

# Opacity, State-Led Misinformation and Unconstitutional Application of the Death Penalty in the Maldives

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## Introduction

The main argument used to justify the death penalty in the Maldives was Islamic law. Until 2025, the death penalty was applied only for the offense of intentional murder and the concept of *Qisas*<sup>1</sup> is implemented parallel to a sentence of life imprisonment (25 years). However, Maldives introduced the death penalty for offenses relating to drug trafficking and smuggling in 2025, for which Islamic law does not prescribe the death penalty.

This report is a compilation of legal provisions and practice in the Maldives relating to the death penalty. It is part of a larger project to increase public awareness on this topic to counter disinformation and misinformation instigated primarily by state institutions. Access to information is restricted, such as through inconsistent publishing of trial reports, inaccessibility to laws and regulations, and ill-informed officials at state institutions who are unable to explain legal practice concerning the death penalty. These restrictions to information lead heirs of murder victims who are commonly mis-informed, into believing that demanding the death penalty is the only available remedy to ensure safety from perpetrators.

The first chapter outlines the legal framework around the death penalty in the Maldives, including provisions in the constitution, laws, regulations, and instances where laws have been amended by the parliament as well as through court rulings. This chapter also includes a case-study demonstrating how the state continues to sentence minors to death, despite two laws prohibiting the death penalty against minors.

The second chapter addresses the dilemma of Maldives as an *abolitionist de facto* state that continues to sentence people to death, as well as its recent introduction of the penalty for drug related offenses.

The third chapter gives a brief overview of the concept of *Qisas* in Islamic law and how it is applied in the Maldives. It includes a case-study demonstrating how heirs of a murder victim were misled by a state institution and the judiciary to seek the death penalty.

The report ends with a conclusion highlighting the consequences of opacity and dis/misinformation around the topic of the death penalty in the Maldives and how it coerces ill-informed and highly emotionally charged heirs of murder victims to seek the death penalty.

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<sup>1</sup> Qisas is a legal principle in Islamic law, which means “retaliation” or “an eye for an eye”. It includes three forms of actions that heirs of a victim of murder is entitled to: forgiving the perpetrator, demanding fiscal compensation, or equal measure by taking their life. The concept is further explained on page 15 of this report.

## 1. Legal Framework

The Maldives follows a combined legal system of Islamic law and Common Law. Although executions have not been implemented since the 1950s, the death penalty is retained within the Penal Code and applied in sentencing by the courts.

The application of the penalty has undergone changes since the 2008 Constitution was ratified, primarily through the enforcement of a regulation in 2014 outlining the implementation of the death sentence, various court verdicts, and the most recent amendment to the Drug Act in December 2025 which introduced the death penalty for offenses related to drug trafficking. Until this change, the death penalty was solely applied to the offense of intentional murder.

This chapter outlines the key provisions around the death penalty within the legal framework of the Maldives. It will highlight issues of non-compliance through a case-study.

### 1.1 The Constitution of the Republic of Maldives (2008).<sup>2</sup>

#### 1.1.1 Article 16: Guarantee of Rights.

*“(a) This Constitution guarantees to all persons, in a manner that is not contrary to any tenet of Islam, the rights and freedoms contained within this Chapter, subject only to such reasonable limits prescribed by a law enacted by the People’s Majlis in a manner that is not contrary to this Constitution. Any such law enacted by the People’s Majlis can limit the rights and freedoms to any extent only if demonstrably justified in a free and democratic society.*

*(b) The limitation of a right or freedom specified in this Chapter by a law enacted by the People’s Majlis as provided for in this Constitution, and in order to protect and maintain the tenets of Islam, shall not be contrary to article (a).*

*(c) In deciding whether a right or freedom in this Chapter, has been limited in accordance with articles (a) and (b), a court must be fully cognisant of and make reference to all the facts, including:*

- 1. the nature and character of the right or freedom;*
- 2. the purpose and importance of limiting the right or freedom;*
- 3. the extent and manner of limiting the right or freedom;*
- 4. the relationship between the limitation of the right or freedom and the importance of the right or freedom;*

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<sup>2</sup> The President’s Office. The Constitution of the Republic of Maldives, 2008. English translation.  
<https://storage.googleapis.com/presidency.gov.mv/Documents/ConstitutionOfMaldives.pdf>

5. the extent to which the objective for which the right or freedom has been limited could have been achieved by limiting the right or freedom to a lesser degree;

6. the extent to which the right or freedom must be limited in order to protect the tenets of Islam, where the right or freedom has been limited pursuant to article (b).

(d) The onus of establishing that the limitation to any extent, of a right or freedom included in this Chapter is within the reasonable limitations prescribed in this Constitution is on the State or the person asserting the limitation of the right or freedom.”

### 1.1.2 Article 20: Equality

*“Every individual is equal before the law and has the right to the equal protection and equal benefit of the law.”*

### 1.1.3 Article 21: The right to life

*“Everyone has the right to life, liberty and security of the person, and the right not to be deprived thereof to any extent except pursuant to a law made in accordance with Article 16 of this Constitution.”*

## 1.2 The Maldives Penal Code (law number 6/2014)

### 1.2.1 Chapter 110: Homicide offenses

Section 110: Murder. Grading: Class 1 felony.

Punishable by a maximum sentence of 25 years imprisonment.

The sentence is applied simultaneously with Qisas provisions under Islamic law.

### 1.2.2 Section 1204: Death Penalty.

a) *“Proof Required. In order to impose the penalty of death on any person, the state must prove the elements of the offense and prove that the offense committed is worse and represents more culpable behaviour than any other offense imaginable to a practical certainty.*

b) *Confessions. The government may not use the confession of the defendant to convict him of an offense for which it seeks the penalty of death, unless the defendant freely testifies in open court and under the advice of counsel, confessing every element of the crime.*

c) *Evidentiary Requirements.*

1. *Capacity. All witnesses that provide the testimony establishing the proof required in Subsection (a) must undergo evaluation to establish their capacity and competence to tell the truth on the matters at issue.*

2. *Uncontradicted Evidence. If the testimony of any witness, or any portion of the testimony of any witness, including the defendant, is contradicted by the testimony of another witness, that witness's testimony may not be considered as meeting the requirements of proof in Subsection (a).*

d) *Automatic Appeal. In the event that a sentencing court imposes the penalty of death, the decision shall be appealed to the High Court for complete review of all findings of fact and law."*

### 1.2.1 Supreme Court ruling to repeal Section 1204 (b) (2): admissibility of evidence.

In the case of Mohamed Shaifan v Prosecutor General's Office (case number 2016/SC-A/19), a majority opinion of the Supreme Court repealed the Section 1204 (b) (2) of the Penal Code citing non-compliance with the tenets of Islam. The ruling stated that while *Qisas* is a prescription in the Qur'an, and forensic evidence in addition to witness statements to support cases of intentional murder beyond any doubt is admissible, the inadmissibility of witness statements that had variations based on the placement of the witness or angle of visibility of the witness which did not impact the clarity of the crime beyond any doubt created an impossible requirement for witness statements to be exactly alike, whereby obstructing the establishment of a crime requiring *Qisas*.

The ruling to repeal the section was thereby supported by majority opinion to relax evidentiary standards on similarity of witness statements.

## 1.3 The Clemency Act of Maldives (law number 2/2010)

### 1.3.1 Section 2: Purpose of the law.

*"The purpose of this law is to achieve the following objectives:*

- a) *To develop procedures according to this law, to grant pardons and clemency to individuals sentenced for criminal offenses, who have no further avenue of appeal within the judicial system.*
- b) *To develop a process to grant clemency according to this law, to individuals sentenced for a criminal offense, based on consideration to their age, or medical condition(s), or an ongoing medical treatment, or their condition and time, or based on a humanitarian consideration.”*

### 1.3.2 Section 5: Non-pardonable offenses.

- a) *“Offenses that cannot be pardoned under Section 4(a) of this law, or deferment of sentence under part (b) of the same section, or offenses that cannot be pardoned under any other section of this law are listed below. However, this provision **shall not impede the reduction of a sentence under Section 4(c) or changing the type of punishment under part (d) of the section or commutation under any other section of this law.**”*
  - 1. *Murder.*
  - 2. *An offense regarded “hudud” in Islamic law.*
  - 3. *Terrorism.*
  - 4. *Sexual molestation of a child.*
  - 5. *Offenses amounting to life imprisonment for the possession of over 14 grams of drugs, under any law.*
  - 6. *Forceful sexual misconduct.*
  - 7. *Same sex conduct.*
- b) *Even if a person who has been sentenced for an offense involving the robbery from the property of a person or the state receives a pardon or clemency, the requirement for them to compensate the value of the property or monies, shall not receive a pardon or clemency, even if stated otherwise in this law.*
- c) *If the offense involves the violation of someone else’s right, as long as the person has not forfeited the right that was violated, the person who committed the offense shall not receive a pardon, even if stated otherwise in this law. However, a clemency may be given under such circumstances.”*

### 1.3.3 Section 21: Special provisions on the death penalty.

*“Even if otherwise stated in this law, in the event that the Supreme Court sentences an individual to death, or if the Supreme Court upholds the sentence of a lower court or the High Court to apply the death sentence against an individual, upon consideration of the condition of the individual such a sentence has been served, relevant legal provisions, the interest of the state, principles of humanity, **this law gives the power to the President of the republic to commute such a sentence to life imprisonment.** However, such a commuted sentence shall not be pardonable under any part of this law”.*

### 1.3.4 High Court verdict on the repealment of Sections 5 and 21 of the Clemency Act

In August 2012, five individuals petitioned the High Court to rule the Sections 5 and 21 of the Clemency Act unconstitutional, against the Islamic law, and for the repealment of these sections of the law.<sup>3</sup> The basis of their petition was that as the right of *Qisas* (retaliation) is prescribed by Islamic law, and a right of forgiveness within the concept of *Qisas* being solely that of the heirs of a victim of murder. They referred to Section 5 of the Clemency Act which states that “...However, this provision shall not impede the reduction of a sentence under Section 4(c) or changing the type of punishment under part (d) of the section or commutation under any other section of this law” and claimed that since Section 21 of the law gives the president the power of commutation of death sentences to life imprisonment, the Sections should be deemed unconstitutional and non-compliant with Islamic law.

On 30 November 2015 the High Court ruled against the petition, stating that the Sections of the law did not exclusively protect rights of individuals convicted of intentional murder, and that repealing the sections would deprive the right to protection from several other individuals, and that therefore the court did not find any reason to repeal Sections 5 and 21 of the Clemency Act based on the reasons provided by the claimants, and provided several justifications behind the ruling.

**The High Court did, however, provide an interpretation of the Sections in question, stating that in compliance with Islamic law, clemency will only be applicable to those *excluding individuals convicted of intentional murder.***

### 1.3.5 Prevention of Gang Crimes and Other Dangerous Crimes (law number 7/2025)

#### 1.3.6 Section 33: Dangerous crimes committed by using a sharp object or a dangerous weapon.

(a) *“Committing any of the following acts by using a sharp object or a dangerous weapon, or committing such an act by an organised criminal group without using a sharp object or a dangerous weapon, is a crime.*

1. *Murdering a person.*
2. *Aggravated assault against a person.*
3. *Causing serious physical harm to a person.*
4. *Kidnapping a person.*
5. *Threatening a person.*

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<sup>3</sup> The High Court of Maldives. Case number 2012/HC-DM/08. 30 November 2015.

*(b) For the purpose of part (a), number (1) of this Section, murdering a person means intentional murder.*

*(g) The punishment of a person who has committed the crime outlined in part (a), number (1) of this Section shall be the death penalty.*

*(h) Although it is so stated in part (g) of this Section, if the heirs of the victim of murder choose to seek compensation with forgiveness or compensation without forgiveness, from the convicted person or their heirs at any stage of the implementation of the death sentence, the person shall be relieved of the death penalty and given the following punishments under the Ta'zir system:*

- 1. Imprisonment for life.*
- 2. A fine of between MVR 3,000,000 (three million) and MVR 10,000,000 (ten million)."*

## **1.4 The Drug Act (law number 17/2011, amended in 2025)**

### **1.4.1 Section 112: Smuggling a drug listed under Annex 1 into or out of the country**

*(a) "Smuggling a drug listed under Annex 1 is an offense.*

*(b) Smuggling or assisting in the smuggling of or participating in any way in the smuggling of a drug listed in Annex 1 into or out of the country is an offense.*

*(c) The penalty for anyone who commits the offense described in part (a) of this Section is imprisonment for life and a fine of an amount between 100,000 and 10,000,000 Maldivian Rufiyaa.*

*(d) The penalty for anyone who commits an offense listed in part (b) of this Section is imprisonment for 20 years and a fine of an amount between 75,000 and 7,500,000 Maldivian Rufiyaa.*

*(e) Even though it is so stated in part (c) of this Section, if the criteria listed under part (f) of this Section is present in the committing of the offense listed under part (a) of this Section, the death penalty shall be invoked.*

*(f) The death penalty mentioned in part (e) of this Section shall be invoked if the following criteria is present:*

- 1. If the weight of the drug smuggled into the Maldives:
  - i. Exceeds 350g of cannabis; or*
  - ii. Exceeds 250g of diamorphine; or*
  - iii. If it is a drug other than cannabis or diamorphine listed under Annex, it exceeds 100g.**

2. *The drugs smuggled into the Maldives by the individual must have been smuggled in during the transit of the individual into the Maldives.*

*(g) If an individual is sentenced with the penalty mentioned in part (e) of this Section, all legal points and details of the case connected to the verdict must be reviewed by all higher courts of the Maldives.*

*(h) The penalty stated in part (e) of this Section may only be implemented after a unanimous decision of the presiding bench at the Supreme Court rules to uphold the penalty.*

*(i) In the case that a unanimous decision of the Supreme Court as outlined in part (h) of this Section has not been reached, the penalty of the individual shall be that which is outlined in part (c) of this Section.*

*(j) Even though it is so stated in part (d) of this Section, if the criteria outlined in part (f) of this Section are met, the penalty of such an individual shall be life imprisonment with a fine of an amount between MVR 100,000 (one hundred thousand) and MVR 10,000,000 (ten million)."*

## 1.5 Prohibition of the death penalty against minors

### 1.5.1 Children's Rights Protection Act (law number 19/2019) - Section 29: Criminal liability

With reference to Article 35 of the Constitution, part (a) of the Section sets the age of criminal liability at 15 years. Part (d) of this Section refers to Article 35 of the Constitution once more and prohibits the death sentence from being passed against a child. It further states that the death penalty shall not be passed against the person *even after* turning the age of 18, if the offense was committed before the child was 18 years old. Part (e) of the Section states that if a child is convicted of a crime that carries the death penalty under any law, a punishment no harsher than three quarters of the penalty with the next harshest punishment [other than the death penalty] must be applied to the child.

Article 35 (a) of the Constitution states that: *"Children and young people are entitled to special protection and special assistance from the family, the community, and the State. Children and young people shall not be harmed, sexually abused, or discriminated against in any manner and shall be free from unsuited social and economic exploitation. No person shall obtain undue benefit from their labour."*<sup>4</sup>

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<sup>4</sup> The Constitution of the Republic of Maldives (2008).

<https://storage.googleapis.com/presidency.gov.mv/Documents/ConstitutionOfMaldives.pdf>

### 1.5.2 Juvenile Justice Act (law number 18/2019) – Section 74-1: Judicial penalties against children<sup>5</sup>

Part (b) of the section prohibits the death penalty against a minor and reflects similar language with Section 29 of the Children’s Rights Protection Act mentioned above.

Moreover, Section 30 on the rights of the child, part (u) prohibits the disclosure of the identity of a child from the moment when a child has been alleged of a crime. While the need for protection of a child’s identity is crucial in such matters, it also means that the public and civil society will have no way of knowing, and thus intervening, if the Children’s Rights Protection Act is violated and a child sentenced to death – as demonstrated in the case- study below.

### 1.5.3 Case study 1: A minor sentenced to death - the Juvenile Court and the High Court of the Maldives

The Juvenile Court of the Maldives sentenced a minor to death in 2014-2015 (case number 39/Jv-C/2014).<sup>6</sup> The sentence was passed prior to the enforcement of the Children’s Rights Protection Act and the inclusion of Section 74-1 to the Juvenile Justice Act, hence at the time of sentencing, there were no legal protections from the death sentence afforded to children. The verdict was appealed by the person convicted and the High Court upheld the verdict of the Juvenile Court in 2019 (case number 2015/HC-A/285).

In 2022 almost two years after legislative amendments to protect minors and individuals convicted of an offense committed as a minor from the death penalty, an heir of the victim of murder withdrew their wish to seek the death penalty against the convicted minor, and the matter was brought before the Supreme Court in the form of an appeal by the convicted person. The prosecution argued that as Sections 29 of the Children’s Rights Protection Act and 74-1 of the Juvenile Justice Act prevented the State from executing a minor, and due to the fact that an execution would therefore not take place under any circumstance, there was no role of the Supreme Court in the matter. The Supreme Court, stating that heirs have the right to withdraw their previously declared form of Qisas after the appeal period is over, and that an appeal should in fact be submitted in such instances, disagreed with the prosecution and ruled that the verdicts of the Juvenile Court and the High Court sentencing the minor to death should be annulled as a consequence of the withdrawal of the heir’s wish to seek the death penalty, and ruled for a retrial at the Juvenile Court.

**Neither the Supreme Court nor the State addressed the language in the two laws protecting children from the death penalty**, which, in literal translation, states that “a child should not be given the death penalty”. It is possible that the courts, as well as the prosecution, have interpreted this language to mean execution and not sentencing. However, relying on the Articles 35 of the Constitution and the duty of the state to protect minors from any kind of harm, it must be understood that children must

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<sup>5</sup> The Juvenile Justice Act was passed shortly before the Children’s Rights Protection Act, in 2019. The Section 74-1 was added to the law by the first amendment law to the Juvenile Justice Act (law number 33/2020) in 2020.

<sup>6</sup> Trial report, Supreme Court case number 2022/SC-A/86. Case concluded on 11 July 2024.

be protected from being sentenced to death due to the obvious psychosocial harms such an act will inflict on a child.

## 1.6 Regulation on Conducting Investigations into and the Implementation of Penalties Arising from the Offense of Intentional Murder (2014/R-33).

### 1.6.1 Section 2: Purpose

- a) *“Outlining detailed procedures required to be followed by authorities conducting investigations pertaining to the offense of intentional murder and authorities implementing the death penalty.*
- b) *Set specific processes for the implementation of the death penalty as a punishment for intentional murder.”*

The first part of the regulation focuses on investigation of offenses that may potentially invoke charges that may result in the death penalty if convicted of the offense. Apart from provisions that repeat fundamental rights ensured under the Criminal Procedure Code, some sections highlight special attention to the person investigated.

### 1.6.2 Section 4: Police requirements to inform the person alleged of the offense

- (a) *“The individual alleged of intentional murder must be informed by the investigating officer that they are alleged of intentional murder and that if convicted they may receive the death penalty, before the investigation commences.*
- (b) *If an individual was arrested on an allegation that is not intentional murder but the Prosecutor General decides to charge them for the offense of intentional murder, and if the individual alleged of the offense was not provided with the rights specified under this regulation during the investigation, the Prosecutor General must order a re-investigation of the case.*
- (c) *If the individual investigated for the offense of intentional murder is a foreigner, the investigating institution must provide them with an interpreter to explain the questions being asked of them and to convey the things they want to say in the investigation.”*

### 1.6.3 Section 7: Confirmation before criminal charges

*“The Prosecutor General must ensure that investigations against the individual alleged of the offense have been conducted according to this regulation before charges for intentional murder are brought against an individual.”*

#### 1.6.4 Section 9: Mediation

According to this section the Islamic Ministry must appoint a person to mediate between the sentenced person and the heirs of the victim of murder before the sentence is implemented. It does not provide any further guidance on the process or timeline for mediation or criteria of the mediator.

#### 1.6.5 Section 10: Confirmation of legal preparedness

- (a) *“Implementation of a death sentence of a convicted individual may only commence following the receipt of a document by the President which confirms that all legal procedures pertaining to the implementation of the death penalty and all legal requirements have been fulfilled, and which is signed by a committee consisting of the following officials:*
- a. Prosecutor General*
  - b. Chief Justice or an appointee of the Chief Justice*
  - c. Commissioner of Prisons*
- (b) *The format of the document stated under part (a) of this section shall be determined by the committee stated under part (a) of this section.*
- (c) *The President must issue an order for execution to the Commissioner of Prisons within 3 (three) days of receipt of the document stated under part (a) of this section.”*

#### 1.6.6 Section 11: Stay of execution

A stay of execution is granted under any of the following circumstances:

- a) “If a minor has been convicted of the crime, until the child reaches the age of 18.*
- b) If a pregnant person is convicted of the crime, until they give birth and the baby reaches the age of 2 (two)*
- c) If the person convicted of the crime is in a serious medical condition, until the condition improves.”*

#### 1.6.7 Section 12: Imprisonment for the duration of stay of execution

*“Except for those who are pregnant or medically unfit, convicted individuals are imprisoned during a stay of execution. The Maldives Correctional Service shall evaluate cases to decide appropriate locations for imprisonment.”*

#### 1.6.8 Section 13: Seeking the wishes of the heirs of the victim of murder on the day of execution

- a) *“Following the completion of all stages prescribed by this regulation, the Maldives Correctional Service must make adequate efforts to seek the opinion of the heirs of the victim of murder.”<sup>7</sup>*
- b) *The opinion of the heirs of the victim stated in part (a) of this section must be sought on the day of execution.*
- c) *If the heirs of the victim of murder decides to forgive the sentenced individual with or without asking for diyyat (compensation), their decision must be conveyed to the Supreme Court without implementing the execution. The execution must not be implemented on the sentenced person unless otherwise instructed by the Supreme Court.*
- d) *The execution must not be implemented if even one heir of the victim of murder decides to forgive the sentenced individual.*
- e) *This regulation does not prevent the application of other penalties according to the law, following the communication of information to the Supreme Court according to part (c) of this section.*
- f) *A minimum of 10 (ten) days should have passed between the mediation between the sentenced individual and the heirs of the victim of murder stated under section 9 and the mediation stated under part (a) of this section.”*

#### 1.6.9 Section 15: Procedure for execution of the death penalty

- a) *“The execution must be conducted within a maximum period of 7 (seven) days from the receipt of the order from the President to the Commissioner of Prisons stated under section 10(c) of this regulation. The execution must be conducted in the presence of the following officials:*
  - i. *Commissioner of Prisons*
  - ii. *A doctor appointed by the Maldives Correctional Service*
  - iii. *A lawyer appointed by the Prosecutor General, and*
  - iv. *At least 3 (three) individual members of the public appointed by the Commissioner of Prisons.*
- b) *The execution stated under part (a) of this section shall be carried out in a place within the prison designated for this purpose.*

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<sup>7</sup> Here, ‘adequate efforts’ is not specified with guidelines or requirement, for example, methods of how heirs of the victims should be contacted, how many times the mediator should have tried to contact the heirs before deeming it unsuccessful, how long the heirs receive to respond to mediation requests, documentation of efforts, or whether a public announcement should be made to the effect. It does not clarify who the responsibility specifically falls on or what an ‘opinion of the heirs of the victim’ amounts to.

- c) *The doctor specified in part (a)(2) of this section must sign the death confirmation form upon the completion of the execution.*
- d) *Upon completion of the execution ,all the officials specified under part (a) of this section must sign a form determined by the Maldives Correctional Service as witnesses to the death.”*

#### 1.6.10 Section 16: Method of execution

- (a) *“The method of implementation of the death penalty upon the sentenced individual shall be by the administering of lethal injection or death by hanging.”*

#### 1.6.11 Section 18: Seeking the wishes of the heirs (on the application of Qisas) of the victim of murder

*“Before the heirs of the victim of murder are required to inform their wishes regarding the application of Qisas (retaliation) to the court, the Prosecutor General’s Office must clarify to the heirs, the concept according to Islamic law.”*

## 2. Practice – retentionist by law, *abolitionist de facto* internationally

### 2.1 Unofficial Moratorium

Historically, Maldives has executed one person by firing squad in 1952. An unofficial moratorium was applied on the death penalty in the Maldives since 1954. Death sentences were automatically commuted to life imprisonment (25 years) until the moratorium was officially lifted in 2014 with the enforcement of the *Regulation on Conducting Investigations into and the Implementation of Penalties Arising from the Offense of Intentional Murder* (Regulation number 2014/R-33).<sup>8</sup> The regulation originally listed lethal injection as the form of execution, however, due to difficulties faced by the government in procuring primary sedatives used in the lethal injection, the regulation was amended in June 2016 to include death by hanging as a method of execution.

The first confirmation of a death sentence [since 1952] by the Supreme Court came in June 2016 against Hussain Humaam Ahmed.<sup>9</sup> The court confirmed the death sentences of Ahmed Murrath<sup>10</sup> and Mohamed Nabeel<sup>11</sup> in the following weeks. Interventions made under the Optional Protocols to the International Covenant on Civil and Political Rights resulted in the UN Human Rights Committee issuing a recommendation to the Maldives to halt executions and commute the death sentence of Hussain Humaam Ahmed. No executions have taken place since the recommendation. Moreover, in 2020 during the second cycle of its Universal Periodic Review, the Maldives renewed its commitment to the unofficial moratorium, stating that execution will not be implemented pending judicial reforms. However, the government has not provided any benchmarks or standards of judicial reforms they referred to, which leaves it up to interpretation and open to an impromptu decision to resume executions. Furthermore, the Maldives voted against the moratorium on the death penalty at the following biannual UN General Assembly resolutions in 2022 and 2024, similar to previous years with the exception of the vote in 2012.<sup>12</sup> While the government had made a clear pledge to maintain the unofficial moratorium, this information or the consequences of the decision on the death row prisoners who have been confirmed for execution by the Supreme Court was not communicated to the death row prisoners, and they remain in perpetual limbo, awaiting execution.

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<sup>8</sup> Maldives Independent. *Death penalty can be implemented starting today: Home Minister*. 27 April 2014. <https://maldivesindependent.com/politics/death-penalty-can-be-implemented-starting-today-home-minister-83666>

<sup>9</sup> UN Special Procedures. *UN rights experts urge Maldives to halt execution and maintain 60 year-old unofficial moratorium*. 1 July 2016. <https://www.ohchr.org/en/press-releases/2016/07/un-rights-experts-urge-maldives-halt-execution-and-maintain-60-year-old>

<sup>10</sup> Maldives Independent. *Maldives top court upholds second death sentence*. 9 July 2016. <https://maldivesindependent.com/politics/maldives-top-court-upholds-second-death-sentence-125228>

<sup>11</sup> Maldives Independent. *Supreme Court upholds third death sentence*. 27 July 2016. <https://maldivesindependent.com/politics/supreme-court-upholds-third-death-sentence-125662>

<sup>12</sup> The 2012 vote on the UNGA resolution on the moratorium on the use of the death penalty is the only year in which Maldives has voted in favour of the resolution since the biannual calls for a moratorium began.

In 2024, the government announced the resumption of the death penalty and confirmed that preparations were under way for the implementation of executions, including additional policies and regulations, the execution facility (a facility was constructed in 2014 following the enforcement of the Regulation 2014/R-33) and training of personnel.<sup>13</sup> Reforms of the judiciary has not been addressed at all, amidst heavy-handed changes imposed on the Supreme Court and the Judicature Act by the ruling party, Peoples' National Congress (PNC).<sup>14</sup> In 2025, three Supreme Court justices were targeted by the Judicial Service Commission (JSC) and the parliament<sup>15</sup>, resulting in one resignation in protest and two dismissals amidst calls against lack of due process and judicial overreach.

The inconsistency of positions on the moratorium by the government of Maldives and its tendency to use executions as a political tool is highly problematic. It raises serious questions about the legitimacy of giving the title "abolitionist de facto" to retentionist states simply based on a pause on executions without any legal guarantees of [even] a temporary discontinuation of executions.<sup>16</sup> Moreover, the dangers of affording the title to states that have made no commitment to suspend sentencing or the death penalty in legislation are highlighted by recent studies<sup>17</sup> and demonstrated by the newly introduced death penalty for drug related offenses in the Maldives.<sup>18</sup> While the Maldives has reiterated that the only reason why the state cannot abolish the death penalty is due to its commitment to Islamic law, narcotics are not mentioned in it. Islamic law does, however, recognise *Khamr*, generally meaning intoxicating beverages, carrying a penalty of unspecified number of lashes.<sup>19</sup>

Although civil society, UN human rights mechanisms, and the international community have made specific recommendations to the Maldives to abolish the death penalty or implement an official moratorium, these recommendations have been categorically rejected by the state, claiming commitment to Islamic law.

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<sup>13</sup> Sun English. *Maldives readies introducing death penalty: Home Minister*. 22 October 2024. <https://english.sun.mv/92733>

<sup>14</sup> United Nations. *Maldives: UN raises concerns over judicial independence*. 19 May 2025. <https://www.ohchr.org/en/press-releases/2025/05/maldives-un-raises-concerns-over-judicial-independence>

<sup>15</sup> The JSC is an independent constitutional institution, however, it has been criticised for the composition which challenges its independence: it consists of 11 members, which include the Attorney General, a member appointed by the President of the Republic, a member representing the public, a member representing the legal practice, the Speaker of Parliament, a Member of Parliament, and judges representing the superior courts, the High Court, and the Supreme Court. The supermajority of PNC in parliament allows for strong influence of the party in the JSC. Due to the JSC rules on quorum for emergency meetings, the members representing the judiciary were excluded from decisions related to the Supreme Court justices.

<sup>16</sup> World Coalition Against the Death Penalty. *Importance of understanding phases of abolition: the danger of 'abolitionist in practice'*. 6 November 2023. <https://worldcoalition.org/2023/11/06/importance-of-understanding-phases-of-abolition-the-danger-of-abolitionist-in-practice/>

<sup>17</sup> The Death Penalty Project. *Between Retention and Abolition: Making Sense of a Death Penalty without Executions*. 2025. <https://deathpenaltyproject.org/knowledge/abolitionist-de-facto-making-sense-of-a-death-penalty-without-executions/>

<sup>18</sup> Joint CSO statement. ADPAN and Partner Human Rights Organisations Denounce the Expansion of the Death Penalty for Drug Offenses in the Maldives. 9.12.2025. <https://adpan.org/wp-content/uploads/2025/12/ADPAN-And-Partner-Human-Rights-Organizations-Denounce-The-Expansion-Of-The-Death-Penalty-For-Drug-Offenses-In-The-Maldives.pdf>

<sup>19</sup> Handiyani and Jainah. *Death penalty for drugs dealers and traffickers from the perspective of Islamic law*. 2019. Institut Agama Islam Negeri Raden Intan Lampung. <https://doi.org/10.24042/adalah.v15i1.2657>

## 3. The death penalty in Islamic law – *Qisas*

### 3.1 *Qisas*

The term *Qisas* is a right of retaliation for the heirs of the murder victim, which is generally understood as the death penalty in the Maldives. The concept also carries two other rights: forgiveness and compensation. This section will take a closer look at the three rights provided for under Islamic law as the sole right of the heirs of the victim of intentional murder. The bases under the concept are taken from various trial reports at the Supreme Court of the Maldives.

- a) **Forgiveness:** The Supreme Court reiterates that forgiving the murderer is the sole right of the heirs of the victim, and refers to *Surah-Al-Maaida*, verse 45 to state that Islamic law encourages forgiveness.<sup>20</sup>
- b) **Compensation:** Also known as *blood money*, can be demanded by the victim's heirs instead of forgiveness or asking for the life of the convict.
- c) **The death penalty or *Qisas*:** The right to retaliation in equal terms – a life for a life. The death penalty can only be applied if *all the heirs* of the victim of murder *unanimously* asks for it.<sup>21</sup>

#### 3.1.1 Informing heirs of victims of murder of their rights under *Qisas*

There is currently no mechanism in the Maldives that informs heirs of victims of murder of their rights under Islamic law, specifically *Qisas*. No state authority undertakes public awareness on these rights, including the Human Rights Commission of the Maldives (HRCM). Consequently, the public is generally unaware of their rights [as an heir of a victim of intentional murder] to forgive or demand compensation from the convicted person instead of choosing the death penalty.

It is possible that state institutions are themselves unaware of the provisions and reasoning behind these concepts, especially their duties as state institutions to encourage forgiveness as outlined in the Qur'an [refer to section 3.1(a)].

[case-study below]

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<sup>20</sup> Supreme Court of Maldives. Case nr. 2022/SC-A/86. Paragraph 11. p.8.

<sup>21</sup> The requirements for the death penalty according to *Qisas* is explained in paragraph 42 of the Supreme Court report of case nr. 2016/SC-A/19. P.28.

### 3.1.2 Case-study 2: Misinformation about Qisas - the Prosecutor General's Office

In 2021, the heirs of a victim of murder approached the Victim Support Unit of the Prosecutor General's Office (PGO) in relation to the potential conviction of the accused.<sup>22</sup> The heirs requested the PGO for information on the rights of heirs under the concept of Qisas under Islamic law. Specifically, the heirs of the victim wished to understand if they had rights other than the death penalty under the concept of Qisas.

**The PGO informed the heirs of the victim that the right of the heirs of a victim of murder is to either ask for a life in return for a life, or forgive the person convicted of murder.** This information is incorrect, as it omits the right of asking for compensation or 'blood money'. Moreover, **the PGO informed the heirs of the victim that if they chose forgiveness under Qisas, this would mean that the President would then have the power to grant the convicted person clemency and thereby release them from prison.** This information also contradicts with Section 5 of the Clemency Act which clearly states that a person convicted of murder is ineligible for clemency, enforcing the sentence of life imprisonment in full.

The heirs of the victim were neither ready to forgive the accused nor prepared to allow the killer of their family member be released, even if they did not wish to take their life. This dilemma was created by the absence of crucial information. Under the Maldives' mixed legal system, *Qisas* under Islamic law operates alongside a common law sentence of life imprisonment [of 25 years], and a person convicted of murder is ineligible for clemency; therefore, choosing not to seek the death penalty did not create any possibility of the convicted person being released.

The heirs of the victim then requested for the same information from the Criminal Court and received no response. The heirs of the victim finally approached a local Islamic scholar who explained in full, the concept of Qisas and how it is applied in the Maldivian legal system. The clarity encouraged the heirs to ask for compensation from the person convicted, instead of the death penalty.

When the heirs of the victim were eventually summoned by the Criminal Court to record their wishes under the right of Qisas, the only question the court asked from the family was whether they wanted Qisas or not, which is generally understood as 'whether the heirs want the death penalty or not.' When one parent of the victim requested the court for more time to consult with their adult children, the court insisted that the decision should be made without delay. Consequently, the parent chose the death penalty. However, the second parent relied on the information received from the scholar and asked for compensation instead of the death penalty or forgiveness, ultimately relieving the possibility of execution of the convicted person.

Furthermore, the Supreme Court has since observed that detailed information and processes surrounding the decision of a heir of a murder victim to forgive and make peace with the person convicted of the murder are not available within the legal framework of the Maldives.<sup>23</sup>

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<sup>22</sup> This information is received by MDN directly from the family, whose names are protected for reasons of safety from persecution and discrimination.

<sup>23</sup> Trial report, Supreme Court case number 2022/SC-A/86. Paragraph 13. Pg.5. 11 July 2024.

## Final observations

This compilation brings together all the relevant legal provisions surrounding the application of the death penalty in the Maldives, together with the practices employed by the state. The information allows for civil society, academics, law-makers, and the public to access factual information on the topic, as well as understand how the application of death penalty under certain circumstances does not comply with the Constitution or domestic legislation of the Maldives.

The first case-study demonstrates how legal structures and judicial practice conflict with one another, resulting in the unconstitutional imposition of the death penalty on children. At the time of this compilation, there is no evidence of a contestation of this unconstitutional practice in the Maldives – however, it is possible, although highly unlikely, that such a contestation may have taken place, but that the information is not available. In either case, the lack of access to information creates the perfect environment for manipulation of decisions that should, in a just society, be made based on fact and the rule of law.

The second case-study shows how disinformation and misinformation led by state institutions and practices employed by the judiciary neglect legal protections meant to ensure informed decision-making, not only by members of the public, but also by the state itself. Without access to information about either of the two legal systems at work, – Islamic law and common law – combined with the absence of civic education, families of victims of murder must rely on information provided by individual state representatives, often limited to verbal communication. It is also evident that these state representatives have no knowledge of the subject or deliberately misinform the families. Consequently, heirs of murder victims are placed in a situation in which they are required to make decisions about taking the life of another - based on misinformation.