

## PAPER ON POLICE REFORM

### **Implementing human rights-based policing and tackling corruption in Maldives Police Service**

#### **Introduction**

Transparency Maldives welcomes the opportunity to contribute a recommendations paper upon the request of Maldives Police Service (MPS) as part of their ongoing police reform programme and, in doing so, contribute to shaping the future of policing in the Maldives.

The paper addresses two aspects of police reform: the adoption of a human rights-based approach to policing, and combating corruption in policing work. Each section briefly describes the problem, and proposes recommendations based on international best practices for police conduct.

#### **1. Adopting a human rights-based approach to policing**

##### **Why a human rights-based approach?**

MPS was found to have disregarded human rights principles during public order situations, specifically in administering protests, investigations and in public interactions.<sup>123</sup> The regressive actions by MPS reflect the low level of trust in the MPS where 40% of the public had confidence in MPS<sup>4</sup> in 2015, a 12-point drop in confidence compared to 2013. The MPS' undemocratic actions and policies were in contrast to public views towards democracy: 62% of Maldivians agree that despite problems, democracy is still the preferred governance system.<sup>5</sup> Further, democracy is understood as freedom of speech (74%) and freedom of expression (65%).<sup>6</sup> The limiting of fundamental liberties by the MPS is therefore in contradiction with public views towards democracy.

Examples of restrictions on fundamental liberties include its interpretation of the Freedom of Assembly Act 2013, where the MPS narrative in a stakeholder forum was dominated by arguments that peaceful protest is an impediment and a nuisance to policing. Further exacerbating the issues are MPS handling of high profile murder cases including the forced disappearance of journalist Ahmed Rilwan, and brutal murders of MP Afrasheem Ali and human rights defender Yamin Rasheed. The handling of the Rilwan case is a prime example: it took two years for the MPS to acknowledge the forced disappearance of Rilwan, and to accept that the DNA recovered from hair strands found in the car used for the abduction

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<sup>1</sup> <https://www.amnesty.org/download/Documents/ASA2900032014ENGLISH.PDF>

<sup>2</sup> <http://hrcm.org.mv/publications/otherreports/HRCMSubmissionToCAT2018.pdf>

<sup>3</sup> [http://hrcm.org.mv/publications/otherreports/HRCM\\_Shadow\\_report\\_to\\_ICCPR.pdf](http://hrcm.org.mv/publications/otherreports/HRCM_Shadow_report_to_ICCPR.pdf)

<sup>4</sup> <http://transparency.mv/files/media/b64f58f6f145339ffdcef1e74d929c80.pdf>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

matched the DNA of Rilwan's mother.<sup>7</sup> The secrecy and lack of transparency in the work of MPS, as highlighted by MPS handling of Rilwan case contributed to falling trust in MPS.

It is in this context that President Ibrahim Mohamed Solih was sworn in November 2018. President Ibrahim Mohamed campaigned on a platform of transparency, tackling corruption and respect for human rights, with specific pledges for police reform. While there is a new drive to reform policing, the reform efforts require sincere commitment to accept historic injustices and a dedication to learn from them by adopting a human rights-based policing programme. Examples in other countries have shown that allowing human rights-based approach to guide police reform has brought about real systemic change.<sup>8</sup>

In order to ensure a culture of public service, a robust human rights-based approach is required. While policing cultures are usually averse to change, monolithic, suspicious of 'outsiders', and slow to self reflect, human rights culture is inclusive, open to change, and respectful of differences and the different experiences of others. Therefore, adoption of a human rights-based culture of policing promotes respect for MPS, and allows for restraint in public order situations. Such an approach also allows MPS to transition into human rights defenders, making policing safer and less forceful in implementation.

Therefore, a human rights-based approach is not only ethically sound, but practical as well.

## **Recommendations**

- Accept the compatibility of a human rights-based approach to the work of MPS.
- Reassess the strategic plan and the police procedures to ensure that they are in-line with human rights principles and ensure that a human rights-based approach forms the bedrock of a new strategic plan.
- Document cases of police neglect and formulate a component within the strategic plan to provide adequate redress to the public.
- Establish a human rights informed comprehensive procedural plan on how MPS will act in public order situations.
- Collaborate with the Human Rights Commission of the Maldives and civil society organisations to hold regular human rights trainings for MPS, with a particular focus on civil and political rights.

## **2. Combating police corruption**

### **Police-related corruption**

In many countries, the police force is commonly identified as one of the most corrupt government institutions. Police corruption refers to "acts of misconduct by police officers aimed at obtaining financial benefits or other personal gains in exchange for selectively

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<sup>7</sup> <https://maldivesindependent.com/crime-2/maldives-police-lied-about-rilwan-abduction-139955>

<sup>8</sup> <https://www.iccl.ie/wp-content/uploads/2018/09/Human-Rights-Based-Policing-in-Ireland.pdf>

enforcing or manipulating rules, as well as the conduct of investigations and arrests”.<sup>9</sup> Police corruption is generally categorised into four types:<sup>10</sup>

- Petty corruption among lower level police officers includes acts of bribery in everyday interactions with citizens (for example, by traffic police).
- Bureaucratic corruption or administrative corruption refers to the misuse of internal procedures and administrative processes and resources for private gain, such as licensing or a lack of response to citizen’s complaints against police officers.
- Corruption linked with criminal groups includes misconduct such as misleading investigations or tampering with evidence.
- High level or political corruption occurs where high level police officials abuse their power for personal gain or for the benefit of political groups to which they are formally or informally affiliated – in other words, criminal infiltration of the state. Political interference may also occur in police investigations, false investigations and the “framing” of political opponents.

### **Police corruption in the Maldives**

While more research is needed to understand what type of police corruption is prevalent in the Maldives, existing research show that the police force is considered as one of the most corrupt institutions in the Maldives. According to Transparency International’s Global Corruption Barometer (a public opinion survey that captures people’s direct experiences with bribery and their views on corruption in the main institutions in their countries), the police is perceived by the public (47% of respondents) as the fourth most corrupt institution in the Maldives after the parliament, political parties and the judiciary.<sup>11</sup> In the same survey, of the 3% of respondents who paid a bribe for public services, only 3% paid bribe for police services. While petty bribery is negligible, low confidence and politicisation of MPS suggests prevalence of high level of political corruption, possible corruption linked with criminal elements and bureaucratic corruption in contrast with petty bribery.

Perceptions of corruption in a police force can damage public confidence and trust in the police force as an institution. This is also indicated in Transparency Maldives’ Democracy Survey findings, which saw that a significant number of citizens (40% in the 2015 survey<sup>12</sup> and 32% in the 2013 survey<sup>13</sup>) reported that they had “no confidence at all” in the police.

### **Existing mechanisms to combat police corruption**

Article 16 of the code of conduct for the police states that “Police officers must not engage in acts of corruption and fraud, and must not ignore such acts by others. Every police officer must be committed to decreasing and eradicating corruption in the police”.<sup>14</sup> Similar

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<sup>9</sup> <https://www.u4.no/publications/best-practices-in-addressing-police-related-corruption#query>

<sup>10</sup> Ibid.

<sup>11</sup> <http://transparency.mv/files/download/07f5bee10f7192d32d85eac83af8cd68.pdf>

<sup>12</sup> <http://transparency.mv/files/media/b64f58f6f145339ffdcef1e74d929c80.pdf>

<sup>13</sup> <http://transparency.mv/files/download/e8f3d2774a2df995ea1481b01d361330.pdf>

<sup>14</sup> <http://www.policelife.mv/uploads/downloads/police-regulations-1/69704e832658d1fe2bbba62531b389bb.pdf>

principles, values or standards are not outlined in the code of ethics. Article 7 (a1) of the Regulation on Disciplinary and Administrative Offences states that any action that violates the code of conduct and code of ethics is an offence.<sup>15</sup> The regulation, however, does not specify police corruption as an offence. While issues regarding police misconduct are followed up by the Professional Standards Command, there is no procedures in place to specifically combat police-related corruption. Even though police officers are not allowed to be involved in investigations or operations where a conflict of issue has risen, there is no conflict of interest policy in place. Whistleblower protection provisions are also not included in the existing mechanisms. In short, the MPS currently do not have a robust anti-corruption framework in place to fully address police corruption.

## Recommendations

- Introduce a code of conduct that adheres to Article 8 of the United Nations Convention against Corruption (UNCAC), which also includes:
  - The objective of the code
  - A statement of ethical values and principles
  - A set of fundamental prohibitions, including specific guidance in areas of corruption risks (conflict of interest, abuse of office, gifts, disclosure of assets, use of state property and assets, among others)
  - Supplementary restrictions (outside income and post-employment)
  - Procedures and bodies for reporting, investigating and sanctioning violations
  - Responsibilities and sanctions
  - Whistleblower protection provisions
- Ensure an integrity management system is established, and includes areas such as integrity education and culture building.
- Ensure the promotion system is merit-based and transparent, based on fairness, openness, ability and performance.
- Ensure a mechanism for further transparency of police work, including proactive disclosure of information such as its procedures, statistical details of investigations (no. of cases, breakdown by geographical regions, age, sex, nationality, types of crimes, etc), details on persons held in detention, etc.

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<sup>15</sup> <http://www.policelife.mv/uploads/downloads/police-regulations-1/a781b70e0185a7834d397318aadcbad0.pdf>