



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Initial report submitted by Maldives under
article 19 of the Convention, due in 2005***

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Abbreviations

CAT	Committee against Torture
DJA	Department of Judicial Administration
HRCM	Human Rights Commission of the Maldives
ICAO	International Civil Aviation Organization
JJU	Juvenile Justice Unit
JSC	Judicial Service Commission
NIC	National Integrity Commission
NPM	National Protection Mechanism
MI	Maldives Immigration
MPS	Maldives Police Services
MCS	Maldives Corrections Services
MJA	Maldives Judicial Academy
NGO	Non-Governmental Organisation
PIC	Police Integrity Commission

Executive Summary

1. This is the Maldives' initial report under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on the measures taken to give effect to Maldives undertaking under the Convention.
2. Part I of this report contains general information relating to education, health, economy, political and legal context of the Maldives. The report then explains the general legal framework under which torture and other cruel, inhuman or degrading treatment or punishment is prohibited. As such it provides the provisions under which torture is prohibited under the Maldivian Constitution and also the fundamental rights and freedoms laid down in the Constitution for the protection of individual rights.
3. The report further explains the responsibility of various branches of the Government at all levels including independent authorities for the protection and promotion of fundamental freedoms, including freedom from torture; as such it explains the role of Attorney General's Office, Prosecutor General's Office, Human Rights Commission of the Maldives, Criminal Court, National Integrity Commission and the Ministry of Home Affairs. The report also sheds light on the legal status of the International Human Rights Instruments in the domestic system.
4. Part II of the report provides information in relation to each substantive section of the Convention. Here the report extensively explains how the definition of the term "torture" is under the Anti-Torture Act is in conformity with the definition stipulated in Article 1 of the Convention. The effective measures taken to prevent all acts of torture as required by Article 2 of the Convention is elaborated in the report with reference to relevant sections of the Constitution, Anti-Torture Act, Maldives Prison & Parole Act and also to the rules, regulations, code of conduct and procedures of the Maldives Police Service.
5. The report explains how a person can be extradited to and from Maldives and states that Maldives recognizes its obligation not to expel, return or extradite a person to another State where there are substantial evidence to believe the person would be in danger of being subjected to torture as required by Article 3 of the Convention. As Article 4 of the Convention requires each State to enact legislation criminalizing torture, the report explains various provisions of the Anti-Torture Act 2013, which prohibits torture and other cruel, inhuman or degrading treatment or punishment.
6. The jurisdictional provisions under the Constitution and the Penal Code are also stated in the report. The procedures for arrest and detention of persons accused of acts of torture, their rights on arrest or detention is elaborated with reference to the rules and regulations of the Maldives Police Service. The procedures for extradition and mutual legal assistance in criminal matters are also highlighted in the report.
7. The report then details the trainings of law enforcement and correctional officer and also judges and magistrates and the role of HRCM and the relevant government authorities for creating awareness against torture as required by section 10 of the Convention. The report then goes into details regarding information on the rights of the victims to complain against acts of torture, right to prompt and impartial investigation, right to redress and right to rehabilitate and also provides information on the HRCM, NIC, and MCS and the ICS hears and attends to complaints of torture submitted to them. This report also contains the living conditions in police detention centres and prisons of Maldives with reference to visits made to these places of detention by the NPM.
8. The report concludes recognizing the commitment of the Maldives to ensure that appropriate guidelines on the use of force are respected and that the prohibitions against torture and other forms of abuse by law enforcement and correctional officials are observed in practice.

I. General information

9. The Government of the Republic of Maldives welcomes the opportunity to report to the Committee against Torture on the measures undertaken under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in accordance with Article 19 of the Convention. This report covers the situation in the Republic of Maldives (herein after referred to as the Maldives), and the measures taken to give effect to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

A. Introduction

Country profile and development

10. The Maldives is a nation of islands consisting of a group of atolls in the Indian Ocean. The country comprises of 1,190 islands extending across the equator in a north-south strip, 860 km long and 120 km wide. The Maldives is divided into 26 natural atolls. The territory of the Maldives covers approximately 859,000 sq km, of which 300 sq km comprises land.

11. The Maldives has achieved nearly a hundred per cent literacy rate and universal enrolment in primary education for both girls and boys. Primary education in the Maldives starts at the age of six. The achievements in the provision of education are more remarkable given the widely dispersed nature of the islands, the lack of economies of scale, and the high cost of the delivery of services.

12. Health services in the Maldives are organised and delivered through a three-tier health care delivery system consisting of the island, atoll and central level. Health services to the remote islands are delivered through the Health Sections and Health Posts established in the islands. Larger islands have Health Centres (which currently totals 140), and each has an Atoll Hospital. The capital Male' two Government-run hospitals and two private hospitals and several private clinics providing general and specialist care.

13. The Maldives faces an acute problem of adequate housing. As more and more people migrate to the capital city Male, which is just over two-square miles, the demand for housing keeps rising, and remains unmet. Providing affordable housing and satisfactory living conditions is currently a major concern and a priority for every Government.

14. The Maldives has a small, open, and import depended economy, which is dominated by tourism that directly accounts for more than one-third of GDP. The country imports almost everything; from basic food items to construction materials, and tourism receipts is the key source of foreign exchange earnings to finance the imports. Despite the challenges, the Maldives has registered impressive economic growth during the last few decades. In 1971, the Maldives was one of the 20 poorest countries in the world; the GDP per capital of the Maldives in 1977 was US\$ 160. In 2015, the UN lists the Maldives in the middle income country grouping, with the country reaching GDP per capital of US\$ 6,150 in 2014.

15. Climate change poses an existential threat to the Maldives. The UN Inter-Governmental Panel on Climate Change (IPCC) estimates sea levels to rise between 18-59 centimetres by 2100. More than 80 percent of 1,190 islands in the Maldives are about one metre above sea level.

Political and legal context

16. The Maldives is a multi-party democracy with an executive President. 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 a Cabinet of Ministers appointed by the President and approved by Parliament.

17. The Maldives has been governed under a Constitution since 1932, when the first written Constitution was promulgated. The legal system of the Maldives evolved at a slow pace and remained greatly underdeveloped as compared to its neighbours. The Maldives

was never a colony. It was a British protectorate from 1887 to 1965, in which Britain was responsible for foreign and defence policies of the Maldives. As such, unlike its neighbours in South Asia, the Maldives did not inherit a legal system.

18. The legal system in the Maldives is a mixture of English common law, civil law, and Islamic law. The 2008 Constitution of the Maldives states that the Maldives is a democratic republic, and provides for a complete separation of powers between the executive, legislative and the judiciary.

19. The Constitution also introduced the first extended bill of rights in the Maldives, in compliance with the two-key international bill of rights instruments; ICCPR and ICESCR.

20. The Maldives has a three-tier court system. Superior courts are in Male', and comprises of the family court, criminal court, civil court, and the juvenile court. There are two appeal courts, the High Court and the Supreme Court. The Supreme Court is a new establishment in the Maldives, which was introduced after the 2008 Constitution. Each of the inhabited islands also has a magistrate court.

Process of preparing the report

21. This report has been prepared by Ministry of Home Affairs in close collaboration with the Ministry of Foreign Affairs and other relevant institutions and agencies.

22. The first draft of the report was prepared by the Ministry of Foreign Affairs in 2010. A committee was formed by the Ministry of Home Affairs in 2011 with focal points from various relevant authorities for the purpose of collecting information required for the drafting of the initial report. The Committee was known as the "CAT Committee". The first meeting of the Committee was held on 19 October, 2011 while the second meeting was held on 15 November, 2011. However, the work on the developing of the draft report did not progress any further due to the lack of information from the relevant authorities.

23. During February 2013, the Ministry of Home Affairs and Ministry of Foreign Affairs had discussions regarding drafting of the report. With new ambition, both Ministries worked towards achieving the purpose in close collaboration with the relevant authorities. Information required for the report was collected from the relevant authorities through focal points assigned by the respective authorities. The then Human Rights Advisor to the Maldives, Safir Syed, met with the focal points and also representatives from some of the local NGOs and provide them with the information relating to the Convention against Torture and its reporting procedure.

24. Based on the information received, a new draft of the CAT initial report was drafted in 2013 by the Ministry of Home Affairs and shared with the Ministry of Foreign Affairs. The second draft was compiled in 2014 after receiving comments from the Human Rights Advisor which included comments from independent authorities such as PIC, HRCM and also the civil society. With the help of Foreign Ministry, a third draft was also compiled in 2014 by Ministry of Home Affairs.

25. In March 2015, the President's consent was received to make the "CAT Committee" as a National committee in order to work towards fulfilling the obligations of Maldives under the Convention against Torture and its additional protocols. Members were nominated to the committee by all relevant authorities and the members were officially appointed to the "National CAT & OPCAT Committee" by the President on 07 February 2016. The members of the "National CAT & OPCAT Committee" are:

1. Ministry of Home Affairs (Minister as Chairperson)
2. Ministry of Foreign Affairs (Deputy Chairperson)
3. Ministry of Education
4. Maldives Police Services
5. Maldives Correctional Services
6. National Integrity Commission
7. Attorney General's Office

8. Human Rights Commission of the Maldives
9. Juvenile Justice Unit
10. Maldives Immigration
11. Ministry of Gender and Family
12. Prosecutor General's Office
13. Supreme Court
14. Inspector of Correctional Service

26. The first meeting of the “National CAT & OPCAT Committee” was held on 03 March, 2016. All members were briefed on the existing draft of the initial report and a “technical committee” was formed with members from the relevant authorities for the purpose of providing information to the existing draft of the report. In the meantime, HRCM organized an “Orientation and sensitization program for CAT/OPCAT actors” (“National CAT & OPCAT Committee” members) to provide the members with the necessary information relating to the human rights instruments especially the Convention against Torture and the reporting procedures and guidelines. This program was held on 9-10th March, 2016. HRCM also formulated an operating guideline for the “National CAT & OPCAT Committee”.

27. With the help of the technical committee and the “National CAT & OPCAT Committee” many of the previously lacking information were received for the report. The Ministry of Foreign Affairs helped in compiling the final draft and both the Ministry of Home Affairs and Ministry of Foreign Affairs worked in close collaboration in compiling the final draft of the report. The final draft was then shared with the “National CAT & OPCAT Committee” members for their comments. The final report is approved by the Minister of Home Affairs only after the approval by the “National CAT & OPCAT Committee” and the Attorney General.

B. General legal framework under which torture and other cruel, inhuman or degrading treatment or punishment is prohibited

Constitutional guarantees

28. Article 54 of the Constitution guarantees the right to be free from degrading treatment and torture. The Constitution states that “no person shall be subjected to cruel, inhumane or degrading treatment or punishment or to torture”. Acts of torture are similarly outlawed in the domestic laws of the Maldives, and are criminal offences under the Anti-Torture Act, the Penal Code and the Prisons and Parole Act of the Maldives.

29. The provisions in the domestic laws further conform to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, Torture and other cruel, inhuman or degrading treatment or punishment. A number of provisions in the Constitution also guarantee freedom from torture and other cruel, inhuman and degrading treatment or punishment. Such provisions in the Constitution include:

Article 54: No person shall be subjected to cruel, inhumane or degrading treatment or punishment, or to torture.

Article 57: Everyone deprived of liberty through arrest or detention as provided by law, pursuant to an order of the court, or being held in State care for social reasons, shall be treated with humanity and with respect for the inherent dignity of the human person. A person may be deprived of the rights or freedoms specified in this Chapter only to the extent required for the purpose for which he is deprived of his liberty.

30. Chapter Two of the Constitution “Fundamental Rights and Freedoms” is devoted entirely to the protection of individual rights and liberties. It is the duty of the State to follow the provisions of the Constitution, and to protect and promote the rights and freedoms provided in the bill of rights Chapter (Article 18). Such provisions in the Constitution include:

Article 45: “Everyone has the right not to be arbitrarily detained, arrested or imprisoned except as provided by law enacted by the People’s Majlis [the parliament] ...”

Article 46: “No person shall be arrested or detained for an offence unless the arresting officer observes the offence being committed, or has reasonable and probable grounds or evidence to believe the person has committed an offence or is about to commit an offence, or under the authority of an arrest warrant issued by the court.”

Article 47:

(a) “No person shall be subject to search or seizure unless there is reasonable cause.

(b) “Residential property shall be inviolable, and shall not be entered without the consent of the resident, except to prevent immediate and serious harm to life or property, or under the express authorization of an order of the Court.”

Article 48: “Everyone has the right on arrest or detention:

(a) to be informed immediately of the reasons therefore, and in writing within at least twenty four hours;

(b) to retain and instruct legal counsel without delay and to be informed of this right, and to have access to legal counsel facilitated until the conclusion of the matter for which he is under arrest or detention;

(c) to remain silent, except to establish identity, and to be informed of this right;

(d) to be brought within twenty four hours before a Judge, who has power to determine the validity of the detention, to release the person with or without conditions, or to order the continued detention of the accused.”

Article 49: “No person shall be detained in custody prior to sentencing, unless the danger of the accused absconding or not appearing at trial, the protection of the public, or potential interference with witnesses or evidence dictate otherwise. The release may be subject to conditions of bail or other assurances to appear as required by the court.”

Article 50: “After notice of an alleged offence has been brought to the attention of the investigating authorities, the matter shall be investigated promptly, and where warranted, the Prosecutor General shall lay charges as quickly as possible.”

Article 51: “Everyone charged with an offence has the right:

(a) to be informed without delay of the specific offence in a language understood by the accused;

(b) to be tried within a reasonable time;

(c) not to be compelled to testify;

(d) to an interpreter to be provided by the State where he does not speak the language in which the proceedings are conducted, or is deaf or mute;

(e) to have adequate time and facilities for the preparation of his defence and to communicate with and instruct legal counsel of his own choosing;

(f) to be tried in person, and to defend himself through legal counsel of his own choosing;

(g) to examine the witnesses against him and to obtain the attendance and examination of witnesses;

(h) to be presumed innocent until proven guilty beyond a reasonable doubt.”

Domestic law and administrative structures

31. On 23 December 2013, the Maldives also enacted an Anti-Torture Act, codifying the principles enshrined in the Convention. This Act became a novel addition to the domestic legal system, which recognizes torture as a distinct criminal offence.

32. In addition to the Anti-Torture Act, which prohibits all forms of torture and provides redress mechanisms for torture victims, other laws also prohibit torture. For instance, section 140 of the Penal Code explicitly states that “a person commits an offence if he/she restrains another without consent for a substantial period of time”. Article 120 defines assault as “when a person commits an offence if he/she, touches or injures such person without the consent of another person or puts such person in fear of imminent bodily injury”. Article 121 defines reckless endangerment as “when a person commits an offence if he recklessly creates a substantial risk to another of serious bodily injury or death” and Article 141 penalizes criminal coercion by stating that “a person commits an offence if, which the purpose of unlawfully restricting another person’s freedom of action is to that person’s detriment”.

33. Also Section 26 (b) of the Prisons and Parole Act prohibits any acts of torture, inhumane or degrading treatment by prison officers. Section 32(1) further states that any act of torture, inhumane or degrading treatment is a disciplinary offence and disciplinary actions may be taken under section 33 of the Act, which can amount to a warning, suspension or dismissal.

34. Further to these sections, police officers in the country are required by law to respect and protect the fundamental rights of the citizens, whilst performing their duties (section 7, Police Act). The following provisions are noted.

S7 (a)(2): Respect and protect the fundamental rights of citizens while performing their function as police officers.

S7 (a)(8): Whilst carrying out the role and functions of the police, serve with dignity, respect the humanity of every person and preserve the human rights of every person.

S7 (a)(9): Abstain from the exercise of disproportionate force whilst performing police duties.

S7 (a)(11): No police officer shall act cruelly, in a degrading manner, inhumanely or mercilessly towards any person in any circumstance, and shall not allocate or allow another person to commit such an act.

35. The responsibility for the protection and promotion of fundamental freedoms, including freedom from torture, is shared and enforced by the various institutions of the Government at all levels and national preventive mechanisms. The following offices bear special functions and therefore are detailed in the next paragraphs.

Attorney General’s Office

36. The Attorney General’s Office has the national mandate to coordinate government policies with respect to promotion and protection of human rights. Furthermore, the mandate also includes preparing UPR report and undertaking all matters relevant to the report, taking necessary action pursuant to complaints submitted by HRCM, or a government agency or an international organization with respect to contraventions of human rights existing in a law, regulation or administrative policies, undertaking necessary action pursuant to advise or recommendation given to government by HRCM or international organization with respect to the promotion and protection of human rights in Maldives, providing assistance and support from the Government to HRCM in relation to newly ratified treaties.

Prosecutor General’s Office

37. The two main government agencies in charge of remand facilities in the Maldives are the Maldives Police Service and the Maldives Correctional Services. However, the Prosecutor General’s Office, amongst its other responsibilities, has a mandate to oversee

the conditions in which persons are detained prior to their trial. This responsibility entails the authority to monitor and review how persons are treated during pre-trial detention.

38. Prosecutor General's Office periodically visits, without prior notice, detention facilities in the capital as well as those in the islands. The purpose of the visits is to monitor first-hand, how persons under detention are treated by law enforcement officers.

39. Any mistreatment by law enforcement officers would be directed to rectify immediately and where the circumstances warrant launching an investigation, the respective investigating authority would be notified.

40. For instance in 2012, pursuant to the power vested in the Prosecutor General by virtue of Article 223 (f) of the Constitution, the Prosecutor General ordered the Human Rights Commission of the Maldives to investigate all the matters related to the abduction and breach of human rights of the Criminal Court Chief Judge Abdullah Mohamed by the defence force of the Maldives."

41. In 2011, a group of Prosecutors visited detention centers in Male' and local islands to review whether the fundamental rights and freedoms guaranteed under Chapter II of the Constitution of the Maldives were being afforded in accordance to law, during pre-trial detention. During the visits, the prosecutors observed the need for law enforcement officials to be up-to-date with judicial decisions regarding fundamental rights and freedoms of detainees.

Human Rights Commission of the Maldives (HRCM) and National Protection Mechanism (NPM)

42. HRCM was established on 10 December 2003, first by a Presidential Decree, and later by the Human Rights Commission Act that was ratified on 18 August 2005. HRCM is an independent body under the Maldives Constitution.

43. HRCM is mandated to protect and promote human rights in the Maldives as per the provisions set out in the Constitution, and the Human Rights Commission Act, and international human rights standards, and has powers to investigate cases.

44. The Government of Maldives appointed HRCM as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The NPM began its functions officially on 28 April 2008 as a separate department within the HRCM. Further, the Article 44 (c) of the Anti- Torture Act states:

"for the purposes of this Article, this Act, the UN CAT and the Associated Optional protocol, HRCM shall be the NPM to stop and prevent all acts of torture as defined by this Act, the responsibilities of the NPM shall be inducted into the responsibilities of the Commission and that this article hereby grants the Commission all necessary powers to fulfil these responsibilities".

45. The main purpose of the NPM is to establish a system of regular visits to places of detention in order to analyse treatment, conditions and administration. On the basis of information obtained during these preventive visits and its legal and other analysis, the NPM makes recommendations for further strengthening the protections given to detainees in accordance with international standards. These recommendations will form the basis of a continuous constructive dialogue with the Government to assist it in fulfilling its obligation to prevent ill treatment.

The Criminal Court of the Maldives

46. The Judicature Act enacted in 2010 determines the courts of the Judiciary of the Maldives, their jurisdiction and the principles governing the functions of these courts as per the Constitution.

47. With the exception of juvenile delinquencies committed by children as defined in the Constitution, the Criminal Court has the jurisdiction to adjudicate on all matters relating to criminal offences that have not been exempted by another law.

National Integrity Commission (NIC)

48. The National Integrity Commission Act enacted in 2015 ensures the strengthening of law enforcement agencies in the Maldives, set guidelines for the investigation of issues related to the law enforcement bodies, and to execute penalties against law enforcement agencies. The Act also outlines the authorities and responsibilities of the commission bestowed under the Act, and the members' code of conduct.

49. The National Integrity Commission is mandated to monitor and investigate into any unethical behaviour by law enforcement agencies and their employees, safeguard the employees' legal rights, formulate national level policies to strengthen the administration of law enforcement agencies, and take the necessary steps to ensure sincere, honest, and lawful governing of the State. The National Integrity Commission has investigated 201 cases where 58 cases are at preliminary stage and 6 cases have been completed.

Ministry of Home Affairs

50. Article 17(a) of the Anti-Torture Act requires the Minister of Home Affairs to make a public announcement of places where people are detained for interrogation, pre-trial detention, places of detention during the trial and places of detention for implementation of sentences". All police stations and custodial centres regulated by Maldives Police Service and prisons regulated by Maldives Correctional Services were publicly announced as places of detention on 10 April, 2014.

51. Since then, the following newly established places of detentions have also been announced by the Minister:

- Huhumale Detention Centre & Male Prisons GDh. Thinadhoo Police Station
- HDh. Nolvivaranfaru Police Station
- K. Maafushi Rehabilitation Centre (for women) GDh. Thinadhoo Custodial
- Th. Veymandoo Police Station
- S. Hulhumeedhhoo Police Station MCS Ahuluveri Marukaz
- K. Feydhooftinolu Police Custodial
- K. Kaashidhoo Custodial

52. Article 17(b) of the Anti-Torture Act obligates the Minister of Home Affairs to submit a report to the Human Rights Commission of the Maldives relating to these places of detention. This report must be reviewed and sent to the Human Rights Commission every three months with the necessary changes. The report must include: Name, location and address of the place of detention; Name, address, age, duration of detention, remaining period of detention and the reasons for detention of every person detained in these detention facilities.

53. As of December 2016, the Minister has submitted 10 reports to the Commission. The first report was submitted on 17 April, 2014 while the most recent report was submitted on 13 November 2016. The required information for the report is collected from Maldives Police Service, Maldives Correctional Service and National Drug Agency. At the time of the enforcement of the Anti-Torture Act, the National Drug Agency was under Ministry of Health. However, the Agency was mandated to the Ministry of Home Affairs in 2015.

Institutional human rights framework and the legal status of international human rights instruments in the domestic system

54. The Maldives acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 20 April 2004. In addition to the Convention against Torture, the Maldives is a State party to the following human rights instruments prohibiting torture:

- International Covenant on Civil and Political Rights (ICCPR); Convention on the Rights of the Child (CRC);

- Convention on Elimination of All Forms of Discrimination against Women (CEDAW);
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- International Covenant on Civil and Political Rights (ICCPR);
- Convention on the Rights of Persons with Disabilities (CRPD); and International Covenant on Economic, Social and Cultural Rights (ICESR).

55. In addition to the above instruments, the Maldives has completed the two reviews of the Universal Periodic Review in 2010, and 2015.

56. The Maldives is a dualist legal system, in which international law stands separate from the domestic law. The constitution of the Maldives requires to have a corresponding domestic legislation to give effect to international legal instruments to which the Maldives is a State Party. Article 93 (b) of the Constitution states that "... citizens shall only be required to act in compliance with treaties ratified by the State as provided for in a law enacted by the People's Majlis."

57. Thus, in order to give effect to the Convention against Torture, domestic law on Anti-Torture Act was enacted in 2013. It prohibits and criminalizes any acts of torture and other cruel, inhuman or degrading treatment or punishment to any individual and guarantees to protect individual's life, liberty and physical integrity. Further, information about the Convention and relevant domestic laws are publicly available for every citizen.

58. Furthermore, judges in the Maldives must refer to the Maldives's international commitments in the implementation of human rights guaranteed in the Constitution. According to Article 68 of the Constitution of the Maldives:

"When interpreting and applying the rights and freedoms contained within this Chapter, a court or tribunal shall promote the values that underline an open and democratic society based on human dignity, equality and freedom, and shall consider international treaties to which the Maldives is a party."

59. The Maldives is committed in its efforts to ensure that appropriate guidelines on the use of force are respected and that the law enforcement and correctional officials adhere to and observe the prohibitions against torture and other forms of abuse.

II. Information in relation to each substantive article of the Convention

Article 1

Definition of torture

60. The term "torture" is defined in section 10 of the Anti-Torture Act as:

"Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, by or at the instigation of or with the consent or acquiescence (knowledge) of a public official or any other person for any of the following purposes:

To obtain information or confession from him or a third person;

To inflict punishment not mentioned in any law, on him for an act he or a third person has committed or is suspected of having committed;

To intimidate or humiliate him or a third person for an act he or a third person has committed or is suspected of having committed;

To intimidate or humiliate a third person for an act committed by him or suspected of having committed;

Or for any reason based on discrimination of any kind, when such pain or suffering is inflicted."

61. The term “torture” includes physical and mental torture and also acts of cruel, inhuman or degrading treatment or punishment. Section 13 (b) of the Anti-Torture Act stipulates the various acts of torture which falls under physical torture, such as beating, kicking, electric shocks, pouring hot oil, pouring acid, sexual acts, etc. Section 14 (b) of the Anti-Torture Act stipulates the various acts of torture which falls under mental torture such as blindfolding, detaining in a secret place, questioning for prolonged time without breaks, solitary confinement, ill-treatment of family members or relatives. Therefore definition of torture in the domestic law is in conformity with the definition stipulated in the CAT Convention.

62. Other national legislation also covers acts of torture and a person may be indicted for grievous hurt or murder under other laws such as the Penal Code.

Article 2

Prevention of torture

Effective measures to prevent all acts of torture

63. Every act of torture as provided by the article 54 of the Constitution and the Anti-Torture Act is outlawed and any individual who commits such an act is subjected to grave penal sections as outlined in the Anti-Torture Act and other domestic penal laws.

64. The Constitution recognizes and protects the fundamental rights of everyone to life and liberty. Moreover, it also provides additional guarantees from arbitrary arrest. Such provisions in the Constitution include:

Article 45: “Everyone has the right not to be arbitrarily detained, arrested or imprisoned except as provided by law enacted by the People’s Majlis ...”

Article 46: “No person shall be arrested or detained for an offence unless the arresting officer observes the offence being committed, or has reasonable and probable grounds or evidence to believe the person has committed an offence or is about to commit an offence, or under the authority of an arrest warrant issued by the court.”

Article 47:

“(a) No person shall be subject to search or seizure unless there is reasonable cause;

(b) Residential property shall be inviolable, and shall not be entered without the consent of the resident, except to prevent immediate and serious harm to life or property, or under the express authorization of an order of the Court.”

Article 48: “Everyone has the right on arrest or detention:

(a) to be informed immediately of the reasons therefore, and in writing within at least twenty four hours;

(b) to retain and instruct legal counsel without delay and to be informed of this right, and to have access to legal counsel facilitated until the conclusion of the matter for which he is under arrest or detention;

(c) to remain silent, except to establish identity, and to be informed of this right;

(d) to be brought within twenty four hours before a Judge, who has power to determine the validity of the detention, to release the person with or without conditions, or to order the continued detention of the accused.”

Article 49: “No person shall be detained in custody prior to sentencing, unless the danger of the accused absconding or not appearing at trial, the protection of the public, or potential interference with witnesses or evidence dictate otherwise. The release may be subject to conditions of bail or other assurances to appear as required by the court.”

Article 50: “After notice of an alleged offence has been brought to the attention of the investigating authorities, the matter shall be investigated promptly, and where warranted, the Prosecutor General shall lay charges as quickly as possible.”

Article 51: “Everyone charged with an offence has the right:

- (a) to be informed without delay of the specific offence in a language understood by the accused;
- (b) to be tried within a reasonable time;
- (c) not to be compelled to testify;
- (d) to an interpreter to be provided by the State where he does not speak the language in which the proceedings are conducted, or is deaf or mute;
- (e) to have adequate time and facilities for the preparation of his defence and to communicate with and instruct legal counsel of his own choosing;
- (f) to be tried in person, and to defend himself through legal counsel of his own choosing;
- (g) to examine the witnesses against him and to obtain the attendance and examination of witnesses;
- (h) to be presumed innocent until proven guilty beyond a reasonable doubt.”

Article 57: “Everyone deprived of liberty through arrest or detention as provided by law pursuant to an order of the court, or persons being held in State care for social reasons, shall be treated with humanity and with respect for the inherent dignity of the human person. A person may be deprived of the rights or freedoms specified in this Chapter only to the extent required for the purpose for which he is deprived of his liberty”.

65. Chapter 6 of the Anti-Torture Act provides for the medical remedies available to those who are detained for more than 24 hours. Section 19 (a) provides a person detained has the right to request for medical examination by a doctor other than the doctor in the place of detention at any time after the passage of 24 hours of detention. The same right is available to a person who was detained but released. Section 19 (c) provides any person the right to request for medical examination within the first 24 hours of his/her release from detention. Under the Act, in both the aforementioned situations, requests made for medical assistance must be fulfilled within 24 hours of submission of such requests. Furthermore, if the HRCM believes that the detainee cannot bear the expenses of medical examination, then such expenses must be met by the place of detention. In this regard, section 19(e) of the Act requires the HRCM to set up a system so that such expenses are provided within 24 hours of the request whenever necessary.

66. The Constitution of the Maldives and the Anti-Torture Act has the following provisions to effectively prevent acts of torture. Such provisions include:

Article 245 of the Constitution: “No person shall give an illegal order to a member of the security services and members of the security services shall not obey a manifestly illegal order.”

Section 16 (c) of the Anti-Torture Act: “An order from a superior officer or a public authority should not be invoked as a justification of torture, or other cruel, inhuman, degrading treatment or punishment. It should not also be an excuse to say that he was not aware that it was unlawful or that he feared he might lose his job, if he did not commit such acts of torture”.

67. The Maldives Police Service (MPS) has special procedures and guidelines such as the procedure on treatment of detainees during arrest, guidelines on use of batons are strictly enforced to prevent any acts of abuse when executing duties. The Police Act (Law No 05/2008) (hereinafter referred to as the Police Act) requires every police officer to abide by article 54 of the Constitution. Section 7 (1) of the Police Act states that “every police

officer should fully abide and comply with the Constitution of the Republic of the Maldives and laws and regulations of the Maldives”.

68. The Police Act makes it mandatory for every police officer to respect and to protect the fundamental rights of the citizen while fulfilling their duty. Such provisions in the Act include:

Section 7(8): provides that every police officer should, whilst carrying out the role and functions of the Police, serve with dignity, respect the humanity of every person and preserve the human rights of every person.

Section 7(11): “No police officer shall act cruelly, in a degrading manner, inhumanely or mercilessly, towards any person in any circumstances, and shall not allocate or allow another person to commit such an act”.

Section 7(12): obliges every police officer to be conscientious for the medical conditions of the persons under police custody and where such person needs medical attention immediate steps are taken to provide the required assistance.

69. Further to this Act, Regulation on Using the Legal and Discretionary Powers Given to Police Officers also provides further procedures on police conduct and the treatment of detainees. The regulation provides that, while arresting a person, he/she has to be informed that the person is being arrested and the reasons of the arrest along with the suspected offence and should be informed that he/she has the right to remain silent and the right to a legal counsel. The person should also be informed the name and rank of the police officer who is arresting him and also which police station he is been taken to.

70. Section 17 of the said regulation states that “any person can be detained for more than 24 hours only after presenting the person before a judge and with the judge’s permission”. Exceptions to this rule are also provided in the same provision. A person can only be detained for over 24 hours without presenting him before a judge due to a detainee’s medical condition, bad weather or prolonged journey. In either event, any person who is taken into police custody or arrested must be brought before a judge who will decide if and for how long the person may be detained. It is to be noted that the Maldives Police Service resorts to such exceptions on very rare occasions where they deem it absolutely necessary.

71. Section 26(e) of this regulation states that the places of detentions where people are detained under this regulation must fulfil all the conditions of the places of detentions. As per section 26(f) of the regulation, minors should be detained separately in a place especially made for detention of minors. Furthermore, under section 37, the police is required to inform the suspect, before interviewing him/her, of his/her right to remain silent and right to a legal counsel.

72. Further stipulations and guidelines are also provided in the Maldives Police Service General Regulation (2008). Section 50 re-emphasizes the basic constitutional right, that the suspect has the right to a legal counsel. The regulation goes further to state that he/she must be given the opportunity to meet with his/her legal representative privately and that the suspect must be questioned in presence of his legal representative.

73. The Code of Conduct for Police states that all police officers must abide by the Constitution, the laws and regulations of the country. While performing their national duty, police officers must ensure the protection of human rights and the rights of the citizen. All orders made under the laws and regulations must be complied with. Police Officers must make use of the power as a last resort under the instruction and order of the supervisors. However, power should be used only when necessary. Police Officer must not commit acts of torture, cruel, inhuman or degrading treatment or punishment against the people in their custody.

74. Section 22 of the Prison and Parole Act 2013, which is executed by the Maldives Correctional services (MCS), obligates MCS to:

- To set professional standards and to ensure that the prison system adheres to these standards;

- To create ‘Maldives Correctional Service’; and to define its responsibilities and set policies for it to follow;
- To provide safe and secure facilities and ensure all of the convict’s legal rights are met diligently;
- To provide convicts with opportunities to learn and enhance skills and education in different areas;
- To reform and rehabilitate convicts and ensure successful reintegration;
- To ensure the sentences given by the courts are served as it was intended; and
- To provide safe, secure facilities and necessary help to suspects held under remand or detention prior to a conviction.

75. Section 69 of the Prison and Parole Act ensures basic necessities to all convicts as follows:

- Means to pray, recite Quran and observe fasting.
- Nutritionally adequate food and water from a source approved by a government agency.
- Medical attention; consultation, medication a treatment Adequate means to do physical activities and exercise.
- Rehabilitation that assist successful reintegration.
- Access to wash/change uniform or apparel in a hygienic manner.
- Methods and procedures for communication and visitation with family and lawyers.
- Writing and reading materials as permitted.

76. Further, all prisoners have the right to file a complaint to the Director of Prisons. The Director is mandated by law to address the complaint and provide an answer within at least 5 days. If the complaint is regarding physical violence or any urgent matter the Director of Prisons is obligated to respond immediately. If the director fails to provide a satisfactory answer or solution then the prisoner has the opportunity to file a complaint to the Inspector General.

77. All prisoners are taken in to the prison facility after ensuring their identity and only after all official papers and documents are received. Upon arrival at the facility, an induction routine would be carried out including a physical and medical check-up, recording of items in position and confiscating items that are not allowed inside prison, security ratings and introduction to the prison facilities, procedures and deciding his/her treatment plan; which is tailor-made to best suit his/her needs and skills.

78. If a prisoner has been found guilty of offences such as inciting violence, abuse or any prohibited act during imprisonment his/her case will be directed to the disciplinary board. Even where disciplinary action may be taken against a detainee, Section 105 of the Prison and Parole Act outlaws any form of disciplinary action that may amount to physical injury. Under the Act, as an initial step, the prisoner will be cautioned. If the prisoner continues to engage in misconduct he/she might be subjected to solitary confinement to a period not exceeding 30 days. Any decision to subject a prisoner to solitary confinement must be made after reviewing at the disciplinary board. In the event a prisoner is subjected to solitary confinement, the Act requires certain minimum conditions to be met including, provision of all basic necessities guaranteed by the Act and an assessment of the health condition of the prisoner.

Legal and administrative measures to guarantee that the right not to be tortured

79. The Constitution guarantees effective measures to prevent acts of torture, even under exceptional circumstances, such as during a State of Emergency. According to Article 255 (b) (12) of the Constitution, measures adopted during a state of emergency cannot not restrict Article 54 of the Constitution, which states that no degrading treatment or torture

can be inflicted upon people. Furthermore, as the right not to be tortured under the Constitution is an absolute right, any law that restricts this right will be effectively invalid.

Article 3

Non-Refoulement

80. Section 42 of the Anti-Torture Act is the relevant domestic provision which incorporates Article 3 of the Convention into the domestic legislative framework. The Extradition Act 2015 is the relevant law on extraditing foreign nationals from the Maldives. In a torture situation, extradition will be governed by the provisions of the anti-torture act. Other laws of relevance also include the Mutual Legal Assistance on Criminal Matters Act 2014 and the Transfer of Prisoners Act 2014.

81. Section 42 (b) of the Anti-Torture Act provides a list of competent authorities that will determine whether there are substantial grounds to believe a person will be in danger of torture if extradited. These authorities are Foreign Ministry, Home Ministry, HRCM, AGO, Immigration and Ministry of Economic Development (the responsible ministry handling migrant workers' portfolio).

82. Section 8 and 29 of the Maldives Immigration Act (Law No. 1/2007) defines conditions for denial of entry and Section 21 subsection (d) of the Act states the detention powers of the Immigration Controller. Furthermore, Section 21 subsection (b) of the Maldives Prison and Parole Act defines the detention facilities for foreigners detained for removal purposes.

83. In accordance with the obligations set out in article 3 of the convention, the Maldives recognizes its obligation not to expel, return or extradite a person to another State where there are substantial evidences to believe the person would be in danger of being subjected to torture.

84. Section 42 of the Anti-Torture Act "prohibits the extradition of a person from Maldives to another country or returning to the person's native country, if there are substantial grounds for the relevant Government authorities to believe on the basis of reasonable proof or evidence that he/she would be in danger of being subjected to torture".

85. Where a person who has committed an act of torture in a country other than the Maldives is in the territory of the Maldives, the competent domestic authorities are required to take steps to extradite such a person pursuant section 39 of the Act. Even in such a situation, the competent domestic authorities will be bound by the prohibition to extradite such a person, if there are substantial grounds to believe that the person would be in danger of being subjected to torture. Furthermore, pursuant to section 41 of the Act, in cases where extradition or exchange of convicted person to another country is governed by a treaty, obligation to prevent torture and any other inhuman or degrading punishment under international conventions may be implied in the treaty, in the absence such an express provision thereto.

86. Under the Extradition Act, all cases of extradition will be reviewed at the High Court. However, depending on whether the person subjected for extradition consents for extradition, the Extradition Act provides for two separate processes, both of which are subjected to review under the Act. In the instance where a person subjected for extradition consents for extradition before a judge at the High Court, the Court informs the Prosecutor General of the same for the Prosecutor General to make a decision on extradition in accordance with the Act. As the Prosecutor General makes the final decision on extradition, in spite of consent from the person subjected for extradition and a decision from the High Court to that effect, pursuant to section 28 of the Act, the Prosecutor General may decide not to extradite the person based on various grounds, including, having substantial grounds to believe that the person, if extradited, would be in danger of being subjected to torture.

87. In cases where a person subjected for extradition does not consent for extradition, the High Court will review the case and then make a determination on extradition. If the High Court makes a decision to extradite the person subjected for extradition, the person has the right to appeal the decision of the High Court at the Supreme Court. By contrast, if the High Court makes a decision to not to extradite the person and to release such a person,

the State which seeks extradition of the person also has the right to appeal the decision at the Supreme Court. Under section 27 of the Act, the Supreme Court is entrusted to review the decision of the High Court based on the evidences presented before it. In the event where a decision to extradite a person is upheld by the Supreme Court, or a decision to extradite a person by High Court has become a final decision by virtue of exhausting the limitation period to appeal, the Prosecutor General makes a final decision on extradition. Pursuant to section 28 of the Act, the Prosecutor General has the power to decide to not to extradite the person, if there are substantial grounds to believe that the person, if extradited, would be in danger of being subjected to torture.

88. Section 8 of the Maldives Immigration Act deals with inadmissible passengers. The regulatory framework for proceedings to detention and removal of inadmissible passengers is outlined in the Maldives Air Entry Regulation 2010/R-4 and in the Maldives Sea Entry Regulation 2010/R-8. Furthermore, International Civil Aviation Organization (ICAO) Annex 9 also guides the removal process of inadmissible passengers by air.

89. In 2012, there were 750 cases of inadmissible passengers, 2013 there were 608 cases, 2014 there were 971 cases and in 2015, there were 1,225 cases of inadmissible passengers. In addition to the removal of inadmissible passengers, removal of foreigners enforced for illegal status and revocation of permits in accordance to the section 21 of the Maldives Immigration Act. In this regard, in 2013, a total of 989 foreigners were removed. In 2014, a total of 1,572 foreigners removed and in 2015, a total of 1,130 foreigners were removed.

90. When enforcing the forcible removal process special considerations are given to comply with principle of non-refoulement to whether there are substantial grounds that the individual would be in danger of being subjected to torture. In cases where authorities believe where there are such grounds, necessary measure has been taken to comply with the Article 3 of the Convention. As such, two successful third country resettlement processes have been carried out. In 2013 with the assistance of United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) four Palestinian refugees were resettled in Sweden and in 2015 with the assistance of UNHCR a Syrian national was resettled in Canada.

91. All Immigration Officers receive a basic training on handling inadmissible passengers and Maldives Immigration participates in international conferences to gain awareness in returns and reintegration of inadmissible persons.

92. Currently there are two facilities used by Maldives Immigration for detaining foreigners for removal purposes. The purpose of detention of any foreigners by Maldives Immigration is for administrative purposes to follow the removal process. The two facilities are “Inadmissible Passenger Facility” located in Ibrahim Nasir International Airport in the capital “Male City” and “‘HulhuMale’ Detention Center” located in “HulhuMale”, third parties operationally manage both these facilities. The “Inadmissible Passenger Facility” is managed Maldives Airports Company while “‘HulhuMale’ Detention Center” is managed by Department of Penitentiary and Rehabilitation.

93. The “Inadmissible Passenger Facility” is used to temporarily keep inadmissible passengers, as defined in the section 8 and section 29 of the Maldives Immigration Act. The regular process for maximum detention period at this facility would be 24 hours. In 2012, a total of 629 inadmissible passengers were detained; in 2013, a total of 378 inadmissible passengers were detained, in 2014, a total of 490 inadmissible passengers were detained and in 2015, a total of 493 inadmissible passengers were detained in the facility.

94. The “‘HulhuMale’ Detention Center” is used for detention purposes of foreigners whose permits have been revoked as per section 21 of the Maldives Immigration Act. In 2013, a total of 488 foreigners were detained, in 2014, a total of 1,594 foreigners were detained and in 2015, a total of 1,173 foreigners were detained in this facility. All Immigration Officers require completing a mandatory basic training program on Immigration Enforcement Studies.

Article 4**Torture as a criminal offence**

95. Section 3(a) of the Anti-Torture Act establishes torture as a separate criminal offence in the Maldives. Section 21 of the Anti-Torture Act expressly states that, “in all circumstances, it is a criminal offence to commit acts of torture, other cruel, inhuman or degrading treatment or punishment against any person”.

96. According to Anti-Torture Act, it shall take precedence over all other laws in conflict with the Act and all other legislations providing for similar offences. Two cases were investigated by Human Rights Commission of the Maldives (HRCM) under the Act, however, due to lack of evidence; those two cases were not prosecuted. Prior to 23 December 2013, (prior to the coming of force of the Act) one case was submitted for prosecution by HRCM and accused was charged with battery in Criminal Court, but accused was acquitted. Prior to the enactment of the Anti-Torture Act, 18 cases were investigated and sent for prosecution by Police Integrity Commission and only one case was submitted for prosecution by Police Integrity Commission after the mentioned date. But due to insufficient evidence, case was not submitted to court.

97. The Anti-Torture Act also provides for the punishments for those who commit acts of torture. Section 23 states that “these punishments depend on the grave nature of torture, and ranges from 5-25 years of imprisonment”. Section 24 of the Anti-Torture Act stipulates “any person, who is an accomplice or assistant for such an act of torture, will also be charged with offence of torture”.

98. Any official of the Maldives Defence Force (MNDF), Maldives Police Service (MPS), or any public official will also be charged with offence of torture if the person orders any of his/her junior officers to torture any person (Section 25). If any official in any unit of MNDF, any unit of MPS or unit of a law enforcement authority commits any act of torture, the head of the unit shall be charged with offence of torture in the following circumstances:

- If the person does not take appropriate steps to prevent or prohibit such acts of torture;
- If the person has been negligent in taking steps to prevent and prohibit such acts of torture; and the torturer has been able to commit such acts of torture due to this negligence or due to any unlawful commission or omission of the head of the unit;
- If the acts of torture has been committed due to his/her direct or indirect negligence (Section 26).

99. Section 39 of the Anti-Torture Act provides that HRCM, courts of law in the Maldives and all the relevant authorities have the jurisdiction to take measures under this law or any other law, against any person charged of committing offences of torture whether physical or mental, or any other cruel, inhuman or degrading treatment or punishment in the following cases;

- If the offence has been committed in any territory of the Maldives; or
- If the offence has been committed on-board a ship or aircraft registered in the Maldives;
- If the alleged offender is a national of Maldives even though he/she may have committed the offence in any other jurisdiction;
- If the victim is a citizen of the Maldives;
- If the alleged offender is a foreigner in the Maldives and he/she could not be sent or returned to any a third country.

100. Prior to the enactment of the Anti-Torture Act, there was no specific legislation for prosecuting cases of torture. Independent authorities such as HRCM and Police Integrity Commission (PIC, which is now the National Integrity Commission-NIC), investigate complains of torture. Sections 20, 21, 22 and 33(a) of the Human Rights Commission Act (2006) provides for the mandate of the HRCM to investigate such cases. If the investigation

reveals that the case involved torture, it is then sent to the Prosecutor General's Office for prosecution.

101. Out of the 118 cases investigated by HRCM under the Anti-Torture Act, 4 cases were sent for prosecution by HRCM. However, due to lack of evidence, those 4 cases were not prosecuted. Under the Act, only one has been sent for prosecution by NIC. The main reason for limited number of cases been prosecuted and convicted is lack of reliable and relevant evidence, procedural irregularities during investigation and lack of resources. Most cases of torture sent for prosecution are against officials of Maldives Police Service and in the absence of credible evidence; the outcome of case wholly depends on the testimony of colleagues of the accused person or other persons in the police detentions.

102. The Anti-Torture Act takes precedence over the newly enacted Penal Code and following the first amendment to the Penal Code, persons charged under the Anti-Torture Act have the benefit of defenses provided in the Penal Code, including the defense provided in section 61 of the Code, which bars prosecution unless the prosecution is commenced within the time limitation provided in the Code.

Article 5 Jurisdiction

103. Section 38 of the Anti-Torture Act provides that HRCM, courts of law in the Maldives and all the relevant authorities have the jurisdiction to take measures under this law or any other law, against any person charged of committing offences of torture whether physical or mental, or any other cruel, inhuman or degrading treatment or punishment in the following cases:

- If the offence has been committed in any territory of the Maldives; or
- If the offence has been committed on-board a ship or aircraft registered in the Maldives;
- If the alleged offender is a national of Maldives even though he/she may have committed the offence in any other jurisdiction;
- If the alleged offender is a foreigner in the Maldives and he/she could not be sent or returned to any a third country.”

104. Thus, taking into consideration the aforementioned section, if a Maldivian commits an act of torture outside the territories of the Maldives, he/she can be prosecuted for that act in the courts of the Maldives.

Article 6 Arrest and detention of persons accused of acts of torture

105. The MPS is responsible in arresting a suspect for a criminal investigation. The examining magistrate issues arrest warrant upon request of the MPS. Each inhabited island has a magistrate and police to execute and enforce the provisions and consist of a police station that serve as the temporary detention centres.

106. Any individual suspected of having committed an act of torture or inflicted other cruel, inhuman or degrading treatment or punishment is subject to a preliminary investigation and if required will be arrested by a court warrant. The General Police Regulation outlines the directives and procedures to comply during arrest of a suspect.

107. The duration of pre-trial detention is 15 days as outlined by the General Police Regulation. This period may be extended by an order of the Court if the nature of the crime is severe.

108. The above provisions are also applicable to foreign nationals and his/her sponsor will be notified upon arrest. There have been numerous cases of foreign nationals being detained and being subject of proceedings for committing an offence but no one has been held on suspicion of torture.

109. With respect to the domestic legal provisions concerning custody of the person who is alleged to have committed an act of torture, Section 39 confers powers to police, HRCM

and competent authorities to arrest such person who is in the territory of Maldives. Under section 39 (d) of the Act, if any action is taken against such a person, such a person should be given the opportunity to communicate with the relevant authorities of the country of his nationality, or if he is a stateless person, he should be provided the opportunity to communicate with the relevant authorities of the country in which he ordinarily resides, or to the competent authorities of the country in which the alleged act of torture was committed. This sub-section also provides that the authorities of the Maldives shall provide assistance to the person to make that communication. Pursuant to section 39(e) it is the duty of the competent authorities of Maldives to inform, without delay, of the action taken against such person to the relevant authorities of the country of such person's nationality, or if he is a stateless person, to provide such information to the competent authorities in which he ordinarily resides, and to the competent authorities of the country in which the alleged act of torture took place.

Article 7

Extradite or prosecute

110. Under the Extradition Act, the Prosecutor General has the final say in the decision to extradite or not to extradite an accused person pursuant to a request made by foreign country. This decision making power of the Prosecutor General with regard to extradition is restricted by section 12 of Extradition Act which states that Maldivian Citizens shall not be extradited to a foreign country, as well as section 14 of Extradition Act which states circumstances in which a request for extradition of a foreign national shall be refused, and also by section 42 of the Anti-Torture Act. Furthermore, by virtue of section 28 (c) of Extradition Act, Prosecutor General may refuse extradition, inter alia, if there are substantial grounds to believe that the person would be subject to torture if extradited. If, pursuant to section 28(c) of the Extradition Act, the Prosecutor General refuses to grant extradition, under section 33 of the Act, the Prosecutor General may decide to prosecute the accused in the Maldives.

111. Where a person is prosecuted in the Maldives, such a person will have the right to a fair transparent hearings, the right to counsel, right to be presumed innocent until proven guilty, right to equality before courts, all which are protected by constitution in Articles 42, 48, 51 with specific focus in context to subsection (e) and (h), 53 and 20 respectively.

Article 8

Extraditable offences

112. Although the Anti-Torture Act provides for extradition, the procedures relating to preliminary inquiry and detention are provided for in the Extradition Act. Furthermore, Section 17 of Extradition Act "allows the person to be extradited to seek judicial review".

113. Under the Extradition Act, arrest of a suspect for purpose of extradition requires issuance of an arrest warrant by High Court and may seek judicial review with the right to legal counsel. The right to assistance of counsel is guaranteed under article 51 of the Criminal Procedure Code, which states that "if the detainee requests for a lawyer, he/she must be provided with a lawyer and must be questioned in the presence of a lawyer". Article 53 of the Constitution also stipulates that "(a) Everyone has the right to retain and instruct legal counsel at any instance where legal assistance is required; and (b) In serious criminal cases, the State shall provide a lawyer for an accused person who cannot afford to engage one".

114. When a foreign national is detained for extradition, the relevant State will be notified and information regarding the detainee and the nature of the crime will be shared, this also includes consular assistance. In cases where an alleged torturer is a Maldivian and if the Ministry of Foreign Affairs is notified of the suspect, the person may be brought to the Maldives for judicial review or to serve the remainder of his/her sentence.

115. At the time of arrest, Article 48 of the Constitution ensures the rights during arrest or detention and further, Article 42 ensures a fair and transparent hearing and all accused are presumed innocent until proven guilty;

Article 48: "Everyone has the right on arrest or detention:

(a) to be informed immediately of the reasons therefore, and in writing within at least twenty four hours;

(b) to retain and instruct legal counsel without delay and to be informed of this right, and to have access to legal counsel facilitated until the conclusion of the matter for which he is under arrest or detention;

(c) to remain silent, except to establish identity, and to be informed of this right;

(d) to be brought within twenty four hours before a Judge, who has power to determine the validity of the detention, to release the person with or without conditions, or to order the continued detention of the accused”.

Article 42:

(a) “In the determination of one’s civil rights and obligations or of any criminal charge, everyone is entitled to a fair and public hearing within a reasonable time by an independent court or tribunal established by law.

(b) All judicial proceedings in the Maldives shall be conducted with justice, transparency and impartiality.

(c) Trials of any matter shall be held publicly, but the presiding judge may exclude the public from all or part of a trial in accordance with democratic norms, in the interests of public morals, public order, or national security; where the interest of juveniles or the victims of a crime so require; or in other special circumstances where publicity would prejudice the interests of justice.

(d) All judgments or orders of a Court shall be pronounced publicly, unless the Court specifically orders otherwise for the reasons stipulated in Article (c). All publicly pronounced judgments or orders shall be available to the public”.

116. Pursuant to the Extradition Act and the Anti-Torture Act, any act of torture is an extraditable offence. Clause (a) of Article 13 of the Extradition Act provides that the offences falling under the following circumstances are offences for which the foreign offenders in the Maldives can be extradited to their countries:

- (1) The maximum punishment for the offence committed is equivalent in the extraditable country for a period not less than 1 year;
- (2) If the offence is such that if committed in the Maldives, the maximum punishment for which is imprisonment for a period not less than 1 year.

117. Section 13(b) of the Extradition Act imposes a limitation towards the aforementioned section 13 (a) (1) and (2) and states that that if the accused whose extradition is sought is serving a sentence imposed for an offence stated under subsection (a), and if the sentence is of imprisonment or other deprivation of liberty, extradition of the accused shall be granted if the remaining term of the sentence is at least six months, or a more severe sentence remains to be carried out. Under the Anti-Torture Act, penalty for an act of torture ranges from minimum 1 year to maximum 25 years of imprisonment. Thus, all kinds of torture offences under Anti-Torture Act fulfil the requirement mentioned in section 13 (a) of the Extradition Act. Hence, all acts of torture, attempt to commit torture and an act by any person which constitutes complicity or participation in torture will be considered extraditable offences under the Extradition Act.

118. The Extradition Act does not make extradition conditional on the existence of a treaty.

119. So far, no one has been extradited to or from Maldives in relation to an offence set out in the Anti- Torture Act.

Article 9

Mutual legal assistance

120. Mutual Legal Assistance in Criminal Matters Act (2015) states that all requests for assistance are to be submitted to the Prosecutor General. The types of assistance that may

be extended under the Act include taking of statements and testimonies of persons, sending persons to give evidence in foreign countries, service of judicial documents, executing searches and seizures, enforcement of restraining and forfeiture orders and provision of documents. Pursuant to this Act, mutual legal assistance will apply in the cases of torture related offences provided in the Anti-Torture Act.

121. The Mutual Legal Assistance in Criminal Matters Act provides certain grounds for refusal of such assistance. These grounds for refusing mutual legal assistance request are enumerated under section 8 of the Act. Section 8 (1) of the Act provides that the Prosecutor General shall refuse to provide mutual legal assistance where there are substantial grounds for believing that the request relates to the prosecution or punishment of a person for an offence of a political nature; or where there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, sex, ethnic origin, nationality or political opinions; or if the request relates to the prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Maldives, would have constituted a military offence under the laws of Maldives which is not also an offence under the ordinary criminal law of Maldives; or if the provision of the assistance would affect the sovereignty, security, public order or other essential public interest of Maldives; or if the request relates to the investigation, prosecution or punishment of a person for an offence in a case where the person has been convicted, acquitted or pardoned by a competent court or other authority in that prescribed foreign State; or has undergone the punishment provided by the law of that foreign State, in respect of that offence or of another offence constituted by the same act or omission as the first-mentioned offence; or if the request does not relate to types of assistance that may be provided under the Act.

122. Further, Subsection 8 (2) of the Act provides grounds on which the Prosecutor General may refuse to provide mutual legal assistance, which includes where the request relates to the investigation, prosecution or punishment of a person in respect of an act or omission that, if it had occurred in Maldives, would not have constituted an offence against the laws of Maldives, or if the provision of the assistance would, or would be likely to, prejudice the safety of any person, or the provision of assistance would result in an unjust treatment towards a person or violation of human rights of a person, or if, considering facts of the case the request relates to, the Prosecutor General is of the opinion that it is in the best interest to refuse request for assistance. Other than those impediments mentioned under the Act, the discretion whether to grant assistance lies solely with the Prosecutor General.

123. The Maldives is currently working with Sri Lanka, India, and Russia to conclude Mutual Legal Assistance in Criminal Matters agreements. The Maldives is also a party to the South Asian Association for Regional Cooperation (SAARC) Convention on Mutual Assistance in Criminal Matters in 2008 for the purposes of investigation, prosecution, and resulting proceedings.

Article 10

Education and information

124. Article 36 (a) of the Anti-Torture Act makes it obligatory for all the relevant government agencies to:

include about vileness of torture, cruel or inhumane and degrading treatment or punishment, why such acts are prohibited under the law, and the works done against such offences, in the instruction material for the training of police officers; military officials; officers at the law enforcement institutions; medical officers; government staff, officials who communicate with the patients at the rehabilitation centres, psychiatric places, home for people with special needs, detoxification centres, and officers at the detaining centres.

125. Article 36 (b) makes it obligatory for the "Human Rights Commission of the Maldives and the relevant government authorities to include information on the importance of respecting the human rights, the importance of not committing torture in the awareness programs carried out in the primary and secondary schools and institutions for higher studies".

Training of law enforcement and corrections officers

126. All law enforcement and corrections officers receive mandatory training in the proper treatment of individuals in custody, which includes specific information regarding impermissible interrogation and restraint techniques, search and security procedures, excessive use of force and human rights and other issues relevant to compliance with the Convention.

127. The Prison officers of the Maldives Correctional Service (MCS) requires each employee to complete a familiarization training in proper correctional practices and “Custodial Management and Security Program” from Institute for Correctional Studies (ICOST). This training includes awareness in human rights, self-defence, domestic legal system, CAT, the role of NPM, introduction to human rights treaties and OPCAT, the Constitution of the Maldives, Standard Minimum Rules and use of minimum force, ethics and conduct, prisoner supervision and retain techniques. Further, each employee stationed in the prisons must receive refresher training each year and various trainings such as juvenile justice, awareness to the Constitution are regularly conducted for the prison officers. Additionally NPM conducts regular training programs for prison and custodial officers and staff of detoxification centres during their monitoring visits to such facilitates.

Training of judges and magistrates

128. The Maldives Judicial Academy (MJA) conducts induction training for the newly appointed Magistrates and Judges, which consists of educating the Magistrates with the newly concluded laws and the important areas of the Constitution as well as to provide them with the opportunity to be aware of the work done by the Superior Courts. The training of judges and magistrates and educating the magistrates with laws and providing judicial education was a mandate of the Department of Judicial Administration (DJA). However, following the establishment of the MJA in 2015, the mandate providing judicial education for judges and officials of the judiciary is vested upon the MJA.

129. The Juvenile Justice Unit (JJU) of the Ministry of Home Affairs also conducts juvenile justice program for the magistrates of the lower courts and other related authorities focusing on ways to deal with the juvenile justice issues in the Maldives. The following table gives details of training completed in the last three years.

<i>Year</i>	<i>Training program</i>	<i>Area</i>	<i>No. of participants</i>
2013	Evaluating the value of forensic evidence	Crime Justice	20
2014	Criminal procedure and sentencing	Crime Justice	25
2015	Judicial seminar on the New penal code	Crime Justice	24

Article 11**Interrogation techniques**

130. In the Maldives, interrogation of a suspect is strictly regulated by rules and regulations based on the Constitution. Law enforcement officers are instructed and trained in these rules as well as consequences of their failures to abide them. As a result, the methods and techniques of interrogation of the suspects and treatment of persons subject to arrest, detention or imprisonment are constantly reviewed.

131. Chapter 6 of the Anti-torture Act lays down the detainees’ access to medical care. Under section 19 (a) of the Act, the person has the right to seek medical care depending on his health condition, and the right to request a consultation with a doctor who works at a different location from where he is being held. It also provides that the detainee be informed that he has the aforementioned rights. Section 19 (b) provides that, should a detainee seek for consultation for medical care, it should be provided to him within 24 hours.

132. Within the first 24 hours after being released from detention, the person has the right to seek medical care at the location at which he was detained, as per section 19 (d), Section 19 (e) provided that, should a person request for such medical care after release from detention, it shall be provided to him within 24 hours from his request.

133. The NPM has carried out several monitoring visits to the places of detention and identified various types of issues that could lead to torture, cruel or inhuman treatment in the detention facilities. Apart from prisons, these also include police custodial facilities, juvenile detention centres and psychiatric facilities. Regular unannounced visits and inspections at places where people are deprived of their liberty, torture and other inhuman or degrading actions have been minimized or at least there is a better monitoring mechanism through regular inspections. Recommendations are made for improvement on the general conditions which could lead to torture and there is a system where NPM monitors the progress of implementation of recommendations. An audit of NPM recommendations from 2009-2014 recommended the speeding up of the investigation process and to send to prosecution promptly.

134. Subsequent to each investigation, the Human Rights Commission of Maldives (HRCM) prepares a case report, which includes the complaint, the evidence, the relevant legal points that underlie HRCM's conclusion and if any, recommendations to the Minister of Home Affairs. The Forensics Department of the Maldives Police Service will collect the necessary forensic evidence with the victim's assistance and submit to the court for prosecution. With a court order, the offender can be held in the custody of Maldives Police Service, until the criminal investigation is complete and sentencing is carried out. The cases are investigated based on the evidence and all the related authorities are informed of result of the investigation.

Article 12

Prompt and impartial investigation

135. Article 50 of the Constitution states that "after notice of an alleged offence has been brought to the attention of the investigating authorities, the matter shall be investigated promptly, and where warranted, the Prosecutor General shall lay charges as quickly as possible."

136. According to Section 50 of the General Regulation of the Maldives Police Service, "the accused must be informed of his/her right to a legal counsel at the time of his/her detention". Section 51 states that "he/she must be given the opportunity to call his/her legal counsel and once a legal counsel is appointed interrogation must not be carried out in absence of the legal counsel". Section 54 stipulates that "the legal counsel must be informed about the time and place of interrogation 18 hours before the interrogation". Section 56 states "the accused must be given the opportunity to meet his/her legal counsel privately".

137. Interview must be carried out at a police station, any place of detention under the laws, any place under the MPS, or at any place determined by the police depending on the situation. Audio recordings are made of all interviews and statements during the investigations. The Police may make video recordings of the interviews under Section 101 of the Police General Regulation.

138. Section 50 of the Prison and Parole Act requires for a medical assessment to be completed before the prisoner is admitted into the prison. Section 20 (b) lays down the objectives to be achieved through the medical assessment. For instance, to ensure the medical attention the prisoner may require, and to ensure whether or not he/she is physically fit to perform any work.

139. Section 51 of the Prison and Parole Act requires the men and women to be kept separately, while section 52 ensures the stay of a child below 2 years of age to stay with the mother. However, the child can only stay with the mother until the child is of 2 years. This is monitored by a regulation made under the Act. Section 52 (b) requires for a guideline to be made, to ensure the supplication of medical care, food and drinks for the children during their stay with the mothers, at the prison.

140. As per the principle of the rule of law and good governance, investigation officers at all levels proceed with a thorough, prompt and impartial investigation whenever there are reasons to believe that an act of misconduct has been committed an immediate investigation will be carried out by fraud detection and intelligence unit.

141. Further, if acts of abuse, torture or ill-treatment are suspected or reported, a thorough investigation is carried out at the disciplinary boards within the competent authorities. If the official's actions are proven; necessary actions such as temporary detention and relieving of duty is strictly enforced.

Article 13

Right of the victim to complaint to competent authorities

142. Any victim subjected to torture or degrading treatment has the right to lodge complaint and have the case promptly and impartially examined by competent authorities. The avenues of redress for a victim alleged to abuse include lodging a complaint to initiate an impartial investigation. The victim is also provided with the right to submit the case for investigation to any national protection body for an independent investigation. It is also required by law to maintain the confidentiality of the case and victim's identity and is strictly enforced in places of detention and custodial.

143. In the Maldives, the competent authorities to whom victims often complaint are:

- Ministry of Gender and Family
- Ministry of Home Affairs
- Human Rights Commission of the Maldives
- National Integrity Commission

144. Section 18 of the Anti-Torture Act provides the right to the victims of torture, cruel, inhuman or degrading treatment or punishment to lodge complaints to HRCM. The HRCM must carry out independent and impartial investigation of the complaints and send the cases to the Prosecutor General's Office if the investigation of the HRCM finds that the case involved torture. The HRCM must monitor the case regularly and inform the victim about the progress of the case. HRCM and Prosecutor General's Office must assist the victim and his/her legal assistants during the court proceedings. Further, the Act requires the competent authorities and the court to act in a manner that protects the victims from further intimidation and humiliation in all the processes entailed in lodging complaints and in court proceedings.

145. Complaint procedures are also established under the Maldives Prison and Parole Act. An Inspector of Correctional Services must be appointed by the Minister of Home Affairs to inspect all places of detention under the Act. Under sections 9 and 10 of the Act, the Inspector shall report to the Minister directly. It is the responsibility of the Inspector to investigate independently and report to the Minister all complains of torture filed with him or her. Prisoners and detainees have the right to send complaints to the Inspector of Correctional Service. Most of the complaints submitted to the inspector are regarding the medical treatment of the prisoners. The Inspector analyses the complaints and collects necessary information from the relevant authorities such as MPS and MCS. After going through all the documents the Inspector responds to the letter. The letters to the prisoners are sent to through MCS. The Inspector of Correctional Service also visits the places of detention.

146. Article 13 of Prison and Parole Act, gives permission to international mechanisms in which the Maldives is a party, to inspect prisons and police custodial according to regulations, the article reads "international mechanisms, in which the Maldives is member, and the enforcement authorities of the International Conventions ratified by the Maldives may also inspect the prisons and police custodial according to the regulations made under the Act". Article 14 states "the temporary and permanent committees of the Parliament may also visit the prisons and police custodial".

147. The HRCM has the power to visit and inspect the places of detentions monitored by the Maldives Correctional Services. Article 12 of the Prison and Parole Act vests the power

on HRCM “to visit and inspect the prisons and custodial and submit the report of the visit to the President, Maldivian Parliament and Prosecutor General’s Office”. As HRCM has been appointed as the NPM, it has made several visits to the prisons and police custodial and other places of detention. Reports are duly prepared on their visits and contain their findings and recommendations.

148. As per Section 18 of the Anti-Torture Act, “HRCM has the power to carry out independent and impartial investigation of the complaints”. HRCM has also recently established a toll free no (1424) to report any cases of torture as well as a dedicated anti-torture department.

Year	No. of cases lodged with HRCM with regards to	
	Inhuman treatment of arrested or detained persons	Degrading treatment or torture
2008	3	72
2009	7	30
2010	2	26
2011	5	25
2012	4	103
2013	5	52
2014	6	29
2015	8	69

149. The Maldives Correctional Services (MCS) has a mechanism for lodging complaints about ill treatment or poor services to any prisoner. The prisoners can lodge a complaint to the department or any other relevant entity with legislative or administrative setup for addressing such complaints. Upon request such authorities will be allowed to meet and question inmates and officers, and look into the processes and facilities for investigation where appropriate.

150. As per Professional Standards Command of the Maldives Police Service, only one case has been proven to involve torture, inhuman and degrading treatment. This case was investigated by the Professional Standards Command and submitted to the Disciplinary Board. The Disciplinary board concluded that there was sufficient evidence to prove that the case involved torture. Hence, the Disciplinary Board decided to dismiss the police officer from the service under section 8 (g) of the Regulation on Disciplinary and Administrative offence and punishment to those offences.

151. It is to be noted that at the time of the accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Maldives did not make a declaration under Article 22 to accept the competence of the Committee against Torture (CAT) to receive complaints from individuals.

Article 14

Right of the victim to redress

152. Article 65 of the Constitution states that “Anyone whose rights or freedoms, as guaranteed by this Chapter, have been infringed or denied may apply to a court to obtain a just remedy”. Article 144 of the Constitution states that “when deciding a constitutional matter within its jurisdiction, a court:

(a) May declare that any statute, regulation or part thereof, order, decision or action of any person or body performing a public function that is inconsistent with the Constitution is invalid to the extent of the inconsistency; and

(b) May in connection with a declaration pursuant to article (a) make any order that is just and equitable, including an order providing just compensation for any damage sustained by any person or group of persons due to any statute, regulation or action that is inconsistent with the Constitution”.

Right to compensation

153. Chapter 9 of the Anti-Torture Act contains provisions for compensation to the victims of torture. Section 29 of the Act states that “if acts of torture are proved before the court of law and the court convicts the person accused of torture under this Act, and then based on the conviction, the victim of torture has the right to be compensated”.

154. Anti-Torture Act stipulates two ways the victim can be compensated. That include:

(a) Compensation for any economically assessable damage resulting from torture such as; material damage, loss of earning, expenditure on medical care due expenditure on legal assistance; and

(b) Compensation for damage that cannot be assessed economically such as; harm caused to the body due to torture; loss of an organ due to torture; dysfunction of an organ due to torture; the inability to live as he/she used to due to the loss of an organ or dysfunction of an organ; the pain to be suffered due to torture; hindrances to work or get a job due to the disability due to torture; psychological harm and emotional distress.

155. Section 33 of the Anti-Torture Act states that “the type and amount of compensation to be given to the victim of torture will be decided by the court depending on the case and as per the guidelines set by the court”.

Right to rehabilitation

156. Chapter 10 of the Anti-Torture Act contains provisions about rehabilitation of the victims of torture. Section 34 of the Act states that “within 1 year of enforcement of this Act, the Ministry making policies on health, Attorney General’s Office and the HRCM must coordinate and fix programs for the rehabilitation of the victims of torture”. These programs must be made public. The victim’s family must also be able to participate in the rehabilitation programs. While fixing the rehabilitation programs, participation of the human rights promoting NGO’s should be ensured and the rules for the programs must be set in such a way so that the NGO’s have a role in carrying out the programs.

157. Section 35 of the Act provides that the same procedure must be followed to fix programs for those who commit acts of torture.

Article 15**Value of statements taken under torture**

158. According to Article 52 of the Constitution, “No confession shall be admissible in evidence unless made in court by an accused who is in a sound state of mind. No statement or evidence must be obtained from any source by compulsion or by unlawful means and such statement or evidence is inadmissible in evidence.”

159. Section 5 (a) of the Anti-Torture Act also states that “any verbal confession made or a report submitted to a Court in the Maldives, or a written document agreeing to have committed a certain act, is a result of torture or inhuman and degrading punishment, it shall be considered void under Article 52 of the Constitution”.

160. The Criminal Procedure Code enacted in 2016 codifies in detail the rules to investigate, prosecute and pass judgement on suspected criminal offenders. Article 48 of the Criminal Procedure Code states that, “when questioning a person under any circumstances, a law enforcement officer must not use torture or intimidation to persuade the person to answer questions or make a confession”.

Article 16**Obligation of the State to prohibit acts of cruel inhuman or degrading treatment or punishment***Protections provided in the domestic law*

161. Article 54 and 57 of the Constitution covers all aspects of the Article 16 of the Convention. Article 54 stipulates that “no person shall be subjected to cruel, inhumane or degrading treatment or punishment or to torture”. Article 57 states that Everyone deprived

of liberty through arrest or detention as provided by law, pursuant to an order of the court, or being held in State care for social reasons, shall be treated with humanity and with respect for the inherent dignity of the human person. A person may be deprived of the rights or freedoms specified in this Chapter only to the extent required for the purpose for which he is deprived of his liberty”.

162. Furthermore, the domestic laws of the Maldives ensure the protection of persons from cruel, inhuman or degrading treatment or punishment. The Anti-Torture Act lays down the main policies and rules to prohibit and prevent such acts and also criminalizes such acts of cruel, inhuman or degrading treatment or punishment and provides punishments for those who commit such acts. According section 16 of the Act, “it is absolute right of everyone to be free from torture, cruel, inhuman or degrading treatment or punishment. State of war, political unrest, increase rate of crimes, state of emergency is not an exception or a justification for acts of torture, cruel, inhuman or degrading treatment or punishment”.

163. Section 10 of the Act defines “torture” and according to Article 10(c) the term “torture” “includes physical, psychological torture and also acts of cruel, inhuman or degrading treatment”. According to section 11 of the Act “cruel, inhuman or degrading treatment” includes those acts of torture which does not fall under Article 13 (physical torture) and Article 14 (mental torture) which is caused to an individual or a person under the control of a public official under the order or with consent or knowledge of that staff due to which severe pain is caused to that person or due to which he/she is caused to believe that he/she has no human dignity”.

164. Public officials are fully bound by these provisions in the Constitution and the domestic laws. For instance, the Police Act in its Article 7(1) also “obliges every police officer to fully abide and comply with the Constitution of the Maldives; and laws and regulations of the Maldives”.

Living conditions in police detention centres and prisons

Food and water

165. Pursuant to Section 71 of the Prison and Parole Act, all prisoners are provided food at the prisons, quality of food is checked by the Officer-in-Charge (i.e. senior officer) of the prison. Moreover, Maldives Food and Drug Authority, at any time, can visit and inspect the food preparation area and processes and take actions up-to temporary shutting down of the area until the minimum requirements are met. For inmates with special diet needs due to medical reasons, meal arrangements will be made after consulting with the medical practitioner. Water is provided by using the means that are established for general public use in the particular island where the prison facility is established. The food and drinking water must be approved by the relevant authorities of the government. Special food must be arranged for those prisoners who require special diet due to medical conditions.

166. The NPM visited Dhoonidhoo Police Custodial in 2014 and found that the water within the facility was unsuitable for drinking; hence, this case was investigated by the HRCM. However, in the most recent visits to the facility in 2015, NPM noted that the situation had improved and the issue has been resolved.

Medical care

167. General medical services are provided through the setup in the particular island or by medical officers stationed in each jail facility. In special and emergency cases inmates are transported to hospitals where such facility is available. Moreover, access to public health insurance scheme is also provided to inmates same as the general public.

168. According to section 75 of the Maldives Prison and Parole Act, “attested medical officers and psychiatric officers must be appointment in the detention centres depending on the prisoner population”. The medical officer must treat the prisoner in need of medical care and report to the director of prisons if special care is needed which cannot be provided in the prison. The medical officers must advice on the food to be given to the prisoners in need of special diet due to medical conditions. Section 76 states that “the medical officers

must also assess all the prisoners in order to determine his/her medical and mental state". If the medical officer refers a prisoner to a specialist, then the commissioner of prisons must ensure that the prisoner gets the required medical care. Section 77 states that "the commissioner must make arrangements to send the prisoners to another country if medical care cannot be provided in the Maldives. All medical records of the prisoners must be duly maintained".

169. Section 49 of the Maldives Prison and Parole Act requires that "a medical assessment of a prisoner is done before the imprisoning him in the jail. The medical officer or a nurse authorized by him/her must carry out the medical assessment and it must be done to see whether any physical or mental harm is caused and whether there would be any difficulties in the medical care due to the harm; the medical care required; whether there is a need to isolate him/her due to an infectious disease and to see whether he/she can work".

Other facilities

170. Prison inmates are provided with clothing and bedding as per guidelines setup by the Department. In order to cater for needy family contact, inmates are provided with opportunities for phone calls, family visits, and conjugal visits. However, conjugal visits are allowed only in Maafushi Jail. The frequency of these services depends on the rating of the inmate based on his/her behaviours at the prison facility rather than the security rating. Information regarding the rating system is provided to every prison inmates and also the information is available upon request.

171. Section 72 of the Prison and Parole Act also allows a minimum of one hour for exercise outside the cell, to those prisoners who do not work. Sections 68 and 69 of the Act elaborate on the facilities that must be provided to the prisoners. This list includes: proper passage of light; water and toilet facilities; shaving and haircut for male prisoners; proper arrangements for sleeping; arrangements for praying, reciting Qur'an and fasting; regular meals; medical care; arrangements for work and exercise; washing and changing the uniform or clothes; communicate and meet with the family; and writing and reading materials. In addition to these, the Director of Prison may provide some other facilities to the prisoners depending on their conduct, including the following: interaction with the prisoners; increase the opportunity of family visits under section 92 of the Act and marriage.

Female prisoners

172. Section 50 of the Maldives Prison and Parole Act stipulates that "the male and female prisoners must be kept separately. Under the Act, female prisoners can keep their breast-feeding children below 2 year of age with them till the child is 2 years old. Section 51 states that "the regulation to be made under this Act must contain the rules for the place of detention of such mothers and the medical care and food to be provided to the child".

Disciplinary measures against the inmates

173. Section 99 of the Maldives Prison and Parole Act provides that "an internal disciplinary system must be set up which will investigate the disciplinary problems independently". If a prisoner is suspected of any act considered as a jail offence or prison offence under section 97 of the Maldives Prison and Parole Act such as violating the jail officer's order or the disciplinary measures of the prison, the prison officer must inform the same to the Director of Prisons and the Director of Prisons shall investigate the matter immediately. When investigations are completed, if necessary, the Director of Prisons forwards the matter to the disciplinary board.

174. According to sections 98 and 101(b) and (c) the accused must be given an opportunity to defend himself/herself and the hearings must be completed within 14 days of the commission of the offences. Sections 102, 105 and 106 state that if the offence is proved, the prisoner may be given advice or a warning or punishment such as isolation for not more than 30 days, or suspend a privilege or privileges given to the prisoner for a period not longer than a month and that no prisoner shall be given any punishment which will harm the prisoners physically.

III. Conclusion

175. Since 2004, the Maldives has gone through a rapid process of democratization and governance reform. These reforms culminated in the 2008 Constitution, with complete separation of powers, and an expansive bill of rights. Yet, institutional development is taking time to develop and accumulate expertise to enable the emergence of a system envisioned in the Constitution. The continuing challenges with the absence of effective laws, structures and institutional capacity has also affected human rights reporting in the Maldives, resulting in significant delays in the submission of reports under various Conventions.

176. In order to promote compliance with the standards set out in the Convention, strong policies and independent investigative bodies are set in place for those who believe they have been victims of abuse. Anti-Torture Act signifies both the fruition of the Maldives' efforts and the benchmark it has set towards meeting its international obligations under the Convention against torture.

177. The Maldives is committed in its efforts to ensure that appropriate guidelines on the use of force are respected and that the prohibitions against torture and other forms of abuse by law enforcement and correctional officials are observed in practice. Further, the Maldives at every level is committed and is guided by the law as well as by policy, to protect individual's life, liberty and physical integrity and to make necessary reforms of the relevant policies, practices and institutions in order to assure compliance with the convention.
