

## MALDIVES

### EXECUTIVE SUMMARY

The Republic of Maldives is a multiparty constitutional democracy. In 2008 parliament ratified a new constitution that provided for the first multiparty presidential elections. In relatively free and fair elections in October 2008, Mohamed Nasheed became the country's first directly elected president. Security forces reported to civilian authorities.

The most significant human rights problems include restrictions on religious rights, abuse and unequal treatment of women, and corruption of government officials. The constitution requires all citizens to be Muslim, and the government's Ministry of Islamic Affairs actively polices and enforces compliance with Islamic practices. There were reports of religion-related self-censorship in the press and among civil society contacts. Nongovernmental organizations (NGOs) condemned the performance of the judiciary and executive branch for their inadequate treatment of criminal cases, especially rape. Corruption existed within the judiciary, members of parliament, and among officials of the executive and state institutions.

Other human rights problems reported included flogging, arbitrary arrests, harassment of journalists, and discrimination against expatriate laborers. Migrant laborers were subjected to labor abuses and were the primary victims of human trafficking. Many laborers migrated illegally into the country, making them particularly vulnerable to forced labor and debt bondage.

The government took steps to prosecute and punish some police and military officials who committed abuses, but several judges allegedly enjoyed impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On January 14, Abdulla Basith Zubair died while in police custody. Zubair was arrested along with another man on charges of drug possession. The police claimed that Zubair died of an overdose, but Zubair's friends accused the police of beating him to death, claiming that one of Zubair's friends witnessed the incident.

The Police Integrity Commission (PIC) investigated the case and concluded that the police were not responsible for Zubair's death, although the PIC called for revised safety procedures when holding suspects. According to Zubair's autopsy report, there were no signs of injury on Zubair's body and he died of cardiorespiratory arrest.

### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, although there were reports of mistreatment of individuals by security forces, including beatings by the police, and unconfirmed reports of torture in custody.

On January 22, a 17-year-old boy told the media that he was arbitrarily arrested and beaten by a squad of policemen in Male. According to the boy, a policeman approached him earlier that day while he was on the telephone, and he declined to respond. The police allegedly beat the boy and claimed the boy attempted to attack a policeman. The police acknowledged that the boy had submitted a complaint that he was tortured and were investigating the matter.

During the year the PIC reported the incident of a woman who was physically and sexually abused inside a police car by four police officers, taken around the city for an indeterminate period, made to strip her clothes, and thrown out of the car onto the street. The police discharged the four officers, but at year's end there were no criminal charges. The PIC was investigating the case.

In July two men arrested in relation to an abortion case in Thinadhoo lodged a complaint with the PIC that police tortured them while in detention. The case was under investigation.

The law permits flogging as a form of punishment. According to 2010 statistics from the Judicial Services Administration, the courts sentenced 96 individuals to flogging; more than 80 percent of those convicted were women. Three of these sentences were from the juvenile court and 52 from atoll courts. Most flogging sentences were given for birth out of wedlock and fornication, resulting in a disproportionate number of women flogged. At the end of August, 71 cases of

birth out of wedlock were lodged with the police, of which 61 cases were investigated and forwarded to the prosecutor general. While pregnancies incriminate women, men can deny the charges and escape punishment because of the difficulty of proving fornication or adultery under sharia (Islamic law). The higher conviction rate for women allegedly was due to gender insensitive judges and the dismissal of forensic evidence by the courts. In the absence of an evidence act, judges used forensic evidence at their discretion.

### **Prison and Detention Center Conditions**

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. The Department of Penitentiary and Rehabilitation Services (DPRS) oversees the operation of three prison facilities and one remand center: Maafushi Prison, Asseryi Prison, Male Prison, and Male Remand. Male Prison and Male Remand are located in the capital city, and the other prisons are located on separate islands within a one-hour boat ride from the capital city. The DPRS incarcerates only convicted prisoners. After the ratification of the constitution, pretrial detainees were held separately from convicted prisoners. Detention facilities were located on Dhoonidhoo Island and Maafushi Island. Women are held separately from men in Maafushi Prison and guarded by female prison officers. Conditions in the women's area of the prison were similar to those in the men's area, although there were fewer female inmates per cell.

Juveniles awaiting sentencing are held in a juvenile correctional facility on Feydhoofinolhu Island until their cases are heard. Most convicted juveniles are held under house arrest because there are no juvenile pretrial detention centers in the country.

The DPRS prison system has an estimated capacity of 765 prisoners, and the total prison population was 822. Of this population, 787 were men and 35 were women. Drug offenders accounted for 66 percent of the prison population, of which approximately 70 percent were incarcerated for drug use and 1 percent for drug possession.

The government generally permitted regular prison visits by the Human Rights Commission of Maldives (HRCM), the International Committee of the Red Cross (ICRC), and other international assessment teams. The UN Development Program (UNDP) published a prison assessment in September, for which they interviewed 60 percent of the prison population. Major complaints included a lack of

structured programs, use of torture and inhumane treatment, discrimination towards foreign prisoners, politicians providing false hope in return for participation in riots and protests, a lack of segregation according to crime or discipline, and the availability of drugs inside prison. The UNDP report noted that prisons lacked qualified personnel, adequate educational facilities, vocational guidance, and drug rehabilitation programs. The report noted the need to pass the penal code, criminal procedure code, evidence bill, drugs bill, and prison and parole bill as a matter of urgency, noting that in the absence of these bills, the existing legislative framework would not support the human rights guaranteed under the constitution.

In its 2010 annual report, the ICRC stated that it visited detainees at six detention facilities and shared its findings and recommendations confidentially with authorities. The ICRC reported that the organization would phase out prison visits because there were no longer security-related prisoners.

The National Preventive Mechanism (NPM) established by the HRCM monitors any death or other allegations related to prisons or prison authorities. The HRCM maintains a Web site in which reports on occasional jail visits, other human rights investigations, and annual reports were available.

During the year the NPM visited nine police custodial centers: Male Police Custodial, three island police stations, Dhoonidhoo Police Custodial immigration detention centers in Male and Hulhumale, Male Prison, and a Correctional Training Center for Children in Feydhoofinolhu. After a visit to Dhoonidhoo Police Custodial in February, the NPM observed that conditions had improved from 2010. Prisoners had access to potable water. Nonetheless, it reported complaints of harsh disciplinary punishment and humiliating security checks. It also noted that the sanitary conditions in the cells were unsatisfactory. The NPM recommended that police conduct human rights training or refresher courses for officers, allow detainees in solitary confinement out of the cell for a walk every few days, establish a mechanism to expedite investigation and trial, and build a separate unit for juvenile detainees. The NPM also visited a home for people with special needs, a drug rehabilitation center in Himmafushi, an education and training center for children, and the orphanage in Villingili.

The NPM makes a visit plan a year ahead, conducts visits throughout the year according to this plan, and publishes an annual report of its findings. During the year, however, the NPM decided not to make full detention reports available to the

public. It now publishes a short summary of each visit and sends the full detention report to the president, parliament, and other relevant offices.

In order to reduce overcrowding at Maafushi Prison, the government built a new wing for 300 persons, and prisoners were transferred to the facility in late 2010. The DPRS implemented a Second Chance Program as an alternative sentencing program to decriminalize minor drug offenses and focus on rehabilitation. The DPRS reported that it had a database, recordkeeping system, and adequate communication between the prisons and headquarters and between the DPRS and Maldives Police Service (MPS).

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The constitution also provides compensation for those detained without legal justification. On August 16, the Civil Court ordered the police to pay compensation to opposition Member of Parliament Abdullah Yameen who was, according to Amnesty International, arbitrarily arrested and detained in June 2010. No charges were filed against Yameen.

#### **Role of the Police and Security Apparatus**

The Maldives National Defense Force (MNDF) is responsible for external security and also handles disaster relief operations and national emergencies. The director of the MNDF reports to the minister of defense. The president is commander in chief of the MNDF. The MNDF has a program of human rights awareness courses for personnel.

The MPS, which is responsible for internal security, public safety, and law and order, is subordinate to the Ministry of Home Affairs. The MPS generally functioned effectively to fulfill its responsibilities and established internal organs and mechanisms with a human rights focus.

The prosecutor general referred cases to appropriate courts based on the results of police investigations. The authorities generally kept the details of a case confidential until they were confident that the charges were likely to be upheld. Three units--the Special Weapons and Tactic Team, Industrial and Personal Security Unit, and Riot Police--all under the Special Operations and Security Department of the MPS, replaced the Star Force, formerly an elite unit of the MPS.

The PIC, established in 2006 to investigate allegations of police corruption and impunity, is the primary mechanism available to investigate security force abuses. According to the PIC, there was a culture of disrespect for the laws and of police abuse.

By August 22, the PIC received 101 complaints, of which 46 were concluded and two sent to the Prosecutor General's Office. According to the PIC, approximately 98 percent of its recommendations made to the home ministry over the last two years had not been implemented.

### **Arrest Procedures and Treatment While in Detention**

The law states an arrest cannot be made unless the arresting officer observed the offense, had reasonable evidence, or had an arrest warrant issued by a court. The constitution provides for an arrestee to be informed of the reason for arrest within 24 hours and provides for the right to retain a lawyer. The law also requires that an arrestee be informed of the right to a lawyer at the time of arrest. Prisoners have the right to a ruling on bail within 36 hours; however, bail procedures were not implemented consistently. Under the 2008 constitution, a lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. According to the attorney general, police normally informed the arrestee's family of the arrest within 24 hours, although the law does not require that police inform the family of the grounds for the arrest. Authorities generally permitted detainees to have counsel present during police questioning.

The law provides for investigative detention. Once a person is detained, the arresting officer must present evidence to a court within 24 hours to justify continued detention. Based on the evidence presented, the prosecutor general has the authority to determine whether charges will be made. If law enforcement authorities are unable to present sufficient evidence within 24 hours, the prisoner is eligible for release. Judges have the authority to extend detention upon receiving an arresting officer's petition, citing factors such as the detainee's previous criminal record, the status of the investigation, the type of offense in question, and whether the detainee would pose a threat if released.

The PIC reported receiving complaints of police misusing a gray area in the constitution on the rights of detainees between capture and formal arrest. Sources reported that police held suspects under the investigative detention provision without formal arrest for a few hours to a few days. Such a procedure allegedly

was used to remove groups from the streets and control gang activities. There is no formal record of investigative detentions as there would be with an arrest.

The HRCM operated a complaints department to address prisoner complaints and publish its findings online. By August, 390 complaints were lodged; 78 complaints were on rights of arrestees and detainees, and 16 were for degrading treatment or torture while in detention. The investigation department at the HRCM investigated and forwarded these cases to the legal and policy department for an opinion, after which the commission members issued decisions.

On July 26, the president announced a Second Chance Program to release close to 400 convicts through a mentorship program. People charged with pedophilia, drug offenses, and gang violence were not eligible for the program. In August, 47 inmates were released after completing a series of mentor trainings, life-skills programs, and religious classes. The inmates had their sentences suspended for three years under a presidential prerogative, but the mandated police support and monitoring was inadequate.

#### **e. Denial of Fair Public Trial**

While the law provides for an independent judiciary, there were numerous allegations of bribery and abuse of power within the judiciary. Government loyalists and opposition members alike accused the judiciary of being politically biased. A number of judges were known to base their rulings on cash rewards, and there were reports that lawyers occasionally built the cost of bribes into their fees. Consequently, the public had a general distrust of the judiciary.

In August 2010 the constitutional transitional period for the interim Supreme Court ended, and the government made final appointments to the Supreme Court. The seven-member court is independent from the executive. It hears appeals from the High Court and considers constitutional matters brought directly before it. In August 2010 the Judicial Service Commission (JSC) reappointed--and confirmed for life--191 of the 200 existing judges. Many of these judges held only a certificate in sharia, not a law degree. Most magistrate judges could not interpret common law or sharia because they lacked English or Arabic language skills. An estimated quarter of the judges who were confirmed for life had criminal records, and two of the judges had been previously convicted of sexual assault charges. The media and NGO community criticized the JSC for the appointment of unqualified judges, stating the move seriously compromised the integrity and effectiveness of the justice system.

## **Trial Procedures**

The law provides that an accused person is presumed innocent until proven guilty. There were no jury trials. Most trials were public and were conducted by judges and magistrates, some of whom were trained in Islamic, civil, or criminal law. Regulations rather than laws govern trial procedures. Judges question the concerned parties and attempt to establish the facts of a case. Accused persons have the right to defend themselves. During a trial the accused may call witnesses and has the right to be represented by a lawyer. The judiciary generally enforced these rights.

Both defendants and their attorneys have full access to all evidence relating to their case, have opportunities to cross-examine any witnesses presented by state, and can present their own witnesses and evidence.

Civil law is subordinate to sharia, which is applied in situations not covered by civil law, as well as in family matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally do not allow legal counsel in court because, according to local interpretation of sharia, all answers and submissions should come directly from the parties involved. The High Court, however, allows legal counsel in all cases, including those in which the right to counsel was denied in a lower court. Those convicted have the right to appeal. The testimony of women is equal to that of men for finance and contract matters.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees. Local NGOs confirmed that no one had been arrested solely for his or her political beliefs. As for previous political prisoners, NGO observers claimed that they had been released after the charges against them were withdrawn or found to be without merit.

## **Civil Judicial Procedures and Remedies**

A civil court addressed noncriminal cases.

### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The law prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, “except as expressly

provided by law.” In practice the government generally respected privacy rights. Security forces may open the mail of private citizens and monitor telephone conversations if authorized to do so by a court during a criminal investigation. There were reports of illegal recording of phone conversations allegedly by the MNDF.

The constitution provides that residential premises and dwellings should be inviolable and can be entered without consent of the resident only under exigent circumstances or under the authorization of a court.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and press, except on religious matters, and the government generally respected these rights in practice. An independent press, the judiciary, and a new democratic political system combined to ensure freedom of speech and press except for any discussion of religious issues. The law limits a citizen’s right to freedom of expression in order to protect the “basic tenets of Islam” and prohibits inciting citizens against the government.

Freedom of Press: Criticism of the government and debates on difficult societal issues were commonplace if they did not raise any question of Islamic values. There were a few incidents of journalists who were covering political events being threatened or attacked by both government and opposition supporters. On May 1, police detained two journalists from *Haveeru Daily* newspaper and a *Sun* journalist who were covering a protest against rising commodity prices in the country. The journalists were released within 24 hours, but they claimed that police used force and pepper spray even though they were wearing their press tags.

There were reports throughout the year of police questioning journalists about the source and authenticity of newspaper articles and broadcasts. According to the Maldives Journalists’ Association (MJA), a number of journalists from *Haveeru*, *SunFM*, and *DhiFM* repeatedly were summoned by the police for questioning. In February two journalists from *Haveeru Daily* were summoned for questioning after they published a newspaper article about a pornographic video racket that involved well-known public figures.

On July 7, the MJA released a press statement calling on police to stop summoning journalists for questioning about their sources of information. Article 28 of the constitution stipulates that no person shall be compelled to disclose the source of information that is espoused, disseminated, or published by that person. The MJA noted that if a journalist violated the code of conduct, the Maldives Medial Council and the Maldives Broadcasting Commission were responsible, as per the constitution, for investigating the matter and holding the journalist accountable.

On August 25, the Criminal Court barred journalists from a hearing in the corruption case on the deputy speaker of parliament. The Criminal Court media officer told reporters that the judge decided to hold a closed hearing on the grounds that the media were contributing to the public's negative perception of the courts.

Censorship or Content Restrictions: NGO sources stated that in general the media practiced self-censorship on issues related to Islam due to fears of being labeled "anti-Islamic" and subsequently harassed.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values, such as Bibles and idols for worship.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

The Ministry of Islamic Affairs continued to block Web sites considered anti-Islamic or pornographic. In November the Telecommunications Authority blocked and banned a Maldivian-based blog, Hilath.com, at the request of the Islamic Ministry because of its anti-Islamic content. The blog was known for promoting religious tolerance, as well as discussing the blogger's homosexuality.

### **Academic Freedom and Cultural Events**

The law prohibits public statements contrary to government policy or the government's interpretation of Islam. In response to the law, there were credible reports that academics practiced self-censorship. The government censored course content and curriculum. Islam is the only religion taught in the schools.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The constitution provides for “freedom of peaceful assembly without prior permission of the State,” and the government generally respected this in practice.

There were allegations by reporters that the MNDF and police at times used force to disperse protesters.

During a series of protests in May, reporters and opposition members claimed that police used force to disperse the crowd. Protests turned violent several nights with protesters vandalizing shops, damaging police stations, and throwing petrol bombs. Several protesters and police officers were injured. According to the police, gang leaders were actively involved in the protests. The HRCM issued a press release advising people not to misuse the right to protest and or obstruct the media. The commission also called on the police not to use methods that may harm protesters and civilians when dispersing crowds. The MNDF presence was minimal throughout the protest period.

### **Freedom of Association**

The constitution provides for freedom of association, but the government imposed some limits on this freedom in practice. The government registered clubs and other private associations only if they did not contravene Islamic or civil law.

## **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

## **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Employers often housed foreign workers at their worksites.

The law allows for banishment to a remote atoll as a punishment, but the provision was seldom practiced. In August, however, the Criminal Court found independent Member of Parliament Ismail Abdul Hameed guilty of corruption and sentenced him to 18 months' banishment.

### **Internally Displaced Persons (IDPs)**

During his July visit, the UN special rapporteur on the human rights of internally displaced persons found that 1,600 IDPs remained from the 2004 tsunami and continued to live in very difficult conditions in temporary shelters. The special rapporteur stressed that legislation and policy should address internal displacement, including that resulting from climate change, coastal erosion, salination, rising sea levels, and more frequent storms and flooding.

### **Protection of Refugees**

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees.

Nonrefoulement: The government states it would provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. There is no set policy or law for handling refugee matters.

## **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

### **Elections and Political Participation**

Recent Elections: In relatively free and fair elections in October 2008, Mohamed Nasheed, a former political prisoner, became the country's first directly elected president. In May 2009 the country held its first multiparty parliamentary elections. Although there were sporadic confrontations and reports of electoral irregularities, including allegations of bribery and intimidation, election observer

groups, such as Transparency Maldives and the Commonwealth, reported the elections to be generally free and fair. There were no credible reports of malfeasance in the February local elections.

Participation of Women and Minorities: There were five women in the 77-member parliament. While 213 women competed in the local council elections, only 57 of the 1,086 councilors elected were women. There were three women in the 10-person cabinet. Parliament approved a woman as commissioner of the Human Rights Commission, but the female nominee for vice commissioner was not approved by parliament because parliamentarians expressed concern about having two women leading the commission. A report published during the year by the HRCM concluded that the representation of women in public life was minimal because of lack of family support, limited experience in the political arena, inadequate access to funding, and advocacy by radicals against women's participation in political and public life.

#### **Section 4. Official Corruption and Government Transparency**

Although the law provides criminal penalties for official corruption, the government did not implement the law effectively, and officials regularly engaged in corrupt practices with impunity. An independent Anti-Corruption Commission (ACC) was responsible for investigating corruption charges involving senior government officials. According to the ACC, a limited definition of corruption in the 2000 Corruption Act and the lack of a provision to investigate and prosecute illicit enrichment limited the commission's work. The ACC reported that although the government did not attempt to influence the commission's work, it released statements that conflicted with the ACC's rulings on certain cases and failed to move any corruption cases identified by the ACC to court. Out of more than 1,600 corruption cases reported to the ACC since 2009, the commission had been able to investigate only 223 cases due to a lack of capacity. The ACC forwarded 16 cases to the Prosecutor General's Office, but none of these cases were filed in court at year's end. An April Transparency International public survey of 1,001 Maldivians found 90 percent of those surveyed believed that "corruption has increased" or remained level over the last three years, and more than half of the respondents categorized parliament and political parties as "extremely corrupt."

NGOs noted that companies belonging to ruling party members or parliamentarians won a disproportionate number of bids, despite clear evidence that some of these companies lacked the means to complete the projects. There were allegations that deaths caused by a dengue outbreak during the year could

have been prevented if the government had appointed health-care professionals, instead of activists from the ruling party with no medical background, to manage health-care facilities. Judges were notorious for taking bribes. Parliamentary members were accused of illicit enrichment, with opposition members changing parties and subsequently acquiring lucrative business contracts, new cars, and houses. Vote buying in parliament reportedly hindered substantive discourse on key legal and public welfare legislation.

Local anticorruption NGO Transparency Maldives reported corruption across the judiciary, parliament, and members of the executive. Several high-profile parliamentarians, including the deputy speaker of parliament, had corruption cases pending in court. During the year one member of parliament was convicted of corruption and sentenced to 18 months' banishment. The ACC was also investigating cases of bribery and corruption involving other parliamentarians.

No laws provide for access to government information.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

Government Human Rights Bodies: The HRCM was fully functional, with Mariyam Azra as its commissioner. The HRCM reported that although there was no state interference in its work, the level of cooperation from parliament and government offices was low. Parliament was slow to pass pending pieces of key human rights legislation. The judiciary had a low level of understanding and acceptance of human rights and hence made it difficult for the commission to obtain important information from the courts. The HRCM also noted the public's low level of understanding of its mandate. For example, some people interpreted the HRCM's mandate to defend human rights to mean resolving disputes between neighbors.

In 2009 the HRCM established an NGO Network to support and assist human rights NGOs and to secure the cooperation of NGOs. At year's end there were 48 NGOs in this network.

## Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for the equality of all citizens, but there is no specific provision to prohibit discrimination based on race, gender, religion, disability, or social status. Women traditionally were disadvantaged, particularly in the application of sharia in matters such as divorce, education, inheritance, and testimony in legal proceedings.

In an August 12 report, the UN Committee on the Elimination of Racial Discrimination stated that it was concerned “about the requirement that all citizens be Muslim, which restricted access to citizenship and public office...and fundamental rights and freedoms.”

### Women

In 2008 the government changed the Ministry of Gender and Family to the Ministry of Health and Family to pursue a policy of gender mainstreaming to provide for gender equality. The empowerment of women was presented as a key aspect of all government policy initiatives, activities, and planning.

Rape and Domestic Violence: Rape is not classified as a separate offense in the penal code and cannot be prosecuted under any act. Other provisions of the law are used to criminalize rape. The Prosecutor General’s Office uses sexual assault or forced sexual misconduct charges depending on the gravity of the offence. A man can be convicted of rape in the absence of a confession only if there are two male witnesses or four female witnesses willing to testify.

Media reports of violence against women and rape were common. Most rape cases reported in the media during the year were gang rapes and involved minors, expatriate workers, or drug users. In one case three men raped an expatriate nurse who was working on an outer island. Another case involved a 19-year-old male who sexually assaulted a 74-year-old woman in Addu Atoll. During the year the police received reports of 13 cases of rape and sent five cases for prosecution. The NGOs believed that most cases remained unreported due to fear of reprisals, losing custody of children, lack of economic independence, insensitivity of police when dealing with victims, absence of regulation in media concerning victim privacy, dealing with the stigma attached to being a victim, and low conviction rates. According to the HRCM, the delay in passing evidence and witness protection bills and the failure to enforce laws contributed to low conviction rates in rape and sexual assault cases.

Under the law spousal rape is not a crime.

Sexual Harassment: A 2006 Ministry of Gender and Family study on women's health and life experiences noted that one in three women between the ages of 15 and 49 reported some form of physical or sexual violence at least once in their lives. One in five women between the ages of 15 and 49 reported physical or sexual violence by a partner, and one in nine reported experiencing severe violence. One in six women in Male and one in eight countrywide reported experiencing childhood sexual abuse under the age of 15. Of those women between the ages of 15 and 49 who had ever been pregnant, 6 percent reported having been physically or sexually abused during pregnancy. Many respondents perceived women to be subordinate to men, and the majority of women indicated that women's subordinate position within marital relationships was the norm and desirable. Seventy percent of women surveyed believed that under certain circumstances, a man was justified in beating his wife and the most commonly accepted justifications for this were infidelity and disobeying a partner.

There are Family and Children's Centers (FCSC) on every atoll in the country. They are intended to help streamline the process of reporting abuse against women and children. The centers had a shortage of trained staff and faced legal challenges, such as collecting evidence about abuse cases.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of children, and to have the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care was widely available. According to the 2009 demographic and health survey conducted by the Ministry of Health and Family, 99 percent of women received prenatal care from a skilled provider. According to the survey, 95 percent of births in the five years preceding the survey were assisted by a skilled health worker. Only 6 percent of women did not receive any postnatal care. Women who live in Male had the highest rate of care (96 percent) from a gynecologist, doctor, nurse, or midwife, versus 90 percent in rural areas. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: Although women traditionally play a subordinate role in society, they participated in public life. Women constituted approximately 40 percent of

government employees. The literacy rate for women was approximately 98 percent.

Under Islamic practice husbands may divorce their wives more easily than vice versa, absent mutual agreement to divorce. Sharia also governs estate inheritance, granting male heirs twice the share of female heirs. According to the Prosecutor General's Office, unless the men in the family demand a larger share, property is divided equally among siblings.

The World Economic Forum's 2010 *Global Gender Gap Report* indicated that women who worked for wages received approximately 65 percent of what men in the same positions received. According to an HRCM report published in 2009, despite provisions in the constitution and the 2008 Employment Act, there were no policies in place that provided equal opportunities for women's employment. The absence of childcare facilities made it difficult for women to remain employed after they had children; it was socially unacceptable for women to stay on resort islands for extended periods, which discouraged women from working at tourist resorts. The HRCM also received reports that some employers discouraged women from marriage or pregnancy, as it could result in termination or demotion. A 2011 HRCM report noted that the state had fallen short of providing adequate measures to overturn women's subordinate role by failing to establish childcare centers and child-friendly working environments and failing to implement affirmative action.

## **Children**

Birth Registration: Citizenship is derived through one's parents. A child born of a citizen father or mother, regardless of the child's place of birth, can derive citizenship.

Education: Education is not compulsory, but there was universal access to free primary education. In many instances parents curtailed education for girls after the seventh grade by not allowing them to leave their home island to attend secondary school on another island. However, in 2010 the Ministry of Education established a secondary school on every inhabited island except for five islands that have fewer than 70 students. For these students there is a daily ferry service to a secondary school in a nearby island and a "schooling away from home" allowance for those in need. These new schools improved girls' access to schooling beyond primary education.

Child Abuse: The law sought to protect children from physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Health and Family has the authority to enforce the law and receives strong popular support. The ministry reported child abuse, including sexual abuse. The Child Sex Abuse Act codifies child sex offenses and stipulates sentences of up to 25 years in prison for those convicted. However, under Article 14 of the act, if a person is legally married to a minor under sharia, none of the offenses specified in the legislation would be considered a crime. There were reports that although the courts had the power to detain perpetrators, most were released pending sentencing and were allowed to return to the communities of their victims.

In 2009 the FCSC stated that the biggest challenge it faced in efforts to protect children's rights was the release of pedophiles into the communities of their victims. By the end of the year, the police received 344 cases of child abuse, of which 79 percent were sexual abuse cases. In addition the Department of Gender and Family Protection Services (DGFPS) received 1,138 cases of child abuse from Male and the atolls. A quarter of the cases were for sexual abuse, 17 percent of the cases were of parental neglect, and 10 percent of the cases related to physical abuse. The DGFPS also received one case of prostitution of a child under 16. According to the DGFPS, it did not have the resources to remove children from abusive environments, and there was minimal support from the island community when trying to place abused children in safer environments. There are no laws or regulations dealing with cases of neglect.

The DGFPS stated that reports of sexual abuse were increasing, and underage marriage and pregnancy were major concerns. During the year four cases of underage pregnancy were reported to the DGFPS. The increase in the cases of sexual abuse reported appeared to be due to increased public awareness. However, the DGFPS noted that people hesitated to report abuse if it was happening within the family.

Child Marriage: The law allows girls and boys under the legal age of 18 to marry if they have reached puberty and have parental consent, and if the court finds no substantial reason to object to the union. In 2010 almost 50 underage marriages were registered at the court. The marriage registrar reported that most underage girls applying to marry are between the ages of 15 and 17 and do so to escape poor living conditions.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For

information see the Department of State's report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.htm](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html)

### **Anti-Semitism**

There were no known Jewish citizens or residents. In December the Ministry of Islamic Affairs requested that parliament endorse a resolution forbidding the government to allow the Israeli flag carrier El Al to begin operations to Maldives, citing concerns the flights posed a threat to national security and noting that fostering relations with Jews was discouraged in Islam. Anti-Semitic statements occasionally were found in political pamphlets.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The constitution provides for the rights and freedom from discrimination of persons with disabilities, and a Special Needs Act was put in place in July 2010. The purpose of the act is to protect the rights of persons with disabilities and to provide financial assistance. Additionally, the president created the Council to Protect the Rights of People with Disabilities. As mandated in the act, anyone with disabilities is entitled to Rf 2,000 (\$156) every month. The Ministry of Health and Family maintains a list of persons with disabilities. By December the ministry had received 5,336 applications, of which 3,865 were deemed eligible, and 3,566 were receiving the allowance.

Government programs provided services for persons with disabilities, including special educational programs for persons with sensory disabilities. Inadequate facilities made it difficult for persons with disabilities to participate in the workforce.

There were multiple NGOs working to increase awareness and improve support for persons with disabilities, including Hand in Hand, the Association of Disability and Development, Handicap International, and the Care Society.

In April 2010 the HRCM, in conjunction with the UNDP, released a report on the rights of persons with disabilities. The report found that most schools took children only with very limited to moderate disabilities and not those with more severe disabilities. There was virtually no access to or transition to secondary-level education for children with disabilities. Additionally there was no mental health care available in Male; there were only two psychiatrists working in the country, who dealt mostly with drug rehabilitation. There also was a lack of quality residential care. There were more than 31 persons with disabilities waiting for a place at the Home for People with Special Needs as of March.

The government established disability awareness and empowerment campaigns on some of the more populous islands. The government integrated students with physical disabilities into mainstream educational programs. Families usually cared for persons with disabilities. When family care was unavailable, persons with disabilities lived in the Ministry of Health and Family's Institute for Needy People, which also assisted elderly persons. When requested the government provided free medication for all persons with mental disabilities on the islands, but follow-up care was infrequent. The government also provided assistive devices, such as wheelchairs, crutches, spectacles, hearing aids, and special seats for children with cerebral palsy.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law prohibits homosexual conduct, and it was considered socially unacceptable. The punishment for men includes banishment for nine months to one year or 10 to 30 lashes. For women the punishment is house arrest for nine months to one year. There were no organizations concerned with lesbian, gay, bisexual, or transgender (LGBT) issues in the country. There were no reports of officials complicit in abuses against the LGBT community. Due to societal intolerance of homosexual conduct, there are few openly homosexual individuals in the country. Thus there was no information on official or societal discrimination based on sexual orientation in employment, housing, access to education, or health care.

### **Other Societal Violence or Discrimination**

According to a 2009 Demographic and Health survey, most women surveyed were willing to care for a relative with AIDS at home (86 percent), buy fresh vegetables from a shopkeeper with AIDS (79 percent), allow a female teacher with AIDS to

continue teaching (61 percent), or allow a male teacher with AIDS to continue teaching (59 percent). Three of four women said that they would be open about having an HIV-positive family member. Only 37 percent of women expressed accepting attitudes on all four indicators

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The 2008 constitution recognizes the right to freedom of association and states that all rights and freedoms in the statute apply to “everyone” in the country, including migrant workers. The 2008 Employment Act does not address the formation of trade unions, and the law does not specify protection against antiunion discrimination. The police and armed forces are entirely exempt from the Employment Act. Certain provisions in the act, such as overtime and public holiday pay, do not apply to emergency workers, air and sea crews, executive staff of any company, and workers who are on call. In August the government published a strike regulation under the Employment Act. The regulation requires employees to negotiate with the employer first, and if this is unsuccessful, then the employees must file advance notice prior to a strike. The employees in the following services are prohibited from striking: hospitals and health centers, electricity companies, water providers, telecommunications providers, police and the army, prison guards, and air traffic controllers.

Some workers’ organizations were established under the Associations Act, specifically in the tourism, education, health, and shipping (sea farers) sectors, although these function more as associations and have limited roles as labor advocates. The Teachers Association of the Maldives and the Tourism Employees Association of the Maldives (TEAM) are the lead associations taking on typical union roles. In practice only since 2008 did informal collective bargaining involving employee associations, primarily in the tourism sector, exist.

During the year TEAM helped a number of workers file cases with the Employment Tribunal. Some cases were adjudicated in favor of the workers, although the decisions had not been enforced by year’s end. According to a 2011 report by the HRCM, TEAM’s involvement in strikes in the tourism sector resulted in workers being fired and blacklisted in the sector. TEAM reported that some victims of blacklisting found it difficult to obtain employment in the tourism industry.

Workers exercised their right to stop work and strike frequently during the year, particularly in the construction and tourism sectors. TEAM organized work stoppages to protest against wage discrimination against locals who were paid low salaries, unfair working conditions, and long working hours. Police sometimes employed force to suppress strikes. In March staff at the Conrad Hotel held a strike over service charges, and the police ended the strike. According to labor sources, the new strike regulation passed in August makes it nearly impossible for employees to strike.

The Employment Tribunal was established in 2009 to examine and adjudicate legal matters arising between employers and employees and other employment issues. In 2010 parliament passed an Employment Tribunal Regulation, which details procedures for revising and adjudicating employment matters under the Employment Tribunal Act. The Employment Tribunal process is cumbersome and complicated. The cases are heard in the Dhivehi language, which few expatriate workers understand. There were reports that when expatriate workers filed cases, their work visas were cancelled. Most of the 111 claims filed during the year with the Employment Tribunal dealt with unfair dismissal. Thirty-one complaints were for wage claims, and the rest were claims for breach of employment or training contracts, discrimination, and resigning without notice.

TEAM claimed that resort workers were systematically denied recognition by employers, employers refused to negotiate collectively, and employers threatened workers.

### **b. Prohibition of Forced or Compulsory Labor**

Although the constitution prohibits forced or compulsory labor, there were reports that forced labor occurred. Under the law foreign workers arriving in the country must have a work permit issued by the Immigration Department. This is obtained through an employer or agent, who must first request a foreign worker quota stating the number of employees needed from the Ministry of Human Resources, Youth, and Sports. These quotas were easy to obtain, and there was little enforcement.

The expatriate worker population was estimated at more than 100,000, which is 25 percent of the population. The Maldives Immigration Controller estimated there were an additional 44,000 illegal foreign workers, mostly from Bangladesh and other South Asian countries. These workers were predominantly employed in the construction and tourism sectors, where some experienced forced labor and even

debt bondage. Most victims of forced labor reportedly were coerced to work through one or more of the following practices: holding of passports by employers, fraudulent offers of employment, not being paid the promised salary, and not being paid at all. The HRCM also reported that some domestic workers, especially migrant female domestic workers, were in some cases trapped in forced domestic servitude, in which employers used threats, intimidation, and in some cases sexual violence to prevent them from leaving.

The government started a program in 2010 to register illegal Bangladeshi workers and regularize their employment. As of May, 17,000 such workers were registered. In May Maldives and Bangladesh signed a memorandum of understanding on placement of Bangladeshi workers in the country. The Human Resources Ministry and the Maldives Police Service conducted operations in 2010 to find and deport illegal workers in the atolls.

The Ministry of Human Resources blacklists companies who violated the provisions of the Employment Act, precluding violators from bringing in new workers until violations were rectified. At year's end there were 337 companies who had not resolved their violations and were blacklisted. The law allows for a fine of not more than Rf 5,000 (\$390) for forced labor and other violations of the Employment Act. The government took steps to improve working conditions of migrant workers by trying to raise awareness on this issue. On December 7, the Human Rights Commission organized a Human Rights Day fair.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The Employment Act sets age 16 as the minimum age for employment, with an exception for children who voluntarily participate in family businesses. The Employment Act also prohibits employment of children in "any work that may have a detrimental effect on health, education, safety, or conduct." Child labor, however, was a problem in the fishing sector, small commercial activities, and family enterprises. There were also reports that adolescent children who were sent from islands with inadequate education facilities to Male or other areas for educational purposes sometimes worked as domestics in exchange for food and lodging. There were reports some of these children did not go to school and were sexually abused by members of the host families. According to government

officials, this practice was declining as access to secondary education improved in remote parts of the country.

The Ministry of Health and Family; Ministry of Human Resources, Youth, and Sports; and Family and Child Protection Unit of Maldives Police Service received complaints of child labor, conducted inquiries, and initiated legal action. According to the Labor Relations Authority, none of the more than 1,000 claim/complaint forms that it received during the year related to child labor or employment of minors. Additionally no cases of child labor were found during its regular labor inspections during the year, nor were any cases of child labor reported to the DGFPS.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda/htm](http://www.dol.gov/ilab/programs/ocft/tda/htm).

#### **d. Acceptable Conditions of Work**

The 2008 Employment Act establishes maximum hours of work, overtime, annual and sick leave, maternity leave, and guidelines for work-place safety. Under the Employment Act, workers have the right to refuse work that is dangerous. It was unclear whether workers exercised this right in practice. The Employment Act mandates the implementation of a safe work place; procurement of secure tools and machinery; ensuring the continued safety of the equipment, provision of protective equipment to eliminate health hazards, and training of employees in the use of protective gear; and the provision of appropriate medical care. All employers are obliged to provide health insurance for foreign workers. Regulatory requirements in certain industries, such as construction and transport, require employers to provide a safe working environment and ensure the observance of safety measures. According to a 2009 HRCM report, there were no national standards for safety measures, and as a result such measures were at the discretion of employers. Some employers that produce for export adopted health and safety standards. Employers in other sectors, most notably the tourism and construction industries, reportedly had not taken similar measures. The Employment Act grants workers the right to compensation if fired without cause. The act specifically bans discrimination based on race or color, but it notes that “any preference given to Maldivians by an employer in granting employment shall not be deemed discrimination.”

The Labor Relations Authority (LRA) and Employment Tribunal are charged with implementing the Employment Law. The LRA had 18 inspectors and investigators

to conduct workplace inspections. It conducted investigations and provided dispute resolution mechanisms to address complaints from workers. During the year authorities completed an estimated 197 inspections. The most common problems were expatriates doing work other than that allowed in their work permits, illegal expatriate workers, and unpaid wages. Although the LRA can issue fines, typically it gave employers between one to three months to correct the problems. In several cases, after three months the employers continued to employ illegal expatriate workers, and the LRA had trouble enforcing its authority.

The Employment Act provides a mechanism to establish a minimum wage in the private sector. The minimum wage in the government sector was approximately Rf 3,100 (\$242) per month. There is no single, nationally accepted poverty line in the Maldives, but a 2007 Asia Development Bank Study defined a “low” poverty line of Rf 300 (\$23.40) per person per month and a high poverty line of Rf 450 (\$35.10) per person per month. Because of the tight labor market, private sector employers generally offered competitive pay and conditions to attract skilled workers. The government approved a new pension plan covering local employees in private companies, which require contributions from both the employer and the employee. In August the Maldives Pension Administration Office reported that all tourist resorts had joined the pension fund.

The Employment Act provides for a 48-hour per week limit on work with a compulsory 24-hour break if employees work six days consecutively. Overtime is possible.

Wages in the private sector were commonly set by contract between employers and employees and were based on rates for similar work in the public sector.

The LRA investigated an estimated 1,000 labor-related complaints from January to June, most from the construction industry. The majority of complaints were about nonpayment of wages and employers not providing food and accommodation. A quarter of the complaints related to work-permit issues, such as employers wanting to cancel work permits of workers who had run away and employees wanting to change sponsors. The LRA resolved approximately 53 percent of the cases, and 45 percent of cases were in progress; 2 percent of cases remained pending because the LRA was unable to contact the employer or the employee.

Migrant workers were particularly vulnerable to exploitation and, upon arrival in the country, often found unacceptable work conditions and were forced to accept work at whatever wage was offered for debt repayment to the employment agency.

The HRCM found many instances of nonpayment of wages to migrant workers and inadequate housing. Bangladesh migrant workers were exposed to dangerous working conditions, especially in the construction industry, and suffered from the effects of working in hazardous environments without proper ventilation.

The status of migrant workers employed in the categories of senior management, professionals, and skilled workers was generally better.