

**National Report submitted in accordance with paragraph  
15(a) of the annex to Human Rights Council Resolution 5/1**

**Maldives**

*Note: This Report was drafted in March 2010 and therefore, some sections may not be up-to-date as of today. The Ministry is currently in the process of updating these sections before submission of the Report to the UN.*

## **Introduction**

During 2003-2004, anti-government riots broke out in the capital of the Maldives, Male', sparked by a number of custodial deaths and widespread allegations of torture. The then government, which had held power for twenty-five years, declared a state of emergency and suspended human rights.

Today, just over five years later, the Maldives is a country transformed. In October 2008, the country held its first-ever multiparty democratic poll and elected H.E. Mr. Mohamed Nasheed, a former Amnesty Prisoner of Conscience, as its new President. The democratic transfer of power was smooth and peaceful.

In 2003, the Constitution ensured the consolidation of power in the hands of the few and was effectively silent on the rights of the many; political parties were considered incompatible with the law; the courts were under the control of the Executive; there were no independent media; freedoms of speech and association were strictly curtailed; and civil society was severely underdeveloped. Today, the country boasts a new 21st Century Constitution that provides for a strict separation of powers and includes a comprehensive bill of rights; there are thirteen functioning political parties, an independent judiciary with a new Supreme Court at its apex, a free and vibrant media with a wide-array of private newspapers, magazines, television stations and radio networks; and finally a thriving NGO community has emerged, covering issues as diverse as children's rights, government corruption, detainee rights, and environmental protection.

Even with these achievements, many challenges remain. Strengthening of the judiciary and the newly formed independent institutions, and the ongoing decentralization process and encouraging local governance remain key challenges. In addition, with an Opposition having a Parliamentary majority, recent amendments to existing laws and new legislations being passed by the legislature are increasing encroaching into the powers of the executive, undermining the integrity of a Presidential system, as decided by the public in the referendum of 2007. The consolidation of a democratic culture is further exacerbated by the economic constraints following the global financial crisis of 2008-2009.

The Maldives is in a democratic transition, and the related blossoming of human rights are a home-grown achievement, made possible through the dedication and sacrifice of ordinary Maldivians. However, this transition also reflects a strong, mutually-respectful and effective partnership that has evolved over the past seven years between the Maldives and the international human rights community.

## I. METHODOLOGY AND CONSULTATION PROCESS

In accordance with UPR principles,<sup>1</sup> the Ministry of Foreign Affairs (MFA) sought the views of relevant stakeholders for the present report. In September 2009, the President of the Maldives, H. E. Mr. Mohamed Nasheed, officially constituted the UPR Standing Committee under the Chairmanship of the Minister of Foreign Affairs. The Standing Committee includes representatives of relevant line ministries, the Human Rights Commission of the Maldives (HRCM) and civil society. The major innovation of the Standing Committee, in addition to its inclusiveness, is that it will continue to sit *after* the presentation of the national report, in order to promote and coordinate the implementation of and follow-up to the Council's recommendations.

After consulting with and seeking information from all relevant line ministries, the Ministry of Foreign Affairs prepared a first draft of the national report in January 2010. This draft was then presented to the Standing Committee in February, and their views and comments were sought. Based on those comments, a second draft was prepared and views sought during a second meeting of the Standing Committee in May. A third draft was then prepared and circulated to the Standing Committee in June 2010. After incorporating their views, the resulting draft was posted on the MFA website in July 2010 for comments and inputs from the general public. Seminars on key human rights issues were also held at atoll and island level, and the results fed into the UPR report. **All inputs were then collated and a final version of the report was prepared in .....**

While relaying the many achievements secured over recent years in the field of human rights, this National Report attempts to be self-critical. It aims to offer a sense of the many areas in which more progress is urgently needed. It also aims to give the reader a sense of the difficulties and challenges faced by the Maldives, as the country attempts to consolidate and strengthen its new democracy. Finally, it outlines ways in which the Maldives will try to address these new goals and challenges, and how the international human rights community, led by the Human Rights Council, can assist in this regard.

## II. BACKGROUND AND FRAMEWORK

The Maldives is comprised of approximately 1190 small coral islands extending across the Equator in a north-south strip, 860km long and 120km wide. The archipelago is located in the Indian Ocean to the south-west of Sri Lanka and is divided into 26 natural atolls. The entire territory covers approximately 859,000 sq. km of which only 300 sq. km is comprised of land.

Of the 1190 islands that make up the Maldives, most of which measure less than a kilometre across and have an elevation of less than a meter, 192 are inhabited, a further

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<sup>1</sup> Human Rights Council resolution 5/1 of 18 June 2007 and the General Guidelines for the Preparation of information under the Universal Periodic Review (as contained in document A/HRC/6/L/24).

97 are individual resort islands serving the Maldives' world famous tourism industry, and 34 are used for industrial and other purposes.

The population of the Maldives<sup>2</sup> is 304,869. There are also over 71,000 expatriate workers in the Maldives servicing, in particular, the tourism and construction industries. More than 35% of the population resides on the capital island, Male'. Most islands have a population of less than one thousand.

The Maldives is famous for its natural beauty and pristine environment, and every year attracts more than double its own population size in visitors. Tiny secluded islands, palm-fringed white sandy beaches, crystal clear lagoons, and vibrant coral reefs have made the Maldives a world-famous tourist destination: "The Sunny Side of Life".

The Maldives has a rich culture and history dating back more than 3,000 years. As an island nation straddling major East-West trade routes, the country's history has been heavily influenced by traders and seafarers, from the Persians and Arabs (responsible for the country's conversion to Islam in 1153AD) to the Portuguese, Dutch and then British. The Maldives was a British Protectorate from 1887 to 1965, at which time it gained independence and became a Republic, ending over eight centuries of government by the ruling Sultans.

The modern Maldives is a dynamic, youthful democracy, with a strong private sector-led, open economy. Powered by its pioneering tourism sector, the country has enjoyed an average growth rate of 7 percent during the decade prior to the December 2004 tsunami and now has the highest *per capita* GDP in South Asia. As a result of this performance, the Maldives will complete its graduation process<sup>3</sup> from the UN list of Least Developed Countries (LDCs) in December 2010.

The current government came into power with an economy in crisis. In the heels of the Global Financial Crisis, in 2009, national debt to foreign financial agencies and banks stood at 37.6% of the country's GDP<sup>4</sup>. Austerity measures taken by the government, has brought down recurrent government expenditure from an estimated 8.7 billion Rufiyaa in 2008, to 8.3 billion in 2010. Further austerity measures were undertaken on the recommendations of International Monetary Fund to boost the economy, and as noted by the IMF Country Report <sup>5</sup>in early 2010, delays in passing of the taxation bills, namely Tourism Goods and Services Tax Bill and the Business Profits Tax Bill through the Parliament could seriously impact the country's fiscal recovery.

Notwithstanding the country's impressive socio-economic development, it should be noted that wealth and opportunities vary widely across society and between the capital, Male', and the outlying atolls. It is also important to recognize that the Maldives' unique geography and acute environmental vulnerability represent major challenges to long-term

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<sup>2</sup> 2008 projection.

<sup>3</sup> Including the so-called "grace period".

<sup>4</sup> Presidential Address 2010, [www.presidencymaldives.gov.mv/4/?ref=1,6,3573](http://www.presidencymaldives.gov.mv/4/?ref=1,6,3573).

<sup>5</sup> <http://www.imf.org/external/pubs/ft/scr/2010/cr10167.pdf>.

progress. For example, the 2004 Tsunami wiped out two-thirds of the country's GDP in a single day, while the 2008-2009 Global Financial Crisis has seriously undermined the national economy. In the medium- to long-term, anthropogenic climate change poses an existential threat to the Maldives and the security, well-being and human rights of its people.

The official language of the Maldives is Dhivehi, although English is widely used in schooling and administration.

### **A. Democratic Transition and Human Rights Reform**

Since November 2008, the Maldives has been in peaceful transition to a functioning liberal democracy.

Only five or so years previously, the Maldives was an autocracy. The same government had remained in power for twenty-five years, with only nominal elections based on a simple "yes/no" vote for or against the incumbent. The constitution contained only minimal human rights safeguards and no separation of powers. The judiciary and the legislature were controlled by the executive, and human rights abuses took place in an atmosphere of impunity. There was no free media, only a few active NGOs, no political parties, no free and fair elections, no independent oversight bodies, no right to protest, no freedom of opinion, and no civil police service (order was maintained by the armed forces). International organisations, the world's press, and human rights NGOs were highly critical of the Maldives' human rights record.

Today, the Maldives is one of the world's newest democracies and every person enjoys strong constitutionally-guaranteed human rights protection. The kind of transformation witnessed in the Maldives has taken many larger, more advanced nations decades if not centuries to accomplish. Moreover, despite a recent history scarred by serious human rights abuses, the democratic transition has taken place in an orderly and peaceful manner; and despite the fact that many in the current Government were the victims of such abuses, including torture, calls for revenge have been resisted and are now fading. This determination to look forward is epitomised by H.E. President Nasheed who, despite being imprisoned and tortured on a number of occasions, has urged his fellow citizens not to allow the past to compromise the future.

### **B. Constitution and Legislative Framework**

The Maldives' constitutional arrangements have evolved over many years although by far the most significant changes were introduced by the current Constitution which came into effect on 7 August 2008.

The Maldives' constitutional framework establishes the Maldives as a democratic Republic with a presidential system of government. The State religion is Islam. The Constitution ensures the clear and effective separation of the executive, legislative and judicial branches of government, and creates a system of checks and balances between the three to promote accountability, impartiality and the rule of law.

Executive power in the Maldives is vested in the Office of the President. The President is the Head of Government and the Head of State, as well as the Commander in Chief of the Armed Forces. Under the new Constitution, the President is elected directly by the people, in a secret ballot, for a term of five years, limited to two terms. The President is assisted by the Cabinet of Ministers appointed by the President and endorsed by Parliament.

Legislative authority in the Maldives is vested in the People's Majlis (parliament). The Majlis has the power to: amend the Constitution; enact legislation; supervise the exercise of executive authority; approve annual and supplementary budgets; determine matters related to independent commissions and offices; approve international treaties; and organise public referendums.

Judicial power is vested in the new Supreme Court, the High Court and such Trial Courts as are established by law. The Supreme Court is the highest authority for the administration of justice in the Maldives, and the Chief Justice is the highest authority on the Supreme Court. The Supreme Court adjudicates on constitutional matters and is also the final court of appeal. Below the Supreme Court sits the High Court, the first court of appeal for criminal, civil, family and juvenile cases. Below the High Court, there are four Trial Courts: the Criminal Court; the Civil Court; the Family Court; and the Juvenile Court. All these courts are located in the capital, Male'. Each of the 200 inhabited island also has its own court (with magistrates) to adjudicate on less serious cases. All judges and magistrates are independent and subject only to the Constitution and the law.

The Constitution provides for a decentralization of administration away from the capital through the creation of elected atoll councils, island councils and city councils.

## **1. 2008 Constitution**

In August 2008, after four years of work by the Constitutional Assembly, and a national referendum to decide between a presidential or parliamentary system of government, a brand new Constitution was ratified.

Keynote innovations of the new text as compared to its predecessor include, *inter alia*: a comprehensively revised human rights chapter in-line with the International Bill of Rights; the formal establishment of a party political system; direct multiparty elections for the post of President; the introduction of a direct two-term limit for the Presidency; removal of the gender bar on running for the Presidency; the establishment of independent oversight and executive agencies such as a Human Rights Commission, Elections Commission, Anti-Corruption Commission and a Civil Service Commission; and strengthened Parliamentary oversight including endorsement of cabinet portfolios and ambassadorial appointments, civilian control of the armed forces, and approval of international treaty ratifications. The 2008 Constitution significantly strengthens the independent judiciary through, *inter alia*, the creation of: a Supreme Court, an

independent Judicial Services Commission to appoint and dismiss judges, and the post of Prosecutor-General.

Chapter II of the Constitution outlines the fundamental rights and freedoms inherent in all people in the Maldives. With the exception of religious freedom, Chapter II includes most of the rights and freedoms contained in the ICCPR and ICESCR, plus new rights such as the right to a safe and secure natural environment, and the right to water and sanitation. Importantly, the Constitution (article 16) makes clear that the rights and freedoms contained therein are guaranteed “to all persons” in the Maldives (i.e. not just citizens). Notwithstanding, certain individual articles (for example, article 23 on economic and social rights, and article 26 on the right to vote and to run for public office) stipulate that the rights concerned can only be enjoyed by citizens.

## **2. Legal System**

Maldivian law is a complex admixture of Sharia law, English civil law and common law. Although it was a British Protectorate from 1887 to 1965, the Maldives never inherited, as did many of its neighbours in South Asia, a strong English law or common law culture. The effects of this are still apparent in the Maldives, where the relatively weak legal system often struggles to cope with the demands placed on it by political, social and economic modernisation. The new Constitution and the enactment of new legislation are expected to help eliminate inconsistencies and bring greater legal clarity.

## **3. Secondary Legislation**

Because of the sweeping changes brought about by the new Constitution – especially in the context of human rights and governance, the Maldives faces significant challenges in terms of creating a secondary legislative framework to implement and enforce the changes envisioned in the country’s primary legal text. A wide array of new laws have already been enacted, many of them including concepts wholly new to Maldivian lawmakers – and their constituents; however much more needs to be done over the coming years.

In total, the Government has identified around 120 Bills that require enactment during its term in Office. It is likely to prove extremely difficult to adopt so many Bills over the coming years because of a lack of qualified personnel to draft them, coupled with time and resource constraints in the People’s Majlis. In addition, some NGOs have questioned the knowledge and commitment of many MPs in the areas of human rights.

The legislative agenda for 2010 includes many Bills with important human rights implications, including: a Bill on Persons with Disabilities; a new Penal Code; an Evidence Bill; a Drugs and Rehabilitation Bill; a Bill on the Right to Information; a Prison Bill; and a Bill on Violence against Women.

#### **4. Political Parties**

As a country that has operated without legally recognised political parties since its independence in 1965, one of the most significant achievements in the democratisation programme has been the introduction of a political party system.

In 2001, the Majlis, based on the opinion of the then Attorney-General, rejected the establishment of political parties. This was overturned in 2005, when the Majlis voted in favour and legalised the registration of political parties. Accordingly, a provisional regulatory framework was established through a Presidential decree, pending legislation by the Parliament, to allow for the registration and functioning of political parties. Legislation formally establishing the political party system was tabled in February 2006 but was rejected by parliament. The revised Bill was sent to Majlis in April 2010 and the first reading of the Bill was held on 6 April 2010 and sent to the relevant Committee on 19 April 2010.

Since 2005, thirteen political parties have been registered and are in operation today. These are the Maldivian Democratic Party (MDP), Dhivehi Rayyithunge Party (DRP), Adhaalath Party (AP), Islamic Democratic Party (IDP), Maldivian Social Democratic Party (MSDP), Social Liberal Party (SLP), People's Party (PP), Maldivian National Congress (MNC), Jumhooree Party (JP), People's Alliance (PA), Poverty Alleviation Party (PAP), National Alliance (Gaumii Ithihaad) and the Dhivehi Qaume Party (DQP).

Members belonging to MDP, DRP, PA, JP and the DQP hold seats in the Parliament.

All political parties receive state funding, with allocations being proportionate to the number of members.

#### **5. Elections**

On 8 October 2008, the Maldives held its first-ever free and fair, multiparty elections. The election, for the post of President of the Republic, was the first to take place under the new Constitution and was governed by the recently adopted *General Elections Act* and *Presidential Elections Act*. The election was controlled by the recently-established independent Elections Commission.

Six candidates competed for the presidency. As no candidate secured a 50% majority, a second round run-off was held on 28 October 2008 between the two leading candidates: Mr. Maumoon Abdul Gayoom (DRP), the incumbent President; and Mr. Mohamed Nasheed (MDP). President Mohamed Nasheed emerged as the first democratically elected President of the Maldives, securing 54% of the vote. Voter turn out in the first round was 85% and in the second round was 86%.

In a spirit of transparency and fairness, the election was conducted by the independent Elections Commission, and overseen and monitored by the national Human Rights Commission, recently-established NGOs such as Transparency Maldives, national and

international media, and election monitors from the UN Expert Assessment Team, the European Union and the Commonwealth. Moreover, all candidates were afforded equal access to the media through an agreement signed by all competing parties. This included two live televised debates between the presidential candidates, and between the vice-presidential candidates. There was also a major “Go Vote!” campaign conducted by NGOs and a separate television and radio campaign by the Elections Commission to encourage voters.

On 9 May 2009, the Maldives’ first multiparty elections to the People’s Majlis (parliament) were held under the new Constitution. 455 candidates (including 21 women) from 13 political parties, plus independents, competed for 77 seats in the expanded Majlis. The elections were managed by the independent Elections Commission, operating under the Constitution and the recently-adopted *General Elections Act* and *Parliamentary Constituencies Act* which, *inter alia*, created new electoral constituencies based on fully democratic principles. Despite some close results, the vote was peaceful and orderly. One result was referred to court by the defeated candidate, however the result was upheld. Voter turnout was 79%.

The first Majlis under the 2008 Constitution was convened on 28 May 2009, with 77 elected Representatives, including 5 women.

Both the Presidential and the Majlis elections were declared free and fair by both domestic and international observers.

## **C. Institutional and Human Rights Infrastructure**

### **1. Human Rights Commission of the Maldives**

The Human Rights Commission of the Maldives (HRCM) was first established on 10 December 2003 by Presidential Decree. On 18 August 2005, the *Human Rights Commission Act* was ratified, making the HRCM an autonomous statutory body. In August 2006, the Act was amended by a unanimous vote in the Majlis, giving the HRCM new powers and bringing it into line with the Paris Principles.

The new Constitution of the Maldives establishes the Commission as an independent constitutional entity. Members to the Commission are nominated by the President and approved by the People’s Majlis. The Commission is both empowered to promote human rights and to investigate any complaints of breach of human rights.

In September 2007, the Human Rights Commission of the Maldives became a member of the Asia Pacific Forum (APF). The Commission was not granted full membership because of the provision in the *Human Rights Commission Act* which limits membership of the Commission to persons of the Islamic faith. For the same reason, the HRCM was only granted B status accreditation with the International Coordinating Committee of National Human Rights Institutions (ICC) when it joined in 2008. The HRCM recently reapplied for A status at the ICC, arguing that it is far more independent and active than

many national human rights commissions which do enjoy A status. The HRCM has also noted that it recently submitted proposed amendments to the Human Rights Commission Act to the Government, and among them was a suggestion to delete any discriminatory clauses in the legislation.

In December 2007, the Commission was appointed as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture. In 2009, the NPM undertook thirteen separate visits to places of detention in the country and submitted recommendations.<sup>6</sup>

The HRCM continues to face a number of challenges in carrying out its mandate including: lack of a democratic culture and basic civic education; a lack of financial independence; the lack of an established system under which HRCM is automatically consulted on new legislation; the tendency for government departments to ignore the Commission's input and opinions; legal uncertainty as to whether HRCM can appear in court on behalf of victims, or even submit opinions to the courts; a low take-up of NPM recommendations; a negative perception among the general public that HRCM is mainly interested in protecting the rights of prisoners rather than the rights of law-abiding citizens; and unhappiness, on the part of some victims of alleged human rights abuses, that the Commission does not have a mandate to pursue cases from before 2000. However, Article 33(c) of HRCM Act stipulates that the Act does not restrict the Commission from inquiring into a complaint prior to January 2000, where the Commission deems such a complaint is necessary to be investigated based on its nature and severity.

## 2. Elections Commission

The Elections Commission is an independent statutory body deriving its authority from the 2008 Constitution. It is comprised of five members who are nominated by the President and approved by the People's Majlis. The Commission is mandated with *inter alia*: the conduct, management, supervision and facilitation of elections and public referendums; the management and updating of the electoral register; the demarcation of

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<sup>6</sup> Visit to Male' Immigration Detention Centre on 9<sup>th</sup> February 2009 - report released 8 March 2009; Visit to Home for People with Special Needs on 2 April - report released on 22 April 2009; Visit to K. Maafushi Jail on 28 April 2009 - report released on 24 May 2009; Visit to K.Himmafushi Drug Rehabilitation Centre on 29 April 2009 - report released on 1 June 2009; Visit to Male' Jail on 3<sup>rd</sup> May 2009 - report released on 9 July 2009; Visit to K.Feydhoofinolhu low-risk jail on 7 May 2009 - report released on 10 June 2009; Visit to K.Himmafushi low-risk jail on 30<sup>th</sup> July 2009 - report not yet released; Visit to Dhoonidhoo Police Custodial on 9<sup>th</sup> August 2009 - report released on 20 October 2009; Visit to Male' Police Custodial on 26 August 2009 - Report was released on 20<sup>th</sup> October 2009; Visit to Education and Training Centre for Children on 21 October 2009 - Report was released on 10<sup>th</sup> November 2009; Visit to S.Gan Temporary Prison on 22<sup>nd</sup> November 2009 - Report was Released on 04<sup>th</sup> Jan 2010; Visit to K.Himmafushi low-risk jail on 26<sup>th</sup> December 2009 - Report not yet released; Visit to K.Feydhoofinolhu Correctional Training Centre for Children on 26<sup>th</sup> December 2009 - report not yet released

electoral constituencies; the registration of political parties; and voter education.<sup>7</sup> As stipulated by the present election laws, candidates for election must be Muslims, Maldivian citizens and be 18 years of age or older.

### **3. Maldives Police Service**

The Maldives Police Service (MPS) was established on 1 September 2004 as a separate civilian organization. Prior to that, policing was carried out by the National Security Service (now renamed the Maldives National Defence Force (army)), which was under the Ministry of Defence and National Security. This created numerous problems in terms of lack of proper oversight and allegations of human rights abuses.

The work of the police is based on the stipulations of the Constitution, the *Police Act* (2008) and other national laws and procedures as applicable. The *Police Act* places the Service under the control of a Commissioner of Police, appointed by the President. The Act stipulates the powers and limitations of the police in accordance with international norms and best practices. The MPS falls under the responsibility of the Ministry of Home Affairs.

The MPS has a number of internal organs and mechanisms with a human rights focus. These include: the Professional Standards Directorate which is mandated to promote police compliance with the highest ethical and human rights standards; and a designated Human Rights Liaison Officer with responsibility for mainstreaming human rights issues within the police, and liaising with the HRCM and international human rights organisations. It is now mandatory for all new police personal to undergo human rights training. Additional refresher courses and trainings are held for serving police officers on a continuous basis. The Family and Child Protection Department works closely with relevant government and non-government agencies to promote women's and children's rights, to handle all cases related to children as victims, offenders and witnesses, and to deal with gender-based violence. In 2010 a new Victim Protection Unit was established. Finally, the Strategic Development Department of the MPS is responsible for continuously assessing and improving the Service, including in the field of human rights.

### **4. Police Integrity Commission**

The Police Integrity Commission (PIC) was first established on 31 August 2006 by Presidential Decree; however it was widely criticised for a lack of independence and effectiveness.

With the implementation of the Police Act (2008), the PIC was reconstituted in 2009 as a more effective institution with wider powers and greater independence. Under the Police Act, the Commission is mandated to “independently investigate violation of laws or regulations among the police, and take action in accordance with law” and to “promote public confidence and conviction towards the police service”.

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<sup>7</sup> NGOs have criticised the Elections Commission for not carrying out its responsibilities in the area of voter education.

Since the adoption of the Police Act, the PIC has undertaken [XX] investigations. Of these, [XX] have resulted in disciplinary action or convictions against serving police officers. The PIC has also undertaken four investigative visits to police remand centres and has presented its findings. Despite these achievements, there is concern that the PIC is under-resourced.

## **5. Judicial Services Commission**

Following his visit to the Maldives in February 2007, the UN Special Rapporteur on the independence of judges and lawyers noted that Executive control over the appointment of judges undermined the independence of the judiciary. The Special Rapporteur recommended the establishment of an independent Judicial Services Commission to control the appointment and dismissal of judges.

The Judicial Services Commission (JSC) Bill was passed by the Majlis on 3 September 2008 and ratified by the President on 4 September 2008. With the ratification of the new Constitution, the Commission became an independent constitutional body.

The JSC is responsible for the recruitment, appointment, transfer, promotion, dismissal, conduct and remuneration of all judges except Supreme Court judges (including the Chief Justice). Supreme Court judges are nominated by the President, in consultation with the JSC, and approved by the Majlis. On 10 May 2010, the JSC laid down the criteria for judges, mandated to the Commission under Article 285 of the Constitution. The Complaints Committee at JSC agreed on (15 Jul 2010) to agenda the 1560-signature petition raised by the Just campaign, a joint effort by 12 CSOs and a number of individuals. The petition called for a review of minimum standards for the Constitutional re-appointment of judges (Article 285b); specifically on educational qualifications and Good Character.

The JSC is composed of: the Speaker of the People's Majlis; a Supreme Court Judge; a High Court Judge; a Trial Court Judge; a Member of the People's Majlis; a member of the general public appointed by the Majlis; Chair of the Civil Service Commission; a person appointed by the President; the Attorney-General; and a lawyer elected from among the country's legal profession.

## **6. Prosecutor-General**

Following his visit to the Maldives in February 2007, the UN Special Rapporteur on the independence of judges and lawyers recommended, in order to more clearly separate the police from the conduct of criminal prosecutions, to create the post of Prosecutor-General. Taking this recommendation into account, the 2008 Constitution established the post of Prosecutor-General.

The Prosecutor-General, who is nominated by the President and approved by the Majlis, is responsible for: supervising the prosecution of all criminal offences; considering the

strength of evidence presented by investigating authorities; instigating and conducting criminal proceedings; assessing the legality of criminal investigations; monitoring and reviewing the circumstances and condition of detention; and ordering investigations into complaints of criminal activity.

The Prosecutor General's Office was created 4 September 2008. By the end of the year, it had received 1211 cases, in addition to 1059 cases transferred from the Attorney General's Office, bringing the total to 2270 cases. Of these cases, the Prosecutor General's Office submitted 1417 cases to the relevant courts. In 2009, the Prosecutor General's Office received 3832 cases, of which 3236 were submitted to the courts. A large majority of all cases are submitted by the Maldives Police Service.

### **7. Anti-Corruption Commission**

Under the new Constitution, the five-member Anti-Corruption Commission (ACC) is a constitutional body empowered to prevent and combat corruption within the State. The Commission can *inter alia*: inquire into and investigate all allegations of corruption; recommend further inquiries and investigations by other investigatory bodies and recommend the prosecution of alleged offences to the Prosecutor-General, where warranted; and carry out research on the prevention of corruption. Members are appointed by the President and approved by the Majlis.

In 2009, the ACC received 254 cases of corruption, of which 76 were not accepted by the Commission as they were seen to be not within its mandate, and 22 cases were sent to other government offices for investigation. In the same year, the Commission completed the investigation of 153 cases, including those it has received in the previous year and a total of 112 cases remained by the end of the year.

The Maldives acceded to the UN Convention against Corruption on 22 March 2007 and entered into force on 22 April 2007.

### **8. Auditor-General's Office**

Audit Office was first established in 1948 and was operating under the President's Office. Under the 1998 Constitution, the Audit Office was treated as an independent office. However, this came into effect in 2008 after the appointment of the first independent Auditor General under the Audit Act 2007/4 and the Office was renamed to the Auditor General's Office. The Auditor General is nominated by the President and approved by the Parliament. Under the 2008 Constitution, the Auditor General is appointed for a fixed term of 7 years (with a possibility of a second term of five years). He is responsible for auditing all government ministries, departments and agencies; independent commissions and independent offices established in accordance with the Constitution and laws and all offices operating under the same; and all offices and organisations operating under the judicial authority; any other institution or organization required by the law to be audited by the Auditor General. Also subject to law, the Auditor General may audit, report on and establish the accounts, financial statements and financial management of any institution

primarily funded by the state and any business entity, in which shares are owned by the State. All audit reports must be submitted to the President and the Parliament and to any other authority prescribed by the law.

### **9. Civil Service Commission**

The five-member Civil Service Commission was first established, following an Act of Parliament, on 2 November 2007, in order to create an independent civil service, free from political influence. The 2008 Constitution establishes the Commission as an independent and impartial constitutional body. The Commission is mandated with creating a civil service which is accountable, transparent, fair, impartial and responsive to the needs of the public.

### **10. Child and Family Protection Service**

The Child and Family Protection Service within the Department of Gender and Family is responsible for promoting and protecting the human rights of children and women. Currently the work of the Family and Children's Service Centres (FCSC) are that of generic social service teams in the atolls. There are 20 such teams on 20 atolls. The Department is currently working on strengthening its service provision. The child and family protection teams are also responsible for support services for persons with disabilities and the elderly population. These two areas were so severely neglected that there are minimal outreach services for both these population groups. However significant efforts are currently being made in developing these areas.

### **11. Employment Tribunal**

In January 2009, the Maldives established the country's first ever Employment Tribunal to enforce the labour rights contained in the Employment Act. A Labour Relations Authority was also established.

## **D. International Commitments**

Over recent years, the Maldives has taken steps to accede to most of the major international human rights instruments including ICCPR, ICESCR, ICERD, CEDAW, CAT, CRPD and CRC. The Maldives also signed the Convention for the Protection of all Persons from Enforced Disappearance (CED) in February 2007.

Maldives is party to the Optional Protocols of ICCPR, CEDAW and CAT, and to both Optional Protocols to the CRC. The Maldives supported the adoption of the Optional Protocol to ICESCR by the United Nations General Assembly in November 2008 and will consider ratification in due course along with the Optional Protocol to CRPD. The Maldives is also one of the core group of countries supporting a new Optional Protocol to the CRC establishing a communications procedure.

Maldives is not party to the International Convention on the Rights of Migrant Workers and Members of their Families (ICRMW).

Maldives has reservations in place under ICCPR, CEDAW and CRC. The Government is actively reviewing these reservations in light of the changes brought about by the new Constitution. On 26 March 2010, the Maldives officially notified the UN of its decision to withdraw its reservation to Article 7a of CEDAW, following the removal of the constitutional bar that prevented women from running for the Presidency.

Maldives is a party to a number of other United Nations and other international instruments that involve human rights, including the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the Prevention and Punishment of the Crime of Genocide. In May 2009, the Maldives become the 183<sup>rd</sup> Member of the ILO and is currently working with the ILO secretariat on the implementation of the Framework Proposal covering labour law reform, labour administration, and a plan of action to ratify the core conventions. The Maldives is also Party to most international humanitarian law instruments and will shortly become party to the Rome Statute of the International Criminal Court.

Under the new Constitution, parliamentary approval must be obtained for international human rights treaties entered into by the Government. The Maldives has a dualist legal system, meaning that the international instruments need to be incorporated into domestic law for them to be enforceable in court.

Maldives is a member of the Commonwealth and works with the organization to promote human rights in-country and elsewhere. The Maldives is also a member of the South Asian Association for Regional Cooperation (SAARC), and has signed a wide-range of human rights related SAARC Conventions.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS**

#### **A. Cooperation with Human Rights Mechanisms**

In 2006, the Maldives established a Permanent Mission in Geneva with the express intention of improving cooperation with the Human Rights Council, Treaty Bodies, and Special Procedures. Since that time, the Maldives' engagement with these bodies has flourished, to the great benefit of the country and its people.

The Maldives believes that no country has a perfect human rights record and all countries should be willing to admit their shortcomings and seek to address them in an open, transparent and cooperative manner. This belief has consistently underpinned the Maldives' engagement with international human rights mechanisms.

Since its creation in 2006, the Maldives has been an active Observer State at the Human Rights Council. Through the Council, the Maldives has sought to share its experiences and views, especially in the context of the democratisation process, with its friends in the

international community. The Maldives has regularly taken part in Council debates, especially on women's rights and children's rights issues, has sought to play a constructive role in the Universal Periodic Review process, and has been the main cosponsor of two resolutions<sup>8</sup> on the issue of human rights and climate change, and one of the main cosponsors of a resolution establishing a communications procedure under the CRC.

The Maldives is now party to most international human rights conventions and takes its obligations under those conventions, including reporting obligations, extremely seriously. Those obligations place a significant burden on the bureaucracies of Small Island Developing States such as the Maldives. For that reason, in 2007-2008, the Maldives announced its intention to produce a Common Core Document (CCD) as a way of streamlining its national reporting process. The CCD was finalised in 2009 and was then reviewed and updated in 2010 to take into account of the changes brought about by the new Constitution. Using the CCD, the Maldives has made significant strides in bringing itself up-to-date with its reporting obligations.

The Maldives is also one of the original twenty State Parties to the OPCAT, and the first country in Asia to accede. In 2008, the Government appointed the Human Rights Commission of the Maldives as the National Preventative Mechanism under the OPCAT, and later in the same year welcomed the Subcommittee on the Prevention of Torture (SPT) to conduct unannounced visits to the country's places of detention. After the SPT finalised its report in early 2009, the Maldives decided to make the conclusions and recommendations publicly available.

In May 2006, the Maldives extended a Standing Invitation to all Special Procedure mandate-holders to visit the country at their convenience. At the same time, the Maldives has pro-actively encouraged those mandates with a particular relevance to the democratisation process to make use of the Standing Invitation. Since 2006, four mandate-holders have visited the Maldives: the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on housing as a component of the right to an adequate standard of living; and the Special Rapporteur on freedom of opinion and expression.

## **B. Cooperation with the Office of the High Commissioner for Human Rights**

The Maldives enjoys an excellent relationship with the OHCHR. In 2006, the Maldives invited OHCHR to establish a permanent presence in the country to assist with the human rights aspects of the democratisation programme. This invitation was taken up in 2007 when OHCHR stationed a national human rights advisor in the Maldives. Unfortunately, in 2008, against the Maldives' wishes, the advisor was withdrawn for budgetary reasons. Notwithstanding, the Maldives has continued to cooperate closely with the Office. Over recent years, the Maldives and OHCHR have jointly organised a number of activities in the Maldives including: a Judicial Colloquium on promoting equality and non-discrimination through the law, for senior judges from the South and West Asia region; a

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<sup>8</sup> Resolution 7/23 and Resolution 10/4.

UPR training and workshop; and a treaty reporting on CAT /Common Core Document workshop. In 2012, the Maldives will host the 16<sup>th</sup> Annual Workshop of the Framework on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region.

## **C. Implementation of International Human Rights Obligations**

### **1. Equality and non-discrimination**

Chapter II of the 2008 Constitution (“Fundamental Rights and Freedoms”) states that: “Everyone is entitled to the rights and freedoms included in this Chapter without discrimination of any kind, including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island”. The provision furthermore provides that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, as provided in law, shall not be deemed to be discrimination.

There is currently no umbrella equality or anti-discrimination act in the Maldives – although the Attorney General’s Office is presently considering such legislation.

#### **(a) Women**

The Maldives was historically a matriarchal society and even today women in the country enjoy greater social, economic and political freedom than their counterparts in any other country in the region. Moreover, with the removal of the constitutional bar preventing women from running for high political office, the last *de jure* barrier, at primary law-level, to gender equality was dismantled.

However, despite these positive points, it is an undeniable fact that women still continue to face *de facto* discrimination in certain walks of life. This stems from both religious influence and a government that had, until recently, been characterised by strong, centralised patriarchal rule. For example, despite impressive achievements in improving educational opportunities for girls (female net enrolment in schools stands at 94.2%<sup>9</sup> and the female literacy rate is 98%), women continue to face hurdles in securing tertiary education scholarships, continue to have a lower participation rate in the labour market, and continue to be underrepresented in leadership and governance positions in the public and private sector. The 2008 and 2009 national elections provided clear evidence that, notwithstanding the progressive new Constitution, negative gender stereotyping and institutionalised discrimination continue to pose significant challenges. Of presidential and vice presidential candidates in the 2008 elections, only one was a woman; of the sixteen members of Cabinet only one is a woman; and of 77 Members of Parliament, only 5 are female.

The advent of democracy, with its emphasis on equality, plurality, participation and free speech, offers a new opportunity to tackle gender discrimination in the Maldives. The

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<sup>9</sup> Although, worryingly, this figure now seems to be falling.

National Gender Equality Policy aims to promote substantive equality through a dual approach: Gender Mainstreaming in all areas, and strategic action on Empowerment and Advancement of Women in specific sectors.

Issues related to gender are handled by the Department of Gender and Family Protection Services under the Ministry of Health and Family. The Government has now begun a programme to mainstream gender equality across all policy areas. On his speech given on the occasion of International Women's Day 2009, His Excellency President Mohamed Nasheed announced the new Gender policy of the government. In this regard, a new Gender Mainstreaming Policy has been endorsed by the Cabinet. Under the new policy, the lead agency for Gender mainstreaming is the Presidents Office. It is the role of the lead agency to monitor all governmental activities and liaise with the assigned Gender Focal Points (deputy minister-level) in each ministry to ensure that all policies and programmes endorsed by the government promote gender equality. All Cabinet Papers presented by Ministers must now include a gender impact perspective.

The Department of Gender and Family Protection Service (DGFPS) is working closely with the Ministry of Economic Development and the UNDP to promote women's empowerment. Analysis of the 2006 census has been carried out by the Department of National Planning (DNP) to understand Female Labour Force Participation (FLFP) in the Maldives. The level of female education, overall labour market conditions and cultural attitudes were highlighted as important factors that determine FLFP.

DGFPS has given loans for women in the past and there is an activity together with UNDP to give grants for women in 2010. Tourism being one of the main employers, a resort forum has been planned to create a platform to establish market linkages with potential women entrepreneurs and resorts.

Furthermore, the DGFPS, together with UNDP, conducted an assessment of the Island Women Development Committees (IWDCs) to understand the situation of these committees. The assessment highlights the challenges and the potential of the women's committees to empower women in the socio-economic and political arena.

The Maldives is also currently working on specific domestic legislation to implement the principles, rights and obligations contained in the CEDAW. The HRCM is assisting the Attorney General's Office to translate CEDAW into Dhivehi as a first step towards creating a Women's Rights Bill. Work is also underway to ratify ILO Convention C111 on discrimination in the workplace. And finally, a Sexual Harassment Bill is expected in 2010.

There are signs that, through these and other efforts, perceptions and prejudices in the Maldives are changing as the society becomes more open. For example, prior to 2008 there was strong opposition to the notion of women sitting as judges in the country's highest courts. Today, there are three female senior judges, while others have undergone training and are awaiting appointment.

An issue which has received considerable attention recently is the application of corporal punishment, particularly public flogging, in cases of adultery. While the penal code does not prescribe flogging as a punishment, it is however administered for certain offences prescribed in the Shariah. The Maldives is, however, looking at ways to ensure that the punishment is not applied in a discriminatory manner. At present, women are far more likely to be publicly flogged than men – mostly because of prejudices among the judiciary and outdated court procedures.

### **(b) Children**

The Maldives is currently finalizing a Bill on Children's Rights, Child Care and Protection. This will be tabled before the Majlis during 2010.

The Bill essentially incorporates all the rights, principles and provisions contained in the International Convention on the Rights of the Child (CRC) into domestic law and make them enforceable before the courts. Part II of the Bill contains all the rights and obligations mentioned in the CRC for the child, parents, community and the government. Part III contains the basic articles for child care and protection, including an article which confers the Child and Family Protection Service with the right to take a child out of a home where the child is in (immediate) need of care and protection, without the approval of the parents. Part IV establishes a nationwide Child Protection System.

### **(c) Persons with disabilities**

Maldivian citizens with disabilities are among the most marginalised people in society. Institutionalized and systemic discrimination, harassment, denial of their human rights in even basic sectors like health and education, unequal opportunities, a lack of awareness within society, and a lack of understanding among policy-makers and enforcement bodies, all contribute to a situation in which persons with disabilities face innumerable barriers to the full enjoyment of their human rights. A study conducted in 2008 found that 25 per cent of children with disabilities in Haa Alifu and Haa Dhaal atolls never left their homes; while all persons with disabilities in the Maldives face daily discrimination and prejudice.

On 2 October 2008, Maldives became the 117<sup>th</sup> State to sign the Convention on the Rights of Persons with Disabilities (CRPD). The Maldives ratified the Convention on 1 April 2010.

The 2008 Constitution prohibits discrimination based on mental or physical disability and also clarifies that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance shall not be deemed to be discrimination. This provision provides the constitutional basis for a number of steps being taken to promote and protect the rights of persons with disabilities. The most important of these steps are the formulation of a comprehensive Disabilities Bill and a more specialised Bill on Mental Health.

On 21 December 2009 a Bill on Protecting the Rights of People with Special Needs was passed by the People's Majlis. However it was subsequently criticized by Care Society, Handicap International, the Association for Disabilities and Development, the Maldives Deaf Association and other NGOs supporting the rights of persons with disabilities, as well as the Human Rights Commission of the Maldives, as not being fully consistent with the CRPD. Taking note of these concerns, on 6 January 2010, the President of the Maldives vetoed the Bill and returned it to the Majlis for reconsideration. The Bill was re-tabled in Majlis with several revisions and passed in June 2010 and subsequently ratified by the President in July 2010. The Act sets out principles and procedures for providing protection and financial assistance to people with special needs and a council to protect the rights of people with disabilities is to be established within 30 days of enactment. The key objective of the Council would be to monitor the implementation of policies regarding people with disabilities.

In addition to pursuing a new, comprehensive legal framework for persons with disabilities, the Maldives, in parallel, is undertaking initiatives to raise awareness about the situation of persons with disabilities in the country. The Government supported the conduct of a sensitisation campaign on human rights and disability co-organised by Handicap International, the UN Resident Coordinator Office and the Office of the High Commissioner for Human Rights.

#### **(d) Senior citizens**

The elderly are, generally-speaking, highly valued and cared-for in the Maldivian society. Different generations of the same family tend to live together in the same building, meaning senior citizens are cared for and continue to play a full and active part in society.<sup>10</sup> The elderly also tend to be very politically-aware and politically-active.

That said, the Maldives recognizes that the elderly do require special help and support. The Constitution of the Maldives specifies that: "elderly and disadvantaged persons are entitled to protection and special assistance from the family, the community and the State".

A new pension system established by the "Pension Act", which was passed by the Majlis on April 29, 2009, and ratified on May 13, 2009, establishes an old-age pension scheme and a retirement pension scheme. This is a lifetime pension benefit that will be paid to all Maldivian citizens who are resident in the Maldives and who are 65 years of age or older. The basic amount is paid monthly and is the same for everyone, except that the basic amount will be reduced by an amount equaling 50% of any other retirement pension income that the person may receive (such as the Maldives Retirement Pension).

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<sup>10</sup> This is though changing – with the nuclear family slowly becoming more prevalent, especially in urban areas.

### **(e) Persons practising other faiths and religions**

Non-Maldivians are allowed to practice faiths other than Islam in the Maldives, but only in the privacy of their own homes. The law does not allow for the building of places of worship of other religions, or for the importation of religious icons except for private worship. There are reports by NGOs of non-Islamic religious texts, such as bibles, being confiscated. A Bill on Prohibition of Establishment of Places of Worship for Other Religions is currently in Committee stage at the Parliament, having been submitted in late 2009.

### **(f) Sexual orientation**

The Shariah law prohibits homosexuality.

### **(g) Migrant workers**

There are widespread reports by NGOs of discriminatory practices against migrant workers, including reports of racism.

## **2. Right to life, liberty and security of person**

### **(a) Torture**

Unfortunately, there has been a long-standing culture in the Maldives, among government authorities, law enforcement agencies and the courts, of denying the existence of torture or other cruel, inhuman or degrading treatment, of ignoring evidence to the contrary, and of creating an atmosphere in which individuals can perpetrate torture with relative impunity. This atmosphere was supported by a system in which: there was no democratic oversight of law enforcement or security agencies; there were no laws or procedures in place to prevent torture; and legal accountability and human rights protection for those at risk was almost totally absent.

The prevalence of torture in the country finally came to light in September 2003 when a young prisoner at Maafushi Jail (the main detention centre in the Maldives – on an island near the capital Male'), Mr. Evan Naseem, was beaten to death by prison guards. Those responsible attempted to cover-up the killing; however Mr. Naseem's death sparked major prison riots in which nineteen inmates were shot (killing 3 and injuring 17 others). When news of the shootings and killing reached Male', it provoked widespread rioting in the capital in which public buildings were burnt down.

The death of Mr. Evan Naseem and the rioting that followed put torture and other human rights abuses in the Maldives in the international spotlight, and gave rise, ultimately, to the reform movement which has, over the intervening years, brought about the complete transformation of the country.

Since that time, the Maldives has taken a wide-range of steps to prevent torture and other inhuman, cruel or degrading treatment. In September 2004, the police and penitentiary services were separated from the armed forces and placed under civilian control. This led to the establishment of the Maldives Department of Penitentiary and Rehabilitation Services (DPRS). In October 2004, the Maldives signed an agreement with the ICRC under which the latter were allowed to conduct prison visits. In 2006, the Maldives became the first country in Asia to accede to the Optional Protocol to the Convention against Torture, and in December 2007, once the Protocol had entered into force, appointed the HRCM to act as the National Preventative Mechanism (NPM). Also in December 2007, the Maldives became only the second country to be visited by the Subcommittee on the Prevention of Torture (SPT) and in February 2009, decided to make the findings of the Subcommittee publicly available. Those findings, plus the various reports and recommendations of the NPM have acted as a blueprint for police reform and prison reform, as guided by the Police Act and the soon-to-be-tabled Prison Bill. Other bodies including the MPS Ethical Standards Command, the independent Police Integrity Commission, and the Home Ministry's Inspector-General, are also actively visiting places of detention, ensuring that conditions and procedures are such that torture is prevented, and, where allegations of torture are made, that they are thoroughly investigated.

The Maldives is also in the process of improving legal protections against torture. The 2008 Constitution stipulates that “no person shall be subjected to cruel, inhuman or degrading treatment or punishment or to torture”. The draft Penal Code submitted to the Majlis in 2007 did not establish torture as a separate offence under domestic law. However, conscious of Article 4.1 of the CAT, and following interventions by the Association on the Prevention of Torture (APT), the Attorney General's Office has made representations to the relevant parliamentary committee to amend the Code to make torture a separate offence.

In addition to these institutional and legal changes, the Maldives, in association with organisations such as OHCHR, SPT, HRCM and APT has also been active in conducting awareness-raising workshops and trainings on torture prevention.

There is considerable evidence that these various steps are already proving effective in challenging the prevailing culture of torture that had existed previously in the Maldives. Although there is always a risk that individuals in the MPS or DPRS will abuse their positions and mistreat those in detention<sup>11</sup>, it is clear that there are now a wide-range of checks, procedures and safeguards to make such acts more unlikely, and, crucially, mechanisms in place to ensure that those who are found guilty are punished. In this regard, it is noteworthy that in January 2008, two policemen were investigated, found guilty and sentenced for beating and torturing a man in custody. The PIC is currently investigating three other allegations of torture. It is also noteworthy that the *Police Act* makes it easier to dismiss officers found guilty of serious misconduct. Since the Act came

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<sup>11</sup> Human rights NGOs contend that a culture of torture still persists among some police and penitentiary officers.

into force, 97 officers have been dismissed. The Prison Bill, when acted, will similarly make it easier to take disciplinary action against prison officers.

### **(b) Violence against women**

Violence against women is a major problem in the Maldives. A 2005 baseline survey found that many people believe that men should be permitted to hit their wives under certain circumstances. A 2007 report by the then Ministry of Gender and Family found that 1 in 3 women between the ages of 15-45 reported some form of physical or sexual violence at least once in their lives, 1 in 5 suffered physical or sexual violence at the hands of their partner, and 1 in 6 girls under the age of 15 years had suffered from sexual violence.

The Maldives is determined to confront this problem through a combination of legal remedy and awareness-raising/education.

The Government is currently putting the finishing touches to a Domestic Violence Bill that will shortly be transmitted to the Majlis. A similar Bill is also being drafted by the main opposition party, the DRP. A Domestic Violence Helpline is in the pipeline to be launched by the end of this year.

In February 2008, the Maldives amended the country's Sentencing Guidelines in order to provide more appropriate punishments for the perpetrators of sexual abuse, including gender-based sexual violence. The change followed recognition that the previous guidelines, which did not allow for the application of prison sentences, were insufficient to tackle such serious crimes. Under the changes, the sentences now available to judges include imprisonment. Moreover, while the previous legal framework included the provision that "children can give consent to sex", this provision was removed in 2008.

The Government and the People's Majlis have also launched a number of campaigns to disseminate the message that violence against women is totally unacceptable in all cases.

To assist with these steps and promote awareness around the issue, the Maldives has repeatedly invited the UN Special Rapporteur on violence against women to visit the country.

### **(c) Violence against children**

In February 2008, the Maldives amended the country's Sentencing Guidelines to introduce tougher sentencing for perpetrators of sexual abuse, including child abuse. The change followed acceptance of the UN Committee on the Rights of the Child's observation in 2007 that the previous guidelines, which did not allow for the application of prison sentences, were insufficient to tackle such serious crimes.

The recent Act passed by the Majlis, the "Special Measures for Perpetrators of Child Sexual Abuse" (Law 12/2009) furthers the due diligence standards of the state when

attending to child sexual abuse cases. The Act contains harsh sentences of up to 25 years for those convicted and also denies the right to remain silent, that otherwise permitted in the Constitution.

Protection against child abuse will be significantly strengthened by a new Bill on Children's Rights, Child Care and Protection. The Bill lays down provisions both for parents who ask for help or who voluntarily accept help that is offered to them, where a child is in need of care and protection; and provisions for action by the Child and Family Protection Service where the parents have not given their consent. The Bill also establishes a Child Protection System through which relevant state institutions can intervene to protect a child in a coordinated manner.

The Family Protection Unit at Indira Gandhi Memorial Hospital established in 2005, is the first Maldivian model of integrated care for abused women and children, offering services for physical, sexual and emotional violence within health services. Being the main hospital providing health care to people in the Maldives, IGMH also serves as the first point of contact for most people who experienced GBV or child abuse.

In 2006 the Maldives initiated the decentralisation of child and family protection services to the atolls by establishing Family and Children Service Centres (FCSC) which provide services to families and children in need of protection and support.

The Family and Child Protection Unit of the Maldives Police Service handles all cases of children both as victims and offenders.

In November 2009, in a ceremony held to mark the World Day for the Prevention of Child Abuse, a new Child Helpline was launched. The new confidential service has proven extremely successful. In its first month of operation alone, the Helpline received over 400 calls.

### **3. Right to freedom of opinion and expression**

Over the past four years the Maldives has witnessed a truly remarkable transformation in its media landscape. Prior to 2005, there was one State-controlled television station (TV Maldives), one State-controlled radio station (Voice of Maldives) and a small number of daily newspapers controlled by people close to the former president. Before 2005, journalists in effect practiced self-censorship due to limited space for dissent or criticism of government policies, fear that media outlets would be shut down, and the fact that defamation was a criminal offence.

Today, the Maldives boasts a vibrant media community encapsulating a broad cross section of political and social views. There are twelve daily newspapers (many of which also have online editions), four private television stations, seven private radio stations, a myriad of magazines and other publications, and countless blogs and on-line chat rooms operating in a country with a population of only 300,000 people. What is more, criticism of the Government and other organs of State, and debates on difficult societal issues such as marital rape and child abuse are now commonplace.

As the Special Rapporteur on freedom of opinion and expression noted after his visit to the Maldives in March 2009: “The climate of fear which forced many journalists to practise self-censorship no longer exists and those working within the media sector feel they work within an environment which will not stifle their freedom to openly criticise the Government”. The 2009 World Press Freedom Ranking, compiled by Reporters without Borders (RSF), showed the Maldives making the largest advance of any country in the world – rising 53 places to 51<sup>st</sup> place – putting the country just behind established democracies such as France, Spain and Italy.

Many of these changes predate the new Constitution and follow the gradual liberalisation of the media sector from 2005 onwards. However, the reforms are now underpinned and encouraged by Articles 27, 28 and 29 of the Constitution and by an evolving progressive legislative framework.

A draft Freedom of the Press Bill, establishing the rights and responsibilities of a free media, was tabled in 2006. In May 2006, the Maldives invited the International Press Freedom Mission (IPFM) to the country to review the Bill and related steps towards freedom of expression. The Mission criticized certain key aspects of the draft which, it felt, fell short of international standards and best practice. In July 2009, a new Bill on the Right to Freedom of Expression was tabled before the Majlis. The new Bill combines the former Freedom of the Press Bill and the Bill on the Registration and Publication of Newspapers and Magazines.

In November 2008, the Maldives Media Council Bill was ratified, establishing the Council as an independent, self-regulatory body with responsibility for: establishing and preserving the freedom of media in the Maldives; keeping under review matters contravening this freedom and taking remedial measures; building-up a code of practice and a code of conduct for people working in the media; ensuring people working in the media behave responsibly and ethically; and conducting inquiries into complaints filed with the Council concerning abuse of rights.

In November 2009, the Majlis adopted amendments abolishing articles 150 to 166 of the current Penal Code under which defamation was a criminal offence and punishable by a sentence of exile, house detention or fine. The step had been recommended by the UN Special Rapporteur on freedom of opinion and expression following his visit to the Maldives in March 2009.

In October 2009, the Majlis accepted and began scrutinising a Bill establishing a Maldives Broadcasting Corporation. The Bill was passed by Majlis on 6 April 2010 and ratified by the President on 20 April 2010. In July 2010, the Majlis approved the nine new members for the board of Maldives Broadcasting Corporation. The Government is also currently drafting a Broadcasting Bill containing the rights and responsibilities of the broadcast media more generally.

A regulation on Freedom of Information was introduced by Executive Decree on World Press Freedom Day on 3 May 2008. The decision to introduce the regulation followed the Majlis' rejection of the Freedom of Information Bill by one vote on 14 November 2007. The Bill has now been revised taking into account Parliament's concerns and input, and was re-tabled in June 2008. A first reading of the Bill by the relevant Majlis committee has already taken place. At the moment, the Bill covers only the executive, and fails to incorporate the legislative and judicial arms of the State in its scope. Concerns have been raised to reduce the time limit for the disposal of requests, and to recognize the right to information as a universally recognized human right, without demanding reasons for the request for information.

Despite these various achievements, the media in the Maldives continues to face challenges. Some journalists have received death threats over their writing. Self-censorship through government pressure has been replaced, to some degree, by self-censorship through fear of criticism or sanction on religious grounds. Journalists have rarely broached religious issues or issues related to interpretations of Islamic law, such as whether the practice of flogging should be discontinued. Even the independent Human Rights Commission of the Maldives (HRCM) rarely comments in the press on difficult social issues that may touch on religion.

#### **4. Right to freedom of assembly**

Until recently, the right to freedom of assembly was strictly curtailed in the Maldives. Organised demonstrations and rallies were not tolerated and often led to violence and the destruction of public property. The police (and prior to 2004, the army) were not trained in marshalling demonstrations, and heavy-handedness and brutality were common. However, since 2005 the right to freedom of assembly has been gradually strengthened with the result that today, the right to freedom of assembly, without prior permission, is constitutionally-guaranteed. Demonstrations and political rallies are now an everyday part of life in the Maldives. Moreover, the MPS has received specialised training in crowd control and management.

#### **5. Right to freedom of association**

Freedom of association is guaranteed in Article 30 of the 2008 Constitution.

The establishment of a party political system is one of the major achievements of the democratisation process. From independence in 1965 until 2005, there were no political parties in the country. Today political parties are an accepted and established part of the democratic life of the Maldives. There are currently thirteen registered political parties, five of which are represented in the Majlis.

The civil society sector has seen a similarly impressive change. Five year's ago, there were only a handful of officially-sanctioned NGOs. Today, with the entry into force of the new Constitution and the formulation of new, streamlined procedures under which

NGOs can be registered in less than 15 days; there are now 1,069 registered civil society organisations – with 3-7 new ones being registered daily.

Although the Constitution guarantees the right to form trade unions, there are not yet any regulations to govern their establishment, registration or functioning. A Trade Union Bill has been drafted but has not yet been submitted to Parliament. Pending its adoption and ratification, the various workers organisations that currently exist, including the Tourism Employees Association, the Teachers Association, and the Civil Servants Association, are all registered under the Associations Act. Hence, they do not have the legal power to act as trade unions.

## **6. Right to freedom of religion or belief**

Although traditionally accepted as one of the most moderate Islamic countries, emphasis on religious identity and religious unity is central to the political and legal framework of the Maldives.

The Maldives is a 100% Muslim country. The Constitution designates Islam as the official State religion and the law stipulates that to become a citizen of the Maldives, one must also be of the Islamic faith.<sup>12</sup> The law does not provide for freedom of religion; the practice, in public, of other faiths; the building of places of worship of other religions; or the import of religious icons. Notwithstanding, non-Muslim foreign residents are allowed to practice other religions privately, and the import of religious literature, such as Bibles, is permitted for personal use.

Following her visit to the Maldives in 2006, the Special Rapporteur on freedom of religion or belief “welcome[d] the fact that national unity is highly prized in the Maldives”, but noted that “the concept of national unity appears to have become inextricably linked to that of religious unity, and even religious homogeneity. In this regard, she expresses her concern about a number of *de jure* and *de facto* limitations on the right to freedom of religion or belief in the Maldives”.

In May 2010, the Ministry of Islamic Affairs drafted “Regulations on protecting religious unity of Maldivian citizens”. The Special Rapporteurs mandated with related issues have expressed grave concern over the draft. The draft regulations are yet to be ratified by the President of Maldives. Also, a Bill on banning all non-Muslim places of worship is now in the Majlis Committee stage.

## **7. Administration of justice and the rule of law**

### **(a) Independent judiciary**

Following his mission to the Maldives in February-March 2007, the Special Rapporteur on the independence of judges and lawyers concluded that “the Maldives judiciary is under the authority of the President and therefore lacks independence. As a consequence,

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<sup>12</sup> The previous Constitution did not contain this stipulation.

it does not fulfil its fundamental role of administering fair and independent justice and safeguarding and protecting human rights”. Notwithstanding, the Special Rapporteur took note that the ongoing democratisation process offered an excellent opportunity to create a strong and independent judiciary in the country and offered a range of recommendations to assist in this regard.

As of the end of 2009, almost all of the recommendations included in the Special Rapporteur’s report had been implemented. These include:

- Adoption of a new Constitution which provides for, *inter alia*, a clear separation of powers and an independent judiciary; the establishment of a Supreme Court; the establishment of the post of independent Prosecutor-General; a full Bill of Rights; an independent Judiciary Services Commission for the appointment, discipline and dismissal of judges; and an independent Human Rights Commission.
- The tabling of crucial new criminal justice legislation including: a new Penal Code; a Sentencing Bill; a Criminal Procedure Code; and a Bill on Evidence.
- The adoption and ratification of a Police Bill outlining the powers and obligations of the Maldives Police Service.
- The establishment of appointment procedures for the Chief Justice and other Supreme Court Justices which include parliamentary approval.
- The appointment, in July 2007, of the country’s first two female judges (a third female judge has since been appointed).
- The establishment of a system of bail and a system of legal aid.
- The reconstitution of a strengthened and more independent Police Integrity Commission.
- The adoption of improved sentencing guidelines for child abuse cases and sexual violence cases under which offences are punishable with jail terms.

With these and other changes, the Maldives now has a clearly independent judiciary. However, the judicial sector in the Maldives faces enormous challenges in adapting to the changed legal landscape. One key challenge relates to identifying the correct balance of responsibilities, in the reformed judicial sector, between the Judicial Services Commission, the Department of Judicial Administration and the Supreme Court. Other challenges include a general lack of capacity; a judiciary which is heavily weighted towards older judges who are not trained in modern legal methods and theory; a lack of institutional knowledge of important areas of law such as human rights law and commercial law; a dearth of well-qualified prosecutors, investigators, court officials, court administrators and legal professionals; a lack (at present) of a clear legislative framework governing the performance, conduct and administration of the courts system; the lack of a case data management system; and the dispersed geographical character of the Maldives (200 inhabited islands, each with its own local court).

## **(b) Judicial reform**

Taking its lead from the new Constitution and in order to codify the rights, responsibilities and operations of the independent judiciary, the Maldives is currently working to draft and adopt a wide-range of legislative Bills focused on the judicial and legal sectors.

The most important new legislation is undoubtedly the draft Penal Code. The existing Code is extremely outdated and creates enormous human rights problems for those responsible for applying and enforcing the law. Work on a new Penal Code began in 2004, in cooperation with United Nations Development Programme (UNDP) and the University of Pennsylvania Law School. The new draft is a modern and comprehensive Penal Code incorporating numerous cutting-edge innovations in drafting forms, code structure, and criminal law doctrine. It is also the first and only such code incorporating the major tenets and principles of Islamic law as currently practiced in the Maldives, and combining these with international legal principles and norms, including international human rights law. The draft Code was originally tabled before the Majlis in June 2006. However, because of other pressing parliamentary work, especially the parallel constitutional reform process, it was not adopted. It was re-tabled by the new Government in October 2009 and is due for adoption during 2010.

The draft Penal Code incorporates a revolutionary new sentencing guideline system for the Maldives. The first of its kind, the sentencing guidelines will provide clarity, proportionality and transparency in the sentencing of individuals under each of the offences laid down by the Penal Code.

In November 2009, an Evidence Bill was tabled before the Majlis. The Bill aims to introduce standards and guidelines on how forensic evidence and other evidence may be introduced and accepted by the courts, as well as guidelines on the protection of witnesses. A key aim of the Bill is to reduce the traditional reliance on confessions extracted during the investigative stage, and also to reduce delays in the completion of cases.

On 5 August 2008, the Maldives adopted a Regulation on Criminal Procedures, which provides the rules to be followed in investigation, prosecution and court proceedings. The aim of the Regulation is to speed up court proceeding and ensure that the rights of the accused are fully respected.

In order to respond to the administrative, organisational and capacity constraints of the court system, the Maldives has also tabled a Judicature Bill. The Bill covers organisational restructuring, steps to increase professionalism and improve work-ethic, and mechanisms to ensure legal accountability in the judicial sector.

### **(c) Arrest and detention**

Under the 2008 Constitution and relevant implementing legislation, an arrestee: must be informed of the reasons of his/her arrest in writing within an explicit period of twenty four hours; and has the right to legal counsel, to remain silent and to be brought before a judge within twenty four hours of arrest. The Judge may then order immediate release with or without condition, continued detention or validate the detention. The Constitution also introduces the concepts of bail and legal aid. Detailed rules for the system of bail are included in the new draft Penal Code currently being reviewed by Parliament; while a legislative Bill on Legal Aid, which will establish a Public Defendants Office, is currently at the drafting stage. Pending the adoption of the Legal Aid Bill, lawyers from the Attorney General's Office are representing people on a *pro bono* basis (although this service has a very limited scope).

### **(d) Drug-related offences**

Trafficking and consumption of drugs is a major problem in the Maldives. Practically every family has at least one member affected by the problem. Drugs are easily available on the streets, mainly "brown sugar" and heroin.

Around 80 per cent of the prison population are drug offenders with approximately 30 per cent serving life sentences for drug-related offences. The vast majority of prisoners are young, and the criminalization of young drug users and the imposition of severe sentences is a particularly serious problem.

The new Government is committed to a path of rehabilitation rather than imprisonment for minor drug offences. A new Misuse of Drugs Bill and a related Bill on Drug Rehabilitation (which has been tabled before the Majlis and is currently in committee stage) will completely change the way the law enforcement, judicial and penitentiary systems deal with drug offences in the future.

The Government has also taken steps to release prisoners incarcerated for minor drug offences under existing laws and to instead place them in rehabilitation programmes. In January 2010, the Department of Penitentiary and Rehabilitation Services (DPRS) launched a rehabilitation programme for recently-released inmates and their families.

The Government is also taking steps to prevent people, especially young people, from becoming drug users.

Notwithstanding this policy shift, capacity constraints form a major barrier to its successful implementation. The Maldives suffers from a chronic lack of rehabilitation facilities (currently there is only one residential rehabilitation centre in the whole country) and expertise (e.g. there is an urgent need for experienced and skilled counsellors); and also from a lack of reintegration capacity (e.g. halfway houses to ease drug users from rehabilitation centres into community rehabilitation).

### **(e) Juvenile justice**

Juvenile delinquency is growing at an alarming rate, mainly due to drug abuse. The vast majority of current offenders started at the age of 12 to 16 with petty offences, some of them ending up as serious criminals. The current juvenile justice system does not effectively address the problem: it focuses on sanctions such as fines, house arrest, or imprisonment, but does not provide for adequate options and programmes to guide young offenders out of the system, through rehabilitative mechanisms.

The Maldives is working to address this situation. A Juvenile Justice Bill is in its draft stages and a Juvenile Justice Unit in the Attorney General's Office is working on new principles and strategies for juvenile justice. The Government is also planning to establish a new detention centre for juveniles. In 2009, a failing prison (Feydhoofoolhu) was closed and reopened as a "Correctional Training Centre for Children" for at-risk young people. The Centre, which is run by the MPS, offers life skill programmes and vocational training.

### **(f) Detention system**

During 2009, the NPM under the OPCAT undertook thirteen visits to places of detention in the Maldives and published a number of reports. The PIC has also visited three remand centres and reported its findings. The general picture provided by these reports is of a prison system which is struggling to cope with the pressures placed upon it. Inadequate prison facilities, training, procedures and discipline undermine the rights and welfare of inmates and also put prison officers at risk. This situation was borne out in late 2008 and in December 2009 inmates in the main national prison, Maafushi, rioted, totally destroying over half of the prison.

The Prison and Parole Bill, which is expected to be tabled in 2010, is seen as a vital tool in improving the situation in Maldivian jails. It is expected to modernise and rationalise the prison system, placing a far-higher emphasis on rehabilitation. The Bill has been drafted taking into account the recommendations of the SPT, NPM and PIC.

The Maldives is also taking steps to improve prison facilities although these steps are hampered by significant capacity constraints.

## **8. Right to participate in public and political life**

The Constitution provides that every citizen in the Maldives (eighteen years or older) has the right: "to vote in elections, and in public referendums, which shall be held by secret ballot; to run for public office; to take part in the conduct of public affairs, directly or through freely chosen representatives".

Since the ratification of the new Constitution, political participation has flourished in the Maldives. The Presidential Election and the Parliamentary Election, which took place in October 2008 and March 2009 respectively, saw the stationing of polling booths across

the country, and also allowed, for the first time, Maldivian citizens living abroad to cast their vote. The determination of the authorities to promote political participation and the eagerness of the people to cast their vote meant that, despite some voter registration problems, the elections saw the highest turnout in Maldives history, with around 85% of eligible voters casting their ballot in both polls. The parliamentary elections saw 455 candidates on the ballot paper, many of whom were completely new to politics. The new Majlis began its term in May 2009. Beyond elections, political participation and awareness has also increased in other ways. Political rallies are now commonplace throughout the country, commentary on the Maldives' political landscape can be read in newspapers and magazines, heard on the radio and TV, and discussed on every street corner.

Despite this generally positive situation, the broad picture masks important disparities, especially between the genders, and between the capital and the regions.

Regarding gender inequality, while women have enjoyed the vote since the very establishment of the Republic, and while they are well (though insufficiently) represented in the general workforce, the number of women running for and winning elected Office remains disappointing.

Regarding regional disparities, it is evident that political awareness and involvement in Male' and one or two other significant population centres such as Addu Atoll and Haa Dhaalu Atoll, is far higher than in other parts of the country.

## **9. Right to work and to just and favourable conditions of work**

The Constitution of the Maldives grants everyone the right to engage in any employment or occupation.

### **(a) Right to work**

The employment rate in the Maldives is 85.6% (2006).

Improving the employment situation in the country, and in-so-doing capitalizing on the nation's young and dynamic workforce, is a government priority. The schooling system already provides a good primary and secondary education; and the Maldives is now building on this by investing in the tertiary and vocational training sectors. The Government recently established a national Technical and Vocational Education and Training system designed to meet the needs of society while promoting stability and economic growth. The Maldives College of Higher Education offers a range of accredited graduate and non-graduate education and training programmes; while a Bill is currently before Parliament that would establish the Maldives' first-ever national university. A National Career Guidance Centre has recently been established in Male' and three other job centres have been established in the Atolls.

Notwithstanding these steps, the Maldives faces a number of challenges with regard to employment.

The first is that the public sector has traditionally been, and continues to be, by far the largest employer in the Maldives. Over 20% of people in the national workforce are civil servants, one of the highest levels in the world. The second challenge relates to the disconnect in the Maldives between employment aspirations and the realities of the job market in a relatively small country. Third, regional and gender disparities in employment opportunities also represent a significant barrier to the full enjoyment of the right to work. Finally, the high number of migrant workers in the country has created a major challenge in terms of labor force management in the country

### **(b) Right to just and favourable conditions of work**

In May 2009, the Maldives joined the International Labour Organisation (ILO). The Maldives is now working with the ILO to implement the ILO Work Plan for 2009-10 which includes strengthening labour administration, promoting tripartism and social dialogue, ratifying selected international labour standards, and developing a social security floor to provide vulnerable and socially-excluded groups with systematic benefits. A tripartite seminar on the eight core conventions and their ratification process was held in March 2010.

There is no national minimum wage. The new Employment Act (drafted in consultation with the ILO) limits total work time to 48 hours per week. The working hours of the employee are required by law to be stipulated in the job description given to the employee at the time of the granting of employment.

A Labour Relations Authority (LRA), constituted under the Employment Act, is mandated to conduct routine labour inspections, checking whether the Employment Act and its regulations are being respected and enforced. In addition to labour inspections, LRA also has the power to investigate, resolve (labour disputes) and take necessary administrative actions<sup>13</sup>.

There are regulatory requirements in certain industries such as construction and transport, that employers provide a safe working environment and ensure the observance of safety measures, although in practice these requirements are often ignored. The Employment Act provides protection for workers from retaliatory dismissal if they attempt to remove themselves from, or eliminate, unsafe working conditions.

The new Constitution recognises workers' rights to organise and bargain collectively, and to "stop work and to strike". Strikes are a relatively new concept in the Maldives, but with the opening-up of society they are increasing in number. The first-ever strike was

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<sup>13</sup> Notwithstanding, civil society has criticised the Labour Relations Authority for its lack of activity.

staged by taxi drivers in June 2007, and since then there have been a number of others, including by teachers, State Attorneys, and tourism resort staff<sup>14</sup>.

One general pattern in the Maldives is that the employment rights of expatriate or migrant workers are especially vulnerable. This is partly down to a lack of awareness of their rights (which are the same as Maldivian workers under the Employment Act). To address this, in the summer of 2010, the LRA conducted a national ‘Employment Rights’ awareness-raising campaign.

## **10. Right to social security and an adequate standard of living**

### **(a) Social security**

The establishment of a comprehensive social security system is one of the priorities of the new Government. The aim is to create a system geared towards the extension of coverage and more efficient interventions targeted, in particular, at the most vulnerable.

A new pension system was established by the “Pension Act”, which was passed by the Majilis on April 29, 2009, and ratified on May 13, 2009. The new system is intended to provide coverage to all Maldivians, and is intended to provide both a minimum amount of money to all Maldivians above pension age to alleviate poverty and to help working people to save money to spend in their retirement years. The two pensions established by the Pension Act are: the • Old-age Basic Pension and the Maldives Retirement Pension Scheme.

In particular, vulnerable persons, including children, elderly and people with a mental disability, have the opportunity to benefit from free-of-charge state care. Government funded subsidies for electricity and water are also available for those who are eligible and the Government has recently started providing a monthly allowance ranging from Rf1000-3000 for single parents.

Regarding healthcare, the Maldives has established a national “Madhana” health insurance scheme under which the State provides up to 100,000 rufiyaa (around 7,782US\$) of health care services for members in return for an annual fee of 2,000 rufiyaa (around 155US\$). The service is free for current and retired members of the civil service and people over the age of 65.

Expatriate workers in the Maldives are entitled to medical care and accommodation if covered by their employers.

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<sup>14</sup> The Tourism Ministry is currently drafting regulations on strikes in tourism resorts. The draft Trade Union Bill contains provisions regulating strikes.

## **(b) Adequate standard of living**

### **Decentralisation**

The process of establishing elected Island and Atoll councils and a functioning local governance system - collectively referred to as regionalisation and decentralisation - is currently in progress. A Decentralisation Bill was ratified during 2010 to devolve political, administrative and fiscal responsibilities to elected local councils.

### **Housing**

In February 2009, the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living undertook a mission to the Maldives. She concluded that: “The already existing overcrowding and land scarcity in Malé and some [other] islands impedes the realisation of the right to adequate housing of many in [the] Maldives”.

Addressing the critical housing shortage in Male’ (where over a third of the population resides) and other urban centres is one of the Government’s top priorities. The objective is to increase housing delivery through public-private partnerships and to improve affordability through housing finance schemes. It is also believed that de-centralisation and improved connectivity in the provinces will support decongestion in the capital and other urban centres.

### **Transport and Connectivity**

Establishing an integrated transport network is a top priority of the Government in order to promote freedom of movement and foster regional development. The Government recognizes transport and connectivity as pivotal in fostering more equitable economic growth and social cohesion.

Ninety-nine percent of the Maldives is ocean; but to date there has been no sea-based integrated public transport network between the islands. This creates a range of problems. Most importantly, it means islanders are totally reliant on their home island for work and social service provision or, where their needs are not catered for locally, on Male’ (which is accessible from all islands). This encouraged uneven socio-economic development across the country, holds back progress in the regions, and causes overcrowding in Male’.

To address this situation, the Maldives has begun setting up an integrated national transport network.

## **11. Right to health**

The health status of people in the Maldives has improved significantly over the last few decades. Millennium Development Goals (MDG) 4 and 5 have already been achieved. Life expectancy stands at 72 years for males and 74 years for females (2008). The infant

mortality rate had dropped sharply to only 11 (per 1000 live births) by 2008, with most of the infant deaths occurring in the neonatal period. Improvements in healthcare delivery and referral services have also resulted in a significant reduction in maternal mortality. In 2008, maternal mortality declined to 43 per hundred thousand live births.

The Maldives is also on track to achieve MDG6. Malaria has been successfully eliminated. Vaccine-preventable diseases have also been controlled to such an extent that diseases like polio, neonatal tetanus, whooping cough and diphtheria are nonexistent. Filariasis and Leprosy are progressing towards the WHO regional elimination target.

Notwithstanding, there remain a wide range of challenges including: the current fiscal environment which has placed severe pressures on the health sector and makes it difficult to address the inadequacy of current healthcare facilities; the lack of an explicit definition of “the right to health” at national-level; accessibility to healthcare for people living in remote regions; wide national variations in access to nutritious food, drinking water and sanitation; and uncertainty surrounding the impacts of privatization in a area of healthcare. Moreover, the lack of a legal framework to protect patients and healthcare providers has led to the mismanagement of medico-legal issues resulting in the loss of trust and confidence in the health system. In addition, appropriate laws and regulations to protect public health and the human right to health need to be adequately formulated and implemented.

## **12. Right to education and to participate in the cultural life of the community**

The Constitution provides that: “Everyone has the right to education without discrimination of any kind...Primary and secondary education shall be freely provided by the State. It is imperative on parents and the State to provide children with primary and secondary education. Opportunity for higher education shall be generally accessible to all citizens”.

There are 13 years of free schooling in the Maldives – from the age of 3 up to 16. School education is divided into 3 pre-school years (obligatory), 5 years of primary school (obligatory) and 5 years of secondary school. Two years of higher secondary schooling is also available, though with limited capacity.

Most of the schools in the Maldives are State-owned and funded. The Maldivian budget contributes approximately 100% of school running costs, and there is universal access to free primary and secondary education. In 2004 the percentage of school-age children in school grades one to seven was 79 percent; in grades eight to 10 it was 62 percent; and in grades 11-12 it was 16 percent. Of the students enrolled, 49 percent were female and 51 percent male. In many instances, parents curtailed education for girls after the seventh grade by not allowing them to leave their home island for another island with a secondary school.

Primary and secondary schooling is based on the British educational system. Distance educational courses and educational programmes on the radio are also provided. The

Maldives is currently pursuing a policy of encouraging the private provision of educational services.

### **Human rights education**

Human rights education is a major challenge in the Maldives. Knowledge about human rights is low across all sections of society.

The Government and the HRCM are working to integrate human rights education into the national school curricula at primary and secondary levels.

### **13. Migrant workers**

Although it is an LDC, the relatively high wages in the Maldives means that it has a large migrant worker population (over 71,000 people – mainly from India (28%), Sri Lanka (11%) and Bangladesh (52%)<sup>15</sup>).

These migrants, who mainly work in the education, construction and tourism sectors, have made a major contribution to the modern Maldives. However, until now, the immigration and registration system for such workers has been haphazard. This has forced many to work illegally, to work for low pay, to work in unsafe or unhealthy conditions, and to forego standard rest, leisure and reasonable limitations on their working hours. The Government is working to improve this situation by establishing a stronger legal framework for migrant workers. The newly-established Employment Tribunal also affords better protection to migrant workers.

The Maldives is yet to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, although the Government is working towards completing all the national formalities in order to accede to it.

### **14. Trafficking in persons**

Although the Maldives does not have any laws prohibiting trafficking in persons and no explicit official studies or reports on the subject have been conducted, the 2008 Constitution prohibits forced labour and slavery.<sup>16</sup> The Maldives was placed on the Tier 2 watchlist of the US Trafficking in Persons Report 2010, due to the lack of systematic procedures to deal with vulnerable people among the migrant population. However, measures are being undertaken by key departments to work on the recommendations.

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<sup>15</sup> It is estimated that a further 16,500 or more are working illegally.

<sup>16</sup> Although there is no official data on the subject, human rights NGOs claim that forced prostitution and people trafficking does occur in the country.

## **15. Human rights, religious extremism and terrorism**

Although it is a traditionally moderate Muslim nation, the Maldives has not escaped the global problem of religious extremism and terrorism.

The Government is extremely concerned at the rising influence of extremists in the Maldives, as well as the increasing tendency of young Maldivians to travel abroad and come under the influence of extremist organisations. In September 2007, a homemade bomb was detonated in Male's Sultan Park, wounding 12 tourists; while in April 2009, nine armed Maldivian men were arrested in Waziristan, northern Pakistan.

In 2009, the Maldives Police Service, with the assistance from the UN Office on Drugs and Crime, started drafting the new Anti Terrorism Bill. The Bill will strive to guard against and prevent terrorism, while protecting human rights.

## **16. Human rights and climate change**

Man-made climate change poses an existential threat to the Maldives and undermines a wide-range of human rights in the country, including, *inter alia*, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation, and the right of a people not to be deprived of its own means of subsistence.

Unless drastic action is taken to reduce emissions by all countries, but especially by the major industrialized nations and rapidly emerging economies, then by the end of the Century, the Maldives will struggle to function as a viable State.

The Maldives, has led efforts in the Human Rights Council to draw attention to the human rights implications of anthropogenic climate change, most notably through the adoption by consensus of resolutions 7/23 and 10/4. The Maldives concurs with the conclusion of the OHCHR in the study requested under resolution 7/23 that all States have an international legal obligation, under human rights law, to refrain from interfering (through the emission of greenhouse gases) with the enjoyment of human rights in other countries, and to take steps through international cooperation to reduce emissions to levels consistent with the full enjoyment of human rights (i.e., safe levels) in all other countries (especially vulnerable countries), to fund adaptation measures in vulnerable countries (depending on the availability of resources), and to ensure that the international climate change agreement due to be penned at COP 16 is consistent with those human rights obligations and, at the very least, does not adversely impact human rights.

#### **IV. KEY HUMAN RIGHTS PRIORITIES**

- Empowerment of people regarding civil and political rights
- Meeting international obligations
- Human Rights Education
- Civic education
- Health
- Education
- Housing
- Employment
- Disadvantaged groups (women, children, and persons with disabilities)
- Rule of law and good governance

#### **V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE**

- Judicial sector reform, including the training of judges in human rights concepts.
- Human rights mainstreaming in the provision of public sector services and policy formulation.
- Prison reform (introduction of new legislation, establishing a contemporary prison system with options on rehabilitation and self-development).
- OHCHR to re-establish a national human rights advisor post in the Maldives.