

PRISONS OF MALDIVES: A CASE STUDY

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Abstract: *This paper examines the Maldivian prison system and the extent of the failure of authorities to conduct prisons as provided in the laws and regulations of prisons. After a general overview of the prison laws and regulations, we set to theorize that the lack of a positive independent monitoring mechanism has failed to uphold the standards of practice prescribed in the prison laws. In the first study, we asked the prison officers on the code of practice in order to show that the vast majority of setbacks in terms of issues related to human rights, torture, inhumane treatment within the prison system happen due to the very fact that prison officers are complicit in breaking laws which they swore to uphold. In the second part of this paper we asked prisoners on the conduct within prisons and compares the set of data from both prisoners, families of prisoners and prison officers along with the prison laws, regulations and findings by the Human Rights Commission of Maldives from 2013-2017 on prisons, to confirm our findings in practical application of prison laws has so far failed in Maldives. While the evidence is collected from the Maldivian criminal justice system, this study may be extrapolated to other countries in relation to effective monitoring and the enforceability of prison laws.*

Keywords: Prison Law, Human Rights, Maldives, Prisons, Torture, Inhumane Treatment

Research Area: Law

Paper Type: Research Paper

1. INTRODUCTION

Throughout the world, the pattern of prison and its treatment for prisoners are changing drastically for the better. Having a criminal justice system which allows imprisonment terms for almost all types of crimes, the government of Maldives in the recent years have passed numerous measures to tackle the issue of inhumane treatment of prisoners within the prisons and for the elimination of torture. A prison sentence in the Maldives could last from 9 days to a maximum of 25 years¹ depending on the offense or depending on the integrity of the sentencing judge and this has led to an increase in the overall imprisonment rate. Therefore the government has passed laws so that all prisons in the Maldives are regulated under the Prisons and Parole Act and this piece of legislation is considered the regulatory law for handling prisoners and conducting activities related to the detention of prisoners.² Another piece of law in place to manage issues related to prison treatment of detainees and gives the authority of the Human Rights Commission of Maldives in inspecting and doing what is necessary for rectifying the issues of inhumane treatment of detainees as well as the overseeing of the prison system in a humane manner is the Rights of Victims of Torture Regulation.³ Every single step seems to have been taken on the aspect of laws and regulations to eliminate torture and inhumane treatment within the prisons. Even the use of weaponry and force on detainees are authorized from a regulation. Where it layout the guidelines of use of force and the types of weapons allowed in the event should the force be used on detainees.⁴ Other legal regulations are also in place in the event if an act of torture takes place. Separate legislation is in place, regarding cases of torture, allowing the Prosecutor General to bring charges under the torture act. This act is designed to be very strict and is seen to supersede above all other laws when it comes to issues of torture.⁵ So far the Maldives has ratified the most important pieces of international conventions on preventing the torture of prisoners, including the Convention

against Torture and other Cruel, Inhuman or Degrading Treatment Or Punishment and its Optional Protocol.⁶ However, the horrifying acts of torture in prisons reported are increasing at an alarming rate, year by year despite having appropriate laws and measures in place to prevent grim conditions within prisons and to allow worsening conditions of prisons and issues of torture and inhumane treatment within the prison system are reported repeatedly.

2. MATERIALS AND METHODS

2.1 PARTICIPANTS

Participants were selected among the prison officers, prisoners and the families of prisoners. A total of 21 prisoners volunteered to participate in the study and 7 prison officers gave their input. From the family members of prisoners, 10 participants volunteered to participate in the study.

The prison officers were all currently employed at one or more prison facilities in the Maldives at the time when they participated in the study. The prisoners were selected among those who have had served time at a detention facility in the Maldives. The length of the detention was not considered for this particular portion of the study as it considered only on the aspect of their experiences in terms of torture and inhumane treatment as well as on how the facilities were run by the officers during their time spent within the walls.

The volunteers from family members were selected among those who were directly related to the prisoner with experience of prison visits whilst their family member was in prison. This aspect was chosen to extract the experiences from a third-party on how the prison system was run from what they have witnessed during their visits.

2.2 MATERIALS

In order to identify the extent of inhumane treatment of prisoners within the prison systems of the Maldives, a questionnaire was prepared for the three groups. The focus of the questionnaire was to identify the areas of compliance or failures in the enforcement and application of laws within the prison system on the aspect of torture and inhumane treatment of prisoners.

Furthermore, reports prepared by human rights commission of the Maldives was analyzed to identify their findings and concerns and to evaluate the undertakings of the constitutionally mandated body in rectifying the issues of discrepancies when it came to addressing these issues.

2.3 PROCEDURE

Every individual who volunteered to participate in the study were given an assurance of confidentiality prior to presenting each volunteer with a multiple-choice questionnaire which was delivered electronically and the results were monitored in real-time. There was no time constraint to the volunteers to complete the answers. The volunteers had the option to opt-out from answering any particular question either by declining to answer or choosing a 'don't know' option. The questions were also designed in a way to get what the volunteers actually witness or experience within the prison system instead of asking about third-party testimonies. This method ensures each account as a separate confession in getting a general idea of how effectively the prison laws were enforced.

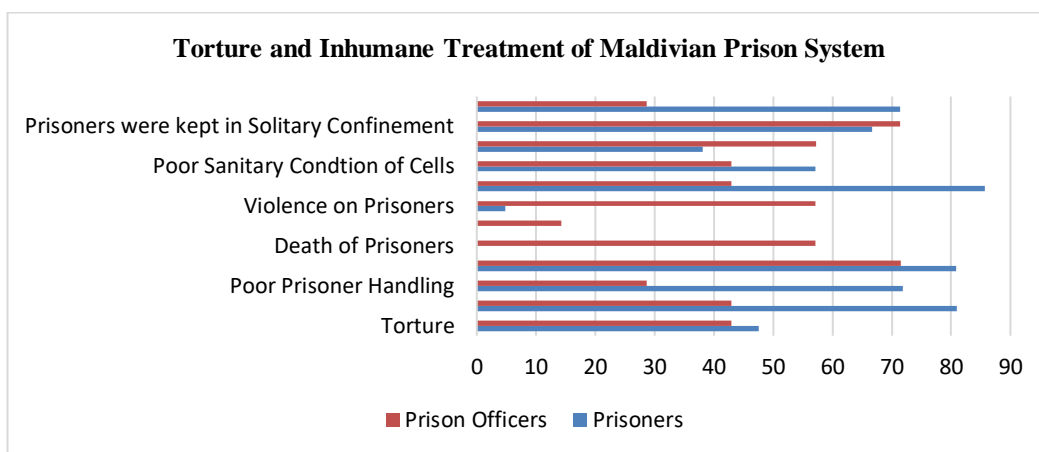
Additionally, as the Human Rights Commission of Maldives (HRCM) is one of the first instances of grievance for prisoners, Human Rights reports were gathered from the HRCMs' database and their findings were analyzed separately from the questionnaire results. These

independent reports published by the constitutionally mandated authority helped in acquiring a view on the amount of work that needs to be done in order to rectify any issues they found from 2013-2017 in respect to prison law enforcement and handling prisoner grievances by the HRCM as well as their redundancies and failures.

3. RESULTS AND DISCUSSION

3.1 PRISON OFFICERS & PRISONERS

Chart 1: Responses regarding the torture and inhumane treatment within Maldivian prisons by Prison Officers and Prisoners

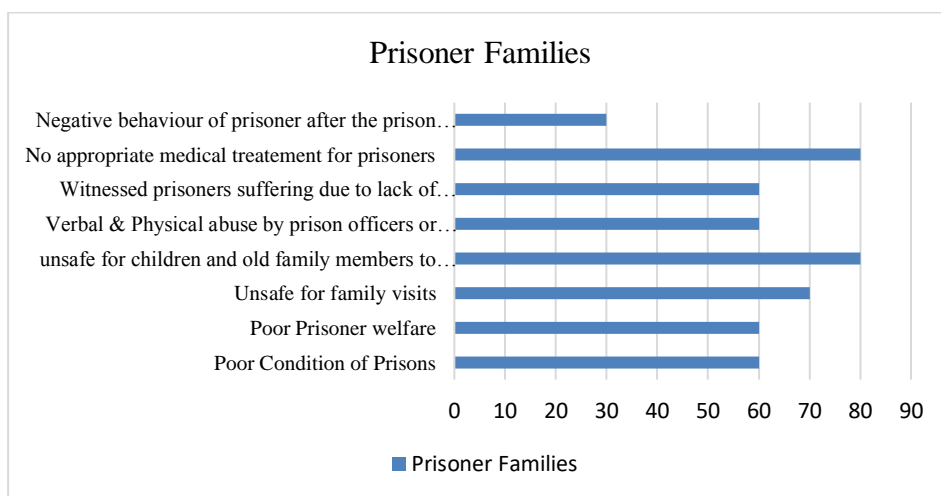


From the responses received from the prisoners as well as the prison officers, a visible pattern of torture is found salient and rampant within the prison system of Maldives. Of the main 12 questions posed regarding direct torture over 9 questions received an alarming 40% above confirmation from prison officers that such atrocities are conducted in the prisons. These include prison officers using extreme conditions within the prisons to witnessing the death of prisoners. Within this ratio issues such as a confession to the enforcement of prisoner torture, poor sanitary conditions of prison cells, poor welfare for prisoners as well as lack of appropriate medical treatment for prisoners were found to be in place. On a more higher scale of confessions at above 70% included where prison officers mentioned of keeping prisoners in solitary confinement and using weapons on prisoners.

It may seem unsurprising to see the same questions answered by prisoners to be on a higher scale than what the prison officers have mentioned. As prisoners are the people who are at the receiving end of the worst within the prison system there could be underlying biases against officers and might have a deviation in exaggerating the claims. However, as each individual prisoner was given a single scale to give a response and all the responses were gathered and taken into a percentage and compared with the samples from other groups, the margin of error within these samples will be very narrow. The most important reason is these two groups are the polar opposite when it comes to confessions where one group has potential to incriminate themselves with the confession provided to a study of this nature and one group has the right to compensation based on the confession. Despite the fact of the matter, both groups of the study agree on the aspect of widespread torture and inhumane treatment within the prison system of Maldives. According to almost 30% of the prison officers who participated in this study; the torturous and inhumane conditions of Maldivian prisons would render an otherwise able individual mentally and physically incapacitated to function as a normal person after having spent a prison sentence within its confines.

3.1 FAMILIES OF PRISONERS

Chart 2: Responses regarding the torture and inhumane treatment within Maldivian prisons by Prisoner family members.

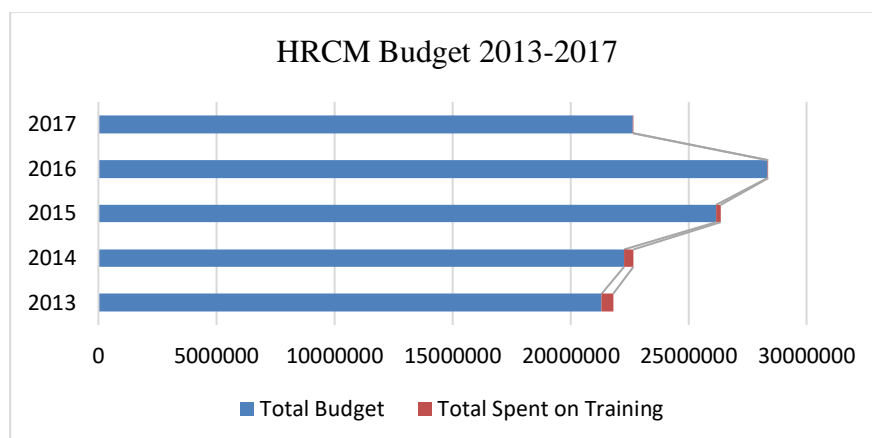


After answering direct questions regarding the situation of torture in the prison system, the group's answers were at 60% or above in 7 of the 8 questions posed to them. These include witnessing a prisoner suffering due to lack of medical assistance as well as to the poor state of prisons and the unsafe situation it puts the members of prisoner families during their legally mandated visits to these prisons facilities. According to the responses from the family members of prisoners, it is found that during the visits to the prison facilities these individuals have witnessed extremely dire situation within the prison system when handling prisoners. A staggering 80% of them responded that the prisons visits are not appropriately safeguarded for them even during their visits; they deem it unsafe for such visits. Furthermore, 60% of the participants of this group expressed that they have suffered physical and verbal abuse by prison officers who are mandated to protect these individuals, as well as abuse from other inmates during those visits. These accounts of family members' regarding the situation of the prisons almost directly correlates to the responses given by the prison officers and the prisoners themselves. Thus showing a clear picture on the scale and extent of the situation. Where the laws of the prison are unenforced and in extreme situations, this has led to the abuse of innocent individuals who visit the facilities as visitors.

3.2 DATA FROM THE HUMAN RIGHTS COMMISSION OF MALDIVES

Human Rights Commission of Maldives (HRCM) has mentioned the presence of inhumane treatment, torture and extreme violence within the prison system. Visits to prison facilities by HRCM from 2013 to 2017 found horrifying conditions within the prison system of Maldives. Despite individual requests to rectify the issues the situation tends to worsen; each year more and more cases were filed to HRCM for investigation regarding inhumane treatment and torture in detention facilities. In the year 2016 alone a total of 1190 cases were lodged at HRCM however only 3 cases were deemed to have enough evidence to press charges.⁷ HRCM claimed of inaction from enforcement agencies and their refusal to recognise the concerns raised by the commission.⁸ Out of the 52 complaints of torture filed to the HRCM in the year 2016, only 1 case was sent for criminal charges.⁹ By the end of the year 2017, the HRCM was investigating 7 cases of direct torture on prisoners by enforcement personnel.¹⁰ Another 37 cases of torture on detainees and 2 cases of torture of child detainees were also filed during the year 2017.¹¹

Chart 3: Data on Human Rights training spending and the Budget issued to HRCM.



Since the HRCM is a constitutionally mandated independent body given a state budget and authority to investigate and refer criminal charges on perpetrators of torture, each year a percentage of their budget is utilized to train relevant bodies regarding the issue of respect for human rights and to prevent these atrocities. However, an alarming trend is seen during the years from 2013 to 2017 as the budgeted amount for training and awareness programs decreased from 2.29% in 2013 to 0.033% in 2017. Although, it becomes apparent that the overall budget for HRCM increased almost every year, the intent and the focus of HRCM deviated from bringing awareness and much-needed training to those who truly need it the most.

4. CONCLUSION

The purpose of the study was to seek out if there were any forms of torture and human rights abuses within the prison system of Maldives. The study started with the hypothesis that even with all the laws in place it is generally impossible to maintain a prison system with utmost humane manner if the enforcement agencies and independent monitoring authorities are not conforming to the conditions set within the law. This hypothesis is proven to be true as the study showed a lack of respect for basic human values and the lack of respect for the laws by the enforcement personnel which has led to an atmosphere of violent treatment of prisoners and visitors to the prison facilities. These issues could be very much easily avoided if the appropriate enforcement and monitoring authorities performed their constitutionally mandated tasks in ensuring the rights of prisoners as well as practical application of bringing perpetrators within the system to be held responsible for their incompetence and violation of basic human rights and laws set in place.

This study will contribute to the knowledge of the issues of imprisonment and the potential detriments of failure to implement and enforce laws to the very letter in essence and in spirit by those constitutionally mandated to be responsible to carry out the system.

End Note:

¹Penal Code of Maldives, 9-2014 Section 1002(a)

²Prisons and Parole Act of Maldives 14/2013

³The Regulation on the Standards of Ensuring the Rights of Victims of Torture 2014/R-37, 2014(10)a

⁴Regulation on the Use of Force and Weaponry by Prison Staff 2015/R-145, 2015

⁵Anti-Torture Act, 2013, 13/2013 Article 4

⁶ International Monetary Fund. (2008), Maldives: Poverty Reduction Strategy Paper. Washington D.C, International Monetary Fund.

⁷HRCM. (2016) Annual Report 2016, Male', Human Rights Commission of Maldives. P17

⁸HRCM. (2015) Annual Report 2016, Male', Human Rights Commission of Maldives. P28

⁹HRCM. (2016) Annual Report 2016, Male', Human Rights Commission of Maldives. P24

¹⁰HRCM. (2017) Annual Report 2017, Male', Human Rights Commission of Maldives. P14

¹¹HRCM. (2017) Annual Report 2017, Male', Human Rights Commission of Maldives. P18

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Prisons and Parole Act of Maldives 14/2013

The Regulation on the Standards of Ensuring the Rights of Victims of Torture 2014/R-37, 2014(10)a, Maldives

Regulation on the Use of Force and Weaponry by Prison Staff 2015/R-145, 2015, Maldives

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