>77</sup> and charged with “terrorism” alongside Sheikh Imran Abdulla.<sup>78</sup> He fled the Maldives with Ali Waheed in June 2015, and received political asylum in the U.K. in August 2016.<sup>79</sup>

*Former Head of the Special Protection Group of the MNDF Colonel Ahmed Fayaz*

In October 2015, Colonel Ahmed Fayaz, former head of the Special Protection Group of the Maldives National Defense Force, was placed in “administrative detention” in military barracks shortly after an explosion on President Yameen’s speedboat, which Yameen claimed was an assassination attempt.<sup>80</sup> Fayaz, who was responsible for the protection of the President, was charged with “obstructing justice and law enforcement officers” for allegedly ordering experts to remove evidence from the boat.<sup>81</sup>

The Ministry of Defence initially denied Fayaz was detained at a military facility, prompting Fayaz’s family to file a missing person’s report.<sup>82</sup> In June 2016, Fayaz was sentenced to two years in prison.<sup>83</sup>

In August 2016, Fayaz was put back on trial for allegations of weapons possession.<sup>84</sup> In November 2016, his lawyers recused themselves in protest, citing significant due process violations that prevented them from having adequate time and facilities to prepare a defense.<sup>85</sup> Notably, this coincided with the investigative report *Stealing Paradise* by *Al Jazeera*, which alleged connections between Fayaz, President

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<sup>75</sup> Shafaa Hameed, *Immigration Revokes Passport of MDP Chairperson, Ex-Vice President’s Associates*, MALDIVES INDEPENDENT, Sept. 22, 2016, available at <http://maldivesindependent.com/politics/immigration-revokes-passport-of-mdp-chairperson-ex-vice-presidents-associates-12667>.

<sup>76</sup> Ali Waheed Resigns at MUO Deputy Leader, *supra* note 72.

<sup>77</sup> *Maldives Arrests Leaders of Opposition Parties*, *supra* note 70.

<sup>78</sup> *Terrorism Charges Pressed Against Imran, Ameen and Sobah*, VNEWS, May 31, 2015, available at <http://www.vnews.mv/45147>.

<sup>79</sup> Mohamed Visham, *Britain Grants Asylum to Three More Maldives Opposition Leaders*, MIHAARU, Aug. 16, 2016, available at <http://en.mihaaru.com/britain-grants-asylum-to-three-more-maldives-opposition-leaders/>.

<sup>80</sup> Ahmed Naish, *Adeeb, Five Soldiers Charged Over Boat Blast*, MALDIVES INDEPENDENT, Mar. 15, 2016, available at <http://maldivesindependent.com/politics/adeeb-five-soldiers-charged-over-boat-blast-122814>.

<sup>81</sup> *Id.*

<sup>82</sup> Hassan Moosa, *Colonel’s Military Detention Amounts to “Enforced Disappearance,”* MALDIVES INDEPENDENT, Dec. 20, 2015, available at <http://maldivesindependent.com/politics/colonels-military-detention-amounts-to-enforced-disappearance-120784>.

<sup>83</sup> Mohamed Visham, *Maldives’ Ex-Armory Chief Convicted Over Pres Boat Blast*, MIHAARU, June 19, 2016, available at <http://en.mihaaru.com/maldives-ex-armory-chief-convicted-over-pres-boat-blast/>.

<sup>84</sup> Mohamed Saif Fathih, *Lawyers Questions Charges Raised Over Weapons Cache*, MALDIVES INDEPENDENT, Aug. 4, 2016, available at <http://maldivesindependent.com/politics/lawyers-question-charges-raised-over-weapons-cache-125911>.

<sup>85</sup> Shafaa Hameed, *Ex-Vice Presidents’ Lawyers Withdraw from Weapons Trial In Protest*, MALDIVES INDEPENDENT, Nov. 7, 2016, available at <http://maldivesindependent.com/politics/ex-vice-presidents-lawyers-withdraw-from-weapons-trial-in-protest-127571>.

Yameen, and other members of the Maldivian government in connection with the laundering of \$1.5 billion.<sup>86</sup>

#### *Former Vice President Ahmed Adeeb*

In October 2015, former Vice President Ahmed Adeeb was arrested after President Yameen accused Adeeb of orchestrating an assassination attempt on his life, referring to the explosion that occurred on Yameen's boat in September 2015.<sup>87</sup> Yameen then quickly moved to have Adeeb impeached from office, directing that the number of days Adeeb had to respond be reduced from 14 to 7,<sup>88</sup> and that Adeeb's lawyers be suspended on contempt of court charges.<sup>89</sup> Adeeb was convicted and sentenced to 15 years in prison in June 2016 after a trial with obvious due process abuses.<sup>90</sup> He remains detained despite the recent Supreme Court order reversing his conviction.

#### *Former Prosecutor General Muhathaz Muhsin*

In February 2016, former Prosecutor General Muhathaz Muhsin was arrested on allegations that he helped prepare a fake arrest warrant for President Yameen.<sup>91</sup> The charges against Muhsin were unclear and he was released,<sup>92</sup> only to be arrested again a few days later for "conspiracy to kidnap" under the 2015 Anti-Terrorism Act.<sup>93</sup> In June 2016, Muhsin was convicted and sentenced to 17 years in prison.<sup>94</sup>

Previously, Muhsin was abruptly impeached by Parliament following media reports alleging he had refused to charge the then-recently impeached Vice-President Adeeb with

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<sup>86</sup> *Stealing Paradise*, *supra* note 38. See also Will Jordan, *Maldives: How Do You Launder \$1.5 Billion?*, AL JAZEERA, Sept. 7, 2016, available at <http://www.aljazeera.com/news/2016/09/maldives-launder-15-billion-160904112412661.html>.

<sup>87</sup> *Maldives Vice-President Adeeb Arrested Over 'Bomb Plot'*, BBC, Oct. 24, 2015, available at <http://www.bbc.com/news/world-asia-34625558>. In a follow-up investigation, the U.S. Federal Bureau of Investigation (FBI) indicated that it found no evidence of a bomb on the boat. See *FBI Says No 'Conclusive Evidence' Maldives Boat Blast Caused by Bomb*, REUTERS, Nov. 1, 2015, available at <https://www.reuters.com/article/us-maldives-blast-probe/fbi-says-no-conclusive-evidence-maldives-boat-blast-caused-by-bomb-idUSKCN0SQ1JE20151101>.

<sup>88</sup> Hassan Mohamed, *Vice President's Impeachment 'Unconstitutional,' Contends Lawyer*, MALDIVES INDEPENDENT, Nov. 6, 2015, available at <http://maldivesindependent.com/politics/vice-presidents-impeachment-unconstitutional-contends-lawyer-119476>.

<sup>89</sup> Shafaa Hameed, *Supreme Court Suspends Vice President's Lawyer*, MALDIVES INDEPENDENT, Nov. 4, 2015, available at <http://maldivesindependent.com/politics/supreme-court-summons-vice-presidents-lawyer-119388>.

<sup>90</sup> *Maldives: Fair Trial Concerns Around Conviction of Former Vice President*, AMNESTY INT'L, June. 13, 2016, available at <https://www.amnesty.org/en/documents/asa29/4254/2016/en/>.

<sup>91</sup> Ahmed Naish, *Former Prosecutor General and Judge Arrested Over 'Fake Warrant'*, MALDIVES INDEPENDENT, Feb. 8, 2016, available at <http://maldivesindependent.com/politics/former-prosecutor-general-and-judge-arrested-over-fake-warrant-122049>.

<sup>92</sup> Mohamed Saif Fathih, *Ex Prosecutor General, Arrested Over Coup Plot, Released from Remand*, MALDIVES INDEPENDENT, Mar. 5, 2016, available at <http://maldivesindependent.com/politics/ex-prosecutor-general-arrested-over-coup-plot-released-from-remand-122583>.

<sup>93</sup> Shafaa Hameed, *Ex Chief Prosecutor Faces Fresh Terror Charges on 'Conspiracy to Kidnap President'*, MALDIVES INDEPENDENT, Mar. 8, 2016, available at <http://maldivesindependent.com/politics/former-chief-prosecutor-judge-face-fresh-terror-charges-accused-of-conspiracy-to-kidnap-president-122635>.

<sup>94</sup> Mohamed Visham, *Maldives Ex-Chief Prosecutor Gets 17 Years for Forged Pres Warrant*, MIHAARU, June 10, 2016, available at <http://en.mihaaru.com/maldives-ex-chief-prosecutor-gets-17-years-for-forged-pres-warrant/>.

corruption.<sup>95</sup> Critics raised many questions about fairness in the impeachment proceedings; for example, the proceeding took fewer than 12 hours and several opposition Members of Parliament were not even notified of the midnight impeachment vote.<sup>96</sup>

In February 2017, Muhsin was transferred from prison to a hospital for treatment related to a long-standing spinal problem.<sup>97</sup> He remains detained despite the recent Supreme Court order reversing his conviction.

### *Opposition Leader Sheikh Imran Abdulla*

In February 2016, opposition leader Sheikh Imran Abdulla (of the *Adhaalath* Party, the Maldives' main Islamist party), was sentenced to 12 years in prison on charges of "terrorism."<sup>98</sup> His alleged crime was "inciting unrest" during a May Day rally in 2015 protesting the Government's jailing of political dissidents.<sup>99</sup> Like Nasheed's trial, Imran's was marred by due process abuses and procedural irregularities, including blatant violations of the right to the presumption of innocence<sup>100</sup> and the right to present witnesses.<sup>101</sup>

The European Parliament, in its 2015 *Annual Report on Human Rights and Democracy in the World*, designated Sheikh Imran Abdulla as a "political prisoner."<sup>102</sup> A local NGO submitted a petition to the U.N. Working Group on Arbitrary Detention arguing Imran's arrest and trial are arbitrary and in violation of international law;<sup>103</sup> an opinion by the Working Group is still pending.<sup>104</sup> Meanwhile, Imran remains detained between prison and house arrest.<sup>105</sup> In November, 2017, the Maldives Supreme Court refused to hear his appeal.<sup>106</sup> Now, despite the recent Supreme Court order reversing his conviction, he remains detained.

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<sup>95</sup> Shafaa Hameed, *Prosecutor General's Removal Draws Criticism Over 'Due Process Violations'*, MALDIVES INDEPENDENT, Nov. 13, 2015, available at <http://maldivesindependent.com/politics/prosecutor-generals-removal-draws-criticism-over-due-process-violations-119764>.

<sup>96</sup> *Id.*

<sup>97</sup> *Ex-PG Muhuthaz Muhusin Admitted To Hospital*, VNEWS, Feb. 28, 2017, available at <http://vnews.mv/78991>.

<sup>98</sup> *Maldives Court Jails Opposition Figure Sheikh Imran Abdulla for 12 years*, THE GUARDIAN, Feb. 16, 2016, available at <https://www.theguardian.com/world/2016/feb/17/maldives-court-jails-opposition-figure-sheikh-imran-abdulla-for-12-years>.

<sup>99</sup> *Id.*

<sup>100</sup> Mohamed Saif Fathih, *Imran Asks for Change of Judge in Terrorism Trial*, MALDIVES INDEPENDENT, Jan. 21, 2016, available at <http://maldivesindependent.com/politics/imran-asks-for-change-of-judge-in-terrorism-trial-121635>.

<sup>101</sup> Shafaa Hameed, *Court Bars Defence Witnesses in Imran's Terror Trial*, MALDIVES INDEPENDENT, Jan. 30, 2016, available at <http://maldivesindependent.com/politics/court-bars-defence-witnesses-in-imrans-terror-trial-121869>.

<sup>102</sup> ANNUAL REPORT ON HUMAN RIGHTS AND DEMOCRACY IN THE WORLD AND THE EUROPEAN UNION'S POLICY ON THE MATTER 2015, EUROPEAN PARLIAMENT, P8\_TA(2016)0502, adopted Nov. 28, 2016, at Annex 1, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A8-2016-0355+0+DOC+XML+V0//EN>.

<sup>103</sup> Mohamed Saif Fathih, *Imran Petitions UN Rights Panel Over Terror Conviction*, MALDIVES INDEPENDENT, Apr. 14, 2016, available at <http://maldivesindependent.com/politics/imran-petitions-un-rights-panel-over-terror-conviction-123539>.

<sup>104</sup> Rushdha Rasheed, *Appeal Hearings For Sheikh Imran Scheduled For Tuesday*, RAAJJE, Mar. 19, 2017, available at <https://www.raajje.mv/en/news/6773>.

<sup>105</sup> Aishath Mihna Nasih, *Jailed Adhaalath Leader's Privileges Cut Over Agreement Violation*, MIHAARU, July 5, 2017, available at <http://en.mihaaru.com/jailed-adhaalath-leaders-privileges-cut-over-agreement-violation/>.

<sup>106</sup> *Supreme Court Rejects Appeal from Jailed Adhaalath Party Leader*, MALDIVES INDEPENDENT, Nov. 29, 2017, available at <http://maldivesindependent.com/politics/supreme-court-rejects-appeal-from-jailed-adhaalath-party-leader-134368>.

### *Social Media Activists Shammoon “Lucas” Jaleel and Thayyib Shaheem*

Shammoon “Lucas” Jaleel and Thayyib Shaheem are social media activists with a large following among the opposition.<sup>107</sup>

In July 2016, Jaleel was arrested over a tweet and charged with “spreading hatred” against security forces.<sup>108</sup> Later, the prosecutor attempted to frame the charges in a way that constitutes an offense under the Penal Code by claiming that Jaleel’s arrest was linked to obstruction of law enforcement.<sup>109</sup> Jaleel was released with conditions in September 2016.<sup>110</sup>

In March 2017, both Shaheem and Jaleel were summoned for questioning by the Maldivian Police’s Sensitive and Confidential Investigation Unit, which accused them of “spreading misinformation and sowing discord in society.”<sup>111</sup> Their mobile phones and other electronic devices were confiscated and their social media accounts scrutinized.<sup>112</sup>

Later that month, Shaheem was arrested for allegedly “inciting fear and panic . . . and sowing discord among the public with false information on social media.”<sup>113</sup> Amnesty International designated Shaheem as a prisoner of conscience.<sup>114</sup> After being detained for a month, Shaheem was released in April 2017.<sup>115</sup>

### *Opposition Leader Gasim Ibrahim*

In April 2017, opposition leader Gasim Ibrahim (of the *Jumhooree* Party) was arrested on charges of bribery and encouraging the overthrow of the Maldivian government.<sup>116</sup> His arrest was condemned as politically motivated, as one month prior, Gasim apologized for supporting Yameen in the 2013 presidential elections and vowed he would not support Yameen in the future.<sup>117</sup> Gasim’s lawyers decried the allegations, pointing

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<sup>107</sup> Xiena Saeed, *Police Confiscate Phones of Social Media Activists*, MALDIVES INDEPENDENT, Mar. 13, 2017, available at <http://maldivesindependent.com/politics/police-confiscate-phones-of-social-media-activists-129409>.

<sup>108</sup> *Lucas Arrested for Hate Speech on Police*, AVAS, July 30, 2016, available at <https://avas.mv/en/20618>.

<sup>109</sup> Xiena Saeed, *Activist ‘Incited Hatred’ With Tweet Likening Police To Tigers*, MALDIVES INDEPENDENT, Aug. 16, 2016, available at <http://maldivesindependent.com/politics/activist-incited-hatred-with-tweet-likening-police-to-tigers-126052>.

<sup>110</sup> Xiena Saeed, *Opposition Activist Arrested Over Tweet Released With Conditions*, MALDIVES INDEPENDENT, Sept. 8, 2016, available at <http://maldivesindependent.com/politics/opposition-activist-arrested-over-tweet-released-with-conditions-126451>.

<sup>111</sup> *Police Confiscate Phones Of Social Media Activists*, *supra* note 107.

<sup>112</sup> *Id.*

<sup>113</sup> Ahmed Naish, *Social Media Activist Under Arrest For ‘Inciting Fear and Sowing Discord’*, MALDIVES INDEPENDENT, Mar. 19, 2017, available at <http://maldivesindependent.com/politics/opposition-social-media-activist-under-arrest-over-swine-flu-tweets-129637>.

<sup>114</sup> *Maldives: Alarming Crackdown on Protests and Media Ahead of Saudi Arabian King’s Visit*, AMNESTY INT’L, Mar. 21, 2017, available at <https://www.amnesty.org/en/documents/asa29/5925/2017/en/>.

<sup>115</sup> Shafaa Hameed, *Social Media Activist Released*, MALDIVES INDEPENDENT, Apr. 16, 2017, available at <http://maldivesindependent.com/politics/social-media-activist-released-130140>.

<sup>116</sup> Mohamed Junayd, *Gasim Arrested For Bribery*, MALDIVES INDEPENDENT, Apr. 7, 2017, available at <http://maldivesindependent.com/politics/gasim-arrested-for-bribery-130058>.

<sup>117</sup> *Id.*

to a complete lack of evidence against him.<sup>118</sup> Gasim was released, only to be arrested days later and detained once again on new charges,<sup>119</sup> even though no new evidence was brought to court.<sup>120</sup> He was released from police custody in May 2017 after being detained for a total of 26 days.<sup>121</sup> In July 2017, Gasim attempted to leave the country to seek medical treatment in Sri Lanka after being hospitalized for severe breathing difficulties, only to discover that his passport had been illegally seized earlier and therefore he could not travel.<sup>122</sup>

In August 2017, Gasim was sentenced *in absentia* to more than three years in prison and stripped of his seat in the Parliament on charges of bribery; Gasim was not present because he was hospitalized after collapsing in the courtroom earlier in the day.<sup>123</sup> His lawyers claimed that the sentence against Gasim was illegal, as criminal sentences cannot be imposed *in absentia*.<sup>124</sup> Ibrahim was transferred to house arrest shortly afterward due to his poor health and permitted to travel to Singapore in September 2017<sup>125</sup> to access critical heart treatment not available in the Maldives.<sup>126</sup> When Gasim attempted to return to the Maldives, the airline on which he was scheduled to return refused to admit him as a passenger, calling him “unfit” to fly.<sup>127</sup> In November 2017, Gasim’s lawyers confirmed that he had travelled to Germany, where he had been granted a humanitarian entry permit to continue his medical treatment.<sup>128</sup> He remains abroad as the regime refuses to honor the Supreme Court order reversing his conviction.

#### *Opposition Member of Parliament Ibrahim Mohamed Didi*

In May 2017, opposition Member of Parliament Mohamed Didi (of the Maldivian Democratic Party) was presented with charges of “terrorism” stemming from the military’s detention of a judge in 2012.<sup>129</sup> Didi had already faced charges relating to these allegations in 2015, when he was tried alongside President Nasheed for his alleged involvement.<sup>130</sup>

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<sup>118</sup> Mohamed Junayed, ‘No Evidence’ Gasim Bribed Lawmakers, Say Lawyers, MALDIVES INDEPENDENT, Apr. 8, 2017, available at <http://maldivesindependent.com/politics/no-evidence-gasim-bribed-lawmakers-say-lawyers-130066>.

<sup>119</sup> Ahmed Naish, *Gasim Arrested At Midnight On Fresh Charges, Remanded For 15 Days*, MALDIVES INDEPENDENT, Apr. 22, 2017, available at <http://maldivesindependent.com/politics/gasim-arrested-at-midnight-on-fresh-charges-remanded-for-15-days-130170>.

<sup>120</sup> Ahmed Naish, *Judge Lifts Conditions Imposed On Gasim*, MALDIVES INDEPENDENT, May 17, 2017, available at <http://maldivesindependent.com/politics/court-lifts-conditions-imposed-on-gasim-130658>.

<sup>121</sup> *Id.*

<sup>122</sup> *Gasim Barred From Travelling Overseas After Hospitalisation*, MALDIVES INDEPENDENT, July 17, 2017, available at <http://maldivesindependent.com/politics/gasim-barred-from-travelling-overseas-after-hospitalisation-131523>.

<sup>123</sup> *Gasim Sentenced In Absentia To Three Years, Stripped Of Seat*, MALDIVES INDEPENDENT, Aug. 25, 2017, available at <http://maldivesindependent.com/politics/gasim-sentenced-in-absentia-to-three-years-stripped-of-seat-132255>.

<sup>124</sup> *Qasim Sentenced to 38 Months in Prison*, SUN ONLINE, Aug. 25, 2017, available at <https://english.sun.mv/44888>.

<sup>125</sup> Mohamed Rehan, *Jumhoory Party Leader Permitted to Fly Abroad*, AVAS, Sept. 7, 2017, available at <https://avas.mv/en/38208>.

<sup>126</sup> *Qasim Sentenced to 38 Months in Prison*, *supra* note 124.

<sup>127</sup> Rushdha Rasheed, *MP Qasim Barred from Flying, Medical Leave Not Extended!*, RAAJJE, Oct. 2, 2017, available at <https://raajje.mv/en/news/18780>.

<sup>128</sup> *Jailed JP Leader Leaves Singapore for Germany*, AVAS, Nov. 28, 2017, available at <https://avas.mv/en/41262>.

<sup>129</sup> *Opposition MP Charged With Terrorism*, MALDIVES INDEPENDENT, July 4, 2017, available at <http://maldivesindependent.com/politics/opposition-mp-charged-with-terrorism-131362>.

<sup>130</sup> *Id.*



However, the case was withdrawn in July 2015 and no further action taken.<sup>131</sup> If convicted under the new charges, Didi faces up to 15 years in prison.<sup>132</sup> Notably, the reopening of his case took part amidst a movement among the opposition to remove the ruling coalition's Speaker of Parliament Abdulla Maseeh Mohamed.<sup>133</sup>

*Member of Parliament Faris Maumoon*

In July 2017, President Yameen's own nephew, Faris Maumoon, was arrested on charges of bribery.<sup>134</sup> Maumoon is a Member of Parliament who shifted his support to the opposition, and who is now leading the effort to remove Speaker of Parliament Abdulla Mohamed from his position.<sup>135</sup> Maumoon's arrest occurred just days before a vote of "no confidence" to impeach the Speaker.<sup>136</sup> Maumoon was subsequently charged with bribery and identity theft, which he denies.<sup>137</sup> On 2 January 2018, his defense team said that they will submit his case to the U.N. Working Group on Arbitrary Detention.<sup>138</sup> Former President Nasheed is among those defending Maumoon, calling the charges against him "baseless."<sup>139</sup> On 25 January 2018, Maumoon was released from police custody; two days later, on 27 January 2018, Yameen ordered him rearrested.<sup>140</sup> Following the Supreme Court order of 1 February 2018, he was notified on 6 February he was free, but the Government refused to let him leave Dhoonidhoo Prison. He was later freed but rearrested on 8 February under the same warrant as before and in the same case as before. He remains detained today.<sup>141</sup>

**C. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The ICCPR prohibits torture and cruel, inhuman or degrading treatment or punishment,<sup>142</sup> as does the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>143</sup> The definition of "torture" includes "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person

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<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> Zaheena Rasheed, *Abdulla Yameen's Nephew Arrested Amid Challenge To Rule*, AL JAZEERA, July 18, 2017, available at <http://www.aljazeera.com/news/2017/07/yameen-nephew-arrested-challenge-rule-170718132820555.html>.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> Aishath Shaany, *Pres. Yameen Had Spent Over MVR 8 Million Against Faris, Alleges MP Mahloof*, RAAJJE, Jan. 4, 2018, available at <https://www.raajje.mv/en/news/24317>.

<sup>138</sup> Rushdha Rasheed, *MP Faris' Case to be Submitted to UNWGAD*, RAAJJE, Jan. 2, 2018, available at <https://raajje.mv/en/news/24202>.

<sup>139</sup> Rushdha Rasheed, *Soon President Yameen Will Realize He Has No Power: Nasheed*, RAAJJE, July 18, 2017, available at <https://raajje.mv/en/news/14124>.

<sup>140</sup> *President Orders Nephew's Arrest*, MALDIVES INDEPENDENT, Jan. 27, 2018, available at <http://maldivesindependent.com/politics/president-orders-nephews-arrest-135380>.

<sup>141</sup> MP Faris Arrested Again, VNEWS, Feb. 8, 2018, available at <http://vnews.mv/95352>.

<sup>142</sup> ICCPR, *supra* note 23, at Art. 7.

<sup>143</sup> *Convention against Torture*, *supra* note 25.

acting in an official capacity.”<sup>144</sup> Failure to provide adequate medical care can be a form of cruel, inhuman, and degrading treatment, which can rise to level of torture.<sup>145</sup>

The Maldives has enacted domestic legal measures to prevent and prohibit torture, most notably the 2013 Anti-Torture Act.<sup>146</sup> This Act declared freedom from torture a fundamental right, invalidated evidence obtained through torture in a court of law, prohibited torture in state custody,<sup>147</sup> and penalized torture as “a new and separate offense” under Maldivian law.<sup>148</sup> In a statement, the Office of President Yameen acknowledged that this act mandated that the Maldives had “to fully comply with all international conventions... relating to torture or cruel, inhuman or degrading treatment or punishment, that the Maldives is party to.”<sup>149</sup>

But despite strong international and domestic legislation, the Maldives government continues to use torture and cruel, inhuman, and degrading on its citizens.

For example, flogging, which U.N. High Commissioner for Human Rights Zeid Ra’ad Al-Hussein calls “cruel and inhuman,”<sup>150</sup> is a common punishment imposed for crimes under Sharia law.<sup>151</sup> The most common use of this punishment is for allegations of extramarital “fornication.”<sup>152</sup> The vast majority of victims are women, and their convictions are based on confessions, not evidence.<sup>153</sup> In many instances, consensual sexual acts between young adults are punished by flogging and prison time.<sup>154</sup>

Additionally, torture at the hands of the Maldivian security forces is routine, as is well documented in numerous alarming reports. In 2013, the U.N. Special Rapporteur on Torture appealed to the Maldives to respect its obligations under international law, responding to reports of “incommunicado detention and excessive use of force” used against activists and members of the political opposition.<sup>155</sup> In its *2016/2017 Annual Report on Human Rights*, Amnesty International observed that “torture and other ill-treatment was among the tools used to target human rights defenders, marginalized groups and others.”<sup>156</sup>

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<sup>144</sup> *Id.*, at Art. 1(1).

<sup>145</sup> Principle 24 of the Body of Principles for the Protection of Persons under Any Form of Detention or Imprisonment provides that “medical care and treatment shall be provided whenever necessary” to persons who are detained or imprisoned. GA Res. 47/173, 43 U.N. GAOR Supp. (No. 49) 298, A/43/49, Dec. 9, 1998.

<sup>146</sup> *Maldives’ Parliament Passes Landmark Anti-Torture Act*, ASS’N FOR THE PREVENTION OF TORTURE, Dec. 17, 2013, available at [https://www.apr.ch/en/news\\_on\\_prevention/maldives-parliament-passes-landmark-anti-torture-act/](https://www.apr.ch/en/news_on_prevention/maldives-parliament-passes-landmark-anti-torture-act/).

<sup>147</sup> *Id.*

<sup>148</sup> *President Ratifies the Anti-Torture Bill 2013*, THE PRESIDENCY OF THE REPUBLIC OF MALDIVES, Dec. 23, 2013, available at <http://www.presidencymaldives.gov.mv/?lid=11&dcid=13745>.

<sup>149</sup> *Id.*

<sup>150</sup> *Saudi Arabia: Public Flogging of Blogger ‘Cruel and Inhuman,’ Says UN Rights Chief*, UN NEWS CENTRE, Jan. 15, 2015, available at <http://www.un.org/apps/news/story.asp?NewsID=49809#.WnHPKbaZPOQ>.

<sup>151</sup> THE STATE OF THE WORLD’S HUMAN RIGHTS 2016/2017, AMNESTY INT’L, 2017, at 244.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*, at 242.

<sup>154</sup> THE STATE OF THE WORLD’S HUMAN RIGHTS 2014/2015, AMNESTY INT’L, 2015, at 241.

<sup>155</sup> Juan Méndez, REPORT OF THE SPECIAL RAPPORTEUR ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, Addendum: Observations on Communications Transmitted to Governments and Replies Received, A/HRC/22/53/Add.4, Mar. 12, 2013, at 50–1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/118/20/PDF/G1311820.pdf?OpenElement>.

<sup>156</sup> THE STATE OF THE WORLD’S HUMAN RIGHTS 2016/2017, *supra* note 151, at 32.

In addition to failing to stop the practice of torture, the Maldivian government has also failed to appropriately investigate accusations of torture. The 2013 Anti-Torture Act facilitated the process for accusations of torture to be submitted to the Human Rights Commission of the Maldives (the Commission),<sup>157</sup> a constitutionally-established autonomous entity with the broad mandate of investigating human rights abuses.<sup>158</sup>

The Commission receives upwards of 50 allegations of torture a year – the vast majority of them against members of the security forces – concerning reports of brutal arrests, brutalization during interrogations, and torture in detention centers.<sup>159</sup> Unfortunately, and perhaps unsurprisingly, the Commission fails to investigate many of the accusations of torture brought before it. According to the latest available statistics, of the 415 allegations of torture raised to the Commission between 2010 and June 2016, only 157 were investigated.<sup>160</sup>

Even when the Commission does open an investigation into an alleged case of torture, it faces severe limitations that prevent it from holding those responsible for torture accountable. One challenge facing the Commission is a legal mandate that it only has three months to conclude an investigation.<sup>161</sup> The problem is exacerbated by the fact that the Commission does not have the adequate funds, expertise, or resources—such as access to medical evidence, eyewitness testimony, and monitoring cameras at jails and detention centers—to conduct thorough investigations.<sup>162</sup>

These severe limitations not only make it difficult for the Commission to gather conclusive evidence of torture allegations; they also practically prevent prosecuting those alleged to have committed torture.<sup>163</sup> In illustration, the Prosecutor General rejected all four of the cases the Commission referred for prosecution from July 2014 to June 2015, citing a lack of evidence.<sup>164</sup> And between July 2015 and June 2016, the Commission could not find any evidence to back up a single allegation of torture it received, therefore no cases were referred for prosecution.<sup>165</sup> Failure to prosecute those responsible for acts of torture is discussed below in the section on ‘Culture of Impunity’.

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<sup>157</sup> See *HRCM Publishes First Annual Report Under Anti-Torture Act*, HUMAN RIGHTS COMM’N OF THE MALDIVES, July 24, 2014, available at <http://www.hrcm.org.mv/news/page.aspx?id=201>.

<sup>158</sup> See HUMAN RIGHTS COMMISSION OF THE MALDIVES, retrieved Jan. 23, 2018, available at <http://www.hrcm.org.mv/aboutus/about.aspx#Vision>.

<sup>159</sup> See Shafaa Hameed, *Watchdog Lets Police Off the Hook Over Torture Claims*, MALDIVES INDEPENDENT, Aug. 3, 2016, available at <http://maldivesindependent.com/politics/watchdog-lets-prison-guards-and-police-off-the-hook-over-torture-claims-125885> and Ahmed Naish, *54 Cases of Torture Filed Against Police*, MALDIVES INDEPENDENT, Aug. 1, 2015, available at <http://maldivesindependent.com/crime-2/54-cases-of-torture-filed-against-police-115980>.

<sup>160</sup> From 2010 and July 2014, the Commission only investigated 74 of the 304 allegations submitted. *Submission to the Universal Periodic Review of the Maldives, April–May 2015 (22nd session)*, HUMAN RIGHTS COMM’N OF THE MALDIVES, Sept. 2014, at 2, ¶ 4, available at [http://www.hrcm.org.mv/Publications/otherdocuments/UPR\\_submission\\_Sept\\_2014.pdf](http://www.hrcm.org.mv/Publications/otherdocuments/UPR_submission_Sept_2014.pdf). From July 2014 and June 2015, the Commission only investigated 37 of the 56 allegations submitted, and only four cases were referred for prosecution. Ahmed Naish, *54 Cases of Torture Filed Against Police*, MALDIVES INDEPENDENT, Aug. 1, 2015, available at <http://maldivesindependent.com/crime-2/54-cases-of-torture-filed-against-police-115980>. And from July 2015 to June 2016, the Commission only investigated 46 of the 55 allegations submitted.

<sup>161</sup> *54 Cases of Torture Filed Against Police*, *supra* note 160.

<sup>162</sup> *Watchdog Lets Police Off the Hook Over Torture Claims*, *supra* note 159.

<sup>163</sup> *54 Cases of Torture Filed Against Police*, *supra* note 160.

<sup>164</sup> *Id.*

<sup>165</sup> *Watchdog Lets Police Off the Hook Over Torture Claims*, *supra* note 159.

The following are some examples of Maldivians who have been tortured in the Maldives during the presidency of Yameen. As torture often occurs in detention centers and many torture victims are political prisoners or journalists targeted for exercising their fundamental rights, many of the cases discussed in this section are also discussed in other sections in this report.

#### *Former President Mohamed Nasheed*

On the first date of his trial on charges of “terrorism” in February 2015, Nasheed was brutally manhandled and physically dragged into the Justice Building by the Maldivian police officials.<sup>166</sup> As a result, he suffered physical injuries that required immediate medical examination, including a suspected fractured arm and finger, and injuries to his shoulder.<sup>167</sup> During the proceedings, Nasheed pleaded to be taken to a doctor, but his request was ignored; instead, Nasheed was forced to use his own tie as a makeshift sling for his arm.<sup>168</sup> Nasheed was not given immediate medical care, and no x-ray was taken to definitively determine what injuries he suffered.<sup>169</sup> After the hearing, his lawyers made an official complaint to the Commission.<sup>170</sup> In response, a doctor was brought to the detention center the next day, but the police did not allow the doctor to examine Nasheed.<sup>171</sup>

Furthermore, Nasheed’s detention conditions and the police manhandling aggravated injuries he had sustained during torture in the past.<sup>172</sup> As a result, Nasheed suffers from chronic back pain and reported pain in his ribcage and chest, which he believed was related to being abused by the police.<sup>173</sup>

As noted above, Nasheed was finally permitted to travel abroad in January 2016 for critical medical treatment.<sup>174</sup> In May 2016, the U.K. granted him political asylum, and he remains in exile there today.<sup>175</sup>

#### *Social Media Activist Ahmed ‘Shumba Gong’ Ashraf*

Ahmed ‘Shumba Gong’ Ashraf is a Maldivian social media activist who was arrested in October 2015 in connection to the September 2015 explosion on Yameen’s boat.<sup>176</sup> In April 2016, his lawyers released a statement that he had been tortured in prison and that the case was filed at the Commission.<sup>177</sup> The lawyers explained that Ashraf had been

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<sup>166</sup> Supriya Jha, ‘Ripped Shirt, Broken Arm’: Maldives Ex-Prez Mohamed Nasheed Dragged Into Courtroom, ZEE NEWS, Feb. 24, 2015, available at [http://zeenews.india.com/news/south-asia/ripped-shirt-broken-arm-maldives-ex-prez-mohamed-nasheed-dragged-into-courtroom\\_1551573.html](http://zeenews.india.com/news/south-asia/ripped-shirt-broken-arm-maldives-ex-prez-mohamed-nasheed-dragged-into-courtroom_1551573.html).

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

<sup>169</sup> *Petition to U.N. Working Group on Arbitrary Detention in the Matter of Mohamed Nasheed v. Gov’t of Maldives*, PERSEUS STRATEGIES, Apr. 30, 2015, at 52, available at <http://perseus-strategies.com/wp-content/uploads/2014/09/Nasheed-Mohamed-Maldives-UNWGAD-Petition-4.30.15.pdf>.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*, at 3.

<sup>173</sup> *Id.*

<sup>174</sup> *Mohamed Nasheed: Imprisoned Maldives Ex-President Flies to UK for Treatment*, *supra* note 46.

<sup>175</sup> *Ex-President of the Maldives Granted Asylum in UK*, *supra* note 47.

<sup>176</sup> Mohamed Saif Fathih, *Shumba Gong Tortured in Jail, Says Lawyer*, MALDIVES INDEPENDENT, Apr. 10, 2016, available at <http://maldivesindependent.com/politics/ashraf-tortured-in-jail-says-lawyer-123422>.

<sup>177</sup> *Id.*

forced to sit on the floor, handcuffed, while Maldives Correctional Services officers poured hot and ice-cold water over him, and restrained him for hours on end in handcuffs, which left bruises on his wrists.<sup>178</sup>

In March 2017, Ashraf was transferred to house arrest; at that time, the Commission had yet to complete an investigation into his torture investigations.<sup>179</sup>

#### *Former Vice President Ahmed Adeeb*

Former Vice President Ahmed Adeeb, currently serving a 33-year sentence for alleged “treason,” has repeatedly been denied access to critical medical care, despite the fact that his health continues to decline.<sup>180</sup> Even when Adeeb is allowed to access limited medical care, such as eye care consults, his appointments are delayed by the authorities.<sup>181</sup> Since 2016, his lawyers have repeatedly filed requests to the Maldives Correctional Services for specialized medical care only available outside in the Maldives, but all the requests have been ignored.<sup>182</sup> One of his lawyers reported that senior officials said orders to deny Adeeb’s treatment come “from above,” and thus that senior members of the Government are involved in the denial of care.<sup>183</sup>

In June 2017, Amnesty International issued a public statement calling on the Maldives authorities to immediately permit Adeeb to travel abroad to access appropriate medical treatment.<sup>184</sup> As confirmed by Amnesty International, Adeeb “suffers from a number of serious health issues” that can only be treated abroad, including glaucoma, kidney stones, and potentially cancerous internal cysts.<sup>185</sup> Former President Nasheed called the Government’s denial of adequate healthcare for Adeeb “inhumane.”<sup>186</sup> In December 2017, Adeeb’s request to be transferred to house arrest was denied.<sup>187</sup>

#### *Abdulla Rasheed*

In October 2017, Abdulla Rasheed died at Indira Gandhi Memorial Hospital while serving a 5-year jail sentence for allegedly assaulting a police officer during the 2015 May Day Rally.<sup>188</sup> He had allegedly been sent to the hospital early that day to be treated for dysentery.<sup>189</sup>

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<sup>178</sup> *Id.*

<sup>179</sup> *Maldives Pres Boat Blast Suspect Switched to House Arrest*, AVAS ONLINE, Mar. 1, 2017, available at <https://avas.mv/en/30195>.

<sup>180</sup> *Maldives: Former Vice President Ahmed Adeeb Denied Medical Care in Prison*, AMNESTY INT’L, June 15, 2017, available at <https://www.amnesty.org/en/documents/asa29/6518/2017/en/>.

<sup>181</sup> *Calls Grow to Authorise Medical Leave for Adeeb*, MALDIVES INDEPENDENT, June 18, 2017, available at <http://maldivesindependent.com/politics/calls-grow-to-authorise-medical-leave-for-adeeb-131178>.

<sup>182</sup> *Maldives: Former Vice President Ahmed Adeeb Denied Medical Care*, *supra* note 180.

<sup>183</sup> *Calls Grow to Authorise Medical Leave for Adeeb*, *supra* note 181.

<sup>184</sup> *Maldives: Former Vice President Ahmed Adeeb Denied Medical Care*, *supra* note 180.

<sup>185</sup> *Id.*

<sup>186</sup> *Rushdha Rasheed, Adeeb Must Be Granted Access to Proper Medical Care: Pres. Nasheed*, RAAJJE, Jan. 5, 2018, available at <https://raajje.mv/en/news/24383>.

<sup>187</sup> *Prisons Authority Refuses to Transfer Ex VP Adeeb to House Arrest*, MALDIVES INDEPENDENT, Dec. 20, 2017, available at <http://maldivesindependent.com/politics/prisons-authority-refuses-to-transfer-ex-vp-adeeb-to-house-arrest-134650>.

<sup>188</sup> *Aminath Farah Ahmed, May Day Protestor Passes Away While Serving Sentence*, MIHAARU, Oct. 10, 2017, available at <http://en.mihaaru.com/may-day-protestor-passes-away-while-serving-sentence/>.

<sup>189</sup> *Id.*

His family has accused Maldives Correctional Service of negligent homicide,<sup>190</sup> and alleges he was repeatedly denied lifesaving medical care in the days that led up to his death.<sup>191</sup> Cellmates and family members reported that he fainted in his cell, vomited blood, and requested to see a doctor on several occasions.<sup>192</sup> The Maldives National Integrity Commission,<sup>193</sup> the Human Rights Commission of Maldives,<sup>194</sup> and the Maldives Medical Council<sup>195</sup> have all stated they will investigate his death.

#### **D. The Death Penalty**

Although the Maldives never formally abolished the death penalty, the last execution took place in the early 1950s,<sup>196</sup> and the nation was long considered to be “abolitionist in practice” by Amnesty International.<sup>197</sup>

However, in April 2014, the unofficial moratorium ended with the adoption of *Regulation on Investigation & Execution of Sentence for Willful Murder*, which provides for execution by lethal injection in cases of premeditated murder or deliberate manslaughter.<sup>198</sup> In 2016, the Government amended the law to allow for hanging<sup>199</sup> after an announcement by Home Minister Umar Nasser that “hanging was better,”<sup>200</sup> as religious Salafist groups have previously said that using the lethal injection as an execution method is the “perfect excuse for any president who does not wish to enforce the death penalty.”<sup>201</sup> While the age of criminal responsibility in the Maldives is 10, certain crimes under Sharia law impose responsibility on those as young as 7 years old; therefore, juveniles could be executed under the law.<sup>202</sup>

These indications that capital punishment in the Maldives will be reinstated have been heavily criticized internationally. The E.U. Spokesperson for Foreign Affairs and Security

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<sup>190</sup> *National Integrity Commission Probes Abdulla Rasheed's Death*, SUN ONLINE, Oct. 18, 2017, available at <http://english.sun.mv/45699>.

<sup>191</sup> Aminath Farah Ahmed, *Medical Council Reviews May Day Protestor's Death for Medical Negligence*, MIHAARU, Oct. 18, 2017, available at <http://en.mihaaru.com/medical-council-reviews-may-day-protestors-death-for-medical-negligence/>.

<sup>192</sup> *Id.*

<sup>193</sup> *National Integrity Commission Probes Abdulla Rasheed's Death*, *supra* note 190.

<sup>194</sup> *HRCM Probes Abdulla Rasheed's Death*, SUN ONLINE, Oct. 16, 2017, available at <http://english.sun.mv/45640>.

<sup>195</sup> *Medical Council Reviews May Day Protestor's Death*, *supra* note 191.

<sup>196</sup> *Maldives*, CORNELL LAW SCHOOL CENTER ON THE DEATH PENALTY WORLDWIDE, last updated June 4, 2014, available at <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Maldives>.

<sup>197</sup> *Countries: Maldives – Death Penalty Status*, AMNESTY INT'L, available at <https://www.amnesty.org/en/countries/asia-and-the-pacific/maldives/>.

<sup>198</sup> Euan McKirdy, *Children Could Get Death Penalty as Maldives Brings Back Executions*, CNN, May 1, 2014, available at <http://www.cnn.com/2014/05/01/world/asia/maldives-death-penalty/index.html>.

<sup>199</sup> Mohamed Visham, *Maldives Amends Capital Punishment Law to Opt for Death by Hanging*, MIHAARU, June 17, 2016, available at <http://en.mihaaru.com/maldives-amends-capital-punishment-law-to-opt-for-death-by-hanging/>.

<sup>200</sup> Shafaa Hameed, *Maldives to Execute Death Row Inmates By Hanging*, MALDIVES INDEPENDENT, June 19, 2016, available at <http://maldivesindependent.com/politics/maldives-to-execute-death-row-inmates-by-hanging-124872>.

<sup>201</sup> Mohamed Naahee, *Religious NGO Jamiyyathul Salaf Recommends Beheading, Firing Squad Over Lethal Injection*, MINIVAN NEWS, Feb. 26, 2013, available at <https://minivannewsarchive.com/society/religious-ngo-jamiyyathul-salaf-recommends-beheading-firing-squad-over-lethal-injection-53689>.

<sup>202</sup> Euan McKirdy, *Children Could Get Death Penalty as Maldives Brings Back Executions*, CNN, May 1, 2014, available at <http://www.cnn.com/2014/05/01/world/asia/maldives-death-penalty/>.

Policy, in speaking about the first potential death penalty case, emphasized the E.U.’s “absolute opposition to capital punishment in all cases . . . and without exception.”<sup>203</sup> U.N. High Commissioner of Human Rights Zeid appealed to the Government to halt planned executions and called the Government’s intention to resume executions “deeply regrettable.”<sup>204</sup> Amnesty International joined with 24 international organizations and networks in issuing a statement urging the Maldivian government to establish an “immediate moratorium” on all executions.<sup>205</sup> And the President of the International Federation of Human Rights (FIDH) called it “an outrage and gravely at odds with the growing international momentum towards abolition.”<sup>206</sup>

As of January 2018, there are believed to be over 20 people currently on death row, three of whom have already exhausted the domestic appeals process.<sup>207</sup> This figure is based on death sentences meted out since August 2008 – the government refuses to disclose accurate information regarding the death row population. According to Amnesty International’s reports, the resumption of executions could be imminent.<sup>208</sup>

One of first individuals to be executed could be Hussein Humam Ahmed, who was convicted of murder and sentenced to death in 2012.<sup>209</sup> In June 2016, the Supreme Court upheld his conviction.<sup>210</sup> As has been true for many cases in the Maldives, the proceedings against Ahmed have been called into question for violations of due process, most notably that Ahmed’s conviction relies on a pre-trial “confession” that he retracted as coerced.<sup>211</sup> The criminal court justified the death sentence as being “in the interest of the harmony of the society.”<sup>212</sup>

In response, the U.N. Human Rights Committee requested that the Government halt the immediate execution of Ahmed pending review of the violations of due process that occurred during his trial.<sup>213</sup> Four U.N. human rights experts<sup>214</sup> also expressed their serious

<sup>203</sup> *Statement by the Spokesperson on a Death Sentence in the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, July 1, 2016, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/7019\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/7019_en).

<sup>204</sup> *Zeid Urges Maldives to Retain Long-Standing Moratorium on Death Penalty*, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, Aug. 9, 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20353&LangID=E>.

<sup>205</sup> *Maldives: Resumption of Executions After Six Decades Would Be a Major Setback for Human Rights*, AMNESTY INT’L, July 17, 2016, available at <https://www.amnesty.org/en/documents/asa29/4461/2016/en/>.

<sup>206</sup> *Death Penalty: The Maldives Turns Its Back On History and Children’s Rights*, FIDH, May 21, 2014, available at <https://www.fidh.org/en/region/asia/maldives/15361-death-penalty-the-maldives-turns-its-back-on-history-and-children-s-rights>.

<sup>207</sup> *See Maldives: Halt First Execution In More Than 60 Years*, AMNESTY INT’L, July 20, 2017, available at <https://www.amnesty.org/en/latest/news/2017/07/maldives-halt-first-execution-in-more-than-60-years/>.

<sup>208</sup> *Id.*

<sup>209</sup> *Maldives: Halt Imminent Plants To Resume Executions After Six Decades*, AMNESTY INT’L, Feb. 1, 2017, available at <https://www.amnesty.org/en/documents/asa29/5605/2017/en/>.

<sup>210</sup> Zaheena Rasheed, *Supreme Court Upholds Death Sentence for Humam*, MALDIVES INDEPENDENT, June 24, 2016, available at <http://maldivesindependent.com/politics/supreme-court-upholds-death-sentence-for-man-convicted-of-killing-an-mp-125011>.

<sup>211</sup> *Maldives: Halt First Execution*, *supra* note 207.

<sup>212</sup> Shahindha Ismail, *Are We All Going to Kill Humam?*, MALDIVES INDEPENDENT, Mar. 27, 2016, available at <http://maldivesindependent.com/feature-comment/are-we-all-going-to-kill-humam-123041>.

<sup>213</sup> Ahmed Naish, *UN Rights Committee Requests Halt to Humam’s Execution*, MALDIVES INDEPENDENT, July 13, 2016, available at <http://maldivesindependent.com/politics/un-rights-committee-requests-halt-to-humams-execution-125312>.

<sup>214</sup> Sètondji Roland Adjovi, former Chair-Rapporteur of the U.N. Working Group on Arbitrary Detention; Christof Heyns, former U.N. Special Rapporteur on summary or arbitrary executions; Juan E. Méndez, former

concerns regarding the planned execution of Humam: the “[c]riminal proceedings against Mr. Ahmed did not afford him guarantees of fair trial and due process,” and therefore the implementation of the sentence would be “unlawful and tantamount to an arbitrary execution.”<sup>215</sup> And international and domestic rights groups called on Yameen to immediately stop all plans to resume executions in the Maldives.<sup>216</sup>

Despite these widespread criticisms and condemnations, the Government continues to reject claims about due process violations in its courts and reaffirms its position on reinstating the death penalty.

## **E. Restrictions on Fundamental Rights and Freedoms**

As a state party to the ICCPR, the Maldives has committed itself to ensuring a minimum standard of fundamental rights for all people in the Maldives. This includes the right to freedom of opinion and expression, which encompass the freedom “to seek, receive and impart information and ideas of all kinds” through any chosen medium.<sup>217</sup> Freedom of opinion and expression is closely related to the right to freedom of assembly and association, which are also crucial elements of democracy.<sup>218</sup>

### *1. Restrictions of Freedom of Opinion and Expression*

The rights to freedom of opinion and expression are rapidly eroding in the Maldives, in particular where the expression or opinion is critical of Yameen or his ruling Government. The Government silences dissent through restrictive legislation, censorship, and intimidation. In Reporters Without Borders’ 2017 World Press Freedom Index, the Maldives fell from 112 to 117 (out of 180 countries) due to the incredibly repressive actions taken by Yameen’s administration and his failure to protect journalistic freedom.<sup>219</sup> In its *2017 Freedom of the Press* report, Freedom House similarly downgraded the Maldives from “Partly Free” to “Not Free.”<sup>220</sup>

The Government uses restrictive laws and policies that limit speech and publication to silence and censor free expression. The following are examples of such laws and policies.

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U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Mónica Pinto, former U.N. Special Rapporteur on the Independence of Judges and Lawyers.

<sup>215</sup> *UN Rights Experts Urge Maldives To Halt Execution And Maintain 60 Year-Old Unofficial Moratorium*, OFFICE OF THE U.N. HIGH COMM’R FOR HUMAN RIGHTS, July 1, 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20222&LangID=E>.

<sup>216</sup> *Halt Execution Plans, Rights Groups Urge Maldives President*, REPRIEVE, Aug. 10, 2017, available at <https://reprieve.org.uk/press/halt-execution-plans-rights-groups-urge-maldives-president/>.

<sup>217</sup> *ICCPR*, *supra* note 23, at Art. 19(1–2).

<sup>218</sup> *Id.*, at Arts. 21–2.

<sup>219</sup> *2017 World Freedom Index: Maldives*, REPORTERS WITHOUT BORDERS, 2017, available at <https://rsf.org/en/maldives>.

<sup>220</sup> *FREEDOM OF THE PRESS 2017*, FREEDOM HOUSE, Apr. 2017, at 25, available at [https://freedomhouse.org/sites/default/files/FOTP\\_2017\\_booklet\\_FINAL\\_April28.pdf](https://freedomhouse.org/sites/default/files/FOTP_2017_booklet_FINAL_April28.pdf).



### *2015 Sanctions Bill*

In 2015, a bill to criminalize speech that criticizes the Government or calls for sanctions against the Maldives was proposed.<sup>221</sup> President Yameen vetoed the bill on the ground that it would violate the right to freedom of expression, and sent the bill back to Parliament for reconsideration.<sup>222</sup> As of February 2016, this bill was still being considered in Parliament.<sup>223</sup> The language was enacted in August 2016 as part of the Defamation Bill (discussed below), curtailing press freedom and free speech, introducing hefty fines, prison sentences, and power to shut down news outlets for “defamatory content” and “national security”.<sup>224</sup>

### *2015 State of Emergency*

During the aftermath of the explosion on Yameen’s boat in late 2015, which Yameen claimed was an assassination attempt despite all evidence to the contrary, Yameen declared a state of emergency.<sup>225</sup> In doing so, Yameen suspended critical human rights protections, including freedom of assembly, right to privacy, and freedom from unreasonable search and seizure, and gave sweeping powers to security forces.<sup>226</sup>

Amnesty International expressed concern at the threat posed by the state of emergency, saying “[t]he Maldivian authorities have a disturbing track-record of suppressing [*sic*] freedom of expression and any form of opposition, which has intensified over the last two years,” and reminding the Maldivian authorities of the importance of respecting their obligations under international law throughout the period of emergency.<sup>227</sup>

In November 2015, in light of the state of emergency, the Maldives Broadcasting Commission issued a warning to media outlets that it had the authority to revoke broadcast licenses and permits if it deems content to be a threat to national security.<sup>228</sup> One media station affected by this decision was *Sangu TV*, whose Malé offices were raided by state police allegedly searching for a threatening video.<sup>229</sup> The police “turned the whole office upside down,” as they removed the journalists’ hard drives and broke into the office safe.<sup>230</sup>

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<sup>221</sup> Ahmed Naish, *PPM MP Threatens to Jail All Opposition MPs with Bill on Sanctions*, MALDIVES INDEPENDENT, Oct. 13, 2015, available at <http://maldivesindependent.com/politics/ppm-mp-threatens-to-jail-all-opposition-mps-with-bill-on-sanctions-118270>.

<sup>222</sup> Shafaa Hameed, *President Vetoes Bill Banning Calls for Sanctions, Tourism Boycotts*, MALDIVES INDEPENDENT, Dec. 13, 2015, available at <http://maldivesindependent.com/business/president-vetoes-bill-banning-calls-for-sanctions-tourism-boycotts-120616>.  
committee-review/.

<sup>224</sup> International Federation of Journalists, *Maldives Approves Defamation Law Curtailing Press Freedom*, Aug. 10, 2016, available at <http://www.ifj.org/nc/news-single-view/backpid/1/article/maldives-approves-defamation-law-curtailing-press-freedom/>.

<sup>225</sup> Ali Naafiz, *Maldives Declares Month-Long Emergency after Boat Blast*, HAVEERU, Nov. 4, 2015, available at <http://www.southasianrights.org/?p=9213>.

<sup>226</sup> *Id.*

<sup>227</sup> *Maldives: State of Emergency an Alarming Development in Continuing Crackdown on Human Rights*, AMNESTY INT’L, Nov. 4, 2015, available at <https://www.amnesty.org/en/latest/news/2015/11/maldives-state-of-emergency-an-alarming-development-in-continuing-crackdown-on-human-rights/>.

<sup>228</sup> *Action Will Be Taken If Content Compromises National Security: Commission*, VNEWS, Nov. 4, 2015, available at <http://vnews.mv/53329>.

<sup>229</sup> *Maldives Police Raid TV Station Over ‘Threatening Video,’* BBC, Nov. 6, 2015, available at <http://www.bbc.com/news/world-asia-34744831>.

<sup>230</sup> *Id.*

That same week, another station, *Raajje TV*, suspended its coverage of political affairs to proactively protect its journalists.<sup>231</sup> Emblematic of the state of distress, *Raajje TV*'s chief operating officer explained "We have no choice but to suspend our normal coverage tonight . . . because we are no longer able to report without fear."<sup>232</sup>

### *2016 Defamation Bill*

In 2016, language was proposed in Parliament to criminalize defamation and "expressions contrary to national interest or tenets of Islam."<sup>233</sup> Broadly and vaguely worded, the proposed language gave authorities wide discretion to target critics and levy heavy fines.<sup>234</sup>

Maldivian journalists were among those extremely concerned about the proposed defamation legislation. In March 2016, ten senior Maldivian journalists released a joint statement explaining that the bill would interfere with the practice of journalism: it would "prevent journalists and citizens from speaking out over serious accusations of corruption and the integrity of state officials."<sup>235</sup> They were shortly joined by over 180 journalists, who released a petition with nine requests relating to press freedom, including calls to withdraw the proposed defamation bill and the charges against journalists who have been arrested since Yameen took power.<sup>236</sup>

The defamation bill also drew international criticism. Amnesty International called the proposed bill an "attack on freedom of expression."<sup>237</sup> The International Federation of Journalists "strongly" criticized it as a "move by the government . . . aimed at silencing critics and weakening the country's already fragile media."<sup>238</sup>

Yet despite wide-spread criticism and protest, the *Defamation and Freedom of Speech Act* was signed into law in August 2016.<sup>239</sup> After ratification, the Defamation Act was renamed the *Protection of Reputation and Freedom of Expression Bill*, but the text was

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<sup>231</sup> Zaheena Rasheed, *Popular TV Station Suspends Coverage After Journalists' Arrest*, MALDIVES INDEPENDENT, Nov. 6, 2015, available at <http://maldivesindependent.com/politics/popular-tv-station-suspends-coverage-after-journalists-arrest-119497>.

<sup>232</sup> *Id.*

<sup>233</sup> Mohamed Saif Fathih, *Maldives Moves Ahead with Criminalising Defamation*, MALDIVES INDEPENDENT, Mar. 23, 2016, available at <http://maldivesindependent.com/politics/maldives-moves-ahead-with-criminalising-defamation-122974>.

<sup>234</sup> *Id.* See also Azra Naseem, *Maldives 'Defamation Law' to Curtail Freedom of Expression*, MALDIVES INDEPENDENT, Aug. 9, 2016, available at <http://maldivesindependent.com/feature-comment/maldives-defamation-law-to-curtail-freedom-of-expression-125978>.

<sup>235</sup> *Maldives Government Proposes Law to Criminalise Defamation*, INT'L FEDERATION OF JOURNALISTS, Mar. 30, 2016, available at <http://www.ifj.org/nc/news-single-view/backpid/1/article/maldives-government-proposes-law-to-criminalise-defamation/>.

<sup>236</sup> Shafaa Hameed, *183 Maldives Journalists Sign Petition for Press Freedom*, MALDIVES INDEPENDENT, Apr. 10, 2016, available at <http://maldivesindependent.com/politics/183-maldives-journalists-sign-petition-for-press-freedom-123409>.

<sup>237</sup> *Maldives: Proposed Defamation Law is an Attack on Freedom of Expression*, AMNESTY INT'L, July 29, 2016, available at <https://www.amnesty.org/en/documents/asa29/4573/2016/en/>.

<sup>238</sup> *Maldives Government Proposes Law to Criminalise Defamation*, *supra* note 235.

<sup>239</sup> Zaheena Rasheed, *Draconian Defamation Act Becomes Law*, MALDIVES INDEPENDENT, Aug. 11, 2016, available at <http://maldivesindependent.com/politics/draconian-defamation-act-becomes-law-126021>.

substantially unchanged.<sup>240</sup> Once adopted, the E.U. Spokesperson for Foreign Affairs and Security Policy referred to the Bill as a “direct threat to media, political opposition and civil society in the Maldives.”<sup>241</sup>

In March 2017, opposition-aligned *Raajje TV* became the first organization targeted under the new defamation legislation.<sup>242</sup> The Maldives Broadcasting Commission fined the broadcaster MVR200,000 (approximately €12,000) for allegedly damaging the reputation of a social worker in an investigative report.<sup>243</sup> At the same time, a former *Raajje TV* journalist was fined MVR50,000 (approximately €3,000).<sup>244</sup> A month later, *Raajje TV* was fined yet again MVR1 million (approximately €61,000) for airing a speech from an opposition rally that the Maldives Broadcasting Commission determined to be defamatory towards Yameen.<sup>245</sup> The station was forced to hold a fundraising drive in order to pay the fine to ensure that its broadcasting license would not be suspended or canceled.<sup>246</sup>

In June 2017, the Maldives main cable television provider, Medianet, was fined MVR500,000 (approximately €30,000) for airing a rebroadcasting of *Al Jazeera's Stealing Paradise* documentary.<sup>247</sup> Medianet was also ordered to issue a formal statement of apology.<sup>248</sup>

In addition to repressive legislation that affects all citizens of the Maldives, the Government also targets individuals, particularly journalists and bloggers, with violence and intimidation.

For example, in March 2017, two journalists from *The Maldives Independent*, Hassan Mohamed and Hassan Moosa, were threatened by a relative of a Member of Parliament from the ruling party.<sup>249</sup> Rather than investigating the perpetrator of the threats, police brought Mohamed and Moosa into “protective custody,” where they were denied access to their phones, editors, and families, as if they were suspects in a crime.<sup>250</sup>

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<sup>240</sup> Azra Naseem, *Maldives 'Defamation Law' to Curtail Freedom of Expression*, MALDIVES INDEPENDENT, Aug. 9, 2016, available at <http://maldivesindependent.com/feature-comment/maldives-defamation-law-to-curtail-freedom-of-expression-125978>.

<sup>241</sup> *Statement by the Spokesperson on Restrictions of Freedom of Expression and Independence of the Media in the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, Aug. 8, 2016, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/8575\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/8575_en).

<sup>242</sup> Xiena Saeed & Ahmed Naish, *Hefty Fines Imposed on Raajje TV in First Anti-Defamation Punitive Action*, MALDIVES INDEPENDENT, Mar. 7, 2017, available at <http://maldivesindependent.com/politics/hefty-fines-imposed-on-raajje-tv-in-first-anti-defamation-punitive-action-129318>.

<sup>243</sup> *Id.*

<sup>244</sup> *Id.*

<sup>245</sup> Ahmed Naish, *Raajje TV Fined Mvr1m Over Speech Defaming Yameen*, MALDIVES INDEPENDENT, Apr. 6, 2017, available at <http://maldivesindependent.com/politics/raajje-tv-fined-mvr1m-over-speech-defaming-yameen-130049>.

<sup>246</sup> *Id.*

<sup>247</sup> *Cable TV Provider Fined Half A Million For Airing Al Jazeera Corruption Exposé*, MALDIVES INDEPENDENT, June 17, 2017, available at <http://maldivesindependent.com/politics/cable-tv-provider-fined-half-a-million-for-airing-al-jazeera-corruption-expose-131202>.

<sup>248</sup> *Id.*

<sup>249</sup> *Statement on 'Protective Custody' for Journalists in Faafu Atoll*, MALDIVES INDEPENDENT, Mar. 2, 2017, available at <http://maldivesindependent.com/feature-comment/press-statement-on-protective-custody-for-journalists-in-faafu-atoll-129143>.

<sup>250</sup> *Id.*

In May 2017, the Maldives police issued arrest warrants for four bloggers critical of the Government: Muzaffar ‘Muju’ Naeem, Hani Amir, Dr. Azra Naseem, and Aishath Velezinee.<sup>251</sup> As all four live abroad, the warrants were issued through public statements and the police Twitter account.<sup>252</sup>

In June 2017, *VNews* senior editor Ahmed Rifau was interrogated by police for allegedly encouraging “the illegal overthrow of the government and of undermining public trust and inciting hatred toward the judiciary” through the headline of one of his stories.<sup>253</sup> The article, titled “Adam Azim Arrested on Charges of Trying to Topple the Government,” was about the arrest of a senior opposition politician, discussed above.<sup>254</sup> Though the police gave no specific charges, they implied that Rifau had violated a section of the Penal Code on forgery and fraudulent practices.<sup>255</sup>

### *2018 State of Emergency*

As mentioned above, on 5 February 2018 Yameen declared a State of Emergency without parliamentary approval, contravening the Constitution. The escalation of militarization was used to raid the Supreme Court premises to arrest Justice Ali Hameed and Chief Justice Abdulla Saeed, and raid the residence of former president Maumoon Abdul Gayoom to take him under police custody.<sup>256</sup> In the first eight hours of the State of Emergency, Office of Former President Nasheed issued a statement urging authorities to stop encroachment of judicial power.<sup>257</sup> Nasheed’s statement noted “the repeated statements made by the Supreme Court clarifying that there are no legal obstructions in the implementation of their order.”<sup>258</sup>

Since the announcement of *de facto* martial law, the Government has added Article 48 of the Constitution to the list of withheld rights, thus nullifying the guaranteed rights for those accused or detained.<sup>259</sup> Constitutionally, this article cannot be restricted, along with rights to freedom of expression and of the media, even during a state of emergency approved by the parliament.<sup>260</sup>

On 9 February, *Raajje TV* announced that it had been forced to stop broadcasting, explaining “Given the present circumstances, especially with the curtailing of the right to free media, we have no choice but to suspend our regular services to ensure the safety and

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<sup>251</sup> Jillian C. York, *The Maldives Government Issued Arrest Warrants for Bloggers on Twitter*, ELECTRONIC FRONTIER FOUNDATION, June 5, 2017, available at <https://www.eff.org/deeplinks/2017/06/maldives-government-issued-arrest-warrants-bloggers-twitter>.

<sup>252</sup> *Id.*

<sup>253</sup> *Police Question Vnews Editor Over ‘Misleading’ Headline*, MALDIVES INDEPENDENT, June 11, 2017, available at <http://maldivesindependent.com/politics/police-question-vnews-editor-over-misleading-headline-131142>.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> *Maldives Declares State of Emergency as Yameen Tightens Grip on Power*, REUTERS, Feb. 6, 2018, available at <https://timesofindia.indiatimes.com/world/south-asia/maldives-police-arrest-former-president-gayoom-spokesperson-says/articleshow/62796568.cms>.

<sup>257</sup> *Statement from President Nasheed Regarding Effective Imposition of Martial Law*, THE OFFICE OF PRESIDENT MOHAMED NASHEED, Feb. 6, 2018, available at <https://raeesnasheed.com/archives/25850>.

<sup>258</sup> *Id.*

<sup>259</sup> CONSTITUTION OF THE REPUBLIC OF MALDIVES, *supra* note 24, at Art. 48.

<sup>260</sup> *Id.*, at Art. 255 (stipulating the limitations on declaration of State of Emergency, listing rights and freedoms that cannot be restricted in any situation).

security of our station and our staff.”<sup>261</sup> On 12 February, the police told media outlets in the Maldives not to report any information that had not been first vetted by the police.<sup>262</sup>

## 2. *Restrictions of Freedom of Association and Assembly*

Closely related to restrictions on the right to freedom of opinion and expression, the right to freedom of association and assembly are also severely restricted in the Maldives, especially when groups or organizations express a view contrary to Yameen or his ruling government.

One way this is evident is the violent treatment of peaceful protests in the Maldives. For example, peaceful memorial marches held on the anniversaries of the disappearance of Ahmed Rilwan Abdulla, the well-known journalist who disappeared in August 2014, have been repeatedly met with police violence and excessive force. In 2015, police pepper sprayed the marchers and “barged” into the crowd to arrest Rilwan’s brother-in-law.<sup>263</sup> In 2017, riot police set up barricades to block the march, confiscated banners and signs, and arrested nine people.<sup>264</sup>

As previously mentioned, Yameen instituted a state of emergency in November 2015 after an explosion on his boat that he deemed an assassination attempt.<sup>265</sup> In addition to restricting freedom of opinion and expression, he also limited rights to assembly and association.<sup>266</sup> Immediately affected by the emergency decree was a peaceful rally planned by the opposition Maldivian Democratic Party in protest of former President Nasheed’s continuing arbitrary detention; the rally was supposed to take place two days after the state of emergency was announced.<sup>267</sup> The Government acknowledged that one purpose of the state of emergency was to cancel the rally.<sup>268</sup>

Later in November 2015, Maldives Home Minister Umar Naseer announced a complete ban on street protests, such that protests can only take place in “confined” public spaces.<sup>269</sup> Naseer went on to explain “political parties will only be allowed to promote their ideologies through parliament and ‘political podiums’.”<sup>270</sup> Additional restrictions introduced in the subsequent months include the need for permission from the Government

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<sup>261</sup> *Maldives TV Station Shuts Down After Threats*, THE WASHINGTON POST, Feb. 9, 2018, available at [https://www.washingtonpost.com/world/asia\\_pacific/maldives-tv-station-shuts-down-after-threats/2018/02/09/fab433dc-0d94-11e8-998c-96deb18cca19\\_story.html?utm\\_term=.6cfea737f1d6](https://www.washingtonpost.com/world/asia_pacific/maldives-tv-station-shuts-down-after-threats/2018/02/09/fab433dc-0d94-11e8-998c-96deb18cca19_story.html?utm_term=.6cfea737f1d6).

<sup>262</sup> *Don’t Report “Unverified Information”: Maldives Police Told Media*, NDTV.COM, Feb. 12, 2018, available at <https://www.ndtv.com/world-news/dont-report-unverified-information-maldives-police-told-media-1811712>.

<sup>263</sup> Shafaa Hameed, *Complaint Filed Over Pepper Spray Use, Obstruction of Find Moyameehaa Walk*, MALDIVES INDEPENDENT, Aug. 19, 2015, available at <http://maldivesindependent.com/society/complaint-filed-over-pepper-spray-use-obstruction-of-find-moyameehaa-walk-116573>.

<sup>264</sup> *Police Crack Down on March for Abducted Journalist*, MALDIVES INDEPENDENT, Aug. 8, 2017, available at <http://maldivesindependent.com/society/police-crack-down-on-march-for-abducted-journalist-131940>.

<sup>265</sup> *Maldives Declares Month-Long Emergency after Boat Blast*, *supra* note 225.

<sup>266</sup> *Id.*

<sup>267</sup> David Barstow, *State of Emergency in Maldives Is Called ‘Precautionary’*, NEW YORK TIMES, Nov. 6, 2015, available at <http://www.nytimes.com/2015/11/07/world/asia/maldives-state-of-emergency-is-called-precautionary.html>.

<sup>268</sup> *Id.*

<sup>269</sup> Hassan Moosa, *Maldives Bans Street Protests*, MALDIVES INDEPENDENT, Nov. 29, 2015, available at <http://maldivesindependent.com/politics/maldives-bans-street-protests-120333>.

<sup>270</sup> *Id.*

to hold “political gatherings” in public areas or to hang a poster or banner.<sup>271</sup> Critics have pointed out that the ban on street protests is arbitrary and unconstitutional,<sup>272</sup> but the ban remains in effect, and many protesters have been attacked while peacefully demonstrating.

For example, in April 2016, more than a dozen journalists from various media outlets were arrested while staging a peaceful sit-in at the President’s office to protest the Government’s obstruction of press freedom.<sup>273</sup> They were pepper sprayed at close range and dragged away by soldiers in riot gear.<sup>274</sup> The journalists were subsequently released after 10 hours in custody.<sup>275</sup> The attack gained significant international attention, including from the German Ambassador to the Maldives, U.K. Minister of State for Foreign and Commonwealth Affairs, and U.S. Ambassador to the Maldives, who met personally with the journalists shortly after their release.<sup>276</sup>

In July 2016, riot police used pepper spray on worshipers gathered for a group prayer held by opposition supporters.<sup>277</sup> That same month, riot police blocked a silent protest held by journalists in opposition to the then-proposed defamation bill.<sup>278</sup>

In March 2017, ahead of a visit from the King of Saudi Arabia, the Government launched another massive crackdown on media and peaceful protests.<sup>279</sup> The police issued a statement threatening legal action against anyone carrying out “demeaning” actions against visiting “foreign dignitaries,” and the criminal court authorized police to confiscate “banners and all related items.”<sup>280</sup>

In April 2017, police attacked journalists and camera crews during an opposition rally, spraying pepper spray indiscriminately into the crowd and damaging the media equipment.<sup>281</sup> Multiple journalists had to seek medical treatment in hospitals after the attack.<sup>282</sup>

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<sup>271</sup> Hassan Moosa, *Posters and Banners Banned In Public Spaces*, MALDIVES INDEPENDENT, May 19, 2016, available at <http://maldivesindependent.com/politics/posters-and-banners-banned-in-public-spaces-124310>.

<sup>272</sup> *Maldives Bans Street Protests*, *supra* note 269.

<sup>273</sup> Ahmed Naish, *16 Journalists Arrested in Police Crackdown on Sit-In Protest*, MALDIVES INDEPENDENT, Apr. 3, 2016, available at <http://maldivesindependent.com/politics/more-than-15-journalists-arrested-in-police-crackdown-on-journalists-protest-123199>.

<sup>274</sup> *Id.*

<sup>275</sup> Ahmed Naish, *Concerns Mount Over Maldives Press Freedom After Mass Arrests*, MALDIVES INDEPENDENT, Apr. 4, 2016, available at <http://maldivesindependent.com/politics/concerns-mount-over-maldives-press-freedom-after-mass-arrests-123223>.

<sup>276</sup> *Id.*

<sup>277</sup> Ahmed Naish, *Police Use Pepper Spray To Disperse Opposition Prayer Gathering*, MALDIVES INDEPENDENT, July 9, 2016, available at <http://maldivesindependent.com/politics/police-use-pepper-spray-to-disperse-opposition-prayer-gathering-125236>.

<sup>278</sup> Ahmed Naish, *Police Block Journalists’ Silent Protest*, MALDIVES INDEPENDENT, July 28, 2016, available at <http://maldivesindependent.com/politics/police-block-journalists-silent-protest-125689>.

<sup>279</sup> *Maldives: Alarming Crackdown on Protests and Media Ahead of Saudi Arabian King’s Visit*, AMNESTY INT’L, Mar. 21, 2017, available at <https://www.amnesty.org/en/documents/asa29/5925/2017/en/>.

<sup>280</sup> *Id.*

<sup>281</sup> Shan Anees, *Police Isolated And Attacked Journalists At Protest*, RAAJE, Apr. 7, 2017, available at <https://raajje.mv/en/news/8013>.

<sup>282</sup> *Id.*

## F. Culture of Impunity

Yameen has fostered a culture of impunity to protect those he perceives as loyal. Violent attacks of vigilante gangs and police officers against reporters, opposition politicians, activists, and students are ongoing and without redress.

For example, in November 2015, the Government refused to acknowledge that police beat three journalists for attempting to report on an improvised explosive device found near the presidential palace.<sup>283</sup> One of the journalist's eyes was bloody and swollen; another reported difficulty hearing because of a blow to his ear and face.<sup>284</sup> Instead of an investigation into police brutality, the three reporters were arrested and charged with obstructing the police, disobeying orders, and assaulting a police officer.<sup>285</sup>

Failures of the Maldivian judicial system are also to blame. Despite being mandated to protect the rights of all citizens, Maldivian courts are controlled by Yameen, and swayed by the personal and political interests of the judges, leaving citizens without safeguard against their abusers.<sup>286</sup> As a result, the Maldivian government and its security forces are able to commit violations that go largely unchecked by the Judiciary.<sup>287</sup> The opposition submitted a case to the Supreme Court in late January 2018 requesting the temporary removal of Yameen from presidency to investigate allegations of grand corruption and misrule.<sup>288</sup> As discussed previously, instead of ruling on the matter, on 1 February the top court issued an order calling for the immediate release of nine political leaders.<sup>289</sup> Since then, Yameen has resorted to announcing a State of Emergency, during which he has ordered many arrests, including the Chief Justice and another Justice of the Supreme Court.<sup>290</sup>

### *Ismail Khilath Rasheed (aka "Hilath")*

Blogger Ismail Khilath Rasheed, popularly known as Hilath, was stabbed and wounded by an unidentified attacker in June 2012.<sup>291</sup> Reporters Without Borders, which had previously described Hilath as "one of his country's leading free speech advocates,"<sup>292</sup> immediately came out saying that the attack appeared to be targeted at Hilath as a

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<sup>283</sup> Mohamed Saif Fathih, *Police Accused of Beating Three Raajje TV Journalists*, MALDIVES INDEPENDENT, Nov. 3, 2015, available at <http://maldivesindependent.com/politics/police-accused-of-beating-three-raajje-tv-journalists-119314>.

<sup>284</sup> *Id.*

<sup>285</sup> *Id.*

<sup>286</sup> See generally Gabriela Knaul, *Report of the Special Rapporteur on the Independence of Judges and Lawyers: Mission to the Maldives*, May 21, 2013, available at [http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-43-Add3\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-43-Add3_en.pdf).

<sup>287</sup> *Id.*

<sup>288</sup> *Supreme Court Asked to Remove President from Power*, MALDIVES INDEPENDENT, Jan. 28, 2018, available at <http://maldivesindependent.com/politics/supreme-court-asked-to-remove-president-from-power-135401>

<sup>289</sup> *Supreme Court Order of Feb. 1, 2018*, *supra* note 8.

<sup>290</sup> *Opposition Leader Gayoom Arrested in Maldives*, *supra* note 14.

<sup>291</sup> Michael Safi, *Maldives Blogger Stabbed to Death in Capital*, THE GUARDIAN, Apr. 23, 2017, available at <https://www.theguardian.com/world/2017/apr/23/maldives-blogger-yameen-rasheed-stabbed-to-death-in-capital>.

<sup>292</sup> *Journalist Detained, Charges Unclear*, IFEX, Dec. 21, 2011, available at [http://www.ifex.org/maldives/2011/12/21/rasheed\\_detained/](http://www.ifex.org/maldives/2011/12/21/rasheed_detained/).

journalist.<sup>293</sup> While the Maldives government condemned the stabbing, its Human Resources and Youth Minister simultaneously implied Hilath was to blame, saying “Hilath must have known that he had become a target of a few extremists . . . We are not a secular country. When you talk about religion there will always be a few people who do not agree.”<sup>294</sup>

After barely surviving the stabbing, Hilath fled the Maldives later that year. When asked in an interview whether he thought he would ever see justice in his case, he responded: “I have seen some of my attackers behind police lines with media passes during protests in which police brutalized protestors, so I don’t think the government is serious or can prosecute these people . . . I don’t think the Maldives is safe for me anymore and I don’t think the Government will prosecute the attackers.”<sup>295</sup>

Hilath had good reason to think the Maldives government would not protect him. Previously in November 2011, the Maldives Communications Authority shut down Hilath’s blog, claiming that it contained “anti-Islamic” material.<sup>296</sup> A month later, Hilath was attacked with stones while taking part in a peaceful protest for religious tolerance.<sup>297</sup> The Maldivian government responded not by arresting his attackers, but by arresting him for protesting and detaining him for over three weeks.<sup>298</sup> During this time, Amnesty International declared Hilath a prisoner of conscience and condemned the Government’s failure to bring the attackers to justice despite photographic evidence.<sup>299</sup>

### *Afrasheem Ali*

Afrasheem Ali, a Member of Parliament, was murdered in October 2012 after his moderate Islamic scholarship provoked the ire of religious hardliners.<sup>300</sup> Given Ali’s status as a Member of Parliament, the Government appeared to conduct a major investigation into his murder, but it was not viewed as credible. For example, four suspects were arrested within 24 hours,<sup>301</sup> several of whom seemed to be conveniently selected on the basis of their political opposition.<sup>302</sup>

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<sup>293</sup> Roy Greenslade, *Maldives Journalist Stabbed in the Neck*, THE GUARDIAN, June 6, 2012, available at <https://www.theguardian.com/media/greenslade/2012/jun/06/journalist-safety-maldives>.

<sup>294</sup> *Liberal Blogger Stabbed in the Maldives: Police*, THE EXPRESS TRIBUNE, June 5, 2012, available at <https://tribune.com.pk/story/389114/liberal-blogger-stabbed-in-the-maldives-police/>.

<sup>295</sup> “*I Don’t Think the Maldives is Safe for Me Anymore*” Interview with Ismail Halith Rasheed, Blogger and Human Rights Defender, FIDH, Sept. 17, 2012, available at <https://www.fidh.org/en/region/asia/maldives/I-don-t-think-the-Maldives-is-safe-12184>.

<sup>296</sup> *The Government Shuts Down Blog in Climate of Growing Religious Intolerance*, REPORTERS WITHOUT BORDERS, Nov. 23, 2011, available at <https://rsf.org/en/news/government-shuts-down-blog-climate-growing-religious-intolerance>.

<sup>297</sup> JJ Robinson, *Amnesty Declares Imprisoned Blogger a Prisoner of Conscience*, MINIVAN NEWS, Dec. 22, 2011, available at <https://minivannewsarchive.com/society/amnesty-declares-imprisoned-blogger-a-prisoner-of-conscience-29766>.

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> *Maldives MP Stabbed to Death*, AMNESTY INT’L, Oct. 2, 2012, available at <https://www.amnesty.org/en/press-releases/2012/10/maldives-mp-stabbed-death/>.

<sup>301</sup> Devirupa Mitra, *Rush to Hang Convict for 2012 Assassination Reopens Political Can of Worms in the Maldives*, THE WIRE, July 1, 2016, available at <https://thewire.in/47545/afraasheem-ali-murder-case-political-family-feuds-and-the-death-penalty-in-the-maldives/>.

<sup>302</sup> *Four Questioned Over Maldives MP Afrasheem Ali Murder*, BBC, Oct. 4, 2012, available at <http://www.bbc.com/news/world-asia-19826539>.



In June 2016, the Maldives Supreme Court upheld the death sentence for one of the original four suspects in Ali's murder, Hussein Humam, discussed above in relation to the death penalty.<sup>303</sup> In his trial, Humam denied all guilt, and remarked that Yameen and his closest aide "will know best" the details of the murder.<sup>304</sup>

### *Ibrahim Waheed*

In February 2013, *Raajje TV* reporter Ibrahim Waheed was beaten nearly to death with a metal rod just months after his station's offices had been burned to the ground.<sup>305</sup> The attacks on *Raajje TV*, the only opposition-aligned private television outlet in the Maldives, were condemned by human rights organizations, including Freedom House.<sup>306</sup> Only one of 18 suspects was formally charged, and no trial proceedings have been initiated.<sup>307</sup>

The Government has shown little sympathy for Waheed, arresting him in April 2016 for peacefully demonstrating for freedom of speech.<sup>308</sup>

### *Yameen Rasheed*

Among those who have been victims of the culture of impunity in the Maldives is Yameen Rasheed, a blogger who was murdered in April 2017. Rasheed was known for being outspoken in his criticism of political corruption and religious extremism,<sup>309</sup> for which he received many threats on social media. Despite making repeated reports to the Maldives Police Service about the death threats he was receiving, no investigation or protection services were ever initiated.<sup>310</sup>

In April 2017, Rasheed was murdered in the stairwell of his apartment in Malé from a slit throat and dozens of stab wounds.<sup>311</sup> In the immediate aftermath of the murder, the conduct of the police made it even more clear that the police could not be trusted to carry out a fair and independent investigation. At the scene of his murder, the police prohibited

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<sup>303</sup> *Supreme Court Upholds Death Sentence for Humam*, *supra* note 210.

<sup>304</sup> Shafaa Hameed, *Convict Alleges President's Involvement in MP Afrasheem's Murder*, MINIVAN NEWS, Apr. 13, 2015, available at <http://minivannewsarchive.com/politics/murder-convict-alleges-presidents-involvement-in-mp-afraheems-murder-96219#sthash.Y6p2e0Yi.dpbs>.

<sup>305</sup> *Amnesty International Concludes Visit to the Republic of the Maldives*, AMNESTY INT'L, Apr. 25, 2013, available at <https://www.amnesty.org/en/documents/ASA29/005/2013/en/>.

<sup>306</sup> *Freedom of the Press 2014: Maldives*, FREEDOM HOUSE, available at <https://freedomhouse.org/report/freedom-press/2014/maldives>.

<sup>307</sup> Shafaa Hameed, *Three Journalists Facing Trial on Charges of Obstructing Police Duty*, MALDIVES INDEPENDENT, Apr. 7, 2016, available at <http://maldivesindependent.com/politics/three-journalists-facing-trial-on-charges-of-obstructing-police-duty-123355>.

<sup>308</sup> *Maldives: Press Freedom Protest Dispersed by Police*, BBC, Apr. 3, 2016, available at <http://www.bbc.com/news/world-asia-35954966>.

<sup>309</sup> Azim Zahir, *Who Killed My Friend Yameen Rasheed?*, AL JAZEERA, Apr. 26, 2017, available at <http://www.aljazeera.com/indepth/opinion/2017/04/killed-friend-yameen-rasheed-170426080146094.html>.

<sup>310</sup> Hassan Moosa & Kai Schultz, *Outspoken Maldives Blogger Who Challenged Radical Islamists Is Killed*, THE NEW YORK TIMES, Apr. 23, 2017, available at <https://www.nytimes.com/2017/04/23/world/asia/yameen-rasheed-dead-maldives-blogger-dead.html>.

<sup>311</sup> Michael Safi, *Maldives Blogger Stabbed to Death in Capital*, THE GUARDIAN, Apr. 23, 2017, available at <https://www.theguardian.com/world/2017/apr/23/maldives-blogger-yameen-rasheed-stabbed-to-death-in-capital>. *Maldives Blogger Stabbed to Death in Capital*, *supra* note 291.

anyone from taking photographs, and the walls were quickly cleaned and repainted.<sup>312</sup> Police did not even search the building after they arrived at the crime scene.<sup>313</sup>

In May 2017, Rasheed's family sued the Maldives Police Service for negligence in failing to investigate the death threats and failing to protect Rasheed, in violation of the Maldivian Constitution and the Police Act.<sup>314</sup> U.N. Human Rights Experts<sup>315</sup> urged the Maldives government to allow for a "thorough and independent public inquiry" into Rasheed's murder.<sup>316</sup> In response to international calls for accountability, the Human Rights Commission of the Maldives released a public statement calling on the public "to refrain from actions that would further aggravate the family's grief, and to not obstruct the investigation and to cooperate with the investigators."<sup>317</sup> Many have interpreted this statement as another example of the Government's attempts to silence its critics, and have noted that the statement is tone-deaf to legitimate concerns about the credibility and thoroughness of any investigation led by the Maldives Police Service.

At present, the identity of Rasheed's killer is unknown, although the Maldivian authorities have arrested multiple suspects whom they allege are the murderers.<sup>318</sup> Trial proceedings against the suspects began in September 2017.<sup>319</sup> However, the legitimacy of these proceedings has been called into question, as they are being held behind closed doors.<sup>320</sup>

## **G. Interference with Rule of Law in the Maldives**

President Yameen has promoted a culture of contempt for the rule of law in the Maldives. As discussed above, until very recently the judiciary has lacked all semblance of independence, and Government officials loyal to Yameen are allowed to violate the rights of Maldivian citizens with impunity. Furthermore, Yameen encourages and masterminds direct interference in the parliamentary process, and continually removes those he perceives to be a threat to his grip on power.

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<sup>312</sup> See *Individual Complaint to the United Nations In the Matter of Yameen Rasheed, Deceased*, PERSEUS STRATEGIES, May 11, 2017, at 16, available at <http://perseus-strategies.com/wp-content/uploads/2017/05/Complaint-and-Letter-to-UN-and-SRs-on-the-Case-of-Yameen-Rasheed-5.11.17.pdf>.

<sup>313</sup> *Id.*

<sup>314</sup> Shafaa Hameed, *Two Arrested as Yameen's Family Sue Police for Negligence*, MALDIVES INDEPENDENT, May 4, 2017, available at <http://maldivesindependent.com/crime-2/two-arrested-as-yameens-family-sue-police-for-negligence-130323>.

<sup>315</sup> UN Special Rapporteurs on the Promotion and Protection of the Right to Freedom of Opinion and Expression (David Kaye), Human Rights Defenders (Michel Forst), and Freedom of Religion or Belief (Ahmed Shaheed).

<sup>316</sup> *The Maldives Must Investigate Murder of Journalist Yameen Rasheed and Hold Those Responsible to Account*, UN OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, May 9, 2017, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21597&LangID=E>.

<sup>317</sup> Press Statement, HUMAN RIGHTS COMM'N OF THE MALDIVES, Apr. 23, 2017, available at <https://twitter.com/hrcmv/status/856099079952007169/photo/1> (in Dhivehi).

<sup>318</sup> See, e.g., Ahmed Naish, *Yameen Murder Suspect in Custody*, MALDIVES INDEPENDENT, May 1, 2017, available at <http://maldivesindependent.com/crime-2/yameen-murder-suspect-in-custody-130278>; Fathimath Shaahunaaz, *Police Arrest Second Suspect in Yameen Rasheed Murder*, MIHAARU, May 3, 2017, available at <http://en.mihaaru.com/police-arrest-second-suspect-in-yameen-rasheed-murder/>; and Shafaa Hameed, *Four More Suspects Arrested Over Yameen's Murder*, MALDIVES INDEPENDENT, May 9, 2017, available at <http://maldivesindependent.com/crime-2/four-more-suspects-arrested-over-yameens-murder-130447>.

<sup>319</sup> Aishath Shaany, *Yameen Rasheed Murder Trial to Commence on Sunday*, RAAJJE, Sept. 7, 2017, available at <https://raajje.mv/en/news/17318>.

<sup>320</sup> *The Maldives: Ensure Justice for Yameen by Opening the Doors of the Courts*, ASIAN TRIBUNE, Oct. 9, 2017, available at <http://www.asiantribune.com/node/91076>.

## 1. *Interference With the Parliamentary Process*

In March 2017, 26 opposition Members of Parliament submitted a no-confidence motion calling for the impeachment of Speaker of Parliament Abdulla Maseeh Mohamed, an ally of Yameen.<sup>321</sup> The parliamentarians accused the Speaker of, among other things, “refus[ing] to ensure fairness in the conduct of Parliament... [having a] complete disregard of the rule of law... [and playing a] role in eroding the system of checks and balances.”<sup>322</sup> Reprisal by the Government was swift. For example, ten days later, local council elections were postponed for the third time to May 2017.<sup>323</sup>

The vote of no-confidence was scheduled for 27 March 2017.<sup>324</sup> However, ahead of the vote, 13 opposition Members of Parliament were forcibly removed from the Parliament chamber by the Maldives military, which physically prevented them from voting.<sup>325</sup> Members of the press and the public were also prevented from entering the building by barricades set up by riot police, and the live feed for the vote was turned off.<sup>326</sup>

In April 2017, following a second motion of no-confidence, a second impeachment vote was blocked by a last-minute and controversial alteration to the rules of procedure that nearly tripled the required number of signatories on a motion of no-confidence.<sup>327</sup> In May 2017, the Supreme Court interjected itself in the process and deemed itself the final authority in the impeachment process, dictating that a vote for impeachment is subject to review by the Supreme Court.<sup>328</sup>

In July 2017, 45 opposition Members of Parliament submitted a third motion of no-confidence against Speaker Maseeh, meeting the new higher threshold of signatories required by the new rules of procedure.<sup>329</sup> Several days later, the Supreme Court declared that any Member of Parliament who switched their political affiliation would lose their seat in the Parliament, a direct attack against a number parliamentarians who had recently defected from

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<sup>321</sup> Ahmed Naish, *No-Confidence Motion Filed to Remove Speaker Maseeh*, MALDIVES INDEPENDENT, Mar. 8, 2017, available at <http://maldivesindependent.com/politics/no-confidence-motion-filed-to-remove-speaker-maseeh-129300>.

<sup>322</sup> *Maldivian Democratic Party Welcomes Cross-Party, No Confidence Motion Against Majlis Speaker*, MALDIVIAN DEMOCRATIC PARTY, Mar. 8, 2017, available at <https://mdp.org.mv/archives/73907>.

<sup>323</sup> *Maldivian Democratic Party Condemns Postponement of Local Council Elections for Third Time, Calls for Punitive Measures on Regime Officials*, MALDIVIAN DEMOCRATIC PARTY, Mar. 18, 2017, available at <https://mdp.org.mv/archives/73939>.

<sup>324</sup> *Joint Statement: Maldives Military Removes Opposition MPs from Parliament Ahead of Key Vote*, MALDIVIAN DEMOCRATIC PARTY, Mar. 27, 2017, available at <https://mdp.org.mv/archives/73969>.

<sup>325</sup> *Id.*

<sup>326</sup> *Id.*

<sup>327</sup> Saya Ahmed, *Rules Changed to Save Speaker from Impeachment*, MALDIVES INDEPENDENT, Apr. 10, 2017, available at <http://maldivesindependent.com/politics/rules-changed-to-save-speaker-from-impeachment-130080>.

<sup>328</sup> Ahmed Naish, *Supreme Court to Decide Legitimacy of Parliament's Removal of State Officials*, MALDIVES INDEPENDENT, May 23, 2017, available at <http://maldivesindependent.com/politics/supreme-court-to-decide-legitimacy-of-parliaments-removal-of-state-officials-130743>.

<sup>329</sup> *Joint Coalition Statement Opposition Parties Take Control of Maldives Parliament: 45 MPs Sign Letter Calling for Speaker's Impeachment*, MALDIVIAN DEMOCRATIC PARTY, July 3, 2017, available at <https://mdp.org.mv/archives/75827>.

the ruling party to the opposition.<sup>330</sup> This announcement was used by the Elections Committee to strip four lawmakers of their seats, which Yameen claimed would invalidate the successfully-submitted motion of no-confidence.<sup>331</sup> At least one Member of Parliament who lost his seat claimed that the application of the Supreme Court's ruling to his case was retroactive, having submitted his resignation letter several days before the ruling was announced by the Supreme Court.<sup>332</sup> The Maldivian Democratic Party, a leading opposition party, has called the Elections Committee "a de-facto rubber stamp for President Yameen."<sup>333</sup>

On the date of the third impeachment vote in July 2017, Maldivian security forces again physically prevented opposition lawmakers from entering parliament, padlocking the gates and pepper-spraying lawmakers who tried to enter the premises.<sup>334</sup> In August 2017, the military again physically blocked another effort to impeach the Speaker, when plain clothes officers prevented lawmakers from entering the Parliament building and stood surrounding the Speaker during the session.<sup>335</sup> In October 2017, three more MPs were stripped of their seats, retroactively applying the Supreme Court order preventing Members of Parliaments from changing political affiliation.<sup>336</sup>

Despite Yameen's manipulation and undercutting of the democratic process, the opposition has held onto its political gains. For example, in May 2017, the Maldivian Democratic Party won a major victory in local council elections, gaining a number of city council seats, notwithstanding a "heightened crackdown on opposition leaders, on political activity and . . . unparalleled levels of fear mongering and harassment of voters by the Government," and the fact that Government employees were coerced into voting for the Government's candidates.<sup>337</sup>

On 18 October 2017, the Inter-Parliamentary Union (IPU) issued a statement of "deep concern," criticizing the increasing spate of "human rights violations against opposition MPs" in several countries, mentioning the Maldives specifically.<sup>338</sup> The IPU "regretted that the mandates of seven parliamentarians had been revoked in the absence of any legal basis under

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<sup>330</sup> *MPs Will Forfeit Seat for Leaving Party, Supreme Court Rules*, MALDIVES INDEPENDENT, July 13, 2017, available at <http://maldivesindependent.com/politics/mps-will-forfeit-seat-for-leaving-party-supreme-court-rules-131486>.

<sup>331</sup> *Four Ex-PPM MPs Stripped of Seats*, MALDIVES INDEPENDENT, July 19, 2017, available at <http://maldivesindependent.com/politics/four-ex-ppm-mps-stripped-of-seats-131587>.

<sup>332</sup> *Id.*

<sup>333</sup> *Joint Opposition Statement: Elections Commission Strips 3 More MPs of Their Seats; Joint Opposition Calls on EC to Follow Legal Mandate or Face Prosecution*, MALDIVIAN DEMOCRATIC PARTY, Oct. 31, 2017, available at <https://mdp.org.mv/archives/76314>.

<sup>334</sup> Bharatha Mallawarachi, *Security Forces Shut Maldives Parliament, Leading to Clashes*, AP NEWS, July 25, 2017, available at <https://www.apnews.com/881c069d752d4ddc86b39cba28d861d1/Security-forces-shut-Maldives-Parliament-leading-to-clashes>.

<sup>335</sup> Oliver Holmes, *Maldives Army Occupies Parliament to Block No-Confidence Vote*, THE GUARDIAN, Aug. 22, 2017, available at <https://www.theguardian.com/world/2017/aug/22/maldives-army-occupies-parliament-no-confidence-vote>.

<sup>336</sup> *Joint Opposition Statement: Elections Commission Strips 3 More MPs of Their Seats; Joint Opposition Calls on EC to Follow Legal Mandate or Face Prosecution*, MALDIVIAN DEMOCRATIC PARTY, Oct. 31, 2017, available at <https://mdp.org.mv/archives/76314>.

<sup>337</sup> *MDP Wins Popular Vote and Majority Seats in the Local Council Elections*, MALDIVIAN DEMOCRATIC PARTY, May 7, 2017, available at <https://mdp.org.mv/archives/74049>.

<sup>338</sup> *Political Crises Increase Worldwide as Human Rights Violations Against Opposition MPs Rise*, INTER-PARLIAMENTARY UNION, Oct. 18, 2017, available at <http://mailchi.mp/4668bd0049f9/political-crises-increase-worldwide-as-human-rights-violations-against-opposition-mps-rise-767649?e=32e976de0f>.

Maldivian law [and . . .] raised the alarm about the increased militarization of the physical premises of the Parliament.”<sup>339</sup>

## 2. Targeted Reprisals and Dismissals of Political Opponents

### *Former Supreme Court Chief Justice Ahmed Faiz and Judge Muthasim Adnan*

In December 2014, Supreme Court Chief Justice Ahmed Faiz and Judge Muthasim Adnan—who both have a history of dissenting from Yameen’s wishes—were dismissed from their seats on the Supreme Court<sup>340</sup> in violation of procedures proscribed in the Maldives Constitution.<sup>341</sup> The decision was justified by a report from the heavily politicized Judicial Services Commission, which recommended their removal for “gross misconduct and incompetence.”<sup>342</sup> The U.N. urged the Government to reconsider, calling the decision “unacceptable.”<sup>343</sup> Transparency Maldives<sup>344</sup> and the International Commission of Jurists also criticized the process of dismissal.<sup>345</sup>

### *Former Vice President Mohamed Jameel*

In July 2015, Yameen fired his then Vice President, Mohamed Jameel, on allegations of “treason.”<sup>346</sup> Yameen and Jameel had been in disagreement in the months prior to his dismissal.<sup>347</sup> Jameel faced an impeachment vote,<sup>348</sup> but he fled the Maldives before it was carried out and received asylum in the U.K.<sup>349</sup> Subsequently, the Maldives cancelled Jameel’s passport, along with the passports of other exiled politicians.<sup>350</sup>

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<sup>339</sup> *Id.*

<sup>340</sup> Zaheena Rasheed, *Majlis Removes Chief Justice Ahmed Faiz, Justice Muthasim Adnan from Supreme Court*, MINIVAN NEWS, Dec. 14, 2014, available at <https://minivannewsarchive.com/politics/majlis-removes-chief-justice-ahmed-faiz-justice-muthasim-adnan-from-supreme-court-91600>.

<sup>341</sup> R.K. Radhakrishnan, *State of Crisis*, FRONTLINE, Jan. 9, 2015, available at <http://www.frontline.in/world-affairs/state-of-crisis/article6715715.ece#test>.

<sup>342</sup> *Id.*

<sup>343</sup> *Maldives: UN Expert Concerned at ‘Unacceptable’ Dismissal of Supreme Court Justices*, UN SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES & LAWYERS, Dec. 22, 2014, available at <http://www.un.org/apps/news/story.asp?NewsID=49661#.WU1kBbGZPq0>.

<sup>344</sup> *TM Calls on the State to Uphold, Respect and Operate Within the Boundaries of the Constitution, and Democratic Norms and Principles*, TRANSPARENCY MALDIVES, Dec. 14, 2014, available at <http://transparency.mv/2014/12/tm-calls-on-the-state-to-uphold-respect-and-operate-within-the-boundaries-of-the-constitution-and-democratic-norms-and-principles/>.

<sup>345</sup> *Maldives: Removal Of Supreme Court Judges An Assault On Independence Of The Judiciary*, INT’L COMM’N OF JURISTS, Dec. 18, 2014, available at <https://www.icj.org/maldives-removal-of-supreme-court-judges-an-assault-on-independence-of-the-judiciary/>.

<sup>346</sup> *Maldives Government Sacks Vice President For ‘Treason’*, THE GUARDIAN, July 22, 2015, available at <https://www.theguardian.com/world/2015/jul/22/maldives-government-sacks-vice-president-treason-mohamed-jameel>.

<sup>347</sup> *Id.*

<sup>348</sup> Ismail Humamm Hamid, *Majlis Notifies Vice-President of Impeachment Vote*, MALDIVES INDEPENDENT, July 2, 2015, available at <http://maldivesindependent.com/politics/majlis-notifies-vice-president-of-impeachment-vote-100451>.

<sup>349</sup> Ahmed Naish, *Immigration Revokes Nasheed and Jameel’s Passports*, MALDIVES INDEPENDENT, Sept. 7, 2016, available at <http://maldivesindependent.com/politics/immigration-cancels-nasheed-and-jameels-passports-126414>.

<sup>350</sup> *Id.*

*Deputy Attorney General Ismail Wisham and Senior Public Prosecutor  
Hana Waheed*

In September 2015, Deputy Attorney General Ismail Wisham and his wife, Senior Public Prosecutor Hana Waheed, were fired and suspended, respectively, following their arrest after police discovered alcohol and cannabis in a search of their house.<sup>351</sup> Wisham's colleagues expressed concern that the house raid was "targeted" and designed to shame and control the couple.<sup>352</sup>

*Former Police Commissioner Hussain Waheed*

In October 2015, former Police Commissioner Hussain Waheed was removed from his position and transferred to a ministry role, one day before former Vice President Adeeb was arrested over the alleged assassination attempt on Yameen.<sup>353</sup> Yameen admitted that the changes were politically-motivated, explaining that Waheed's dismissal was prompted by "the extent of the vice president's influence."<sup>354</sup> Suspicions quickly arose of a "purge" of officials disloyal to Yameen.<sup>355</sup>

*50+ Maldivian Lawyers*

In September 2017, the Department of Judicial Administration (DJA) suspended over 50 Maldivian lawyers—approximately one-third of all practicing lawyers in the country—after they submitted a petition calling on the Supreme Court to uphold the rule of law in the Maldives.<sup>356</sup> The DJA claimed the petition was an unlawful document and its submission obstructed the independence of the judiciary.<sup>357</sup> While many of the lawyers have since been reinstated,<sup>358</sup> the suspensions have a chilling impact on the willingness of lawyers to stand up for the rule of law in the Maldives.

3. *Interference With Supreme Court Order of 1 February 2018*

As noted earlier, on 1 February 2018, the Supreme Court issued an extraordinary order that reversed the conviction of nine political prisoners and ordered the reinstatement

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<sup>351</sup> Mohamed Saif Fathih, *Assistant Attorney General Sacked, Wife Suspended*, MALDIVES INDEPENDENT, Sept. 30, 2015, available at <http://maldivesindependent.com/politics/assistant-attorney-general-sacked-wife-suspended-117808>.

<sup>352</sup> Mohamed Saif Fathih, *Fears Raised Of "Targeted Arrest" Against Assistant Attorney General*, MALDIVES INDEPENDENT, Sept. 29, 2015, available at <http://maldivesindependent.com/politics/fears-raised-of-targeted-arrest-against-assistant-attorney-general-117760>.

<sup>353</sup> Ahmed Naish, *Department Heads Shuffled in Shakeup of Police Leadership*, MALDIVES INDEPENDENT, Oct. 28, 2015, available at <http://maldivesindependent.com/politics/senior-officers-shuffled-in-shakeup-of-police-leadership-119029>.

<sup>354</sup> *Id.*

<sup>355</sup> See, e.g., Mohamed Visham, *Maldives Arrests Vice President Over Plot to Kill President*, YAHOO! NEWS, Oct. 24, 2015, available at <https://sg.news.yahoo.com/maldives-arrests-vice-president-over-plot-assassinate-president-074329681.html>.

<sup>356</sup> Fathimath Shaahunaaz, *Maldives Suspends 54 Lawyers Over 'Unlawful' Petition*, MIHAARU, Sept. 11, 2017, available at <http://en.mihaaru.com/maldives-suspends-54-lawyers-over-unlawful-petition/> and Jennifer Suder, *Maldives Suspends Lawyers Calling for Rule of Law*, JURIST, Sept. 11, 2017, available at <http://www.jurist.org/paperchase/2017/09/maldives-suspends-lawyers-calling-for-rule-of-law.php>.

<sup>357</sup> *Maldives Suspends 54 Lawyers Over 'Unlawful' Petition*, *supra* note 356.

<sup>358</sup> Rushdha Rasheed, *Suspensions for Hisaan, Riffath Lifted*, RAAJJE, Nov. 12, 2017, available at <https://raajje.mv/en/news/21307>.

of 12 Members of Parliament who had been summarily removed from office by Yameen's regime when they crossed the aisle to join Yameen's opposition.<sup>359</sup>

### *Nine Political Prisoners*

The Supreme Court of the Maldives explained its decision to reverse the convictions of nine political prisoners in the following manner:

5. Upon deliberation of the petitions submitted to the Supreme Court in relation to the politically motivated cases based on criminal investigations in violation of the Constitution of Maldives and international human rights treaties to which Maldives is a party to, and influencing judges, and in violation of due process, and taking into account of the writ jurisdiction of the Supreme Court, we hereby decide that the abovementioned cases ought to be judicially re-evaluated in accordance with law and until a fair re-trial, the following named persons shall be released with immediate effect:

1. Mohamed Nasheed of G. Kenereege [Former President]
2. Mohamed Nazim of M. Seenukarankaage [Former Minister of Defence]
3. Imran Abdullah of Malhaaru, M. Kolhufushi [Leader of Adhaalath Party]
4. Ahmed Adeeb Abdul-Ghafoor of H. Saamaraa [Former Vice President]
5. Muhutaz Muhusin of Raimasge, GA. Maamendhoo [Former Prosecutor General]
6. Qasim Ibrahim of M. Maafannu Villa [Leader of Jumhooree Party]
7. Ahmed Faris Maumoon of Ma. Kinbigasdhoshuge [Member of Parliament and son of Former President Maumoon Gayoom]
8. Ahmed Nihan of Venus, GA. Maamendhoo [Former Chief Magistrate of a Court]
9. Hamid Ismail of M. Shoora Manzil [Businessman]<sup>360</sup>

### *12 Members of Parliament*

In its order, the Supreme Court began by noting that in 2017, it had previously ordered the suspension, but not the removal, of the parliamentarians from office, but had ordered the Government and the Parliament to adopt a new law that would govern the status of parliamentarians who had changed their party membership after their election to office.<sup>361</sup> The Supreme Court then explained that the Elections Commission had publicly announced the removal of these parliamentarians from office despite their having been directly elected and without the Government and Parliament having adopted a new law as had been previously ordered.<sup>362</sup>

In light of these actions and the subsequent charging of many of these parliamentarians with crimes for having sought to fulfill their constitutional duties, the

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<sup>359</sup> *Supreme Court Order of Feb. 1, 2018, supra* note 8.

<sup>360</sup> *Id.*

<sup>361</sup> *Id.*

<sup>362</sup> *Id.*

Supreme Court annulled its prior order that had allowed the suspension of these parliamentarians.<sup>363</sup> It concluded that as the seats had “not been legally vacated after the date of Supreme Court’s decision made in [2017] . . . all the parliamentarians who remained in Parliament prior to the said decision, shall be required to duly conduct the first sitting of the first session of the Parliament for 2018 in accordance with the Constitution and the law.”<sup>364</sup>

The response of Yameen’s regime to the Supreme Court order was as swift as it was unequivocal. Attorney General Mohamed Anil, Chief of Defense General Ahmed Shiyam, and Commissioner of Police Abdulla Nawaz added that if the Supreme Court declared Yameen removed from office they would advise the military and police not to enforce such an order. Two of the 12 MPs, Abdulla Sinan and Ilham Ahmed, were arrested after flying back to The Maldives after months in exile. In addition, the police announced it was investigating the Chief Justice and another Justice of the Supreme Court on allegations of bribery and it tried to arrest the Chief Judicial Administrator.<sup>365</sup>

### III. CONDEMNATION BY THE EUROPEAN UNION AND MEMBER STATES

Since President Yameen assumed power in 2013, the European Union and its Member States have repeatedly expressed concern regarding the deteriorating state of human rights, democracy, and rule of law in the Maldives.

In September 2014, the E.U. Delegation to Sri Lanka and the Maldives (E.U. Delegation) led a group of embassies in issuing a joint statement, noting they were “very concerned about the recent reports of attacks, intimidation and death threats faced by journalists, politicians, human rights campaigners and representatives of civil society . . . which are all contributing to a climate of growing fear in the Maldives and reducing the space for public discussion.”<sup>366</sup>

The E.U. Delegation issued a second joint statement in February 2015 “reiterat[ing] the importance of respect for democratic principles, including respect for the rule of law, for the Constitution, for due legal process and for the independence of the judiciary,” in light of the unlawful treatment of former President Mohamed Nasheed.<sup>367</sup>

In March 2015, the E.U. Spokesperson for Foreign Affairs and Security Policy (the Spokesperson) commented “[t]he conviction of former President Mohamed Nasheed for charges under anti-terrorist legislation raises very serious questions about due process of law.”<sup>368</sup> The Spokesperson later noted that “[t]he decision to declare a State of Emergency and suspend fundamental freedoms enshrined in the constitution of the Maldives is the latest

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<sup>363</sup> *Id.*

<sup>364</sup> *Id.*, at ¶ 4.

<sup>365</sup> *No Obstacle to Enforcing Order: Supreme Court*, MALDIVES INDEPENDENT, Feb. 4, 2018.

<sup>366</sup> *Joint Local Statement on Threats to Civil Society and Human Rights in the Maldives*, EUROPEAN UNION DELEGATION TO SRI LANKA & THE MALDIVES, Sept. 30, 2014, available at [http://eeas.europa.eu/delegations/sri\\_lanka/documents/press\\_corner/20140930.pdf](http://eeas.europa.eu/delegations/sri_lanka/documents/press_corner/20140930.pdf).

<sup>367</sup> *Joint Local Statement on the Rule of Law in the Maldives*, EUROPEAN UNION DELEGATION TO SRI LANKA & THE MALDIVES, Feb. 24, 2015, available at [http://www.colombo.diplo.de/contentblob/4469610/Daten/5191841/Rule\\_of\\_law.pdf](http://www.colombo.diplo.de/contentblob/4469610/Daten/5191841/Rule_of_law.pdf).

<sup>368</sup> *Statement by the Spokesperson on the Conviction of Former President of the Maldives Mohamed Nasheed*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, Mar. 14, 2015, available at [http://eeas.europa.eu/statements-eeas/2015/150314\\_01\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/150314_01_en.htm).



in a series of worrying developments in the country . . . A genuine dialogue with all political parties on the future of the country needs to be established.”<sup>369</sup>

In April 2015, the European Parliament adopted a resolution expressing concern over, among other things, the impartiality of the Maldivian judiciary and the general lack of political independence, the frequent attacks on opposition politicians and peaceful protesters, and the severe curtailment of press freedoms.<sup>370</sup> The resolution specifically highlighted the plight of Mohamed Nasheed, Tholhath Ibrahim, Mohamed Nazim, and Ahmed Nazim, all of whom faced detention without due process, as well as Ahmed Rilwan Abdulla, a victim of enforced disappearance.<sup>371</sup> The resolution called for “respect [for] democracy and the rule of law,” “an immediate end to the intimidation of political opponents,” and an “end [to] impunity for vigilantes who have used violence against people promoting religious tolerance, peaceful protesters, critical media and civil society.”<sup>372</sup>

In December 2015, the European Parliament adopted another resolution expressing its “deep concern about the gradual deterioration of democratic standards and the increasing authoritarian tendencies in the Maldives,”<sup>373</sup> and **calling on the E.U. “in the face of continuing democratic backsliding and deterioration of the human rights situation in the Maldives, to introduce restrictive measures in the form of targeted sanctions.”**<sup>374</sup> The Resolution, among other things, “deplores the crackdown on political opponents,” and calls on the Government of the Maldives to “guarantee full impartiality of the judiciary and to respect due process of law,” “to respect and fully support the right to protest and the right to freedom of expression, association, and assembly,” and “to ensure adequate protection of journalists and human rights defenders who face threats and attacks.”<sup>375</sup>

In July 2016, the Spokesperson criticized the Maldivian government’s threat to reinstate the use of the death penalty in the Maldives, a punishment that, while not formally outlawed, has not been practiced in that country since 1953. The Spokesperson noted “[t]he European Union reiterates its absolute opposition to capital punishment in all cases and restates its commitment to the worldwide abolition of the death penalty.”<sup>376</sup> The Spokesperson continued, “[t]he European Union calls on the Government of the Maldives to continue to apply the de facto moratorium on executions as a first step towards its abolition.”<sup>377</sup>

In August 2016, the Spokesperson responded negatively to the adoption in the Maldives of the *Bill on Protection of Reputation and Good Name and Freedom of Expression*, which further inhibits freedom of expression, noting “[t]he penalisation of defamation and the high penalties prescribed in the Bill pose a direct threat to media, political

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<sup>369</sup> *Statement by the Spokesperson on the Declaration of the State of Emergency by the President of the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, May 11, 2015, available at [http://eeas.europa.eu/statements-eeas/2015/151105\\_03\\_en.htm](http://eeas.europa.eu/statements-eeas/2015/151105_03_en.htm).

<sup>370</sup> *European Parliament April 2015 Resolution on the Maldives*, *supra* note 21.

<sup>371</sup> *Id.*, at ¶¶ C, E, & J.

<sup>372</sup> *Id.*, at ¶¶ 1, 4, & 7.

<sup>373</sup> *European Parliament December 2015 Resolution on the Maldives*, *supra* note 21, at ¶ 1.

<sup>374</sup> *Id.*, at ¶¶ 13.

<sup>375</sup> *Id.*, at ¶¶ 2, 4, 8, 10.

<sup>376</sup> *Statement by the Spokesperson on a Death Sentence in the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, July 1, 2016, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/7019/statement-spokesperson-death-sentence-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/7019/statement-spokesperson-death-sentence-maldives_en).

<sup>377</sup> *Id.*

opposition and civil society in the Maldives. The penalisation of such acts, in a country where the independence and functioning of the judiciary is not in compliance with international standards, is aggravating the situation further.”<sup>378</sup>

In April 2017, an E.U. delegation issued a joint statement on the status of democracy in the Maldives: “Opposition politicians ought to be able to conduct their activities without fear of intimidation or incarceration. It is critical for democracy in the Maldives that the Government respect fundamental freedoms, including freedom of assembly and freedom of speech.”<sup>379</sup>

Also in April 2017, the murder of blogger and human rights defender Yameen Rasheed prompted another statement from the Spokesperson: “Human rights defenders should exercise the freedom of speech without any risk to their safety.”<sup>380</sup>

In June 2017, 23 Member States,<sup>381</sup> along with nearly a dozen other countries, issued a joint statement on the status of human rights and democracy in the Maldives during the 35<sup>th</sup> Session of the Human Rights Council.<sup>382</sup> The Member States expressed their regret that freedom of expression “is being increasingly curtailed in a manner contrary to both the Constitution of the Maldives’ and its international human rights obligations” and “emphasi[zed] the importance of allowing activities by opposition parties and political leaders, and space for the expression of diverse political views.”<sup>383</sup>

In July 2017, the E.U. Delegation, along with the embassies of France, Germany, Italy, the Netherlands, and others, issued a statement that they were “alarmed by the recent actions of the Government of Maldives which seriously damage and undermine democracy, and run counter to the Maldives’ Constitution and the country’s international human rights obligations.”<sup>384</sup>

In October 2017, the European Parliament adopted a third resolution reiterating many of their previous concerns about the human rights situation in the Maldives and **calling on the E.U. “to make full use of all instruments at its disposal in order to promote respect**

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<sup>378</sup> *Statement by the Spokesperson on the Restrictions of Freedom of Expression and Independence of the Media in the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, Aug. 11, 2016, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/8575/statement-spokesperson-restrictions-freedom-expression-and-independence-media-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/8575/statement-spokesperson-restrictions-freedom-expression-and-independence-media-maldives_en).

<sup>379</sup> *Joint Local Statement on Democracy in the Maldives*, EUROPEAN UNION & EMBASSIES OF CANADA, NORWAY, SWITZERLAND, & THE UNITED STATES, Apr. 8, 2017, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/24442/joint-local-statement-democracy-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/24442/joint-local-statement-democracy-maldives_en).

<sup>380</sup> *Statement by the Spokesperson on the Murder of Yameen Rasheed in the Maldives*, EU SPOKESPERSON FOR FOREIGN AFFAIRS & SECURITY POLICY, Apr. 25, 2017, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/25025/statement-spokesperson-murder-yameen-rasheed-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/25025/statement-spokesperson-murder-yameen-rasheed-maldives_en).

<sup>381</sup> The 23 Member States included Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Slovakia, Slovenia, Sweden, and the United Kingdom.

<sup>382</sup> *Human Rights Council 35: Human Rights and Democracy in the Maldives*, GOVERNMENT OF THE UNITED KINGDOM, June 7, 2017, available at <https://www.gov.uk/government/news/human-rights-council-35-human-rights-and-democracy-in-the-maldives>.

<sup>383</sup> *Id.*

<sup>384</sup> *Statement on the Situation in the Maldives*, EUROPEAN UNION DELEGATION TO SRI LANKA & THE MALDIVES, July 25, 2017, available at [https://eeas.europa.eu/delegations/sri-lanka\\_en/30384/Statement%20on%20the%20situation%20in%20the%20Maldives](https://eeas.europa.eu/delegations/sri-lanka_en/30384/Statement%20on%20the%20situation%20in%20the%20Maldives).

**for human rights and democratic principles in the Maldives, including by considering introducing temporary individual targeted sanctions against those undermining human rights.**<sup>385</sup> This resolution criticized plans to revive the application of the death penalty in the Maldives, condemned the closure of the Majlis (Maldivian Parliament) in August 2017, reiterated longstanding concerns about the politicization of the judiciary, and called for impartial and independent investigations into the death of Yameen Rasheed and disappearance of Ahmed Rilwan Abdulla.<sup>386</sup>

On 2 February 2018, the Spokesperson for the EU External Action Service stated:

The decision of the Supreme Court of the Maldives to annul the criminal proceedings against leading politicians and admit unfair trials against them is a positive step towards restoring the democratic principles in the country.

The decision orders the immediate release of the accused and also opens the way for a return to the normal functioning of the Parliament, which is a fundamental pillar of democracy.

We expect the authorities of the Maldives to abide by the ruling and for the government to engage in an inclusive dialogue with the leaders of all political parties that should pave the way for credible, transparent and inclusive elections.

At this time, it is vital that all in the country, including those responsible for law enforcement, act with restraint to ensure the stability of the country and security of the population.<sup>387</sup>

On 6 February 2018, the Spokesperson sharply criticized Yameen's imposition of a state of emergency in the Maldives, stating:

The declaration of the state of emergency on February 5 by the President of the Maldives undermines democracy and human rights and further escalates political tensions in the country. The European Union expects the state of emergency to be lifted without delay.

Furthermore, the decision to arrest two Supreme Court judges, including the Chief Justice, shows a clear disregard for the independence of the judiciary – fundamental in any democracy –, as well as the Court's ruling of 1 February, which ordered the release of leading politicians and reinstated 12 members of parliament. The arrest of former President Gayoom is an additional blow to the fundamental freedoms enshrined in the Constitution of the Maldives.

The European Union continues to expect the authorities of the Maldives to abide by the ruling of the Supreme Court and allow the immediate resumption and normal functioning of the Parliament. An inclusive dialogue that engages the leaders of all

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<sup>385</sup> *European Parliament October 2017 Resolution on the Maldives*, *supra* note 21, at ¶ 1.

<sup>386</sup> *Id.*, at ¶¶ 5, 10, & 12.

<sup>387</sup> *Statement by the Spokesperson on the Decision of the Supreme Court of The Maldives*, EUROPEAN EXTERNAL ACTION SERVICE, Feb. 2, 2018, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/39275/statement-spokesperson-decision-supreme-court-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/39275/statement-spokesperson-decision-supreme-court-maldives_en).

political parties is needed in order to pave the way for credible, transparent and inclusive elections.

In light of the serious deterioration of the situation, it is essential that all in the country, in particular law enforcement authorities, act with restraint. Fundamental rights and freedoms of the population must be preserved, notably the freedom of expression and the right to peaceful demonstration. The immediate return to constitutional normalcy is imperative so as to reduce the current tensions.<sup>388</sup>

Yameen's flagrant refusal to implement the valid order of the Supreme Court of the Maldives, after years without consequences for acting with impunity, must result in the European Union moving from condemnation to action.

#### **IV. SANCTIONS BY THE EUROPEAN UNION**

In the wake of World War II, the E.U. emerged as a symbol of peace and unity, spreading the idea that the recent atrocities should never be allowed to be repeated. Thus, the ideals of human dignity, freedom, democracy, equality, the rule of law, and respect for human rights are embedded throughout the E.U. treaties.

As time has passed, this commitment has been continually restated. All trade and cooperation agreements with non-E.U. countries now include a clause stipulating that human rights are central to relations with the E.U. Over the years, the E.U. has adopted important reference documents on the promotion and protection of human rights and developed a range of diplomatic and cooperative tools to support the worldwide advancement of human rights.

For example, in 2012, the Foreign Affairs Council adopted the *Strategic Framework on Human Rights and Democracy* (the Framework) and appointed the first E.U. Special Representative on Human Rights, whose role is to make E.U. policy on human rights in non-E.U. countries more effective and consistent, and to bring human rights to public attention.<sup>389</sup> The Framework reaffirms the E.U.'s determination to strengthen its efforts to ensure that human rights are realized for all and states that the E.U. will continue to throw its full weight behind advocates of liberty, democracy and human rights throughout the world.<sup>390</sup> The 2015 *Action Plan on Human Rights and Democracy* provides an agreed-upon basis for a truly collective effort by both E.U. countries and the E.U. institutions to promote and defend the universality and indivisibility of all human rights.<sup>391</sup>

##### **A. Human Rights-Based Financial Sanctions**

Sanctions, or restrictive measures, function as a means to change the behavior of the target state, and they are most effective when they garner multilateral support. The use of

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<sup>388</sup> *Statement by the Spokesperson on the Situation in the Maldives*, EUROPEAN EXTERNAL ACTION SERVICE, Feb. 6, 2018, available at [https://eeas.europa.eu/headquarters/headquarters-homepage/39413/statement-spokesperson-situation-maldives\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/39413/statement-spokesperson-situation-maldives_en).

<sup>389</sup> *Council Adopts New EU Action Plan on Human Rights and Democracy, "Keeping Human Rights at the Heart of the EU Agenda"*, COUNCIL OF THE EUROPEAN UNION, July 20, 2015, available at <http://www.consilium.europa.eu/en/press/press-releases/2015/07/20-fac-human-rights/>.

<sup>390</sup> *Id.*

<sup>391</sup> *EU Action Plan on Human Rights and Democracy 2015-2019*, EUROPEAN EXTERNAL ACTION SERVICE, July 20, 2015.

sanctions to generate a change in objectionable behavior abroad, to punish those engaged in such behavior, and to deter its repetition is well-established.

Sanctions are administered by the E.U. as a tool to promote the objectives of the E.U. Common Foreign and Security Policy (CFSP):<sup>392</sup>

- to safeguard the common values, fundamental interests and independence of the Union;
- to strengthen the security of the Union and its Member States in all ways;
- to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter;
- to promote international cooperation; [and]
- to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.<sup>393</sup>

Sanctions should not be punitive, but are intended to bring about a change in policy or activity.<sup>394</sup> Sanctions must always be in accordance with international law, respect human rights and fundamental freedoms, and be proportionate to their objective.<sup>395</sup> Every effort must be made to minimize adverse impacts on civilian populations and legitimate activities.<sup>396</sup>

One type of sanction that the E.U. can adopt are targeted sanctions applied to specific individuals, rather than entire countries.<sup>397</sup> Targeted sanctions can take the form of restrictions on admission (travel ban) or freezing of assets.<sup>398</sup> Individuals and entities subject to targeted sanctions are those identified by the E.U. as being connected to specific areas of concern, such as government officials who perpetrate human rights abuses. Currently, there are 39 country-specific sanctions programs in force within the framework of the E.U. Common Foreign and Security Policy (CFSP) that cover 32 countries,<sup>399</sup> though not all programs are limited to only targeted sanctions.

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<sup>392</sup> The Common Foreign and Security Policy (CFSP) is the shared foreign policy of the E.U., to which all E.U. member states have committed. It was established under the Maastricht Treaty (formally known as the Treaty on the European Union or TEU), which came into effect in 1993, and has been reinforced by subsequent treaties. See *Treaty on European Union*, Provisions on a Common Foreign and Security Policy, 1992 O.J. (C191) 1, 31 I.L.M. 253, entered into force Nov. 1, 1993 at Title V.

<sup>393</sup> *Id.*, at Title V, Article J.1(2). These objectives were reiterated in the 2007 Treaty of Lisbon (“democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United National Charter and international law”). See *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 2007 O.J. (C306) 1, entered into force Dec. 1, 2009, at Chpt. 1, Art. 1.

<sup>394</sup> *Factsheet: EU Restrictive Measures*, COUNCIL OF THE EUROPEAN UNION, Apr. 29, 2014, at 1, available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/135804.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/135804.pdf).

<sup>395</sup> *Guidelines on Implementation and Evaluation of Restrictive Measures (Sanctions) in the Framework of the EU Common Foreign and Security Policy No. 11205/12*, COUNCIL OF THE EUROPEAN UNION, June 15, 2012, at 7, ¶ 9.

<sup>396</sup> *Factsheet: EU Restrictive Measures*, *supra* note 394.

<sup>397</sup> *Different Types of Sanctions*, COUNCIL OF THE EUROPEAN UNION, last updated Dec. 12, 2017, available at <http://www.consilium.europa.eu/en/policies/sanctions/different-types/>.

<sup>398</sup> *Id.*

<sup>399</sup> E.U. country-specific sanctions programs currently exist in Afghanistan, Belarus, Bosnia & Herzegovina, Burundi, Central African Republic, China, Democratic Republic of the Congo, Egypt, Eritrea, Guinea, Guinea-Bissau, Haiti, Iran, Iraq, Lebanon, Libya, Mali, Moldova, Montenegro, Myanmar (Burma), North Korea, Russia, Serbia, Somalia, South Sudan, Syria, Tunisia, Ukraine, Venezuela, Yemen, and Zimbabwe. See *EU Sanctions Map*, last updated Jan. 29, 2018, available at <https://sanctionsmap.eu/#/main>.

That said, only a small number of those programs focus explicitly on listing perpetrators of human rights abuses and naming individuals interfering with the advancement of democracy. E.U. sanctions programs are in place for most well-known authoritarian and human rights abusing governments in the world today, including Iran,<sup>400</sup> North Korea,<sup>401</sup> the Russian Federation,<sup>402</sup> Syria,<sup>403</sup> Sudan,<sup>404</sup> and Zimbabwe.<sup>405</sup> But there still remains a large gap between the aspirations articulated throughout the E.U. treaties and institutions, and the reality of existing E.U. sanction regimes. Although the E.U. and its Member States advocate for freedom, democracy, and human rights globally, in practice there is a much narrower number of countries in which the broadest range of tools, including sanctions, are deployed. In the same way that the E.U. engages with foreign governments and intergovernmental bodies on a wide range of issues, it needs to find a clear, coherent, and consistent way to engage with all governments on human rights concerns.

The four examples below of E.U. sanctions in Belarus, Burundi, Venezuela, and Zimbabwe illustrate how the E.U. has adopted targeted sanctions regimes in the past in response to governments that fail to respect human rights, democracy, and the rule of law.

## **B. Process and Implementation of E.U. Sanctions**

Within the framework of the CFSP, the Council of the European Union<sup>406</sup> (the Council) is responsible for imposing restrictive measures, including targeted sanctions against individuals.<sup>407</sup>

First, a Council decision must be unanimously adopted.<sup>408</sup> A proposal for a Council decision is put forward by the High Representative of the Union for Foreign Affairs and

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<sup>400</sup> *Council Decision Concerning Restrictive Measures Directed Against Certain Persons and Entities in View of the Situation in Iran*, COUNCIL OF THE EUROPEAN UNION, 2011/235/CFSP, adopted April 12, 2011.

<sup>401</sup> *Council Decision Concerning Restrictive Measures Against the Democratic People's Republic of Korea and repealing Decision 2010/800/CFSP*, COUNCIL OF THE EUROPEAN UNION, 2013/183/CFSP, adopted April 22, 2013.

<sup>402</sup> *Council Decision Concerning Restrictive Measures in View of Russia's Actions Destabilising the Situation in Ukraine*, COUNCIL OF THE EUROPEAN UNION, 2014/512/CFSP, adopted July 31, 2014.

<sup>403</sup> *Council Decision Concerning Restrictive Measures Against Syria*, COUNCIL OF THE EUROPEAN UNION, 2013/255/CFSP, adopted May 31, 2013.

<sup>404</sup> *Council Decision Concerning Restrictive Measures in View of the Situation in Sudan and Repealing Decision 2011/423/CFSP*, COUNCIL OF THE EUROPEAN UNION, 2014/450/CFSP, adopted July 10, 2014.

<sup>405</sup> *Council Common Position Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2002/145/CFSP, adopted Feb. 18, 2002.

<sup>406</sup> The Council of the European Union is one of the legislative institutions and a primary decision-making body of the E.U. It is comprised of one government minister from each Member State of the E.U. The Council negotiates and adopts E.U. laws, coordinates E.U. countries' policies, develops E.U. foreign and security policy, finalizes agreements between the E.U. and other countries and international organizations, and adopts the annual E.U. budget. See *Council of the European Union: Overview*, EUROPEAN UNION, Nov. 24, 2015, available at [http://europa.eu/about-eu/institutions-bodies/council-eu/index\\_en.htm](http://europa.eu/about-eu/institutions-bodies/council-eu/index_en.htm).

<sup>407</sup> *Treaty on the Functioning of the European Union (TFEU)*, OJ C 202/44 (2016), at Art. 215(2). See also *Consolidated Versions of the Treaty on European Union (TEU)*, OJ C 202/33 (2016), at Art. 29 ("The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the Union positions").

<sup>408</sup> Council decisions (referred to as "Common Positions" before the Lisbon Treaty came into force in 2009) are legal instruments used by the Council for the furtherance of the CFSP. Council decisions relate to defining a European foreign policy towards a particular third-country, region, or issue. Once agreed, they are binding on all EU states and define general guidelines to which the national policies of Member States must conform.

Security Policy.<sup>409</sup> The proposal is examined and discussed by the Foreign Relations Counsellors Working Party (RELEX) and the Committee of Permanent Representatives (COREPER II), and, where applicable, the relevant Council groups responsible for relations with the country (or countries) in question.<sup>410</sup> The proposal is then referred to the Council for adoption.<sup>411</sup>

Some types of sanctions, including travel bans, are implemented directly by Member States.<sup>412</sup> Therefore, once a decision is adopted by the Council, it is binding on all Member States, who must then implement the decision through domestic law.<sup>413</sup>

However, other types of sanctions, including assets freezes, require separate implementing legislation at the E.U.-level in the form of a Council regulation.<sup>414</sup> A joint proposal is put forward by the European Commission and E.U. High Representative for Foreign Affairs and Security Policy,<sup>415</sup> which must detail the “precise scope of the measures decided upon by the Council and their implementation.”<sup>416</sup> A proposal for a regulation is also examined by RELEX and forwarded to COREPER.<sup>417</sup> Once adopted by a qualified majority of the Council, it is binding.<sup>418</sup>

Formally, the proposal for a Council regulation should be presented after the adoption of a Council decision. However, in the interest of expediency, a proposal for a Council decision and regulation are often put forward at the same time to allow for a parallel discussion of both texts in the Council and, if possible, the concurrent adoption of both legal instruments.

It should be noted that there are alternative ways by which Member States can condemn activities contrary to the CFSP and impose sanctions. One option that the European Parliament can express displeasure and concern through the enactment of a resolution. However, while these resolutions suggest a political desire to act in a given area, and as such are a valuable precursor to Council action, they are ultimately non-binding motions.

Additionally, Member States can individually impose unilateral sanctions under domestic law. While this approach is much simpler and symbolically helpful, the use of sanctions by individual countries has a limited impact in isolation from the E.U. as a whole.

Council decisions are the most effective way to condemn human rights violations. They are both binding and high impact, and therefore most likely to achieve the intended change in policy or behavior. All twenty-eight European countries acting as one, under the title of the E.U.–the largest trade bloc in the world–adds a unique and major weight to the decision.

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<sup>409</sup> *Adoption and Review Procedure for EU Sanctions*, COUNCIL OF THE EUROPEAN UNION, last updated Dec. 7, 2017, available at <http://www.consilium.europa.eu/en/policies/sanctions/adoption-review-procedure/>.

<sup>410</sup> *Id.*

<sup>411</sup> *Id.*

<sup>412</sup> *Factsheet: EU Restrictive Measures*, supra note 394.

<sup>413</sup> *Id.*

<sup>414</sup> *Id.* Once adopted, regulations become EU law and, under the principle of EU law supremacy, they directly affect Member States’ national law.

<sup>415</sup> *Adoption and Review Procedure for EU Sanctions*, supra note 409.

<sup>416</sup> *Factsheet: EU Restrictive Measures*, supra note 394.

<sup>417</sup> *Adoption and Review Procedure for EU Sanctions*, supra note 409.

<sup>418</sup> *Sanctions Guidelines*, supra note 395, at 6, ¶ 7.

### C. Relevant Examples

Historically, the E.U. has adopted numerous decisions and regulations imposing sanctions on individuals implicated in undemocratic activities and systematic human rights violations. The following four country case studies—Belarus, Burundi, Venezuela, and Zimbabwe—are examples of situations where the Council took such action. In all four cases, European Parliament resolutions preceded Council action.

The following examples are analogous to the current state of affairs in the Maldives. The Maldives is thus eligible and a prime candidate, based on these precedents, for a Council decision that would implement targeted sanctions in the form of a travel ban and freezing of the assets of those persons responsible for the on-going attacks on democracy and human rights, including government officials and those supporting their activities.

#### 1. Belarus

Targeted sanctions against individuals responsible for human rights abuses in Belarus have been in place since 2004.

The E.U. sanctions regime against Belarus was created in response to the increasingly authoritarian grip that Belarusian President Aleksandr Lukashenko has exerted on the country after coming to power in 1994.<sup>419</sup> Since then, Lukashenko has continued to rule Belarus with little regard to the lawfulness of his actions and with intense democratic opposition.<sup>420</sup> Lukashenko's government has sought to intimidate the opposition and its supporters through brutal tactics, and as a result, arbitrary arrests, detentions, and violent attacks against those peacefully protesting Lukashenko's rule have become commonplace.<sup>421</sup>

Prior to creating the sanctions program, the European Parliament expressed its concern about the deteriorating human rights situation in Belarus on a number of occasions. In July 2001, the Parliament enacted a resolution expressing concern about “the persistent obstruction of the investigations into the disappearance of political opponents and the continuing imprisonment of citizens without any charges being brought.”<sup>422</sup> Noting that the parliamentary elections held in Belarus in October 2000 “could not be considered as free and fair,”<sup>423</sup> the resolution also called on Belarus “to create the necessary conditions for free and democratic elections for the presidency of the country” to be held in September 2001, and “to restore international standards in the fields of human rights and freedom of the press and of speech.”<sup>424</sup>

In June 2002, the Parliament adopted another resolution after Belarus denied a visa to the newly appointed Head of Mission of the Organization for Security and Co-operation in Europe (OSCE) Advisory and Monitoring Group, which was tasked with assisting Belarusian

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<sup>419</sup> *Belarus Country Profile*, BBC, last updated Oct. 10, 2017, available at <http://www.bbc.com/news/world-europe-17941131>.

<sup>420</sup> *Belarus 1996*, CONSTITUTION WRITING & CONFLICT RESOLUTION, available at <https://www.princeton.edu/~pcwcr/reports/belarus1996.html>.

<sup>421</sup> BELARUS 2016 HUMAN RIGHTS REPORT, U.S. DEP'T OF STATE, 2016, available at <https://www.state.gov/documents/organization/265610.pdf>.

<sup>422</sup> *Resolution on Belarus*, EUROPEAN PARLIAMENT, B5-0481/2001, adopted July 5, 2001, at ¶ 6.

<sup>423</sup> *Id.*, at ¶ A.

<sup>424</sup> *Id.*, at ¶¶ 1 & 4.



authorities in monitoring elections.<sup>425</sup> The Parliament criticized Belarusian authorities for their “refusal ... to cooperate actively with the OSCE, the European Union and other international institutions in their efforts to promote democracy and the establishment of democratic institutions in Belarus.”<sup>426</sup> After the OSCE Representative on Freedom of the Media issued a report deploring attacks against freedom of the press in Belarus, the Parliament enacted another resolution in July 2002, urging Belarusian authorities to “put an immediate end to its attempts to prevent politically critical writers from finding an opportunity to publish their work” and to “stop their harassment of independent newspapers.”<sup>427</sup>

In February 2003, the Parliament observed in another resolution that the 2001 presidential election maintaining Lukashenko in power has not been recognized as free and fair and that “the situation in Belarus has reached a point where human rights are violated with contempt.”<sup>428</sup> While noting that “Belarus is an important link between the EU and Russia,” it expressed concern “at the increasing and dangerous self-imposed isolation from the West and from the East into which Belarus is sinking as a result of the authoritarian and anti-democratic course chartered by its President.”<sup>429</sup>

In September 2004, the Parliament enacted another resolution strongly condemning the regime’s “indiscriminate attacks on the media, journalists, members of the opposition, human rights activists and any person who attempts freely to voice criticism of the President and the regime, as manifested through arbitrary arrests, ill-treatment of detainees, disappearances, politically motivated persecution and other acts of repression that flout the basic principles of democracy and the rule of law.”<sup>430</sup> The resolution also condemned the undemocratic “steps undertaken to eliminate major democratic opposition parties” from the upcoming parliamentary elections, and the “authoritarian” attempt of Lukashenko to “seek an extension of his presidential term.”<sup>431</sup> It called upon the Government to release all political prisoners and to provide guarantees for free and fair elections.<sup>432</sup>

In September 2004, the Council created the current sanctions regime against Belarus by introducing targeted sanctions in the form of a travel ban on four high-ranking officials who had played key roles in the “disappearances of four well-known [political opponents of the regime] in Belarus in 1999/2000 and the subsequent obstruction of justice,” noting that “those bearing the main responsibility for the disappearances have gone unpunished.”<sup>433</sup>

Following the flawed October 2004 parliamentary elections and referendum on presidential term limits, the European Parliament noted with regret that Belarusian authorities had “failed to ensure the fundamental conditions necessary for the will of the people to serve

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<sup>425</sup> *Resolution on the OSCE Advisory and Monitoring Group Mission in Belarus*, EUROPEAN PARLIAMENT, P5\_TA(2002)0329, adopted June 13, 2002.

<sup>426</sup> *Id.*, at ¶ 2.

<sup>427</sup> *Resolution on the Freedom of the Press in Belarus*, EUROPEAN PARLIAMENT, P5\_TA(2002)0379, adopted July 4, 2002, at ¶¶ 2 & 4.

<sup>428</sup> *Resolution on Relations Between the European Union and Belarus: Towards a Future Partnership*, EUROPEAN PARLIAMENT, P5\_TA(2003)0042, adopted Feb. 11, 2003, at ¶¶ C–D.

<sup>429</sup> *Id.*, at ¶¶ E & 1.

<sup>430</sup> *European Parliament Resolution on the Situation in Belarus*, EUROPEAN PARLIAMENT, P6\_TA(2004)0011, adopted Sept. 16, 2004, at ¶ 1.

<sup>431</sup> *Id.*, at ¶¶ 2 & 4.

<sup>432</sup> *Id.*, at ¶¶ 2 & 7.

<sup>433</sup> *Council Common Position Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2004/661/CFSP, adopted Sept. 24, 2004, at ¶¶ 5–6.

as a basis for the authority of the government.”<sup>434</sup> Due to reports of “active exclusion and de-registering of opposition candidates, aggressive repressive actions against opposition candidates, their families and campaign workers” and “violent attacks committed by the Belarussian regime against students, leading opposition figures and journalists following peaceful political demonstrations,”<sup>435</sup> the Parliament called on the Council “to decide on a set of targeted sanctions against members of the Belarussian regime, including an expansion of the visa prohibition regulation for the authorities of Belarus, including those responsible for the serious election violations.”<sup>436</sup> In December 2004, the Council acted on the Parliament’s instructions and expanded the sanctions list by adding two more individuals.<sup>437</sup>

The situation in Belarus continued to deteriorate throughout 2005, prompting another round of resolutions from the Parliament. In March, the Parliament highlighted that “politically motivated arrests and trials of activists belonging to the democratic movement and independent journalists...are continually taking place in Belarus” and called on Belarus to “release immediately” all “imprisoned political opponents of the regime.”<sup>438</sup> In July, the Parliament deplored setbacks in the independence of the media in Belarus, noting that “all registration of new newspapers has been stopped by the State authorities, and many existing newspapers have received heavy fines, which makes it impossible for them to continue publishing.”<sup>439</sup> And in September, the Parliament noted further worrisome, including the discriminatory treatment of the Roma and religious minorities.<sup>440</sup> In all three resolutions, the Parliament urged the Council to expand the travel ban and to introduce asset freezes.<sup>441</sup>

In February 2006, the Parliament enacted another resolution condemning steps undertaken by the Lukashenko regime to undermine the upcoming March presidential elections.<sup>442</sup> After the elections, the Parliament noted in a follow-up resolution in April that the election process was “severely flawed.”<sup>443</sup> It again reiterated calls to the Council to impose travel bans and freeze the assets of Belarusian officials, “including Lukashenko and his immediate entourage.”<sup>444</sup>

The Council, similarly citing “violations of international electoral standards in the presidential elections” and the subsequent crackdown and arrest of peaceful demonstrators protesting the fraudulent elections, expanded the list of those subject to a travel ban in April

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<sup>434</sup> *European Parliament Resolution on the Political Situation in Belarus After the Parliamentary Elections and Referendum of 17 October 2004*, EUROPEAN PARLIAMENT, P6\_TA(2004)0045, adopted Oct. 28, 2004, at ¶ A.

<sup>435</sup> *Id.*, at ¶¶ B & 5.

<sup>436</sup> *Id.*, at ¶ 13.

<sup>437</sup> *Council Common Position Amending Common Position 2004/661/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2004/848/CFSP, adopted Dec. 13, 2004, at ¶ 6.

<sup>438</sup> *European Parliament Resolution on Belarus*, EUROPEAN PARLIAMENT, P6\_TA(2005)0080, adopted Mar. 10, 2005, at ¶¶ F & 4.

<sup>439</sup> *European Parliament Resolution on the Political Situation and the Independence of the Media in Belarus*, EUROPEAN PARLIAMENT, P6\_TA(2005)0295, adopted July 7, 2005, at ¶ E.

<sup>440</sup> *European Parliament Resolution on Belarus*, EUROPEAN PARLIAMENT, P6\_TA-PROV(2005)0363, adopted Sept. 29, 2005, at ¶ K.

<sup>441</sup> *European Parliament Resolution on Belarus*, *supra* note 438, at ¶ 10; *European Parliament Resolution on the Political Situation and the Independence of the Media in Belarus*, *supra* note 439, at ¶ 9; and *European Parliament Resolution on Belarus*, *supra* note 440, at ¶ 10.

<sup>442</sup> *European Parliament Resolution on the Situation in Belarus Prior to the Presidential Elections on 19 March 2006*, EUROPEAN PARLIAMENT, P6\_TA(2006)0066, adopted Feb. 16, 2006, at ¶ C.

<sup>443</sup> *European Parliament Resolution on the Situation in Belarus After the Presidential Elections on 19 March*, EUROPEAN PARLIAMENT, B6-0243/2006, adopted Apr. 3, 2006, at ¶ A.

<sup>444</sup> *Id.*, at ¶ 5.

2006.<sup>445</sup> A month later, in May 2006, the Council introduced an asset freeze against those individuals who had thus far been targeted with travel restrictions.<sup>446</sup>

These targeted sanctions were renewed in April 2008 for twelve months given that the situation in Belarus had not improved.<sup>447</sup> However, in August 2008 Lukashenko released all “internationally recognized” political prisoners in a bid to improve his international standing.<sup>448</sup> The Council thus decided in November 2008 to suspend the travel bans on all Belarusian figures—except the four individuals involved in the 1999/2000 disappearances and the President of the Central Electoral Commission—for a period of six months “with a view to encouraging dialogue with the Belarusian authorities and the adoption of measures to strengthen democracy and respect for human rights.”<sup>449</sup> However, the asset freezes against all individuals were kept and extended for another year, until October 2009.<sup>450</sup> The Council renewed both the asset freeze and the suspension of the travel ban through December 2010.<sup>451</sup>

The policy changed after the fraudulent presidential elections in December 2010 and the “violent crackdown on the political opposition, civil society...and independent mass media” that ensued.<sup>452</sup> In view of these developments, the Council reinstated the travel bans and sanctioned an additional 117 individuals responsible “for the fraudulent electoral process.”<sup>453</sup>

From 2011 to 2014, the Council annually renewed the restrictive measures, citing a lack of improvements in human rights, democracy, and rule of law, as demonstrated particularly by the fraudulent parliamentary elections in September 2012 and the continued existence of political prisoners.<sup>454</sup> An arms embargo was added to the existing sanctions

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<sup>445</sup> *Council Common Position Concerning Restrictive Measures Against Certain Officials of Belarus and Repealing Common Position 2004/661/CFSP*, COUNCIL OF THE EUROPEAN UNION, 2006/276/CFSP, adopted Apr. 10, 2006.

<sup>446</sup> *Council Common Position Amending Common Position 2006/276/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2006/362/CFSP, adopted May 18, 2006.

<sup>447</sup> *Council Common Renewing Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2008/288/CFSP, adopted Apr. 7, 2009.

<sup>448</sup> FREEDOM IN THE WORLD REPORT 2013: BELARUS, FREEDOM HOUSE, retrieved Jan. 31, 2018, available at <https://freedomhouse.org/report/freedom-world/2013/belarus>.

<sup>449</sup> *Council Common Position Amending Common Position 2006/276/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2008/844/CFSP, adopted Nov. 10, 2008, at ¶ 2.

<sup>450</sup> *Id.*

<sup>451</sup> *Council Common Position Amending Common Position 2006/276/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus, and Repealing Common Position 2008/844/CFSP*, COUNCIL OF THE EUROPEAN UNION, 2009/314/CFSP, adopted Apr. 6, 2009; *Council Decision Extending the Restrictive Measures Against Certain Officials of Belarus Laid Down in Common Position 2006/276/CFSP, and Repealing Common Position 2009/314/CFSP*, COUNCIL OF THE EUROPEAN UNION, 2009/969/CFSP, adopted Dec. 15, 2009; and *Council Decision Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2010/639/CFSP, adopted Oct. 25, 2010.

<sup>452</sup> *Council Decision Amending Council Decision 2010/639/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2011/69/CFSP, adopted Jan. 31, 2011, at ¶ 2.

<sup>453</sup> *Id.*, at ¶ 3.

<sup>454</sup> *Council Decision Amending Decision 2010/639/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2011/666/CFSP, adopted Oct. 10, 2011 (renewing sanctions to October 2012); *Council Decision Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2012/642/CFSP, adopted Oct. 15, 2012 (renewing sanctions to October 2013); *Council Decision Amending Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2013/534/CFSP, adopted Oct. 29, 2013 (renewing sanctions to October 2014); and

regime in June 2011,<sup>455</sup> and the list of those subject to sanctions was periodically expanded during this time—reaching 243 individuals and 32 entities in October 2012<sup>456</sup>—as it became apparent that more individuals were involved in the human rights abuses and attacks on democracy.

Starting in October 2014, the list of individuals and entities subject to sanctions began to be gradually scaled back.<sup>457</sup> In October 2015, given the release of all political prisoners<sup>458</sup> and a relative lack of repression<sup>459</sup> following Lukashenko's re-election in October 2015, the Council decided to suspend the travel bans and asset freezes against all but four individuals.<sup>460</sup>

In February 2016, the E.U. decided to lift most sanctions against Belarus permanently,<sup>461</sup> citing “improving EU-Belarus relations” and efforts undertaken by Belarus to improve electoral standards, though E.U. ministers did state that they remained “concerned with the situation of human rights in Belarus.”<sup>462</sup> Sanctions, however, are still in place against the four individuals listed in connection with the unresolved disappearances.<sup>463</sup>

Unfortunately, since the lift in most sanctions, Belarusian authorities have not made significant progress in human rights and in implementing democratic reforms.<sup>464</sup> According U.N. Human Rights Council Special Rapporteur on Belarus, Miklos Haraszti, the human rights situation in Belarus “has seen a dramatic deterioration,” with a suppression of peaceful protests in March 2017 constituting the most severe crackdown on the right to peaceful assembly since 2010.<sup>465</sup> The report called on the international community to remain vigilant on the situation in Belarus.

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*Council Decision Amending Council Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2014/750/CFSP, adopted Oct. 30, 2014 (renewing sanctions to October 2015).

<sup>455</sup> *Council Decision Amending Decision 2010/639/CFSP Concerning Restrictive Measures Against Certain Officials of Belarus*, COUNCIL OF THE EUROPEAN UNION, 2011/357/CFSP, adopted June 20, 2011, at Art. 1.

<sup>456</sup> FRANCESCO GIUMELLI, *THE SUCCESS OF SANCTIONS: LESSONS LEARNED FROM THE EU EXPERIENCE* 92 (Routledge 2016).

<sup>457</sup> See e.g., *Council Decision Amending Council Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2014/750/CFSP, adopted Oct. 30, 2014, at ¶ 3.

<sup>458</sup> *Belarus: EU Suspends Restrictive Measures Against Most Persons and All Entities Currently Targeted*, COUNCIL OF THE EUROPEAN UNION, Oct. 29, 2015, available at <http://www.consilium.europa.eu/en/press/press-releases/2015/10/29/belarus/>.

<sup>459</sup> Robin Emmott, *EU, U.S. Temporarily Ease Some Sanctions on Belarus*, REUTERS, Oct. 29, 2015, available at <https://www.reuters.com/article/us-belarus-eu-sanctions/eu-u-s-temporarily-ease-some-sanctions-on-belarus-idUSKCN0SN0Y820151029>.

<sup>460</sup> *Council Decision Amending Council Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2015/1957/CFSP, adopted Oct. 29, 2015.

<sup>461</sup> *Council Decision Amending Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2016/280/CFSP, adopted Feb. 25, 2016.

<sup>462</sup> Jennifer Ranskin, *EU Lifts Most Sanctions Against Belarus Despite Human Rights Concerns*, THE GUARDIAN, Feb. 15, 2016, available at <https://www.theguardian.com/world/2016/feb/15/eu-lifts-most-sanctions-against-belarus-despite-human-rights-concerns>.

<sup>463</sup> *Council Decision*, *supra* note 461 (renewing sanctions to February 2017). See also *Council Decision Amending Decision 2012/642/CFSP Concerning Restrictive Measures Against Belarus*, COUNCIL OF THE EUROPEAN UNION, 2017/350/CFSP, adopted Feb. 27, 2017 (renewing sanctions to February 2017).

<sup>464</sup> *EU Lifts Most Sanctions Against Belarus Despite Human Rights Concerns*, *supra* note 462.

<sup>465</sup> *Belarus Backsliding Badly on Human Rights: U.N. Report*, REUTERS, May 22, 2017, available at <https://www.reuters.com/article/us-belarus-un/belarus-backsliding-badly-on-human-rights-u-n-report-idUSKBN18I281>.

## 2. Burundi

Targeted sanctions against individuals responsible for human rights abuses in Burundi have been in place since 2015.

Burundi has endured long periods of civil war and inter-ethnic conflict since the country gained its independence in 1962.<sup>466</sup> Most notably, Burundi's long-running civil war, between the Hutu majority and Tutsi minority,<sup>467</sup> lasted from 1993 to 2005, killing an estimated 300,000 people and displacing thousands.<sup>468</sup> In August 2000, key stakeholders signed the *Arusha Peace and Reconciliation Agreement for Burundi*, which provided a framework for a transitional government to end hostilities.<sup>469</sup> Burundi's civil war is widely considered to have ended in 2005, with the adoption of a new Constitution and the election of Pierre Nkurunziza as President.<sup>470</sup> However, rights groups continued to document the problem of widespread violence and human rights abuses throughout the country.<sup>471</sup>

In April 2015, President Nkurunziza announced that he would not be stepping down after two terms, as required by the *Arusha Agreement*<sup>472</sup> and the 2005 Constitution,<sup>473</sup> but would instead be seeking a third term.<sup>474</sup> This decision sparked a wave of anti-government protests, during which police used excessive force against demonstrators.<sup>475</sup> The Government immediately began a deadly crackdown against civil society; three prominent radio stations were temporarily shut down, a leading human rights defender was arrested, and police used teargas, water cannons, and live ammunition on crowds of demonstrators.<sup>476</sup> While Burundi's constitutional court ultimately approved Nkurunziza's candidacy for a third term in May 2015, the vice-president of the court claimed that members of the court were coerced into approving his candidacy and had even received death threats.<sup>477</sup> In May 2015, a failed military coup triggered more mass repression and arbitrary detentions.<sup>478</sup> Hundreds of

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<sup>466</sup> *Burundi Profile – Timeline*, BBC, last updated Dec. 4, 2017, available at <http://www.bbc.com/news/world-africa-13087604>.

<sup>467</sup> *Burundi Country Profile*, BBC, last updated Dec. 4, 2017, available at <http://www.bbc.com/news/world-africa-13085064>.

<sup>468</sup> Anna Dubuis, *Burundi's Last Civil War Killed 300,000. A New One Is Coming*, PUBLIC RADIO INTERNATIONAL, Mar. 28, 2016, available at <https://www.pri.org/stories/2016-03-28/burundi-s-last-civil-war-killed-300000-new-one-coming>.

<sup>469</sup> *Arusha Peace and Reconciliation Agreement for Burundi*, signed Aug. 28, 2000.

<sup>470</sup> *Burundi Profile – Timeline*, *supra* note 466.

<sup>471</sup> See, e.g., “Every Morning They Beat Me”: *Police Abuses in Burundi*, HUMAN RIGHTS WATCH, Apr. 30, 2008, available at <https://www.hrw.org/report/2008/04/30/every-morning-they-beat-me/police-abuses-burundi>, and “You Will Not Have Peace While You Are Living”: *The Escalation of Political Violence in Burundi*, HUMAN RIGHTS WATCH, May 2, 2012, available at <https://www.hrw.org/report/2012/05/02/you-will-not-have-peace-while-you-are-living/escalation-political-violence-burundi>.

<sup>472</sup> *Arusha Peace and Reconciliation Agreement for Burundi*, signed Aug. 28, 2000, at Protocol II, Chpt. 1, Art. 7: The Executive.

<sup>473</sup> BURUNDI CONSTITUTION, 2005, at Art. 96.

<sup>474</sup> *Burundi: Crackdown on Protesters*, HUMAN RIGHTS WATCH, Apr. 27, 2015, available at <https://www.hrw.org/news/2015/04/27/burundi-crackdown-protesters>.

<sup>475</sup> *Id.*

<sup>476</sup> *Id.*

<sup>477</sup> Simon Tisdall, *Violence Grips Burundi as President Nkurunziza Cleared to Run for Third Term*, THE GUARDIAN, May 5, 2015, available at <https://www.theguardian.com/world/2015/may/05/violence-grips-burundi-president-nkurunziza-cleared-run-third-term>.

<sup>478</sup> *Failed Burundi Coup Plotters Arrested as President Returns from Tanzania*, THE GUARDIAN, May 15, 2015, available at <https://www.theguardian.com/world/2015/may/15/burundi-army-dead-radio-station-battle-coup-leaders-arrested>.

people were arrested, and many detained without trial and/or tortured.<sup>479</sup> In July 2015, Nkurunziza won a third term, but the election was characterized by violence and boycotted by most opposition parties.<sup>480</sup>

In July 2015, the European Parliament adopted a Resolution expressing concern about the worsening political and humanitarian situation in Burundi, noting, among other problems, the excessive use of force by police against peaceful protestors and the “total clampdown on the media.”<sup>481</sup> The Parliament called for a list of targeted restrictive measures to be prepared for those “responsible for acts of violence, repression and serious human rights violations.”<sup>482</sup>

In October 2015, the Council introduced targeted sanctions, both travel restrictions and asset freezes, against individuals “undermining democracy or obstructing the search for a political solution in Burundi, including by acts of violence, repression or inciting violence.”<sup>483</sup> As the situation in Burundi has arguably worsened,<sup>484</sup> targeted sanctions have been renewed through October 2018.<sup>485</sup>

### 3. Venezuela

Targeted sanctions against individuals responsible for human rights abuses in Venezuela have been in place since January 2018.

In Venezuela, the systemic pattern of human rights abuses cultivated under former President Hugo Chávez has continued under the current president Nicolás Maduro’s repressive regime.<sup>486</sup> With Chavez’s withdrawal from the American Convention on Human

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<sup>479</sup> THE STATE OF THE WORLD’S HUMAN RIGHTS 2015/2016, AMNESTY INT’L, 2016, at 99–103.

<sup>480</sup> Jessica Hatcher, *Burundi’s President Pierre Nkurunziza Wins Third Terms in Disputed Election*, THE GUARDIAN, July 24, 2015, available at <https://www.theguardian.com/world/2015/jul/24/burundi-pierre-nkurunziza-wins-third-term-disputed-election>.

<sup>481</sup> *Resolution on the Situation in Burundi*, EUROPEAN PARLIAMENT, P8\_TA(2015)0275, adopted July 9, 2015, at ¶¶ E, T.

<sup>482</sup> *Id.*, at ¶ 9.

<sup>483</sup> *Council Decision Concerning Restrictive Measures in View of the Situation in Burundi*, COUNCIL OF THE EUROPEAN UNION, 2015/1763/CFSP, adopted Oct. 1, 2015.

<sup>484</sup> See, e.g., *Resolution on the Situation in Burundi*, EUROPEAN PARLIAMENT, P8\_TA(2015)0474, adopted Dec. 17, 2015 (noting, among other abuses, that Burundi security forces killed at least 87 people and human rights defenders and journalists are targets of acts of violence); *Resolution on the Situation in Burundi*, EUROPEAN PARLIAMENT, P8\_TA(2017)0004, adopted Jan. 19, 2017 (noting, among other abuses, that murder, abductions, forced disappearances, torture, rape and large-scale detention continue with “absolute impunity”); and *Resolution on the Situation in Burundi*, EUROPEAN PARLIAMENT, P8\_TA(2017)0310, adopted July 6, 2017 (noting, among other abuses, that “according to human rights organisations, more than 1200 people have been killed, between 400 and 900 have been victims of enforced disappearances, hundreds or possibly thousands have been tortured, and more than 10000 are still being arbitrarily detained”).

<sup>485</sup> *Council Decision Amending Decision (CFSP) 2015/1763 Concerning Restrictive Measures in View of the Situation in Burundi*, COUNCIL OF THE EUROPEAN UNION, 2016/1745/CFSP, adopted Sept. 29, 2016 (renewing sanctions to October 2017); and *Council Decision Amending Decision (CFSP) 2015/1763 Concerning Restrictive Measures in View of the Situation in Burundi*, COUNCIL OF THE EUROPEAN UNION, 2017/1933/CFSP, adopted Oct. 23, 2017 (renewing sanctions to October 2018).

<sup>486</sup> See, e.g., Gustavo Coronel, *The Corruption of Democracy in Venezuela*, CATO INSTITUTE, Mar. 2008, available at <http://www.cato.org/publications/commentary/corruption-democracy-venezuela>; *Venezuela: Chávez’s Authoritarian Legacy*, HUMAN RIGHTS WATCH, Mar. 5, 2013, available at <http://www.hrw.org/news/2013/03/05/venezuela-Chávez-s-authoritarian-legacy>; and WORLD REPORT 2014, HUMAN RIGHTS WATCH, 2014, at 278, available at [http://www.hrw.org/sites/default/files/wr2014\\_web\\_0.pdf](http://www.hrw.org/sites/default/files/wr2014_web_0.pdf).

Rights in 2012,<sup>487</sup> accumulation of power in the executive branch has continued, and with that continued persecution of political opponents,<sup>488</sup> curtailment of press freedoms,<sup>489</sup> use of violence to suppress antigovernment demonstrations,<sup>490</sup> and arbitrary arrests and detentions of protesters.<sup>491</sup> Furthermore, the courts routinely violate rights of due process,<sup>492</sup> and legislative independence is virtually non-existent after Maduro unconstitutionally convened a Constituent Assembly in July 2017 that assumed the competencies of the opposition-led legislative body, the National Assembly.<sup>493</sup> This effort to undermine the rightfully-elected National Assembly, paired with the complete government control of the National Electoral Council, fully calls into the question the electoral guarantees of any future election in Venezuela.

The European Parliament repeatedly expressed its concern about the deteriorating situation in Venezuela under Chávez, and then Maduro. In February 2014, the Parliament condemned “all acts of violence and the tragic loss of life during the peaceful demonstrations.”<sup>494</sup> In December 2014, the Parliament denounced the “worsening situation in Venezuela and condemn[ed] the imprisonment of peaceful protesters, students and opposition leaders.”<sup>495</sup> In March 2015, the Parliament urged the Council and Commission “to explore and adopt any measure required to safeguard European interests and the principle of legal certainty for European enterprises in Venezuela.”<sup>496</sup> Similar concerns were voiced in subsequent resolutions in June 2016<sup>497</sup> and April 2017.<sup>498</sup>

In November 2017, the Council created a sanctions program for Venezuela in response to the “continuing deterioration of democracy, the rule of law and human rights.”<sup>499</sup>

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<sup>487</sup> *IACHR Deeply Concerned Over Result of Venezuela’s Denunciation of the American Convention*, ORG. OF AMERICAN STATES, Sept. 10, 2013, available at [http://www.oas.org/en/iachr/media\\_center/preleases/2013/064.asp](http://www.oas.org/en/iachr/media_center/preleases/2013/064.asp).

<sup>488</sup> See Ángelo Flórez de Andrade, *Todo lo Que Debe Saber Sobre la Dramática Crisis de Presos Políticos en Venezuela*, PANAM POST, Oct. 16, 2017, available at <https://es.panampost.com/angelo-florez/2017/10/16/presos-politicos-en-venezuela/>.

<sup>489</sup> *Freedom of the Press 2017: Venezuela*, FREEDOM HOUSE, 2017, available at <https://freedomhouse.org/report/freedom-press/2017/venezuela>.

<sup>490</sup> See Sabrina Martín, *Venezuelan Army Can Shoot Protesters, Effective Immediately*, PANAM POST, Jan. 29, 2015, available at <http://panampost.com/sabrina-martin/2015/01/29/venezuelan-army-can-shoot-protesters-effective-immediately/>.

<sup>491</sup> See José Miguel Vivanco & Tamara Taraciuk Broner, *What the World Needs to Do About Venezuela*, CNN, June 11, 2017, available at <http://www.cnn.com/2017/04/23/opinions/twitter-venezuelan-protest-vivanco-broner/index.html>.

<sup>492</sup> See UNASUR: *Letter on Human Rights in Venezuela*, HUMAN RIGHTS WATCH, June 26, 2014, available at <https://www.hrw.org/news/2014/06/26/unasur-letter-human-rights-venezuela>.

<sup>493</sup> Jennifer McCoy, *Venezuela’s Controversial New Constituent Assembly, Explained*, THE WASHINGTON POST, Aug. 1, 2017, available at [https://www.washingtonpost.com/news/monkey-cage/wp/2017/08/01/venezuelas-dubious-new-constituent-assembly-explained/?utm\\_term=.7f97895defb6](https://www.washingtonpost.com/news/monkey-cage/wp/2017/08/01/venezuelas-dubious-new-constituent-assembly-explained/?utm_term=.7f97895defb6).

<sup>494</sup> *Resolution on the Situation in Venezuela*, EUROPEAN PARLIAMENT, P7\_TA(2014)0176, adopted Feb. 27, 2014, at ¶ 1.

<sup>495</sup> *Resolution on the Persecution of the Democratic Opposition in Venezuela*, EUROPEAN PARLIAMENT, P8\_TA(2014)0106, adopted Dec. 18, 2014, at ¶ 1.

<sup>496</sup> *Resolution on the Situation in Venezuela*, EUROPEAN PARLIAMENT, P8\_TA(2015)0080, adopted Mar. 12, 2015, at ¶ 12.

<sup>497</sup> *Resolution on the Situation in Venezuela*, EUROPEAN PARLIAMENT, P8\_TA(2016)0269, adopted June 8, 2016.

<sup>498</sup> *Resolution on the Situation in Venezuela*, EUROPEAN PARLIAMENT, P8\_TA(2017)0200, adopted Apr. 27, 2017.

<sup>499</sup> *Council Decision Concerning Restrictive Measures in View of the Situation in Venezuela*, COUNCIL OF THE EUROPEAN UNION, 2017/2074/CFSP, adopted Nov. 13, 2017.

The decision introduced a framework for both travel bans and asset freezes against those “responsible for serious human rights violations or abuses or the repression of civil society and democratic opposition” and those “whose actions, policies or activities undermine democracy or the rule of law in Venezuela.”<sup>500</sup> In January 2018, the first set of individuals were sanctioned.<sup>501</sup>

#### 4. Zimbabwe

Targeted sanctions against individuals responsible for human rights abuses in Venezuela have been in place since January 2002.

Under the authoritarian regime of Robert Mugabe, who served as both Prime Minister (1980–87) and President (1987–2017), the human rights record in Zimbabwe was extremely poor. Those sympathetic to the political opposition were threatened, tortured, and killed.<sup>502</sup> There were reports of enforced disappearances, and arbitrary arrests and detention were commonplace.<sup>503</sup> Fundamental freedoms, including freedom of opinion, expression, assembly, and association, were severely restricted through laws and intimidation.<sup>504</sup> And the Government ensured that its officials enjoyed immunity for abuses.<sup>505</sup>

Creation of a sanctions program was prompted by increasing violence and intimidation of opposition supporters ahead of parliamentary elections in 2000, which was exacerbated by violence associated with a controversial land reform program.<sup>506</sup> Before issuing sanctions, the European Parliament adopted a number of resolutions expressing concern about the deteriorating state of human rights in Zimbabwe. In April 2000, the Parliament called on the Zimbabwean authorities to “respect human rights” and warned that “the rule of law must be re-established as soon as possible.”<sup>507</sup> One month later, the Parliament reiterated that it was “deeply concerned at the breakdown in the rule of law in Zimbabwe and the increasing violence and intimidation against opposition supporters,” condemned recent murders, beatings, and illegal occupations of property, and called for free and fair elections.<sup>508</sup>

The first mention of sanctions was in a Parliament resolution of March 2001, which directly identified President Mugabe as responsible for the human rights violations: “the ongoing breakdown of the rule of law in Zimbabwe is the direct result of the renewed cycle of violence and intimidation initiated by President Mugabe against his political opponents.”<sup>509</sup> This resolution directed the Council, the Commission, and Member States to “consider targeted action” and “to identify overseas assets held by President Mugabe and his

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<sup>500</sup> *Id.*, at Preamble ¶ 7.

<sup>501</sup> *Council Decision Amending Decision (CFSP) 2017/2074 Concerning Restrictive Measures in View of the Situation in Venezuela*, COUNCIL OF THE EUROPEAN UNION, 2018/90/CFSP, adopted Jan. 22, 2018.

<sup>502</sup> *See, e.g.*, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES IN 2000: ZIMBABWE, U.S. DEPT. OF STATE, Feb. 23, 2001, available at <https://www.state.gov/j/drl/rls/hrrpt/2000/af/852.htm>.

<sup>503</sup> *Id.*

<sup>504</sup> *Id.*

<sup>505</sup> *Id.*

<sup>506</sup> *Id.*

<sup>507</sup> *Resolution on the Situation in Zimbabwe*, EUROPEAN PARLIAMENT, P5\_TA(2000)0172, Apr. 13, 2000, at ¶¶ 2, 6.

<sup>508</sup> *Resolution on Zimbabwe*, EUROPEAN PARLIAMENT, P5\_TA(2000)0232, May 18, 2000, at ¶¶ Preamble A, Preamble C, 1 & 4.

<sup>509</sup> *Resolution on the Situation in Zimbabwe*, EUROPEAN PARLIAMENT, P5\_TA(2001)0156, Mar. 15, 2001, at Preamble ¶ A.



supporters.”<sup>510</sup> The Parliament intensified the call for sanctions in September<sup>511</sup> and December 2001<sup>512</sup> resolutions, emphasizing “the further deterioration in the rule of law and human rights in Zimbabwe is the direct result of the deliberate reprehensible actions of the Mugabe regime.”<sup>513</sup>

In February 2002, the Council introduced sanctions.<sup>514</sup> Echoing concerns voiced by the Parliament, the Council noted “the Government of Zimbabwe continues to engage in serious violations of human rights and the freedom of opinion, of association and of peaceful assembly.”<sup>515</sup> The targeted sanctions, including a travel ban and asset freeze, were imposed on those “engaged in activities that seriously undermine democracy, respect for human rights and the rule of law in Zimbabwe.”<sup>516</sup>

After the presidential elections in March 2002, it was clear the situation in Zimbabwe was rapidly worsening to the point of catastrophe. The Council expanded the list of individuals subject to sanctions in July 2002,<sup>517</sup> and again in September 2002 to account for a reshuffling of government officials in Zimbabwe.<sup>518</sup>

From 2003–2013, the Council annually renewed and periodically amended the list of those subject to sanctions, as it became apparent that more individuals were involved in human rights abuses.<sup>519</sup>

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<sup>510</sup> *Id.*, at ¶¶ 8–9.

<sup>511</sup> *Resolution on the Situation in Zimbabwe*, EUROPEAN PARLIAMENT, P5\_TA(2001)0458, Sept. 6, 2001.

<sup>512</sup> *Resolution on Zimbabwe*, EUROPEAN PARLIAMENT, P5\_TA(2001)0706, Dec. 13, 2001.

<sup>513</sup> *Id.*, at Preamble ¶ A.

<sup>514</sup> *Council Common Position Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2002/145/CFSP, adopted Feb. 18, 2002.

<sup>515</sup> *Id.*, at Preamble ¶ 4.

<sup>516</sup> *Id.*, at Arts. 3–4. Initially, 20 individuals were subjected to sanctions. *Annex to Council Common Position 2002/145/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, adopted Feb. 19, 2002. The Common Position was implemented through Council regulation adopted the same day. *Council Regulation Concerning Certain Restrictive Measures in Respect of Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, No. 310/2002, adopted Feb. 18, 2002.

<sup>517</sup> *Council Common Position Amending Common Position 2002/145/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2002/600/CFSP, adopted July 22, 2002.

<sup>518</sup> *Council Decision Implementing Common Position 2002/145/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2002/754/CFSP, adopted Sept. 13, 2002.

<sup>519</sup> See e.g., *Council Common Position Amending and Extending Common Position 2002/145/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2003/11/CFSP, adopted Feb. 18, 2003 (extending sanctions to February 2004); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2004/161/CFSP, adopted Feb. 19, 2004 (extending sanctions to February 2005); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2005/146/CFSP, adopted Feb. 21, 2005 (extending sanctions to February 2006); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2006/51/CFSP, adopted Jan. 30, 2006 (renewing sanctions to February 2007); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2007/120/CFSP, adopted Feb. 19, 2007 (renewing sanctions to February 2008); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2008/135/CFSP, adopted Feb. 18, 2008 (renewing sanctions to February 2009); *Council Common Position Renewing Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2009/68/CFSP, adopted Jan. 26, 2009 (renewing sanctions to February 2010); *Council Decision Extending Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2010/92/CFSP, adopted Feb. 15, 2010 (extending sanctions to February 2011); *Council Decision Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2011/101/CFSP, adopted Feb. 15, 2011 (renewing sanctions to February 2012); *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2012/97/CFSP, adopted Feb. 17, 2012 (renewing sanctions to

In order to encourage political reform in Zimbabwe, the E.U. has gradually lifted the restrictive measures against most members of the Mugabe regime. In 2013, the majority of individuals were removed from the sanctions list.<sup>520</sup> However, Mugabe, who was forced to step down as president in November 2017,<sup>521</sup> remains subject to sanctions, along with his immediate family and associates.<sup>522</sup>

#### **D. Analogizing of Examples to the Maldives**

The European Parliament has already adopted Resolutions condemning the state of human rights in the Maldives and supporting the implementation of restrictive measures on the part of the E.U. and its Member States.

While there are differences in the specific details of the situation facing Maldivians as compared with the people of Belarus, Burundi, Venezuela, and Zimbabwe, the severity of the repression in the Maldives, given its small population, is of great concern. The human rights abuses committed in the Maldives have been sufficiently severe and the resulting international condemnations have been correspondingly strong that the next natural step is to impose sanctions. The situation has now only been exacerbated by the regime's refusal to honor the Supreme Court's order of February 1, 2018.

Furthermore, the situation in the Maldives is only getting worse. There is no indication that Yameen's administration will cease or in any way scale back its aggravated and systematic use of intimidation, harassment, arbitrary detention, and political repression. The current abuses carried out in the Maldives under Yameen's repressive regime require urgent international intervention, and the people of the Maldives need international support.

Imposing targeted sanctions on senior Maldivian government officials and their allies responsible for the conduct during the prior election, gross human rights violations, and the deterioration of democratic institutions, would have a dramatic impact. This is because sanctions would in their own right penalize serious abusers, inspire lower-level government

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February 2013); and *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2013/89/CFSP, *adopted* Feb. 18, 2013 (renewing sanctions to February 2014).

<sup>520</sup> *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2013/160/CFSP, *adopted* Mar. 27, 2013, and *Council Regulation Amending Regulation (EC) No 314/2004 Concerning Certain Restrictive Measures in Respect of Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 298/2013, *adopted* Mar. 27, 2013.

<sup>521</sup> David Pilling & Joseph Cotterill, *Robert Mugabe Steps Down as President of Zimbabwe*, FINANCIAL TIMES, Nov. 21, 2017, *available at* <https://www.ft.com/content/de0ae300-ce94-11e7-9dbb-291a884dd8c6>.

<sup>522</sup> See *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2014/98/CFSP, *adopted* Feb. 17, 2014 (renewing sanctions to February 2015); *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2015/277/CFSP, *adopted* Feb. 19, 2015 (renewing sanctions to February 2016); *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2016/220/CFSP, *adopted* Feb. 15, 2016 (renewing sanctions to February 2017); and *Council Decision Amending Decision 2011/101/CFSP Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2017/288/CFSP, *adopted* Feb. 17, 2017 (renewing sanctions to February 2018). See also *Notice for the Attention of Person Subject to Restrictive Measures Provided for in Council Decision 2011/101/CFSP and in Council Regulation (EC) No 314/2004 Concerning Restrictive Measures Against Zimbabwe*, COUNCIL OF THE EUROPEAN UNION, 2018/C 23/06, Jan. 23, 2018 (notice to Mugabe and his associates that the European Union is considering extending sanctions to 2019).

officials to rethink their approach, and encourage other governments to follow suit. As a significant portion of gross domestic product in the Maldives is derived from the tourism industry,<sup>523</sup> the first priority of the E.U. should be to impose sanctions targeted specifically at senior officials and their financiers in the tourism sector who are implicated in major human rights abuses.

### 1. The Maldives and Belarus

As is the case in Belarus under Lukashenko, the Maldives under Yameen is characterized by a culture of fear, where members of the political opposition and demonstrators are constantly threatened with arbitrary arrests and detention, and enforced disappearances.

<b><i>Arbitrary Arrest and Detention</i></b>	
<i>Belarus, circa 2004</i>	The Government carried out arbitrary and violent arrests of demonstrators and opposition figures as a means of intimidation.
<i>Maldives, today</i>	Yameen's has used intimidation and violence to maintain political power, including by targeting protestors and political opponents with arbitrary charges, arrests, and detentions, as happened in the case of former President Mohamed Nasheed and many others. As a result, nearly all of Yameen's political opponents are imprisoned or in exile abroad.
<b><i>Enforced Disappearances</i></b>	
<i>Belarus, circa 2004</i>	Two opposition politicians, a businessman, and a cameraman were disappeared in 1999-2000 with widespread suspicion that Lukashenko's security forces were connected to the crimes. None of the men have been found.
<i>Maldives, today</i>	The reporter Ahmed Rilwan Abdulla was disappeared from outside his apartment on August 2014 after receiving death threats in response to his writings on freedom of religion and freedom of expression, as well as his advocacy for religious tolerance. The police have admitted that he was in fact abducted, but despite international outcry, his whereabouts remain unknown today.

### 2. The Maldives and Burundi

As is the case in Burundi under Nkurunziza, the Maldives is characterized by arbitrary arrests and detentions of Yameen's political opponents, a "total clampdown" on media, and the use of excessive force against peaceful demonstrators.

<b><i>Arbitrary Arrests and Detention</i></b>	
<i>Burundi, circa 2015</i>	The Government ordered mass arrests of members of the political opposition. Hundreds of people were arrested and held without trial, and many were tortured.

<sup>523</sup> *Maldives*, CIA: WORLD FACTBOOK, 2015, available at <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/mv.html>.

<i>Maldives, today</i>	There are 1,700 political prisoners, activists, politicians, and students in the country facing politically motivated charges, arrest, or detention for exercising their rights to freedom of expression, opinion, assembly or association. Notable victims include former President and opposition leader Mohamed Nasheed and former Defense Minister Colonel Mohamed Nazim.
<b><i>Attacks on Independent Media and Culture of Impunity</i></b>	
<i>Burundi, circa 2015</i>	The Government cracked down on civil society and freedom of expression, shutting down universities and four radio stations, limiting access to telephone and internet, targeting journalists, and attempting to murder a prominent human rights activist.
<i>Maldives, today</i>	Journalists and bloggers are routinely harassed and subject to intimidation. Pursuant to repressive legislation, they face harsh penalties for reporting on the abuses, including revocation of media licenses and hefty fines. TV stations and newspaper offices are raided and forced to suspend their activities, and journalists feel compelled to self-censor in order to protect themselves. Increasing more frequent, journalists and bloggers are physically attacked. Journalist Ahmed Rilwan Abdulla was disappeared in August 2014 and has not been seen since. Yameen Rasheed was murdered in April 2017 after police refused to act on reports of death threats against him.
<b><i>Violent Crackdown Against Demonstrators</i></b>	
<i>Burundi, circa 2015</i>	Protestors opposing Nkurunziza's announcement that he would defy the Constitution and stay in power for a third term were met with excessive force by the police, who used teargas, water cannons, and live ammunition on the crowds.
<i>Maldives, today</i>	Street protests were banned as part of the state of emergency announced in November 2015. All other gatherings of people are likely to be met with excessive police violence, including memorial marches marking the anniversary of Ahmed Rilwan Abdulla's August 2014 disappearance and peaceful sit-ins by journalists.

### 3. The Maldives and Venezuela

As is the case in currently Venezuela under Maduro, the Maldives is characterized by arbitrary arrests and detentions of Yameen's political opponents, and the use of excessive force against peaceful demonstrators.

<b><i>Arbitrary Arrest and Detention</i></b>	
<i>Venezuela, today</i>	The Government has arbitrarily charged, arrested, or detained opposition leaders as a means to silence all political dissent.
<i>Maldives, today</i>	Yameen's has used intimidation and violence to maintain political power, including by targeting protestors and political opponents with arbitrary charges, arrests, and detentions, as happened in the case of former President Mohamed Nasheed and many others. As a result, nearly all of Yameen's political opponents are imprisoned or in exile abroad.

<b><i>Violent Crackdown on Demonstrators</i></b>	
<i>Venezuela, today</i>	The Government responded to protests in 2014 with excessive force, and continues to do so today. In 2015, Maduro authorized the use of lethal force against protestors.
<i>Maldives, today</i>	Street protests were banned as part of the state of emergency announced in November 2015. All other gatherings of people are likely to be met with excessive police violence, including memorial marches marking the anniversary of Ahmed Rilwan Abdulla's August 2014 disappearance and peaceful sit-ins by journalists.

#### 4. The Maldives and Zimbabwe

As was the case in Zimbabwe, the Maldives is controlled by politically motivated detentions and government-sponsored intimidation. And just as Mugabe ushered in legislation to stifle opposition, the Maldivian government under Yameen has amended existing laws and adopted new ones to silence its opposition.

<b><i>Arbitrary Detention and Enforced Disappearances</i></b>	
<i>Zimbabwe, circa 2002</i>	The Government used intimidation and violence to maintain political power, largely by attacking opposition supporters and civil society activists, and by having security forces carry out extrajudicial killings. There were also reports of politically motivated disappearances, arbitrary arrests, and life-threatening prison conditions.
<i>Maldives, today</i>	Yameen's regime has similarly used intimidation and violence to maintain political power, including by manipulating the security forces and judiciary to target protestors and political opponents, as happened in the case of former President Mohamed Nasheed and many others. Ahmed Rilwan Abdulla, a journalist and a critic of the Yameen regime, was disappeared in 2014 and remains missing today. Maldivian security forces turned a blind eye to the death threats received by Yameen Rasheed, a blogger known for his outspoken criticism, and have failed to adequately investigate his April 2017 murder. Reports of cruel, inhuman and degrading treatment in prison are widespread.
<b><i>Attacks on Independent Media and Culture of Impunity</i></b>	
<i>Zimbabwe, circa 2002</i>	The Government restricted freedom of speech and the press, and used domestic legislation to stifle opposition voices, while ensuring that its officials enjoyed domestic impunity for such abuses.

<i>Maldives, today</i>	Nationwide and local protests in the Maldives are routinely suppressed by police, who use excessive force against peaceful demonstrators and arrest protestors. This has only increased since Yameen introduced a state of emergency in November 2015, which allowed him to restrict the exercise of fundamental freedoms. Hundreds of other journalists and bloggers have been targeted since Yameen came to power for expressing views that are critical of the government or deemed irreligious, including 16 journalists were arrested and pepper-sprayed in April 2016 while staging a peaceful sit-in at Yameen's office to protest repression of press freedom. Yameen protects his government officials and security forces from prosecution for the ongoing abuses.
<b><i>Repressive Legislation</i></b>	
<i>Zimbabwe, circa 2002</i>	Legislation was passed to silence the opposition and their supporters.
<i>Maldives, Today</i>	Laws such as the Defamation Act significantly reduce the already limited sphere of protected opinion and expression in the Maldives. Such laws impose severe criminal penalties for voicing dissent or criticism of Yameen's administration.

#### **E. Blueprint of Council Decision for the Maldives**

President Yameen and the Maldivian government constitute a threat to E.U. security and foreign policy interests for three reasons.

First, **the Maldives poses a security risk to the world at large.** Yameen's increasingly repressive rule, his decision to turn a blind eye to extremist groups, and his lack of respect for the rule of law has resulted in the greatest per capita contribution of ISIS fighters from any country outside the Middle East; more than 200 Maldivians have traveled to Syria to fight for ISIS.

Second, the actions of senior Maldivian government officials and their allies, and the policies of the Yameen administration, **severely undermine the Maldives' democratic processes and institutions, and include massive human rights abuses** such as torture, cruel and inhumane treatment, arbitrary detention, enforced disappearances, death penalty, and politically-motivated violence and intimidation. These abuses have grown dramatically over the last years.

And third, **the Maldives is geopolitically significant.** The Maldives is located in a highly strategic location in the middle of the East-West trade route. Additionally, the Maldives has a strong relationship with China, whose investment has replaced that of India and ensures that the Maldives will be indebted to China for the foreseeable future. The E.U. is the second largest trade partner of the Maldives. Coupled with the increasing instability in the country, as exemplified by the recent state of emergency, these factors constitute a threat to critical E.U. interests in the Indian Ocean and jeopardize peace in the region.

See Annex for a model Council Decision for the Maldives.

## **CONCLUSION: CALL FOR ACTION**

After being three decades of one-party rule, the Maldivian people elected Mohamed Nasheed as their first democratically-elected president. President Nasheed worked tirelessly to promote human rights and combat government corruption to transform his country into a vibrant and stable democracy. Yet the forces of the prior government proved too powerful, and facilitated his deposition in a coup. Since taking power, Yameen has imposed severely authoritarian rule on The Maldives.

Democracy and human rights in the Maldives are at great risk – Yameen has made this clear through his drastic and anti-democratic actions in the past few months alone, culminating in his refusal to implement the Supreme Court order of 1 February 2018. The severity and breadth of the abuses committed by top government officials in Yameen's administration, coupled with their interference in democratic institutions, reaffirm the need for the E.U. to take swift, concrete action. Furthermore, the resulting instability generated by Yameen's actions and his failure to address the threat of Islamic radicalism make the need for action more urgent.

Thus, in pursuit of the E.U.'s stated international human rights goals, and justified by the stream of violations taking place in the Maldives, a Council decision and regulation should be adopted in order to impose restrictive measures on Maldivian officials and their allies who are responsible for undermining democracy and violating the human rights of the Maldivian people.

As repression and instability in the Maldives accelerates, the state of democracy and human rights is deteriorating rapidly. The time to act is now.

# **ANNEX – MODEL OF POTENTIAL COUNCIL OF THE EUROPEAN UNION DECISION ON RESTRICTIVE MEASURES**

## **COUNCIL DECISION 2018/X/CFSP**

of [DATE]

Concerning restrictive measures in view of the situation in the Maldives

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Whereas:

(1) the EU has long-standing relations with the Maldives and hundreds of thousands of European tourists travel to the Maldives every year;

(2) the human rights situation in the Maldives has deteriorated dramatically since the country's first democratic elections in 2008 and since its first democratically elected president, Mohamed Nasheed, was ousted in 2012;

(3) the presidential election process in 2013, which brought Abdulla Yameen Abdul Gayoom to power, was marred by irregularities;

(4) on 13 March 2015 Mohamed Nasheed, the first democratically elected president of the Maldives, was sentenced to 13 years in prison on politically motivated charges, and whereas this was condemned by the UN Working Group on Arbitrary Detention; whereas his trial was characterized by violations of due process;

(5) other former officials, including former vice-president Ahmed Adeeb and former defence ministers Mohamed Nazim and Tholhath Ibrahim, have also been arrested and imprisoned;

(6) those arrested are often subject to cruel and inhumane conditions and torture, including being denied food and medication as well as access to medical care;

(7) political and civil freedoms have been eroded, the media have been attacked, and growing religious conservatism is blamed for a decline in religious freedom and tolerance as President Abdulla Yameen and his government seek to tighten their grip on power;

(8) on 4 November 2015 the Government of the Maldives declared a state of emergency, revoked six days later, which appeared to be a means of preventing mass anti-government protests, and whereas the government was widely condemned for suspending citizens' basic rights and for giving the military and the police the power to search and arrest arbitrarily;

(9) on 9 August 2016 the Maldivian Parliament adopted the 'Bill on Protection of Reputation and Good Name and Freedom of Expression', which allows for restrictions to the constitutional right to freedom of speech if an expression contradicts a tenet of Islam, threatens national security, defames or causes damage to an individual, or violates societal norms, and imposes a number of restrictions on freedom of expression and gives the government the power to revoke or suspend the licenses of broadcasters, publications, websites and other media sources;

(10) in August 2016 the President of the Maldives ratified a number of amendments to the Freedom of Assembly Act which restricted the designated area for lawful protests;

(11) on 27 and 28 November 2015 police in the Maldives dispersed opposition protesters, using tear gas and pepper spray and arresting more than a dozen demonstrators who were demanding the release of a former president and other jailed political leaders;

(12) there is increasing harassment of, and threats and attacks against, civil society organisations and human rights defenders, including the former Human Rights Commission of the Maldives (HRCM), which the Supreme Court criticised for submitting a report for the UN Human Rights Council's Universal Periodic Review;



(13) gangs and radical Islamist groups – allegedly in cooperation with the police – often attack institutions, organisations and individuals who are critical of the government’s actions or accused of promoting atheism, and whereas this creates a climate of intimidation;

(14) Ahmed Rilwan, a journalist critical of the government who ‘disappeared’ in August 2014, is still missing and is now feared dead; blogger and vocal government critic Yameen Rasheed was murdered on 23 April 2017; and blogger Ismail Rasheed was stabbed and wounded in 2012;

(15) concerns have been raised over the highly politicised Maldivian judiciary, which over the years has abused its powers and acted in favor of the current ruling party and against opposition politicians, and the right to a fair trial is still not guaranteed and the principles concerned constitute fundamental elements of the rule of law;

(16) on 22 August 2017 security forces forcibly closed the Parliament (Majlis) in what opposition parliamentarians described as an attempt to block a motion to impeach the Speaker of the Parliament and the Government provided further reprisal by unconstitutionally postponing local council elections;

(17) in September 2017 the Maldivian Department of Judicial Administration suspended over 50 Maldivian lawyers, approximately one-third of all practicing lawyers in the country, all of whom took part in calls for judicial reforms intended to secure the independence of the judiciary;

(18) President Yameen has repeatedly declared his intention to resume the practice of state-sanctioned executions, ending a 60-year moratorium;

(19) at least 20 individuals are currently under sentence of death in the Maldives, at least five of whom were aged under 18 at the time of their arrest; whereas Maldivian law, in contravention of international law, allows minors to be sentenced to a delayed death penalty to be carried out when the minor reaches the age of 18; whereas the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has urged the Government of the Maldives not to resume executions;

(20) in at least three cases the Supreme Court of the Maldives has confirmed death sentences following trials which failed to uphold internationally recognized standards; whereas the three are now at risk of imminent execution;

(21) the Maldives has been identified by the Inter-Parliamentary Union Committee on the Human Rights of Parliamentarians as one of the worst countries in the world for attacks against parliamentarians, with opposition politicians routinely being intimidated, arrested and imprisoned; freedom of expression (including freedom of the media), freedom of association and democratic pluralism have been increasingly under threat, with the arrest and charging of hundreds of anti-government protesters; and there is mounting evidence indicating that criminal charges brought against political opponents of President Yameen may have been politically motivated;

(22) President Yameen has refused to honor the Supreme Court’s order of 1 February 2018, which reversed the convictions of nine political prisoners and ordered the reinstatement of 12 members of parliament who had been unlawfully stripped of their seats after trying to join the political opposition;

(23) Under the direction of President Yameen, on 4 February 2018, Attorney General Mohamed Anil, Chief of Defense General Ahmed Shiyam, and Commissioner of Police Abdulla Nawaz ordered the military and police not to enforce the Supreme Court order;

(24) there are also concerns about increasing radical Islamist militancy and about the number of radicalised young men and women alleged to have joined IS/Da’esh;

(25) Further action by the Union is needed in order to implement certain measures.

HAS ADOPTED THIS DECISION:

## **RESTRICTIONS ON ADMISSION**

### *Article I*

1. Member States shall take the necessary measures to prevent the entry into, or transit through, their territories of:

- (a) Natural persons undermining democracy or obstructing the rule of law in the Maldives, including by acts of violence, repression or inciting violence
  - (b) Natural persons involved in the planning, facilitating or perpetrating of gross human rights violations against peaceful demonstrators, journalists, members of civil society and the political opposition.
  - (c) Natural persons associated with those referred to in points (a) and (b).
2. Paragraph 1 will not oblige a Member State to refuse its own nationals entry into its territory.
  3. Paragraph 1 shall be without prejudice to the cases where a Member State is bound by an obligation of international law, namely:
    - (a) As a host country of an international intergovernmental organization;
    - (b) As a host country to an international conference convened by, or under the auspices of, the United Nations;
    - (c) Under a multilateral agreement conferring privileges and immunities;
    - (d) Pursuant to the 1929 Treaty of Conciliation (Lateran Pact) concluded by the Holy See (Vatican City State) and Italy.
  4. Paragraph 3 shall be considered as applying also in cases where a Member State is host country of the Organization for Security and Cooperation in Europe (OSCE).
  5. The Council shall be duly informed in all cases where a Member State grants an exemption pursuant to paragraph 3 or 4.
  6. Member States may grant exemptions from the measures imposed in paragraph 1 where travel is justified on the grounds of humanitarian need, including religious obligation, or on grounds of attending meetings of international bodies or conducting political dialogue that promote democracy, human rights and the rule of law in the Maldives.
  7. A Member State wishing to grant exemptions referred to in paragraph 6 shall notify the Council in writing. The exemption will be deemed to be granted unless one or more of the Council Members raises an objection in writing within 48 hours of receiving notification of the proposed exemption.
  8. Where, pursuant to paragraphs 3, 4, 6 or 7 a Member State authorizes the entry into, or transit through its territory of persons listed in the Annex, the authorization shall be strictly limited to the purpose for which it is given and to the persons directly concerned thereby.

## **FREEZING OF FUNDS AND ECONOMIC RESOURCES**

### *Article 2*

1. All funds and economic resources belonging to, owned, held or controlled by:
  - (a) Natural persons undermining democracy or obstructing the rule of law in the Maldives, including by acts of violence, repression or inciting violence
  - (b) Natural persons involved in the planning, facilitating or perpetrating of gross human rights violations against peaceful demonstrators, journalists, members of civil society and the political opposition
  - (c) Natural or legal persons, entities or bodies associated with the persons, entities or bodies referred to in points (a) and (b);
 as listed in the Annex, shall be frozen.
2. All funds and economic resources belonging to or owned, held or controlled by natural or legal persons, entities and bodies associated with the persons entities or bodies referred to in paragraph 1, as listed in the Annex, shall be frozen.
3. No funds or economic resources shall be made available directly or indirectly to or for the benefit of the natural or legal persons, entities or bodies listed in the Annex.
4. The competent authority of a Member State may authorize the release of certain frozen funds or economic resources, or the making available of certain funds or economic resources, under such conditions as it deems appropriate, after having determined that the funds or economic resources concerned are:

- (a) necessary to satisfy the basic needs of the natural or legal persons, entities or bodies listed in the Annex and dependent family members of such natural persons, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums, and public utility charges;
- (b) intended exclusively for the payment of reasonable professional fees and the reimbursement of incurred expenses associated with the provision of legal services;
- (c) intended exclusively for the payment of fees or service charges for the routine holding or maintenance of frozen funds or economic resources; or
- (d) necessary for extraordinary expenses, provided that the competent authority has notified the competent authorities of the other Member States and the Commission of the grounds on which it considers that a specific authorization should be granted, at least two weeks prior to the authorization.

The Member State concerned shall inform the other Member States and the Commission of any authorization granted under this paragraph.

5. By way of derogation from paragraph 1 and 2, the competent authorities of a Member State may authorize the release of certain frozen funds or economic resources, provided that the following conditions are met:

- (a) the funds or economic resources are the subject of an arbitral decision rendered prior to the date on which the natural or legal person, entity or body referred to in paragraph 1 and 2 was listed in the Annex, or of a judicial or administrative decision rendered in the Union, or a judicial decision enforceable in the Member State concerned, prior to or after that date;
- (b) the funds or economic resources will be used exclusively to satisfy claims secured by such a decision or recognized as valid in such a decision, within the limits set by applicable laws and regulations governing the rights of persons having such claims;
- (c) the decision is not for the benefit of a natural or legal person, entity or body listed in the Annex; and
- (d) Recognition of the decision is not contrary to public policy in the Member State concerned.

The Member State concerned shall inform the other Member States and the Commission of any authorizations granted under this paragraph.

6. Paragraph 1 and 2 shall not prevent a natural or legal person, an entity or body listed in the Annex from making a payment due under a contract entered into prior to the date on which such natural or legal person, entity or body was listed therein, provided that the Member State concerned has determined that the payment is not, directly or indirectly, received by a natural or legal person, entity or body referred to in paragraph 1.

7. Paragraph 3 shall not apply to the addition to frozen accounts of:

- (a) Interest or other earnings on those accounts;
- (b) payments due under contracts, agreements or obligations that were concluded or arose prior to the date on which those accounts became subject to the measures provided for in paragraphs 1 and 2; or
- (c) payments due under judicial, administrative or arbitral decisions rendered in the Union or enforceable in the Member State concerned;

provided that any such interest, other earnings and payments remain subject to the measures provided for in paragraph 1.

## **GENERAL AND FINAL PROVISIONS**

### *Article 3*

1. The Council, acting upon a proposal from a Member State or from the High Representative of the Union for Foreign Affairs and Security Policy, shall establish and amend the list in the Annex.
2. The Council shall communicate the decision referred to in paragraph 1, including the grounds for the listing, to the natural or legal person, entity or body concerned, either directly, if the address is known, or through the publication of a notice, providing such person, entity or body with an opportunity to present observations.
3. Where observations are submitted, or where substantial new evidence is presented, the Council shall review the decision referred to in paragraph 1 and inform the natural or legal person, entity or body concerned accordingly.

*Article 4*

1. The Annex shall include the grounds for listing the natural and legal persons, entities and bodies referred to in Article 1(1) and Article 2(1).
2. The Annex shall also contain, where available, the information necessary to identify the natural or legal persons, entities or bodies concerned. With regard to natural persons, such information may include names, including aliases, date and place of birth, nationality, passport and identity card numbers, gender, address if known, and function or profession. With regard to legal persons, entities or bodies, such information may include names, place and date of registration, registration number and place of business.

*Article 5*

In order to maximize the impact of the measures set out in this Decision, the Union shall encourage third States to adopt restrictive measures similar to those provided for in this Decision.

*Article 6*

This Decision shall enter into force on the date of its publication in the Official Journal of the European Union.

This Decision shall apply until [DATE].

This Decision shall be kept under constant review. It shall be renewed, or amended as appropriate, if the Council deems that its objectives have not been met.