

MALDIVES 2012 HUMAN RIGHTS REPORT

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 a contentious series of events that included protests in January and February, some of them violent, and charges of presidential abuse of power, president Mohamed Nasheed stepped down from power on February 7, and Vice President Mohamed Waheed became head of state. A Commission of National Inquiry (CONI), which conducted an inquiry into events between January 14 and February 8, concluded no coup had occurred, but called for the strengthening of democratic institutions to prevent similar crises in the future. The CONI also cited credible cases of police misconduct and recommended that they be investigated. Security forces respected the chain of command and reported to civilian authorities.

The most significant human rights problems include excessive use of force by security forces during the events surrounding the February 7 transfer of power, restrictions on religious freedoms, and corruption of officials in the executive, legislative, and judicial branches of the government.

Other human rights problems included flogging, arbitrary arrests, harassment of journalists, abuse and unequal treatment of women, restrictions on religious freedom, and discrimination against foreign 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.

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 police, and unconfirmed reports of torture in custody.

On February 8 and thereafter, supporters of the Maldivian Democratic Party (MDP) staged protests in support of former president Mohamed Nasheed. Amnesty International and many MDP supporters, including members of parliament (MPs) and local council members, stated that police used excessive force in confronting protests. Police allegedly beat Reeko Moosa Manik, an MP and chairperson of the MDP. He was hospitalized and later sent to Sri Lanka for treatment. Police also allegedly beat and injured MP Eva Abdulla, Abdulla's husband, and Deputy Mayor of Male Ahmed Shamah Rasheed.

At year's end the Police Integrity Commission (PIC) had investigated 24 cases of alleged police brutality on February 7 and 8, of which 21 were completed, and three continued. Of the completed cases, 11 were dismissed for lack of evidence, including that of MP Eva Abdulla. Six cases were sent to the Prosecutor General's Office for prosecution, including those of Reeko Moosa Manik, MP Mariya Didi, and MP Eva Abdulla's husband, Ahmed Shahid. In the cases of former president Mohamed Nasheed and MP Ibrahim Rasheed, the PIC found that excessive force was used, but the cases were sent to the Home Minister for further investigation since the police officer responsible was not identifiable. In the cases of MP Mariya Didi and MP Imthiyaz Fahumy, the PIC again concluded that excessive force was used, but the cases were dropped for lack of evidence to identify the perpetrator.

There were similar allegations of excessive use of force by police during February protests throughout the inhabited islands of the country, especially in the pro-MDP southern Addu Atoll.

The PIC reported three cases of allegations that police sexually harassed detainees being arrested during the year. One case continued under investigation; however, the other two cases--one involving four female detainees and the other involving a male detainee--were dropped for lack of evidence and the refusal of victims to cooperate with the investigation.

In the case of four police officers--Chief Inspector Risheef Thoha, Constable Husham Hameed, Corporal Mohamed Fayaz, and Lance Corporal Ali Nasheed--discharged on allegations of physically and sexually abusing a woman in 2010, on May 3 the case was sent to the prosecutor general to press criminal charges. On August 16, the High Court overturned the Civil Court's initial ruling to uphold the Police Disciplinary Board's decision to discharge Thoha, and on September 16, it ruled against the board's decision in the case of Nasheed. Previously, in April 2011 the Civil Court had ruled against the board's decision to discharge Hameed. At year's end there was no information on the prosecutor general's actions to pursue criminal charges.

The law permits flogging as a form of punishment. According to 2011 statistics from the Department of Judicial Administration, the courts sentenced 98 individuals to flogging; more than 74 percent of those sentenced were women. Two of these sentences were from the juvenile court and 67 from atoll courts. Most flogging sentences were given for birth out of wedlock and fornication, resulting in a disproportionate number of women being flogged.

In September a prominent flogging case involved a 16-year-old girl sentenced to 100 lashes and eight months of house arrest for having sex outside marriage. The sentence was to be carried out when the girl reached 18 years of age. A court sentenced the man involved to 10 years' imprisonment, under a special law on child abuse.

Prison and Detention Center Conditions

Prison conditions were overcrowded but mostly met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: The Department of Penitentiary and Rehabilitation Services (DPRS) oversaw the operation of three prison facilities--Maafushi Prison, Asseryi Prison, and Male Prison--and the Male Remand Center. The DPRS prison system, which had an estimated capacity of 885 prisoners and detainees, had a prison population of 994, of whom 41 were women. The DPRS also reported two girls and eight boys under the age of 18 held in separate units within the Maafushi Prison and the Asseryi Prison. Drug offenders accounted for 47 percent of the prison population.

Pretrial detainees were held separately from convicted prisoners. Detention facilities were located in Male Prison and Maafushi Island. The Maafushi detention facility had a capacity of 48 persons. However, at year's end 61 men were held for investigation at Maafushi detention facility. The capacity of the Male Prison's investigation unit was reportedly 100 persons. At year's end there were 61 remand prisoners at the Male Prison.

Women were 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.

Prisoners had access to fresh water for drinking and cleaning, and cells had toilet facilities and water. Prisoners had access to a computer lab and religious classes. The DPRS also ran a brick-making operation, which provided employment for some inmates.

In November 2011 the Human Rights Commission of Maldives (HRCM) published a report into the death of Ibrahim Afzal, who in 2010 set himself on fire while in detention in the GDh Gaddhoo police station, and later died while being treated at the IGM Hospital in Male. The HRCM concluded that sufficient detention facilities were not available at the police station, as it was a rented house, and that general conditions surrounding the detention were poor.

Administration: The DPRS reported that it had a database, recordkeeping system, and adequate communication between the prisons and headquarters and between the DPRS and the Maldives Police Service (MPS).

The law allows judges the discretion to use a fine, house arrest, banishment, or prison as punishment. If the community where an offender is to be sent for banishment objects, the DPRS often uses house arrest as an alternative. Community service is not used as alternative sentencing. The law allows for delayed sentencing while the accused undergoes treatment for drug abuse.

Prisoners were provided with the materials needed to lodge complaints. A committee discussed all complaints, and provided responses to each prisoner, according to the DPRS. Prisoners were allowed visits by their families and attorneys, and prisoners also were allowed to talk to family members twice a month on the telephone.

Monitoring: The government generally permitted regular prison visits by the HRCM, the International Committee of the Red Cross (ICRC), and other international assessment teams. The DPRS reported the ICRC visited the prisons in February.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, on January 16, security forces acting on the president's orders arrested Abdulla Mohamed, chief judge of the Criminal Court (see section 1.e.).

Role of the Police and Security Apparatus

The Maldives National Defense Force (MNDF) is responsible for external security and disaster relief, but the MPS at times requested its assistance in maintaining internal security and law and order. The chief of the MNDF reports to the minister of defense. The president is commander in chief of the MNDF.

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 PIC is the primary mechanism available to investigate security force abuses. It has the authority to submit to the Attorney General's Office any cases with criminal elements. The recommendations of the PIC are generally not implemented by the police, and there is no mechanism for the PIC to enforce its recommendations. In October the chair of the PIC resigned, reportedly due to frustration with difficulties in executing her job.

There is no independent review mechanism to investigate abuses by the military force.

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 immediately of the reason for arrest, and in writing within 24 hours. Prisoners have the right to a ruling on bail

within 36 hours; however, bail procedures were not implemented consistently. The law also requires that an arrestee be informed of the right to a lawyer at the time of arrest. A lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. Authorities generally permitted detainees to have counsel present during police questioning. 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.

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 at 15-day intervals 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.

Arbitrary Arrest: The PIC, based on complaints investigated during the year, confirmed that proper arrest procedures were in place but that there were instances where police did not fully implement them.

Arrest procedures were not fully followed in dealing with the February 8 unrest in Male and in Addu City. Detainees generally were not immediately informed of the reason for their arrest, although they were notified in writing within the stipulated 24 hours. There were reports of police arresting protesters at protest sites and holding them for less than 24 hours prior to releasing them, as a means of deterring their participation in the protests. The courts in some instances released detainees on the condition that they not participate in protests or political gatherings for a specified number of days.

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. Unlike arrests, there were no formal records of investigative detentions.

Pretrial Detention: The MPS confirmed that 40 Somalis lacking identity documents had been held in detention for more than a year. Documents were finalized through the Somali mission in India by year's end, and repatriation back to Somalia was pending funding.

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 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.

The seven-member Supreme Court is independent from the executive. It hears appeals from the High Court and considers constitutional matters brought directly before it. Many judges, appointed for life, held only a certificate in Sharia, not a law degree. Most magistrate judges could not interpret common law or Sharia because they lacked adequate English or Arabic language skills. An estimated quarter of the judges had criminal records, and two of the judges had been convicted of sexual assault. The media and nongovernmental organization (NGO) community criticized the Judicial Service Commission for appointing unqualified judges, which seriously compromised the integrity and effectiveness of the justice system.

The courts overturned a number of alleged cases of corruption and wrongdoing after the transfer of government on February 7. Most notable was a case of corruption filed against Abdulla Algeen, brother of parliament minority leader Abdulla Yameen and half brother of former president Gayoom, who had allegedly transferred aid funds meant for the Department of Meteorology into his personal bank account. The courts dismissed the case, ruling there was no evidence that the funds were earmarked for the government.

Authorities mostly respected court orders. However, on January 16, the security forces arrested Chief Judge of the Criminal Court Abdulla Mohamed for corruption on orders from the president. He was kept in secret detention for 72 hours in defiance of judicial orders for his release, and the fact of this detention became a rallying point for large public protests against the government. Mohamed was released on February 7, with the departure from power of President Nasheed.

Trial Procedures

The law provides that an accused person is presumed innocent until proven guilty. There are no jury trials. Most trials were public and 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 legal representation. The judiciary generally enforced these rights.

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

Civil law is subordinate to Islamic law, which is applied in situations not covered by civil law, as well as in family matters such as divorce and adultery. The law provides for the right to legal counsel. Those convicted have the right to appeal. The testimony of women is equal to that of men except in areas which are specifically stipulated by Islam.

The death penalty is allowed by Islamic law, but has not been used since the 1960s. On October 1, Afrasheem Ali, an MP, was found stabbed to death in the stairwell of his apartment building. This was the first killing of a public official in the country's recent history. The increasing incidence of gang-related violence and killing in the country, combined with the killing of a public official, intensified calls for reinstating the death penalty. In December the Attorney General's Office requested public comment on a draft bill to implement the death penalty.

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.

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations. A civil court addressed noncriminal cases.

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

The law prohibits security officials from opening or reading radio messages, letters, or telegrams; or monitoring telephone conversations, "except as expressly provided by law;" however, this did not always occur. 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. However, the standard for acquiring the right to tap civilian telephone lines was very low. There were reports of illegal recording of telephone conversations allegedly by the MNDF. Throughout the year unknown parties released numerous embarrassing or incriminating telephone conversations by politicians and their families to the media.

The constitution provides that residential premises and dwellings are 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

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 functioning 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 criticizing the government's policies related to religion.

Freedom of Speech: There are no restrictions on freedom of speech except for a prohibition in the constitution and law against utterances contrary to tenants of Islam or the government's religious policies.

Freedom of Press: Criticism of the government and debates on societal problems were commonplace but did not question Islamic values or the government's policies on religion. On December 25, a law was passed requiring accreditation for media to cover protests. Local NGOs Transparency Maldives and Maldives Democracy Network expressed their concern about the law, contending it impinges on freedoms of expression and press.

On July 24, the MPS announced it would not cooperate with local news channel RaajjeTV because the channel was spreading false information about police; on August 14, the president's office announced it also would not cooperate with RaajjeTV. Such noncooperation involved excluding the channel from police press briefings and its reporters from inside police barricades to cover events, while other media were allowed inside. While the MPS ban was lifted, the presidential

ban continued. RaajjeTV filed a legal challenge, and the case was pending at year's end.

Violence and Harassment: On April 14, unknown assailants attacked Qufthaq Ajeer and Mohamed Jinah, two journalists, from RaajjeTV in Hulhumale. Jinah was stabbed in the back, and Ajeer was hit in the eye.

On June 4, unknown assailants attacked local reporter and journalist Ismail Hilath Rasheed and slashed his throat. Rasheed survived and fled the country. In December 2011 Rasheed was attacked by 10 unknown assailants after he organized a peaceful demonstration in support of religious tolerance in Male. He suffered a fractured skull in that incident. Police made no arrests after either incident.

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. This self-censorship also applied to reporting on problems in and criticisms of the judiciary.

Publishing Restrictions: There were no restrictions on domestic publications nor 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 without judicial oversight. 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 2011 the Telecommunications Authority blocked and banned a local 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 for discussing the blogger's homosexuality. The ban remained in place.

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. Sunni Islam was the only religion taught in the schools.

On February 7, a mob broke into the National Museum and destroyed pre-Islamic artifacts, including a stone head of Lord Buddha and a statue of the Hindu water god, Makara. In May the MPS forwarded the case against four men suspected of destroying the artifacts to the Prosecutor General's Office. The Prosecutor General had not acted on the cases at year's end.

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. However, on December 25, parliament passed a new law on peaceful assembly, which restricted protests outside designated areas. Local NGOs Transparency Maldives and Maldives Democracy Network expressed their concern that the law impinged on freedom of peaceful assembly.

There were reports of police arresting protesters and holding them for less than 24 hours to deter their participation in the protests. In some instances the courts released detainees on the condition that they not participate in protests or political gatherings for a specified number of days.

The MNDF and police at times used force to disperse protesters. The PIC report into the February 8 events concluded that police generally acted within the law in dispersing the protests, but there were individual incidences of police violence.

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.

On December 27, parliament passed a new Political Parties Act, which restricts registration of political parties and eligibility of state funds to only those parties with 10,000 or more members. Existing parties with fewer than 10,000 members

had three months to acquire new members. During the year the government registered 16 parties, of which only four met the membership criterion. Local NGOs Transparency Maldives and Maldives Democracy Network raised their concerns that the law restricts the constitutional right to form political parties, and the president returned the bill to parliament saying it infringed on constitutional rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at 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.

Exile: The law allows for banishment to a remote island as a punishment. Such sentences were very common, especially in cases of a woman pregnant out of wedlock (adultery). However, it was difficult to implement this form of punishment, since host communities increasingly refused to accept anyone sentenced to a crime. According to DPRS statistics, during the year the government sentenced 66 individuals to banishment, but only three were actually banished to a remote island; the rest served their sentences under house arrest.

Internally Displaced Persons (IDPs)

According to statistics available from the National Disaster Management Center, the government entity tasked with IDPs, during the year 1,600 IDPs remained from the 2004 tsunami disaster, of whom 810 lived in temporary shelters. This number was unchanged from the previous year. The prolonged delay in permanently housing these IDPs reportedly was due to problems with the building contractor and because the IDPs did not agree with the locale for relocation. Approximately 42 percent of IDPs were on the island of Kolhufushi in Meemu Atoll, an island where the 2004 tsunami washed away all housing.

Protection of Refugees

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees.

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

The constitution 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. On February 7, after weeks of nightly protest rallies and political turmoil, including allegations of presidential abuse of power, former president Nasheed stepped down from power. He blamed coercion on the part of the security forces and called the event a coup. On February 8, in response to the unrest that followed, police injured a number of Nasheed's supporters, including several MPs. Following six months of deliberations, the CONI, with three government representatives, a Commonwealth representative, and one from former president Nasheed's MDP, determined that no coup occurred, that there were credible allegations of police brutality and misconduct, and that an investigation into police brutality was warranted. The MDP representative withdrew the day before its report was released (see section 5).

Elections and Political Participation

Recent Elections: In relatively free and fair elections in October 2008, former president Nasheed, also a former political prisoner, became the country's first directly elected president. In 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 February's local elections.

Participation of Women and Minorities: At year's end there were two women in the 18-person cabinet. Women head the Human Rights Commission, the Employment Tribunal, and the Capital Market Development Authority. There were five women in the 77-member parliament. While 213 women competed in the February local council elections, only 55 of the 1,086 elected councilors were women, with two serving as council presidents and five as council vice presidents. However, although women accounted for approximately 50 percent of civil service employees, few were in the highest positions within the service.

Section 4. Corruption and Lack of Transparency in Government

Although the law provides criminal penalties for corruption by officials, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. An independent Anti-Corruption Commission (ACC) had responsibility for investigating corruption charges involving senior government officials. According to the ACC, a limited definition of corruption in the law and the lack of a provision to investigate and prosecute illicit enrichment limited the commission's work.

Neither the constitution nor the law requires disclosure of income and assets by appointed or elected officials.

NGOs noted that during the year there were no reports of companies belonging to ruling party members or parliamentarians winning a disproportionate number of bids, although this may have been due to the absence of large infrastructure projects due to the fiscal situation and political crisis. Judges were commonly believed to take 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 debate on key legal and public welfare legislation.

The local NGO Transparency Maldives reported corruption across the judiciary, parliament, and members of the executive. Four cases of corruption were filed against the deputy speaker of parliament, MP Ahmed Nazim, for public procurement tenders in late 2009. All charges against him were cleared by the Criminal Court on February 20.

During the year a number of other high-profile cases of alleged corruption were noted. These included a case against the Indian GMR consortium, which won the bid to develop and operate the country's international airport. The government canceled the contract in November, and the GMR Group filed a lawsuit against the government for compensation. The ACC was investigating charges of corruption in the tender process at year's end.

Other notable cases were the Border Control System Project, where a Malaysian company, NexBiz, allegedly won the tender through bid evaluation irregularities. Parliament passed a resolution calling for the project to be canceled. The government also announced its decision to cancel the contract, which the company

challenged in the courts. The corruption investigation by the ACC continued at year's end.

The law provides for access to government information and requires the government office to provide the requested information within 30 days. This law was not implemented in practice.

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 president. The HRCM reported that there was no state interference in its work. It received 702 complaints during the year, and it had an additional 21 cases that it self-initiated. The government investigated and closed 218 cases (including cases lodged in 2008, 2009, and 2010) during the year.

The CONI was established under presidential decree to conduct an independent and impartial inquiry into the events that transpired in the country from January 14 to February 8, whether the resignation of former president Nasheed was illegal and coerced, and whether the government was changed legally on February 7. The commission was constituted on June 17 to include an independent party as well as a representative of the MDP. The commission was comprised of Ismail Shafeeu (cochair), Justice G. P. Selvam (cochair), Ibrahim Yasir, Ali Fawaz Shareef, and Ahmed Saeed (MDP representative).

In its findings released on August 30, the commission stated there was no coup, called for strengthening of democratic institutions to prevent similar crises in the future, and noted that credible cases of police misconduct were present and should be investigated. Prior to the release of the report, the MDP representative on the CONI resigned, citing the exclusion of critical pieces of evidence and testimony from the CONI report and findings. The MDP and former president Nasheed accepted the CONI report on September 1, albeit with reservations.

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

The constitution provides for the equality of all citizens, but these provisions do not include nondiscrimination based on religious beliefs. Women traditionally were disadvantaged, particularly in the application of Islamic law in matters such as divorce, education, inheritance, and testimony in legal proceedings. On May 7, the administration raised human rights to the cabinet level by reestablishing the Ministry of Gender, Family, and Human Rights (MGFHR). Previously, the empowerment of women was incorporated into government policy initiatives, activities, and planning and was not the purview of a dedicated ministry.

Women

Rape and Domestic Violence: The law does not classify rape as a separate offense in the penal code. Other provisions of the law are used to criminalize rape. The Prosecutor General's Office uses charges of sexual assault or forced sexual assault depending on the gravity of the offence. At year's end 57 cases of forced sexual assault were filed with the Prosecutor General's Office, of which 21 were filed in court. 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. In the case of a child, the burden of proof is lower. However, the Prosecutor General's Office reported that it lost almost all cases of forced sexual assault because insufficient weight was given to the testimony of the victim.

Media reports of violence against women and rape were common. Most rape and abuse cases reported in the media during the year involved minors, and victims were usually known to their attackers. NGOs believed that most cases remained unreported due to fear of reprisals, losing custody of children, lack of economic independence, insensitivity of police in dealing with victims, absence of regulation in media concerning victim's privacy, the stigma of being a victim, and low conviction rates.

Under the law spousal rape is not a crime.

A domestic violence act covering all types of domestic relations was enacted on April 23. The act forbids physical, sexual, verbal, psychological, and financial abuse. It also extends protection to wives against being forcibly impregnated by their husbands against medical orders and an extensive list of other abuses for which protection is given. The act allows for the courts to issue restraining orders in domestic violence cases and criminalizes any actions against these orders. However, the Prosecutor General's Office reported law enforcement was

increasingly reluctant to make arrests in cases of violence against women within the family, believing such violence was justified in Islam.

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. Of the women ages 15-49 who had ever been pregnant, 6 percent reported having been physically or sexually abused during pregnancy.

Sexual Harassment: There are no laws against sexual harassment, and there were allegations of sexual harassment in government ministries. Various forms of harassment, especially verbal abuse, were accepted as the norm in government offices. Fearing reprisals such as loss of employment, women traditionally did not make official complaints. During the year a staff member of the Civil Service Commission made the first such complaint against the president of the commission, Mohamed Fahumy Hassan. On November 20, parliament voted to remove Hassan from his post as president and member of the Civil Service Commission, based on the seriousness of the allegations. Hassan, however, asked the Supreme Court to overturn his removal, as the allegations were not proved in court. The court in turn ordered parliament to delay selection of a replacement, pending the court's decision on the case.

Family and children's centers were located on every atoll and intended to 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 were 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 lived in Male had the highest rate of care (96 percent) from a gynecologist, doctor, nurse, or midwife, versus 90 percent in rural areas.

Discrimination: Discrimination against women was a problem. For example, by December 24, a total of 87 cases of birth out of wedlock were reported to police, of which 80 cases were investigated and 67 forwarded to the prosecutor general. While pregnancies incriminated women, men could deny the charges and escape punishment because of the difficulty of proving fornication or adultery under Islamic law. The higher conviction rate for women allegedly was due to gender-insensitive judges and the courts' dismissal of forensic evidence.

Under Islamic practice husbands may divorce their wives more easily than wives may divorce their husbands, absent a mutual agreement to divorce. Islamic law 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.

According to an HRCM report published in 2009, despite provisions in the constitution and the law, no policies in place provided equal opportunities for women's employment. The absence of childcare facilities made it difficult for women to remain employed after they had children; social disapproval for women to stay on resort islands for extended periods 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.

Although women traditionally played a subordinate role in society, they participated in public life. Women constituted approximately 40 percent of public sector employees, which included the executive, judiciary and legislative branches. Women accounted for approximately 50 percent of civil service employees in the executive branch, although few were in the highest positions within the service.

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. There was a secondary school on every inhabited island except for five islands that had fewer than 70 students. For these students there was a daily ferry service to a secondary school on a nearby island and a “schooling away from home” allowance for those in need. These schools improved girls’ access to schooling beyond primary education.

Child Abuse: The law seeks to protect children from physical and psychological abuse, including at the hands of teachers or parents. The MGFHR has the authority to enforce the law and received strong popular support. The ministry reported child abuse, including sexual abuse. The law codifies child sex offenses and stipulates sentences of up to 25 years in prison for those convicted. However, if a person is legally married to a minor under Sharia, none of the offenses specified in the legislation is considered a crime. The courts have the power to detain perpetrators, although most reportedly were released pending sentencing and allowed to return to the communities of their victims.

During the year police received 435 cases of child abuse, of which 38 percent were sexual abuse cases. Of the 435 cases, 30 percent were sent for prosecution. There are no laws or regulations dealing with cases of neglect.

In the 2006 Ministry of Gender and Family study on women’s health and life experiences, one in six women in Male and one in eight countrywide reported being sexually abused when they were under age 15.

The MGFHR stated that reports of sexual abuse were increasing, and underage marriage and pregnancy were major concerns. During the year three cases of underage pregnancy were reported to the MGFHR. The increase in reported cases of sexual abuse appeared to result from increased public awareness. However, the MGFHR noted there was still hesitation to report abuse occurring within the family.

Sexual Exploitation of Children: The Child Abuse (Special Provisions) Act prohibits child prostitution and the use, procuring, or offering of a child (below age 18) for the production of pornography or for pornographic performance. Penalties are jail sentences between 15 and 25 years. The act stipulates that a child between ages 13 and 18 involved in a sexual act is deemed not to have given consent, “unless otherwise proven.” The police reported three cases of child prostitution during the year. During the year the Prosecutor General’s Office filed charges in two cases of forced child prostitution, one of which was reported in 2011.

Child Marriage: The law allows girls and boys under the legal age of 18 to marry if they have reached puberty, have parental consent, and if the court finds no substantial reason to object to the union. In 2011 a total of 43 underage marriages were registered at the court, of which 40 involved girls and three involved boys.

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

Anti-Semitism

There were no known Jewish citizens or residents. In December 2011 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 the country, citing concerns the flights posed a threat to national security and noting that fostering relations with Jews was discouraged in Islam. On April 25, parliament passed a resolution banning El Al from operating scheduled flights to the country until the parliamentary National Security Committee completed a further investigation. At year's end the investigation continued. Anti-Semitic statements occasionally were found in political pamphlets--including from parties aligned with the current government. In January Home Minister Mohamed Jameel published a political pamphlet which alleged that then president Nasheed's administration had been working ceaselessly to weaken Islamic faith in the country and was part of a "Jewish Zionist conspiracy."

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law provide for the rights and freedom from discrimination of persons with disabilities. The purpose of the act is to protect the rights of persons with disabilities and to provide financial assistance. As mandated in the act, anyone with disabilities is entitled to Rf 2,000 (\$156) every month. The National Social Protection Agency (NSPA) under the Ministry of Health maintained a list of persons with disabilities. By December the NSPA received 6,183 applications, of which 4,407 were deemed eligible and began receiving the allowance.

Additionally, the president created the Council to Protect the Rights of People with Disabilities.

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

Multiple NGOs, including Hand in Hand, Handicap International, and the Care Society, worked to increase awareness and improve support for persons with disabilities.

A report in 2010 by the HRCM and the UN Development Program 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 or transition to secondary-level education for children with disabilities. Additionally, no mental health care was available in Male; only two psychiatrists, who dealt mostly with drug rehabilitation, worked in the country. There also was a lack of quality residential care. At year's end four persons with disabilities waited for a place at the Home for People with Special Needs.

The government did not fund any awareness and empowerment programs during the year. However, during the year three additional staff were hired specifically for disability problems, and the ministry also received a 10-percent increase in the 2013 budget for outreach programs. 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 MGFHR's Home for People with Special Needs, which during the year housed 160 persons. The home accepted elderly persons as well. 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 same-sex sexual conduct. 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. No organizations focused on lesbian, gay, bisexual, or transgender (LGBT) problems in the country. There were no reports of officials complicit in abuses against the LGBT community, although societal stigma likely discouraged individuals from reporting any such

problems. Due to societal intolerance of same-sex sexual relationships, there are few openly LGBT 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

There were no known cases of societal violence or discrimination against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law recognizes the right to freedom of association for everyone in the country, including migrant workers, and also the right to form trade unions. However, it does not protect against antiunion discrimination or provide for protection from dismissal for union activity. The law also does not protect collective bargaining. The police and armed forces are entirely exempt from these provisions. In August 2011 the government published a strike regulation requiring employees to negotiate with their employer first and, if negotiations are 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 law, specifically in the tourism, education, health, and shipping (seafarers') sectors, although these function more as associations and have only very limited roles as labor advocates. The Teachers Association of the Maldives and the Tourism Employees Association of the Maldives (TEAM) are the lead workers' organizations. In practice informal collective bargaining involving employee associations existed primarily in the tourism sector.

During the year TEAM helped a number of workers file claims in the Employment Tribunal. Some cases were adjudicated in favor of the workers, although the decisions were not 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, making it difficult to obtain employment in the tourism industry.

According to the Labor Relations Authority (LRA), there were seven strikes during the year, three of which were settled without the LRA's involvement. Of the others, one strike by the Maldives Port Workers Union, continued at year end; one ended in the employees being terminated; and two at resorts ended with arbitration.

Following the political events in February, Maldives Ports Limited (MPL)--the government-owned company managing the country's ports--fired, suspended, or reassigned more than 50 employees who had taken part in protests. The Maldives Port Workers Union (MPWU) raised the actions with the International Transport Workers' Federation (ITF) for redress. The MPL initially denied accusations of rights abuse, claiming that the staff members were disciplined for disobedience and not being punctual. The MPL's chairman, in a letter written to the ITF on August 29, dismissed the MPWU as an illegal association and referred the ITF to the Maldives National Port Workers Union (MNPWU). The MNPWU was established five days after the ITF sent its first letter on the problem to the MPL's chairman. The MPWU, on the other hand, was registered with the Ministry of Home Affairs in May 2011 and was also a member of the country's delegation to the International Labor Organization's (ILO's) International Labor Conference held in June 2011. The ITF affiliates expressed solidarity with the MPWU and called on President Waheed in November to instruct the management of the MPL to initiate dialogue with the union. The LRA confirmed that the company was not cooperative in its investigation and did not provide documents requested. The case has been referred to the Ministry of Human Resources, Youth, and Labor for action.

The Employment Tribunal examines and adjudicates legal matters arising between employers and employees and other employment problems. The Employment Tribunal process is cumbersome and complicated. The cases are heard in the local Dhivehi language, which few foreign workers understand. Foreign workers cannot file a case with the tribunal unless they appoint a representative who can communicate in the local language. Most of the 267 claims filed in the year dealt with unfair dismissal.

b. Prohibition of Forced or Compulsory Labor

Although the constitution prohibits all forms of forced or compulsory labor, the law was not effectively enforced, and there were reports that forced labor occurred.

The Ministry of Human Resources blacklisted companies that violated the law, precluding the companies from bringing in new workers until violations were rectified. The Department of Immigration and Emigration enforced the blacklist, although some companies resurfaced under new names. The law allows a fine of not more than Rf 5,000 (\$390) for forced labor and other violations of the Employment Act. The government took steps toward improving the conditions of migrant workers by distributing pamphlets translated into languages commonly used by these workers that explained their rights.

The foreign worker population, which was particularly vulnerable to forced labor, was estimated at more than 100,000, or 31 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. Some of these illegal workers were subject to forced labor in the construction and tourism sectors. Most victims of forced labor 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, or not being paid at all. 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.

Undocumented workers were detained by the Department of Immigration and Emigration at an immigration processing center near Male until deportation or repatriation. There were reports of bureaucratic delays in processing undocumented immigrants and substandard facilities at the immigration processing center. The government did not screen the workers for victims of trafficking, and it remained unclear if any of the detained undocumented workers were trafficking victims.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law sets age 16 as the minimum age for employment, with an exception for children who voluntarily participate in family businesses. The law also prohibits employment of children under 18 years old in “any work that may have a detrimental effect on health, education, safety, or conduct” but there was no list of hazardous work activities.

The MGFHR, Ministry of Human Resources, Youth, and Sports, and the Family and Child Protection Unit of MPS are tasked with receiving, investigating, and taking action on complaints of child labor. According to the LRA and the MGFHR, none of the complaints that they received during the year related to child labor or employment of minors. Additionally, the Labor Relations Authority neither found any cases of child labor during its regular labor inspections during the year, nor were any cases of child labor reported to the MGFHR. No additional resources were dedicated specifically to uncovering new child labor cases.

There were 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. According to 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 rapidly as access to secondary education improved in remote parts of the country, and was no longer seen as a widespread problem.

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

d. Acceptable Conditions of Work

The law provides a mechanism to establish a minimum wage in the private sector, but it was not yet set during the year. Wages in the private sector commonly were set by contract between employers and employees and were based on rates for similar work in the public sector. The salary of the lowest paid employee in the government sector was approximately Rf 3,100 (\$242) per month. The poverty level was estimated to be Rf 22 (\$1.72) per day, or approximately Rf 660 (\$51) per month.

The law establishes maximum hours of work, overtime, annual and sick leave, maternity leave, and guidelines for workplace safety. The law provides for a 48-hour per week limit on work with a compulsory 24-hour break if employees work six days consecutively. Certain provisions in the law, such as overtime and public-holiday pay, do not apply to emergency workers, air and sea crews, executive staff of any company, or workers who are on call. The law mandates the implementation of a safe workplace, procurement of secure tools and machinery, ensured equipment safety, the use of protective equipment to mitigate health hazards, and employee training in the use of protective gear, and appropriate

medical care. All employers are obliged to provide health insurance for foreign workers.

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. Regulatory requirements in certain industries, however, such as construction and transport, require employers to provide a safe working environment, and some employers that produce for export adopted health and safety standards. The law grants workers the right to compensation if fired without cause, but this provision does not include being fired for union activity. 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 LRA and Employment Tribunal are charged with implementing employment law. The LRA had 15 inspectors and investigators. It conducted workplace investigations and provided dispute resolution mechanisms to address complaints from workers. During the year authorities completed 360 inspections. The inspections showed that most employees did not have employment contracts, and some were not paid their salaries regularly. Two resorts also seriously violated migrant worker conditions. The LRA was unable to take action both because of budget limitations and because the Department of Immigration and Emigration took over most problems related to migrant workers. Although the LRA can issue fines, it preferred to issue notices to employers to correct problems, as the cases are deemed closed once fines are paid. It typically gave employers between one to three months to correct the problems. However, it lacked the resources to follow up systematically on compliance with their recommendations.

During the year the LRA investigated an estimated 977 labor-related complaints from migrant workers. The majority of complaints involved requests for help changing employers or returning to the worker’s country of origin. Another 10 percent regarded salary problems and unfair dismissals.

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. Employers often housed foreign workers at their worksites. Bangladeshi migrant workers were exposed to dangerous working conditions,

especially in the construction industry, and suffered from working in hazardous environments without proper ventilation.

On October 8, parliament approved the country's accession to eight core ILO conventions: Convention 29--Forced Labor (1930), Convention 87--Freedom of Association and Protection of the Right to Organized Convention (1948), Convention 98--Right to Organize and Collective Bargaining (1949), Convention 100--Equal Remuneration (1951), Convention 105--Abolition of Forced Labor (1957), Convention 111--Discrimination (Employment and Occupation) (1958), Convention 138--Minimum Age (1973), and Convention 182--Worst Forms of Child Labor (1999). At year's end the attorney general was reviewing the conventions.