



General Assembly

Distr.: General
23 August 2010

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Ninth session
Geneva, 1–12 November 2010

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

Maldives

* The present document was not edited before being sent to the United Nations translation services.

I. Introduction

1. The Maldives started enforcing a revised comprehensive Constitution on 7 August 2008. The following October, the country held its first-ever multiparty democratic poll and elected Mr. Mohamed Nasheed, a former Amnesty Prisoner of Conscience, as its new President. The democratic transfer of power was smooth and peaceful.
2. Even with the constitutional achievements, many legislative and practical challenges remain. Strengthening the judiciary and the newly formed independent institutions, enacting secondary legislation to introduce the changes envisioned in the new Constitution and encouraging local governance remain key challenges.
3. The Maldives' ongoing democratic transition and the related blossoming of human rights are home-grown achievements, made possible through the dedication and sacrifice of the people of the Maldives. However, this transition also reflects a strong and effective partnership that has evolved over the past seven years between the Maldives and the international human rights community.

II. Methodology and consultation process

4. In accordance with UPR principles,¹ the Ministry of Foreign Affairs (MFA) sought the views of relevant stakeholders for the present report. In September 2009, the President of the Maldives 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.
5. After consulting with and seeking information from all relevant line ministries, the MFA prepared a first draft of the national report in January 2010. This draft was then presented to the Standing Committee in February. Two subsequent drafts went through the process before a third draft was then circulated in June. A resulting draft was posted on the MFA website on 22 July 2010 for comments and inputs from the general public. Seminars on key human rights issues were also held in Male' and Addu Atoll and the results were fed into the UPR report. All inputs were then collated and a final version of the report was prepared in August 2010.
6. 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 and aims to give the reader a sense of the difficulties and challenges faced by the Maldives. 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, could assist in this regard.

III. Background and institutional framework

7. The Maldives is an archipelago comprising of approximately 1190 small coral islands extending across the Equator, with an entire territorial size of approximately 859,000 sq km - of which only 300 sq km is dry land. Only 192 islands are inhabited while

¹ 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 tourist resort islands. The population of the Maldives is 304,869.² There are also over 71,000 expatriate workers 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.

8. The modern Maldives is a dynamic, youthful democracy, with a strong, open, private sector-led 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, the Maldives will complete its graduation process³ from the UN list of Least Developed Countries (LDCs) in December 2010.

9. Notwithstanding this socio-economic development, it should be noted that wealth and opportunities vary widely across society and between the capital 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 progress.

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

A. Democratic Transition

11. Since November 2008, the Maldives has been in peaceful transition to a liberal democracy. It is one of the world's newest democracies with constitutionally-guaranteed human rights protection. 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 people in the Maldives, including members of the current Government were the victims of such abuses, calls for revenge are now fading. This determination to look forward is epitomised by President Nasheed, who despite being imprisoned and tortured on a number of occasions, has urged citizens to stay calm and has called on the Human Rights Commission of the Maldives to independently investigate abuses perpetrated by the former regime.

B. Institutional Framework

1. Constitution 2008

12. The Maldives ushered in a new liberal Constitution on 7 August 2008. It 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.

13. Executive power is vested in the Office of the President while legislative authority is vested in the People's Majlis (parliament). Judicial power is vested in the new Supreme Court, the High Court and such Trial Courts as are established by law.

14. The Constitution provides for a decentralisation of administration through the creation of elected atoll councils, island councils and city councils.

15. Chapter II of the Constitution outlines the fundamental rights and freedoms inherent in all people in the Maldives and includes most of the rights and freedoms contained in the

² 2008 projection.

³ Including the so-called "grace period".

ICCPR and the ICESCR, plus new rights such as the right to a safe and secure natural environment, and the right to water and sanitation.

2. Legal system

16. Maldivian law is a complex admixture of Shariah law, English civil law and common law. Although it was formerly a British Protectorate, the Maldives never inherited a strong English law or common law culture. The effects of this are still apparent: a relatively weak legal system that often struggles to cope with the demands placed on it by political, social and economic modernisation.

3. Secondary legislative framework

17. A wide array of new laws is needed to implement the changes envisioned in the 2008 Constitution. Many have already been enacted; however, much more needs to be done. In total, the Government has indentified around 120 Bills that require enactment during its term in Office, including the revised Penal Code. The timely enactment of the Bills is being hindered by strong political divisions in the country.

4. Political participation

18. Political parties were allowed to be registered in 2005 pursuant to a Regulation and since then, thirteen have been registered and are in operation.

19. The country's first ever-multiparty elections were held in October 2008. Conducted by the first independent Elections Commission, the election was monitored by local and international monitors including the United Nations (UN).

5. Human Rights Commission of the Maldives (HRCM)

20. The 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. The 2008 Constitution established the Commission as an independent constitutional entity. Members to the Commission are nominated by the President and approved by the Majlis. The Commission is both empowered to promote human rights and to investigate any complaints of their breach. In December 2007, the Commission was appointed as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture.

21. The Commission continues to face many criticisms regarding its role in the institutional framework. For instance, due to a lack of awareness about the activities and responsibilities of the Commission, the general public holds the negative perception that the Commission primarily works to protect the rights of prisoners.

6. Government mechanisms

22. 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 then National Security Service. 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* was envisaged as a stepping-stone for much needed human rights reform within the Service – which has, in the past, been accused of human rights violations.

23. As such, the MPS has established 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 responsible for mainstreaming human rights

issues within the service. It is now mandatory for all new police personnel to undergo human rights training. The Family and Child Protection Department handles all cases related to child victims, offenders and witnesses, and gender-based violence. In 2010, a new Victim Protection Unit was established. Finally, the Strategic Development Department is responsible for continuously assessing and improving the Service, including in the field of human rights.

24. The Child and Family Protection Service within the Department of Gender and Family Protection Services (DGFPS) 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. These teams are also responsible for support services for persons with disabilities and the elderly population. Lack of information dissemination on the role and functions of the Centres reduces their effectiveness.

7. Oversight mechanisms

25. There are several independent bodies set up as oversight mechanisms. In this regard, the Police Integrity Commission (PIC) (initially set up in 2006 by Presidential Decree) was reconstituted under the *Police Act* in 2008. The Office of the Prosecutor General, the Auditor General's Office, the Anti-Corruption Commission and the Civil Service Commission were set up as constitutional bodies in 2008.

26. In addition, the Judicial Service Commission (JSC) was also established pursuant to the Constitution – this was one of the key recommendations of the UN Special Rapporteur on the independence of judges and lawyers following his visit in 2007. The JSC is mandated with the appointment, transfer, promotion, dismissal, conduct and remuneration of all judges except Supreme Court judges. Supreme Court judges are nominated by the President, in consultation with the JSC and approved by the Majlis.

27. Moreover, NGOs play an active oversight role in protecting human rights.

8. International Commitments

28. Over recent years, the Maldives has acceded to the 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.

29. The Maldives is party to the Optional Protocols to the ICCPR, CEDAW and CAT, and to both Optional Protocols to the CRC. The Maldives supported the adoption of the Optional Protocol to the ICESCR by the UN General Assembly in November 2008 and will consider ratification in due course along with the Optional Protocol to the CRPD. The Maldives is not yet party to the International Convention on the Rights of Migrant Workers and Members of their Families (ICRMW).

30. The Maldives has reservations in place under the 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 the CEDAW, following the removal of the constitutional bar that prevented women from running for presidency.

31. In May 2009, the Maldives became the 183rd member of the International Labour Organisation (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 will also 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.

32. The Maldives is a member of the Commonwealth and works closely with its Human Rights Unit to promote human rights in-country. 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.

IV. Promotion and protection of human rights

A. Cooperation with Human Rights Mechanisms

33. Since 2006, the Maldives' human rights policy has been underpinned by engagement with the international human rights mechanisms and the Maldives opened a Permanent Mission in Geneva to this effect. The Maldives has been an active Observer State of the Human Rights Council since its inception and regularly takes part in Council debates, especially on women and children's rights issues; has sought to play a constructive role in the UPR process; and has been the main cosponsor of two resolutions.⁴ The Maldives was elected to the Council in May 2010 with an unprecedented 185 votes in favour.

34. Working to strengthen its treaty reporting mechanism and faced with the burden of individual compilations, the Maldives, in 2008, adopted the Common Core Document as a way of streamlining its national reporting process.

35. The Maldives is one of the original twenty States Parties to the OPCAT, and the first in Asia to accede. In 2008, the Government welcomed the 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. The Maldives has also, in 2006, extended a Standing Invitation to all Special Procedure mandate-holders to visit the country at their convenience. Since then four mandate-holders have visited.

36. The Maldives enjoys an excellent relationship with the OHCHR – evident in the deputation of an in-house Human Rights Advisor in 2007. Unfortunately, the following year, against the Maldives' wishes, the advisor was withdrawn for budgetary reasons. Notwithstanding this, the Maldives has continued to cooperate closely with the Office.

B. Implementation of International Human Rights Obligations

1. Equality and non-discrimination

37. Chapter II of the Constitution expressly stipulates that everyone is entitled to the rights and freedoms contained therein without discrimination of any kind. At present, the legal system lacks secondary legislation on equality and anti-discrimination – although the Attorney General's Office is presently considering such legislation.

(a) Women

38. 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 in 2008.

⁴ Resolution 7/23 and Resolution 10/4.

39. Despite this, it is an undeniable fact that women continue to face *de facto* discrimination in most 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, women continue to face hurdles in securing tertiary education scholarships, have a lower participation rate in the labour market, and are still underrepresented in leadership and governance positions in the public and private sectors. The 2008 and 2009 national elections provided clear evidence that, notwithstanding the progressive new Constitution, negative gender stereotyping and institutionalised, as well as societal 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.

40. The advent of democracy offers a new opportunity to tackle gender discrimination in the Maldives. The National Gender Equality Policy aims to promote substantive equality through a dual approach: mainstreaming in all areas, and strategic action on empowerment and advancement in specific sectors.

41. Issues related to gender are handled by the Department of Gender and Family Protection Services (DGFPS) which falls under the direct responsibility of the Minister of Health and Family. The Government has now begun a programme to mainstream gender equality across all policy areas. In 2009, a new Gender Mainstreaming Policy was endorsed by the Cabinet under which the lead agency for gender mainstreaming is the President's 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 are now required to include a gender impact perspective.

42. The Department is also working closely with the Ministry of Economic Development and the UNDP to promote women's empowerment. For instance, 40 percent of Government sanctioned SME loans have been reserved for women entrepreneurs. Further, a study in 2006, on Female Labour Force Participation (FLFP) highlighted the level of female education and cultural attitudes as important factors that determine the FLFP.

43. The Maldives is also currently working on specific domestic legislation to implement the 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. Finally, a Sexual Harassment Bill is expected in 2010.

44. In 2008, the Government appointed two women judges – in the face of strong criticism and opposition from religious political groups. Today, there are three female senior judges, while others have undergone training and are awaiting appointment.

45. 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 Government 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 outdated court procedures such as reliance on confessions rather than forensic evidence.

(b) *Persons with disabilities*

46. Maldivian citizens with disabilities are among the most marginalised people in society. Institutionalised and systemic discrimination, harassment, denial of their human rights in even basic sectors such as 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% 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. In October 2008, Maldives signed the CRPD and ratified it on 1 April 2010.

47. The 2008 Constitution prohibits discrimination based on mental or physical disability and clarifies that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, shall not be deemed 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.

48. 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 criticised by the NGO community as not being fully consistent with the CRPD. Taking note of these concerns, on 6 January 2010, the President vetoed it 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. The Act sets out principles and procedures for providing protection and financial assistance to people with special needs and a council to protect their rights.

49. In addition to pursuing a new, comprehensive legal framework for people with special needs, the Maldives, in parallel, is undertaking initiatives to raise awareness about their situation 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's Office and the OHCHR.

(c) *Senior citizens*

50. The elderly are generally, cared-for in society. Different generations of the same family often live together in the same building – meaning, senior citizens are cared for and continue to play a full and active part in society.⁵

51. That said, the Maldives recognises that the elderly do require special help and support. To support the constitutionally-protected rights of the elderly, a *Pension Act* (May 2009) has been adopted which establishes an old-age pension 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.

⁵ This is though changing, with the nuclear family slowly becoming more prevalent, especially in urban areas.

2. Right to life, liberty and security of person

(a) Torture

52. 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.

53. The prevalence of torture in the country finally came to light in September 2003, when a young prisoner at Maafushi Jail, 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). The incident put human rights abuses in the Maldives in the international spotlight, and gave rise to the reform movement which has brought about the current transformation of the country.

54. Since then, the Maldives has taken a wide-range of steps to prevent torture and other cruel, inhuman or degrading treatment. For instance, the police and penitentiary services were separated from the armed forces and placed under civilian control in September 2004. The Government signed an agreement with the ICRC under which the latter was allowed to conduct prison visits. In 2006, the Maldives became a party to the OPCAT and appointed the HRCM as the NPM. In December 2007, the Maldives became the second country to be visited by the SPT and decided to make the findings of the Subcommittee publicly available in 2009. Those findings, plus the various reports and recommendations of the NPM have acted as a blueprint for police and prison reform – for example, the Prison and Parole Bill, *inter alia*, seeks to respond to the SPT's recommendations. Other bodies including the MPS Ethical Standards Command, the independent Police Integrity Commission, and the Home Ministry's Inspector-General, have also been set up within the torture preventing mechanism.

55. In a bid to improve legal protection against torture, the 2008 Constitution expressly prohibited torture, cruel, inhuman or degrading treatment. Nonetheless, the draft Penal Code submitted to the Majlis in 2007 did not establish torture as a separate offence under domestic law. However, 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 pursuance of its strong policy against torture, the Government has put forward a nominee to the SPT, elections for which are due to take place in October 2010.

56. There is considerable evidence to suggest that these steps are already proving effective in challenging the culture of torture that had existed in the Maldives. Although there is always a risk of torture occurring, it is clear that now there are a wide-range of checks and safeguards to make such acts more unlikely, and 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 indicted 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 into force, 97 officers have been dismissed. The Government is committed to rehabilitative justice to prevent any form of torture and the new Prison and Parole Bill is also designed to focus on rehabilitation of prisoners.

(b) Violence against women

57. Violence against women is a major challenge to human rights reform in the Maldives. A 2005 baseline survey found that many people believe 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 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 had suffered from sexual violence. Negative societal perceptions of the issue prevent effective reporting of cases as well as a general attitude that such cases are “private” matters. Thus, the Government is determined to confront this problem through a combination of legal remedy and awareness-raising/education.

58. A Domestic Violence Bill, drafted in consultation with the UN, will shortly be submitted to the Majlis. A Domestic Violence Helpline is in the pipeline to be launched by the end of 2010.

59. 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.

60. The Government has launched a number of campaigns to disseminate the message that violence against women is totally unacceptable. Moreover, the Gender Department provides support to victims of violence, including rape. The Department is working with an expert from the Scottish Police to strengthen its victim support services.

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

(c) Violence against children

62. Child protection issues are a major challenge to the Government. Plagued by a high divorce rate, a large number of children live in single-headed households. Severe housing conditions, especially in Male’, expose children to physical abuse, exploitation and to substance abuse.

63. The Maldives is also witnessing an alarming increase of children involved in gang violence – there has been a rapid recent increase in stabbing cases involving children under the age of 18. Children are also being used in the narcotics trade.

64. There is a significant capacity gap in the Maldives between the demand for interventions to protect children and a lack of appropriately-trained staff. At present, social workers undertake one-year social work training; a review conducted in July 2010 concluded that the current practices of these social service workers were dangerous, and that social they should receive at least tertiary-level training. A registration mechanism and a code of conduct for Social Service Workers are being drafted with the aim of alleviating some of these challenges.

65. A new law covering a child’s removal into State care and minimum standards for children’s homes was drafted in 2007 and is pending approval by the Attorney General’s Office before tabling in Parliament. Until its enactment, child protection teams continue to face difficulties once the child is removed and placed with carers other than parents. Children who are in State care face neglect due to the grave lack of staff. The FCSC’s work

is severely hindered by inadequate financial resources. Hence, the child-to-staff ratio is so low that children who are placed in State care actually experience further neglect.

66. There are three institutions for children: a Home – *Kudakudhinge Hiyaa* for children under the age of 9; Education and Training Centre for Children for boys between the age of 9 and 18; and *Feydhooфинolhu* – a diversion program for boys who are at risk of committing major crimes. The lack of secure accommodation for girls leave no choice for child protection teams, but to place children who are at risk of abuse or child prostitutes at the *Kudakudhinge Hiyaa*. Such placement is now beginning to pose a threat to the younger children in the facility.

67. Transactional Abuse (exchange of sex for material goods and money) is an emerging issue with girls as young as fourteen. There is also evidence that minor girls are coerced into prostitution by mothers for generating income for the family.

68. To overcome these prevailing challenges, a revised Children's Act is being drafted to replace the existing *Act on the Protection of the Rights of Children* (9/91). Although a number of activities are being carried out to strengthen the child protection system, no efforts are being made to establish programmes for sexual offenders, and unless this is put in place, incidences of sexual offences are unlikely to decrease.

69. 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.

70. 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 is otherwise permitted in the Constitution.

71. 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.

72. In 2006, the Maldives initiated the decentralisation of child and family protection services to the atolls by establishing FCSCs 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.

73. 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.

74. The Government has also moved the Juvenile Justice Unit (JJU) from the AGO to the Home Ministry in an effort to strengthen the juvenile justice system.

3. Right to freedom of opinion and expression

75. Today, the Maldives boasts a vibrant media community encapsulating a broad cross-section of political and social views. There are twelve daily newspapers, 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. Moreover, criticism of the Government and other organs of the State, and debates on difficult societal issues such as marital rape and child

abuse are now commonplace. The 2009 World Press Freedom Ranking, compiled by Reporters without Borders, showed the Maldives making the largest advance of any country in the world – rising 53 places to 51st place – putting the country just behind established democracies such as France, Spain and Italy.

76. The Maldives now has a Maldives Media Council Act that establishes the Council as an independent, self-regulatory body. In April 2010, a Bill establishing the Maldives Broadcasting Corporation was enacted. A Bill on Freedom of Information was re-tabled in 2008. Moreover, in November 2009, amendments were passed to the Penal Code in order to make defamation a civil rather than criminal offence. This was one of the key recommendations of the UN Special Rapporteur on Freedom of Expression following his visit to the Maldives.

4. Right to freedom of assembly

77. 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 commonplace.

5. Right to freedom of association

78. This is also constitutionally guaranteed and as a result there are several political parties and approximately 1,069 civil society organisations. The Government is now drafting a Bill on Trade Unions – a right guaranteed in the Constitution.

6. Right to freedom of religion or belief

79. The Maldives is a 100% Muslim country. The Constitution designates Islam as the official State religion and the law stipulates that a non-Muslim may not become a citizen of the Maldives.⁶ 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.

80. Following her visit in 2006, the Special Rapporteur on freedom of religion or belief expressed concern about a number of *de jure* and *de facto* limitations on the right to freedom of religion or belief in the Maldives.

81. In May 2010, the Ministry of Islamic Affairs drafted the “Regulations on protecting religious unity of Maldivian citizens”. 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 Private Member’s 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

82. The 2008 Constitution set up the Judiciary as a separate and independent branch of the State. Previously, the Judiciary was under the authority of the President and therefore lacked independence.

⁶ Article 9(d) of the Constitution.

83. As of the end of 2009, almost all of the recommendations included in the report of the Special Rapporteur on the independence of judges and lawyers, had been implemented. This report has touched on these in the preceding segments.

84. 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 JSC, 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 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 (192 inhabited islands, each with its own local court). As a consequence of these challenges, there is a lack of public trust in the judicial sector.

85. In August 2010, the judiciary was at the centre of a constitutional crisis, when, due to deep political divisions, the People's Majlis failed to pass necessary legislation on the judiciary (e.g. the Judges Bill) and failed to approve a new Chief Justice by the constitutional deadline of 7 August 2010. As a result, as of midnight on 7 August, the Maldives faced a constitutional lacuna.

86. In an attempt to ensure the continuity of the judiciary until the Majlis could hold the necessary votes on the Judges Bill and on the Chief Justice, the President set up a four-member panel (with Commonwealth support) mandated with the administrative running of the Supreme Court.

87. The Judges Bill was finally passed by the Majlis on 10 August, and assented by the President two hours later. The same evening, the Supreme Court bench and the Chief Justice were also approved by the Parliament. The judges took their oath a couple of hours later and assumed Office.

88. The Government sees strengthening the independence of the judiciary as a long-term challenge, and in this regard is now engaged in a long-term cooperation agreement with the International Commission of Jurists. That engagement will be led by two former UN Special Rapporteurs on the independence of judges and lawyers.

(b) Judicial reform

89. The new draft Penal Code is a modern and comprehensive law incorporating numerous cutting-edge innovations in drafting forms, code structure and criminal law doctrine. It is also the 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 Code, originally tabled before the Majlis in June 2006, awaits approval by Parliament. The draft Code also incorporates a revolutionary new sentencing guideline system for the Maldives. The first of its kind, these guidelines will provide clarity, proportionality and transparency in the sentencing of individuals under each of the offences laid down by the Penal Code.

90. An Evidence Bill and a Judicature Bill have also been tabled before Parliament.

(c) Arrest and detention

91. Under the Constitution, 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

Constitution also introduces the concepts of bail and legal aid. A legislative Bill on Legal Aid is in the drafting stage.

(d) Juvenile justice

92. Juvenile delinquency is growing at an alarming rate, mainly due to drug abuse and the eruption of gang violence. The vast majority of current offenders start at the age of 12-16 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.

93. The Maldives is working to address this situation. A Juvenile Justice Bill is in its draft stages and the JJU has been placed under the Home Ministry. In 2009, a “Correctional Training Centre for Children” for at-risk young people was established and offers life skills programmes and vocational training.

(e) Detention system

94. 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 the prison.

95. The Prison and Parole Bill, which is expected to be tabled shortly, 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

96. The right to participate in public and political life is guaranteed under the 2008 Constitution and since then political participation has flourished in the Maldives. Despite this generally positive situation, the broad picture masks important disparities, especially between the genders, and between the capital and the regions.

97. 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. With regard to 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

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

(a) Right to work

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

100. Improving the employment situation and, in-so-doing, capitalising on the nation's young and dynamic workforce is a Government priority. The schooling system already provides a good primary and secondary education. 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 that would establish the first national university, is currently before Parliament. A National Career Guidance Centre has recently been established in Male', with three other job centres opened in the Atolls.

101. However, the Maldives faces a number of challenges with regard to employment.

102. The public sector continues to be by far the largest employer in the Maldives, with over 20% of people in the national workforce being civil servants – one of the highest levels in the world. Secondly, a disconnection exists between employment aspirations and the realities of the job market. Thirdly, 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 labour force management.

(b) Right to just and favourable conditions of work

103. In May 2009, the Maldives joined the 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.

104. 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 granting of employment. A Labour Relations Authority (LRA) constituted under the Act is mandated to conduct routine labour inspections, to check whether the Act and its regulations are enforced. The LRA also has the power to investigate, resolve labour disputes and take necessary administrative actions.⁷

105. Regulatory requirements exist in industries such as construction and transport, stipulating that employers must 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.

106. 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. The first-ever strike was 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.⁸

⁷ Notwithstanding, civil society has criticised the Labour Relations Authority for its lack of activity.

⁸ The Tourism Ministry is currently drafting regulations on strikes in tourist resorts. The draft Trade Union Bill contains provisions regulating strikes.

107. 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

108. The establishment of a comprehensive social security system is one of the priorities of the 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.

109. A new pension system was established by the *Pension Act* of 2009. It is intended to provide coverage to all Maldivians, and to provide a minimum amount of money to all above the “pensionable” age, in order to alleviate poverty and to help working people to save money for retirement.

110. 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 to 3000 for single parents.

111. Regarding healthcare, the Maldives has established a national “Madhana” health insurance scheme under which the State provides up to Rf100,000 (around US\$7,782) of healthcare services for members in return for an annual fee of Rf2,000 (around US\$155). The service is free for current and retired members of the civil service and people over the age of 65.

112. Accommodation and medical care for expatriates are covered by their employers.

(b) Adequate standard of living

Housing

113. In February 2009, the UN Special Rapporteur on adequate housing undertook a mission to the Maldives. She concluded that the current overcrowding and land scarcity in Male’ and some other islands impeded the realisation of the right to adequate housing of many in the Maldives.

114. The Government is fully aware of the social problems that have arisen due to the lack of adequate housing facilities, especially in Male’. As such, the provision of affordable housing is one of the key pledges of the current administration. The objective is to increase housing delivery through public-private partnerships and to improve affordability through housing finance schemes. It is also believed that decentralisation will support decongestion in the capital.

115. Major housing schemes are underway throughout the country including a 500-unit project in Hulhumale’. The Government recently signed a contract with a Korean company to build 3000 housing units.

Transport and Connectivity

116. 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'. This has encouraged uneven socio-economic development across the country and caused overcrowding in Male'.

117. Therefore, establishing an integrated transport network is another key pledge of the current administration. The aim is to promote freedom of movement, foster regional development and advance equitable economic growth and social cohesion. To-date, regional transport networks are functioning in the seven provinces.

11. Right to health

118. 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.

119. 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. Filarial and leprosy are progressing towards the WHO regional elimination target.

120. 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 the national-level; accessibility to healthcare for people living in remote regions; and wide national variations in access to nutritious food, drinking water and sanitation. It should also be noted that regional hospitals in the more populated atolls are understaffed and lack adequate facilities, and public confidence in these facilities is quite low. 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

121. 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.

122. 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, mostly due to lack of proper accommodation facilities in these islands.

123. The Maldives is currently pursuing a policy of encouraging the private provision of educational services, although there is a marked lack of financial assistance through student loans, for those looking for further education.

124. More specifically, human rights education is a major challenge in the Maldives. Knowledge about human rights is low across all sections of society.

13. Migrant workers

125. 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%).⁹

126. 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 have 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.

127. The Maldives is yet to become a 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.

V. Challenges

A. Religious extremism and terrorism

128. 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.

129. In 2009, the Maldives Police Service, with the assistance from UNODC, started drafting a new Anti Terrorism Bill. The Bill will strive to guard against and prevent terrorism, while protecting human rights.

B. Drug-related offences

130. 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.

131. Around 80 percent of the prison population are drug offenders with approximately 30 percent 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.

⁹ It is estimated that a further 16,500 or more are working illegally.

132. The new Government is committed to a path of rehabilitation rather than imprisonment for drug offences. A new Misuse of Drugs Bill and a related Bill on Drug Rehabilitation will change the way the law enforcement, judicial and penitentiary systems deal with drug offences in the future. The Government has also moved prisoners incarcerated for drug offences and placed them in rehabilitation programmes. New “Detox Centres” have also been set up.

133. Notwithstanding this policy shift, capacity constraints form a major barrier to successful implementation. The Maldives suffers from a chronic lack of rehabilitation facilities and expertise and also from a lack of reintegration capacity.

C. Gang Violence

134. The Maldives has witnessed a proliferation of gangs and a related increase in gang violence. Gang violence has caused deaths on the streets of Male’, something which was previously unimaginable in the country. Although no studies have been done to analyse the rising gang culture, police and media reports note a worrying link between gangs and prevalent substance abuse. While in 2008, Police reported 260 incidences of group assault, the figure rose to 341 in 2009 and now stands at 242 from January to July 2010.

135. In July, the MPS conducted a special operation to curb gang violence and released the findings to the media. The Police also noted the alarmingly sophisticated *modus operandi* of the gangs. A Bill on the Prohibition of Gang Crimes was recently passed by the Majlis and is pending ratification. The Government is further concerned with the rising number of children involved in gang violence, both as perpetrators and victims.

D. Trafficking in persons

136. 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.¹⁰ The Maldives was placed on the Tier 2 watch list of the 2010 US Trafficking in Persons Report, due to the lack of systematic procedures to deal with vulnerable people among the migrant population. However, the Government is in discussion with bilateral partners to alleviate the situation and moreover, measures are being undertaken by key departments to work on the recommendations.

E. Climate change

137. 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 the highest attainable standard of health and the right to adequate housing. Unless drastic action is taken to reduce emissions by all countries, but especially by the major industrialised nations and rapidly emerging economies, then by the end of the century, the Maldives will struggle to function as a viable State.

138. 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.

¹⁰ Although there is no official data on the subject, human rights NGOs claim that forced prostitution and people trafficking does occur in the country.

F. Economic crisis

139. The current Government came to power at a time of great economic difficulty. In 2009, on the heels of the Global Financial Crisis, the Maldives national debt to foreign financial agencies stood at 37.6% of GDP.¹¹ Austerity measures taken by the Government brought down recurrent Government expenditure from an estimated Rf8.7 billion in 2008 to 8.3 billion in 2010. Further austerity measures were undertaken on the recommendations of the IMF to boost the economy. As noted by the IMF's Country Report,¹² parliamentary delays in passing necessary revenue-generating bills, namely the *Tourism Goods and Services Tax Bill* and the *Business Profits Tax Bill*, could seriously impact the country's fiscal recovery.

G. Access

140. Due to the unique geography of the Maldives, severe constraints are faced by policy-makers in ensuring effective service delivery to the people, such as access to improved healthcare. This remains a key overarching challenge to national development.

H. Capacity building

141. Key areas where the Maldives requires urgent support include:

- 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 and rehabilitation.
- Human capacity development to manage sexual and child abuse cases.

VI. Conclusion

142. The current Administration took office with the promise of providing a better life for all Maldivians, of guaranteeing the respect for human rights for all and of upholding the Constitution. Sustaining and consolidating democracy, and promoting the full enjoyment of human rights are vital in order to create a just and equitable society, based on the principles of the rule of law and justice. The current Government of the Maldives, which began life as a pro-human rights movement, continues to attach the highest importance to protecting fundamental freedoms and is fully aware of its obligations under international law. The Government appreciates the continued support of the international community in this regard and looks forward to the Maldives' Universal Periodic Review.

¹¹ Presidential Address 2010, www.presidencymaldives.gov.mv/4/?ref=1,6,3573.

¹² <http://www.imf.org/external/pubs/ft/scr/2010/cr10167.pdf>, published early 2010.