



**International Covenant on
Civil and Political Rights**

Distr.: General
5 July 2012

English only

Human Rights Committee

105th session

9–27 July 2012

Item 7 of the provisional agenda

**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Maldives

Addendum

**Replies from the Government of Maldives to the list of issues
(CCPR/C/MDV/Q/1) to be taken up in connection with the
consideration of its initial periodic report (CCPR/C/MDV/1)***

[25 June 2012]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

Constitutional and legal framework within which the Covenant is implemented, right to effective remedy (art. 2)

Reply to the issues raised in paragraph 1 of the list of the issues (CCPR/C/MDV/Q/1)

1. The provisions of the Covenant cannot be treated as a law in the Maldives unless incorporated into domestic laws. However remedies are available for the breach of constitutional rights. For instance in 2010, the civil court ordered the then government (Maldives Police Service) to pay a compensation to the MP Abdulla Yameen for unlawful detention on the charges of bribery and treason.

Reply to the issues raised in paragraph 2 of the list of the issues

2. The Human Rights Commission of the Maldives possesses strong guarantees of independence under the Constitution and under relevant legislation in line with the Paris Principles.

3. The HRCM was first established on 10 December 2003 by Presidential Decree under President Maumoon Abdul Gayoom. On 18 August 2005, the Human Rights Commission Act was ratified, making the Human Rights Commission of the Maldives (HRCM) an autonomous statutory body. The 2008 Constitution established the Commission as an independent constitutional entity. Commission Members are nominated by the President and approved by the Majlis. The Commission is both empowered to promote human rights and to investigate any complaints of their breach. In December 2007, the Commission was appointed as the National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture.

4. The Government believes that the HRCM is a vitally important institution which has made important progress and has secured many important achievements since its establishment. The National Preventative Mechanism has been extremely active, and is seen internationally as a model NPM. The Government fully respects the Commission's and the NPM's independence.

5. Regarding financial independence, the Government is fully committed to granting this. Work is underway to conduct a legal analysis of the implications of granting financial independence. Once completed, this analysis would allow necessary political decisions to be taken. Notwithstanding, the Government believes that the HRCM already possesses "necessary human and financial resources". It is worth noting that at a time of severe economic difficulties in the Maldives, the HRCM has a budget of 22 million rufiyaa (\$1.4 million – an extremely large sum considering the small economy and small population of the Maldives) and a staff of over 50 officials.

6. The Government holds that the key issue then is not one of resources, but of efficiency and effectiveness – and in this regard, it is important for the HRCM and the Government to both take steps.

7. On the Government's side, a major constraint to the Commission's effectiveness has been the poor level of cooperation extended to it by relevant government departments, the police and penitentiary services (for example, in providing information) and a poor level of responsiveness to and compliance with the Commission's recommendations. The Government is committed to improving this situation and thus empowering the HRCM. The Government has announced that a Presidential Decree will be issued in this regard¹.

¹ Taking Democracy Forward, Attorney-General's Office, 3 March 2012

8. On the side of the Human Rights Commission, the Government notes that the Commission has drawn up a Strategic Plan and, where requested and where appropriate, will work to support the Plan and its implementation. One area where the Government would like to see further progress is for the Commission to increase its visibility on high-profile human rights issues that touch upon the Maldives' obligations under the international human rights conventions, including the Covenant on Civil and Political Rights.
9. The Government has also requested the Office of the High Commissioner for Human Rights (OHCHR) to station a national human rights advisor in the Maldives. One of the roles of the advisor would be to support the work of the HRCM.
10. On the question of amendments to the Human Rights Commission Act to delete the clause limiting membership of the Commission to adherents of the Islamic faith, the Government notes that as a fully independent body, the HRCM has the power to propose amendments to its modalities and mandate, as laid down by the Human Rights Commission Act. According to the constitution of the Maldives the religion of the state is Islam and a non Muslim may not become a citizen of the Maldives therefore it is unlikely that the Human Rights Act be revised to delete the clause.
11. The Government notes that during the Maldives' universal periodic review (UPR), three recommendations (by India, Germany and New Zealand) called on the Maldives to strengthen the independence of the HRCM with two of those calling on the country to ensure that the body is made fully compliant with the Paris Principles. The Maldives accepted all three recommendations at that time².

Reply to the issues raised in paragraph 3 of the list of the issues

12. Maldives adopted a new constitution in 2008 which is exemplary by international standards of human rights safeguards. The relevant legislative provisions to combat terrorism are contained in the Anti Terrorism Act of 1990 and chapters 1 and 2 of the current Penal Code.
13. In order to bring anti-terrorism legislation more closely into line with the Maldives' obligations under international human rights law, including the Covenant on Civil and Political Rights, a new Anti-Terrorism Bill was drafted in 2008. This Bill is currently being reviewed by the Attorney General's Office. It will then need to be translated into Dhivehi and then tabled before the People's Majlis (parliament).
14. A new Penal Code has also been drafted with international assistance which, in the context of implementing the Maldives' obligations under the Covenant, will represent a significant improvement to the existing Code. The new draft Penal Code has unfortunately been held up in the People's Majlis for some years, during President Nasheed's Government due the prevailing political rivalry; this is a significant problem for the justice sector as a whole. It is the hope of the Government of Maldives, under President Dr Mohamed Waheed Hassan that the new Penal Code be expedited.
15. Regarding the bomb attack which took place in Sultan Park on 29th September 2007, three individuals – Mr. Moosa Inas, Mr. Mohamed Sobah and Mr. Ahmed Naseer - were arrested and charged under the 1990 Terrorism Act, and, the three were sentenced to 15 years in prison. Mr. Sobah and Mr. Naseer were released in 2010 under a scheme known as second chance programme conducted by the Government of President Mohamed Nasheed under which known criminals were released into the community. The two men had their sentences changed from incarceration to three year suspended sentences under observation. Mr. Inas remains in detention.

² <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MVSession9.aspx>

16. The Government of Maldives paid for the medical expenses of the victims of the bombing and liaised with the UK Government in ensuring a speedy evacuation for victims of the bombing.

17. The courts did not award any compensation to the victims of the bombing, however, the Tourism Ministry offered each of the victims a compensation for their ordeal and for injuries caused.

18. As part of the investigation into the Sultan Park bomb attack, the Maldives Police Service (MPS) received intelligence that a number of further suspects (who were also wanted for other criminal offences) were residing on the island of Himandhoo.

19. Upon arrival in Himandhoo, the Maldives National Defence Force (MNDF) and the MPS went to examine several locations that were of interest to their investigation. They were soon faced with an armed group wearing masks and helmets, holding different types of wooden and iron objects, and threatening to use substances such as acid and petroleum. The masked individuals were asked to disperse as it was considered an illegal assembly under Maldivian law. After cautioning the group for the final time, Police and MNDF tried to forcibly disperse them, at which point the armed group attacked. Private Ibrahim Rasheed from MNDF was kidnapped by this group during the confrontation.

20. The men who confronted the police were charged under Section 2 (a), (b), (e) and (g) of the Anti Terrorism Act 1990. On 24th March 2008, the Criminal Court found them guilty and sentenced them to 10 years in prison. Of the individuals charged following the incident on Himandhoo, the case against Mr. Ahmed Adam is yet to be completed. Those individuals who were sentenced decided to appeal the lower courts' ruling at the High Court. In its ruling, the High Court agreed with the lower court's decision.

21. Two minors were also charged under the Anti Terrorism Act following the Himandhoo incident. These two cases were sent to the Juvenile Court. On 5 April 2010, one of the defendants was sentenced to 6 years and 8 months imprisonment under Section 6 (a) of the Anti-Terrorism Act. On 3rd January 2012, the other defendant was found not guilty and was released after the judge determined that there was insufficient evidence to prove his guilt.

Non-discrimination, equality between men and women

Reply to the issues raised in paragraph 4 of the list of the issues

22. Article 17(a) of the 2008 Constitution of the Maldives states that everyone is entitled to rights and freedoms without discrimination of any kind, including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island.

23. One of the major challenges for the Maldives' new democracy is to create a secondary legislative framework to implement the new principles, concepts, procedures and rights contained in the new Constitution. At present, with a few exceptions, the legal system lacks secondary legislation on equality and anti discrimination.

24. With regard to gender, the Maldives has made significant progress on gender equality and empowerment of women. Maldives continues to rank high on the Gender Development Index and Gender Empowerment Measure. The Government of H.E. President Mohamed Waheed has decided to again re-elevate gender equality issues to ministerial-level, creating a new Ministry of Gender, Family and Human Rights. This new ministry will be responsible for equality and non-discrimination issues for all vulnerable population groups.

25. The Maldives has a National Gender Equality Policy which aims to promote substantive equality through a dual approach: mainstreaming in all areas, and strategic

action on empowerment and advancement in specific sectors. The country is also working on specific domestic legislation to implement the rights and obligations contained in the Convention on the Elimination of All Forms of Discrimination against Women. The Attorney General's Office has translated this Convention into Dhivehi as a first step towards creating a Women's Rights Bill. Work is also underway to ratify ILO Convention 111 (1958) concerning Discrimination in Respect of Employment and Occupation. In 2012, President Dr Waheed enacted the Domestic Violence Act, which had cross-party support in Majlis. The Bill provides legal provisions to protect victims from abuse through protective orders and improved monitoring mechanisms. Finally, a Sexual Harassment Bill is expected to be passed in 2012. There are also three bills related to gender equality and women empowerment on the drafting stage (Gender Equality bill, Alimony Rights Bill, Women's reservation bill)

26. The 2008 Constitution prohibits discrimination based on mental or physical disability and clarifies that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, shall not be deemed discrimination. This provision provides the constitutional basis for a number of steps being taken to promote and protect the rights of persons with disabilities. In July 2010, the President enacted a Bill on Protecting the Rights of People with Special Needs. The new Act sets out principles and procedures for providing protection and financial assistance to people with special needs and a council to protect their rights.

27. Article 37 (b) of the Constitution provides for equal remuneration for work of equal value and for equal opportunity for promotion.

28. Article 4 (a) of the Employment Act prohibits discrimination amongst persons carrying out equal work either in the granting of employment, determination of remuneration, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal from employment or resolution of other employment related matter, based on race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, family obligations, age or disability.

29. In addition positive actions are manifested in the series of laws enacted that provide for equality and non discrimination. These include the 2007 Civil Service Act, 2008 Employment Act, and the 2009 Pension Act. These new laws provide equal access to economic and political participation and socio-economic services and benefits to men and women.

30. Article 10 of the Constitution of the Maldives, states that the religion of the State of Maldives is Islam and Islam shall be the one of the basis of all the laws of the Maldives. Therefore, no law contrary to any tenet of Islam shall be enacted in the Maldives. This excludes the possibility of enacting any law protecting the rights of persons based on their sexual orientation.

31. The total number of individuals on homosexuality charges filed for prosecution from 2007 to 2011 is 23, showing that the actual numbers charged remain low. The charges are made pursuant to Section 173 of the Rules on the Conduct of Judicial Proceedings.

32. Notwithstanding, there are no laws which explicitly discriminate against people on the basis of their sexual orientation.

Reply to the issues raised in paragraph 5 of the list of the issues

33. In addition to the 2008 Constitution's general non-discrimination provisions outlined above, the earlier constitutional bar preventing women from running for high political office, the last de jure barrier at primary law-level to gender equality, was also dismantled in 2008. 2008 also saw the Government appoint the country's first two women judges – in the face of strong criticism and opposition from religious-political groups.

Today, there are three female senior judges, while others have undergone training and are awaiting appointment.

34. Despite this, it is an undeniable fact that women continue to face de facto discrimination in some walks of life. This stems from socio-cultural practices and norms. For example, women continue to face hurdles in securing tertiary education scholarships, have a lower participation rate in the labour market, and are still underrepresented in leadership and governance positions in the public and private sectors.

35. The 2008 and 2009 national elections provided clear evidence that, notwithstanding the progressive new Constitution, negative gender stereotyping and institutionalised, as well as societal discrimination, continue to pose significant challenges. Of presidential and vice presidential candidates in the 2008 elections, only one was a woman; of the sixteen current members of Cabinet, only three are women (including the post of Attorney-General, which is considered as a Cabinet portfolio); and of 77 Members of Parliament, only 5 are female.

36. Regarding employment, article 4 of Employment Act 2/2008 prohibits discrimination amongst “persons carrying out equal work either in the granting of employment, determination of remuneration, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal from employment or resolution of other employment related matters, based on race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, family obligations, and in so far as it does not contravene the provisions herein age or disability”.

37. Similarly, articles 43 and 44 of Employment Act 2/2008 and article 165 of Civil Service Regulation 2010 stipulates that female workers in both private and public sectors must be accorded the same treatment with regard to maternity leave. Under these Acts, workers are entitled 60 days maternity leave based on a medical certificate specifying the estimated date of birth issued by a licensed medical practitioner. Such leave shall not commence thirty days prior to the estimated date of giving birth. This section does not prevent the employee from returning to work prior to expiry of the duration of her maternity leave.

38. A further leave of twenty eight days (in addition to the maternity leave specified) can be granted to an employee where a licensed medical practitioner certifies the employee’s inability to return to work due to the ill-health of the mother or the baby. Such leave can be granted prior to the estimated date of delivery or after delivery. Under the Employment Act, the employer has the discretion to pay or not to pay the employee for the duration of such additional leave. However, under the Civil Service Regulation, it is stipulated that the employee will not be paid for this additional leave.

Reply to the issues raised in paragraph 6 of the list of the issues

39. Article 10 of the 2008 Constitution states that the religion of the State is Islam, that Islam shall be a basis of all the laws of the Maldives, and that no law contrary to any tenet of Islam shall be enacted in the Maldives. Maldives follows Islamic Sharia in regard to inheritance and the matters of testimonies with regard to adultery, finance and inheritance. Even though matters of inheritance are governed by Sharia generally, under article 15 of Maldivian Land Law 1/2002, land given by the Government (in the Maldives most residential land is State-owned although this is changing as more and more private individuals buy the land upon which their house is built) to citizens shall be distributed equally (irrespective of gender) among the heirs of the deceased. Maldives is exploring possibility to find a solution of equal treatment with regard to inheritance within the context of Islamic Sharia

40. Marriage in the Maldives is governed Islamic Sharia law. According to Sharia law, no Muslim woman is allowed to marry a non-Muslim man. Where a Maldivian (Muslim)

man wishes to marry a non-Muslim female, the marriage may only be solemnized if the non-Muslim female is permitted to enter into the marriage contract by Islamic Sharia (i.e. where the female is either Christian or Jewish – other People of the Book). The Maldives maintains a reservation under article 16 of the Convention on the Elimination of All Forms of Discrimination against Women regarding inheritance, due to the traditional interpretations of the Sharia as practiced in the Maldives. The Maldives has no current plans to remove that reservation or to amend domestic law in this regard.

States of emergency

Reply to the issues raised in paragraph 7 of the list of the issues

41. The Maldives maintains a reservation to article 18 of the Covenant on the right to freedom of thought, conscience and religion. The reservation states that the application of the principles set out in article 18 will be without prejudice to the Constitution of the Maldives. Furthermore, Chapter II of the Constitution on fundamental rights and freedoms does not include, among the rights guaranteed, freedom of thought, conscience and religion.

42. It is for this reason that article 255 of the Constitution on states of emergency does not refer to the rights guaranteed in article 18 of the Covenant.

43. Since the ratification of the 2008 Constitution, the provision on states of emergency has not been invoked in the Maldives.

Reply to the issues raised in paragraph 8 of the list of the issues.

44. The referred bill is a proposed amendment to the Clemency Act which will make performing the death penalty mandatory in the event it was upheld by the Supreme Court. This amendment was proposed to the Majlis by a private member. The amendment is proposed in an effort to stop crimes of murder and violence. The death toll in the Maldives has increased recently to a level of great concern and it is in the view that if death penalty or capital punishment is enforced it would reduce crime rate.

45. While the Maldives theoretically has a death penalty under Islamic Sharia, in practice this has been implemented as a 25 year prison sentence. This current moratorium on capital punishment still stands.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment

Reply to the issues raised in paragraph 9 of the list of the issues

46. The investigations and the number of complaints received by the Police Integrity Commission are set out below.

Investigations and number of complaints received by the Police Integrity Commission

<i>No. of Cases</i>								
Year	Received	Completed	Pending	Sent to PG	Recommendation to Minster to take disciplinary action	Dismissed	Torture/ill-treated	Details of pending cases.
PCB*	35	32	3	2	-	22	13	3 cases from PCB was not completed at the end of 2008
2008	23	13	13	-	-	15	6	3 cases from PCB

<i>No. of Cases</i>								
2009	87	42	58	2	13	27	21	and 10 cases from 2008 was not completed at the end of 2008
2010	150	156	52	3	23	31	44	1 case from PCB, 1 case from 2008 and 56 cases from 2009 was not completed at the end of 2009
2011	179	108	123	1	22	16	57	2 cases from 2009 and 50 cases from 2010 was not completed at the end of 2010
								2 cases from 2009, 12 cases from 2010 and 109 cases from 2011 was not completed at the end of 2011

*Police Complaints Bureau

Type of charges brought against law enforcement officers

47. The type of charges brought against law enforcement officers includes that of misconduct, police brutality, negligence, and abuse of power.

Cases dismissed

48. From 2008 (including PCB cases) to 2011, sixty five cases were dismissed by the Commission. The reason was either lack of cooperation from the claimant or that the case did not fall within the jurisdiction of the Police Integrity Commission.

49. The number of officials disciplined and the sanctions imposed are set out below.

Number of officials disciplined and the sanctions imposed

<i>Cases</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
General	0	1	2
Individual	0	1	3

50. Most of the recommendation regarding to discipline are in general to the police service rather than to an individual police officer. The 'general' referred to under the cases of officials disciplined and the sanctions imposed, means recommendations given to the Minister to take appropriate disciplinary action against police officers involved in the misconduct.

51. The 'individual' referred to the cases thereto means recommendations given to the Minister to take appropriate disciplinary action against a specific police officer. Hence, none of the cases include recommendation for a specific action rather it recommended to taking appropriate action under section 67 of Police Act, which may fit to the act of the police officer.

52. In this regard, the PIC is not an executing institute by itself so the Commission recommends the Minister to take appropriate action based on the outcome of the investigation conducted. The Minister, if not satisfied with the recommendation given, is given power to reject the recommendation with reasoning. The law, however, expressly does not provide the action to be taken for such reject cases.

53. In January 2008, two policemen were indicted for beating and torturing a man in custody. The PIC is currently investigating three other allegations of torture. It is also noteworthy that the Police Act makes it easier to dismiss officers found guilty of serious misconduct. Since the Act came into force, 97 officers have been dismissed.

Concrete measures taken for the rehabilitation and compensation of victims of torture

54. The Police Integrity Commission's mandate is to investigate complaints of police misconduct, police brutality and disregard for the law, and where the Commission finds evidence of criminal wrongdoing to send such cases to the Prosecutor General's Office for prosecution. Torture and other cruel, inhuman or degrading treatment is a criminal offence in the Maldives and Commission gives priority to investigate such cases as well as wider incidences of police brutality.

55. It is not however within the jurisdiction of Commission to work towards the rehabilitation and compensation of victims of torture in addition to forwarding such cases for prosecution given that PIC's investigation gathers evidence to substantiate that a police officer (s) had committed a criminal offence.

The case of Evan Naseem

56. A thorough and detailed investigation was conducted into the death of Evan Naseem whilst in custody by a special presidential Commission set up under President Maumoon Abdul Gayoom. Those found guilty were tried and sentenced.

57. The investigation into the death of Evan Naseem was not conducted by the PIC or the PCB, but by a special presidential commission set-up for the purpose.

Reply to the issues raised in paragraph 10 of the list of the issues

58. Violence against women is a challenge to human rights in the Maldives. A 2005 baseline survey found that many people believe men should be permitted to hit their wives under certain circumstances. A 2007 report by the then Ministry of Gender and Family found that one in three women between the ages 15-45 reported some form of physical or sexual violence at least once in their lives, one in five suffered physical or sexual violence at the hands of their partner, and 1 in 6 girls under the age of 15 had suffered from sexual violence. Negative societal perceptions of the issue prevent effective reporting of cases as well as a general attitude that such cases are "private" matters.

59. According to the statistical report of the Bureau of Criminal Records of the Maldives Police Services, in 2008 172 domestic violence cases were logged; in 2009 there were 156 cases and in 2010 there were 136 cases. Regarding sexual assault, in 2008 454 cases were logged, in 2009 563 cases were logged, and in 2010 523 cases were logged.

60. Notwithstanding, cases logged do not necessarily accurately reflect the scale of the problem. Often individuals report cases of violence but do not want, in the absence, until recently, of a Domestic Violence Act, to press charges under existing criminal provisions of the Penal Code (namely chapter 4, section 126 on assault and battery). Even when cases are logged, victims often decide, subsequently, not to press for a prosecution due to concerns about the effect it would have on the family (e.g. vis-à-vis financial support). Often victims report cases of violence but then ask for the accused not to be prosecuted but rather to be counselled.

61. Of the cases that were logged, in 2008 165 were fully investigated, in 2009 177 were fully investigated, and in 2010, 259 were fully investigated. The types of penalties imposed include (under chapter 4 section 126) fines of between 200 MRF (approx. 13\$) and 5000 MRF (approx. \$325), and exile, imprisonment or house arrest of anything up to six months. Penalties become more severe – up to ten years imprisonment where sharp objects or weapons are used or where the victim suffers serious injury. Damages and compensation can be awarded to victims if the victim wishes to pursue them. The amount is set to cover the cost of treatment for injuries suffered.

62. On the question of the required number of witnesses, it is not correct (as suggested by the Committee) that for rape and sexual violence cases, in the absence of a confession,³ it is necessary to have two male or four female witnesses.

63. First, although the Maldives has a mixed Sharia and common law system, reservations are held on certain Sharia principals including those which related to witness testimony given by women. A law was enacted in 1972 called the Law on Women's Witness Testimony (Law No: 14/72) which states that a testimony given by a woman has equal value to that given by a man. This applies to all cases except for pre-marital sex or adultery cases. It is important to note that rape cases would not be charged under pre-marital sex or adultery.

64. And second, in-any-case, unlike cases related to sexual relations outside of marriage which in the absence of a confession do require four male witnesses; in rape cases an individual can be convicted if there is sufficient evidence as per any other crime. Under existing law this includes forensic evidence and the testimony of expert witnesses. (Notwithstanding, there is currently a lack of legal clarity as to the weight that can be given to different types of forensic evidence and expert witness testimony, as the current Evidence Act is outdated and the rules regarding different types of evidence and their evidential value is not written down. The situation will only be improved with the passage of the new Evidence Bill currently before Parliament).

65. Although at the moment there is no specific legislation dealing with rape, cases are brought under the Judicial Procedures Regulation 2003 which includes "forced sexual offences".

66. The Government is determined to confront these problems and challenges through a combination of legal remedy and awareness-raising/education. The Government of Maldives has taken steps towards setting up a safe shelter.

67. In April 2012, the President enacted the Bill on Domestic Violence, drafted by the Women's Wing of the Opposition party DRP in 2009, in consultation with all the major political parties and with the support of NGOs and the United Nations. The act defines domestic violence as an attack against someone by any other person with whom that they are presently, or have been in a domestic relationship. It also provides protection for victims of domestic violence and seeks to punish the perpetrators of such crimes. The objectives of the act include; declaring all acts of domestic violence as a punishable crime, giving protection and safety to victims of domestic violence and giving cost-effective, due and timely justice to victims of domestic violence. A bill on sexual harassment will also be submitted to parliament for approval this year.

68. In February 2008, the Maldives amended the country's Sentencing Guidelines in order to provide more appropriate punishments for the perpetrators of sexual abuse, including gender-based sexual violence. The change followed recognition that the previous

³ It is important to note that the Maldives is moving away from confession-based prosecutions to evidence-based. According to article 52 of the 2008 Constitution, only confessions made during court hearing will be deemed admissible.

guidelines, which did not allow for the application of prison sentences, were insufficient to tackle such serious crimes. Under the changes, the sentences now available to judges include imprisonment.

69. The Government has launched a number of campaigns to disseminate the message that violence against women is totally unacceptable. Moreover, the Gender Department provides support to victims of violence, including rape – a role that will be strengthened with the creation of the Ministry of Gender, Family and Human Rights.

70. Regarding training and awareness-raising for police and other public servants, the Family and Child Protection Department (FCPD – previously within the Health Ministry but soon to be placed within the new Gender, Family and Human Rights Ministry) has initiated a programme to train and sensitize all serving Police Officers on matters pertaining to child abuse, domestic violence and sexual harassment.

71. Through training programmes between 2008 and 2010, two hundred and six police officers were trained to conduct Family and Child-Centred Investigations.

72. In 2011, FCPD began a training and awareness-raising programme for government officials on the issue of child abuse, sexual assault and domestic violence. A total of 21 sessions have been conducted throughout the year. 1,520 government officials have participated. Furthermore, twenty-nine sessions were conducted in the atolls – reaching 2,280 local officials and other relevant people including medical practitioners, judges and school teachers.

Reply to the issues raised in paragraph 11 of the list of the issues

73. This is not factually correct. Maldivian law (in particular the Child Protection Act 1991) prohibits corporal punishment in homes, schools and the penal system of any person under the age of 18.

74. In 2001, based on the recommendations of the UN committee on the Rights of the Child, the UNGA called for a global study on violence against children. A regional consultation for South Asia on violence against children which was held in 2005 formed a regional mechanism with the vision of ending all forms of violence against all children named the South Asia Initiative to End Violence Against Children (SAIEVAC). SAIEVAC is composed of high level representatives from the SAARC countries. SAIEVAC has held four consultations to date with support from South Asian coordinating Group on Action Against Violence Against Women and Children to consolidate work throughout the region and bring the agenda to the forefront of government debate. A South Asia Initiative to End Violence Against Children (SAIEVAC) report on corporal punishment was published in 2010 in which along with SAARC member countries, Maldives has identified the actions and measures to prohibit all corporal punishment in all settings including law reform and an anti-corporal punishment campaign is planned for 2013.

75. Regarding those over the age of 18, while the Penal Code does not prescribe flogging as a punishment, it is however administered for certain offences prescribed in the Sharia. The Government is, however, looking at ways to ensure that the punishment is not applied in a discriminatory manner. At present, women are far more likely to be publicly flogged than men – mostly because of outdated court procedures such as reliance on confessions rather than forensic evidence – though as noted above this is changing.

Liberty, security of person, treatment of persons deprived of their liberty and fair trial

Reply to the issues raised in paragraph 12 of the list of the issues

76. The Maldives Police Service (MPS), under law, can only detain an individual for up to 24 hours. Upon the expiry of this time period, if the MPS wish to extend the period of

detention, they will have to obtain a court order. This legal requirement is strictly adhered to by the MPS.

77. However, the Government of President Nasheed acted in contravention of the prescribed 24 hour rule and did not follow due process in dealing with political opponents on a number of occasions. Mr. Yameen Abdul Gayoom, then leader of the People's Alliance Party, was taken into custody by the Maldives National Defence Force (MNDF) in July 2010. Mr. Yameen Abdul Gayoom's arrest and detention – by the Police on an isolated island without access to a lawyer or to his family, were arbitrary and unlawful. Following domestic and international pressure, he was subsequently released.

Reply to the issues raised in paragraph 13 of the list of the issues

78. The Maldives is moving rapidly away from a criminal justice system based on confessions.

79. The 2008 Constitution (article 52) states that any confessions made outside of a trial hearing in a court of law will be considered inadmissible.

80. Important new pieces of legislation, such as the Evidence Bill, which will expand and clarify different types of permissible evidence, are already tabled before the People's Majlis. Pending their adoption, photo, video and forensic evidence is now accepted by the courts.

81. A private members Bill on the prevention of torture, which includes measures against the use of confessions and evidence that is forcibly extracted, has also been tabled before the parliament.

Reply to the issues raised in paragraph 14 of the list of the issues

82. In the past it is true that occasionally juveniles were kept in prison alongside adult detainees. However, now such situations do not occur. Juveniles are segregated from adult detainees, in consultation with the Juvenile Justice Unit (JJU) of the Ministry of Home Affairs. Furthermore accused persons and convicted persons are not kept in Jail together.

83. A Juvenile Justice Bill is in its draft stages and the JJU has been placed under the Home Ministry. In 2009, a "Correctional Training Centre for Children" for at-risk young people was established and offers life skills programmes and vocational training

Reply to the issues raised in paragraph 15 of the list of the issues

84. Following the Maldives' ratification of the Optional Protocol to the Convention against Torture (OPCAT), a National Preventative Mechanism (NPM) was established within the Human Rights Commission to undertake regular visits to places of detention.

85. During 2009, the NPM undertook thirteen visits to places of detention in the Maldives and published a number of reports in 2010.

86. While all Maldives prisons now meet minimum standard recommended by the NPM, the reports published offer a picture of a prison system which is struggling to cope with the pressures placed upon it. Inadequate prison facilities, training, procedures and discipline undermine the rights and welfare of inmates and also put Prison Officers at risk.

87. This situation was borne out in late 2008, and in December 2009, inmates in the main national prison, Maafushi, rioted, totally destroying over half the prison. We have to show what the improvements have been since then.

88. The Prison and Parole Bill, which is expected to be tabled shortly, is seen as a vital tool in improving the situation in Maldivian jails. It is expected to modernise and rationalise the prison system, placing a far-higher emphasis on rehabilitation. The Bill has been drafted taking into account the recommendations of the SPT, NPM and PIC. The Maldives is also taking steps to improve prison facilities. A number of facilities are currently undergoing

renovation and reconstruction. Nonetheless, these steps are hampered by significant capacity constraints.

89. The temporary facility in Addu Attol was immediately closed following the visit and recommendation of the NPM in 2010.

Reply to the issues raised in paragraph 16 of the list of the issues

90. Under the Constitution, an arrestee: must be informed of the reasons of his/her arrest in writing within an explicit period of twenty four hours, and has the right to legal counsel, to remain silent and to be brought before a judge within twenty four hours of arrest. The Constitution also introduces the concepts of bail and legal aid. A legislative Bill on Legal Aid is in the drafting stage.

91. According to article 53 of the Constitution everyone has the right to retain and instruct legal counsel at any instance where legal assistance is required. And as stipulated in section (b) of the same article in serious criminal cases, the state has been providing legal assistance (lawyer) for an accused person who cannot afford to have one.

Reply to the issues raised in paragraph 17 of the list of the issues

92. The 2008 Constitution established the judiciary as a separate and independent branch of the State. Previously, the Judiciary was under the authority of the President and therefore lacked independence. The Government of President Waheed fully respects the independence of the judiciary. Nevertheless the independence of the judiciary and other institutions, as well as the principle of separation of powers enshrined in the 2008 constitution were severely threatened encroached upon and violated during the past three years. This includes the unlawful and forceful detention of the Chief Judge of the Criminal Court despite court orders for his immediate release by the High Court, the Supreme Court, and the unlawful arrest and detention of opposition party leaders despite court rulings declaring these arrests unconstitutional and unlawful. The actions also severely undermine the rule of law in the country.

93. The Maldives Judicial system is young. With the first Western trained lawyer still in his 50s, and even today the country lacks trained lawyers and jurists. The registry of lawyers shows there to be only around 600 registered advocates, which include 'locally trained' lawyers who qualified prior to the 1980s.

94. There have been new additions to the benches of the Superior Courts and Appeals Courts - mostly qualified and trained judges. However, generally-speaking judges lack the tools to effectively undertake their role, and one problem they face is the lack or outdated nature of justice sector legislation.

95. The current Penal Code was enacted some 40 years ago There is no enacted Criminal Procedure Code or Civil Procedure Code and the current Evidence Act is just one-page long. The Civil Procedure Code, Bankruptcy Legislation, Insurance Act are just a few of the 141 items of necessary legislation that are pending.

96. The Government will, as a matter of priority, work with the parliament to enact legislation of importance to the Judiciary such as the new Penal Code, the Criminal Procedure Code, the Evidence Bill, and the Civil Procedure Code.

97. The Judiciary is currently formulating its own Development Agenda. The Government will take into account the needs of the Judiciary as indicated in their Development Agenda as a matter of priority.

98. One of the major challenges the Judiciary faces is the training of judges, specifically to cater for the legal and constitutional system introduced by the new Constitution and the more sophisticated legal concepts relating to financial and commercial transactions. A future milestone to help address these challenges is the establishment of a new Judicial Training Institute which is expected to be opened in the near future. However the modules

and training programmes for the Institute need to be drawn up and trainers need to be identified. Development of the Judicial Training Institute will be the one of the priority areas for the development of the justice sector.

99. The Government has already decided as a policy to grant financial independence to the judiciary and other independent institutions.

100. The Government had invited the Office of the High Commissioner for Human Rights assistance in modernizing the justice system. In this regard, consultations are ongoing to dispatch a panel of Eminent Jurists working with the relevant partners to help strengthen and modernise the justice system.

101. The Government's efforts to modernize and assist the judiciary are governed by the Bangalore Principles aimed at creating public confidence in the judiciary.

102. Moreover, the current composition of the Judicial Service Commission (JSC), the independent judicial oversight body under the Constitution, seriously compromises the independence and the efficient working of the judiciary. It also undermines the important role of the JSC in promoting judicial integrity and accountability.

103. The JSC is in the process of formulating its Strategic Plan for institutional strengthening. The Government will fully support the Plan. Within the scope of this project, dialogue and consultations will be held with the JSC to find ways and means of improving work processes of the JSC.

104. Many opine that the composition and the unwieldy methods of work of the JSC constitute one of the more serious failings of the governance framework introduced by the new Constitution.

105. The Government looks forward to receiving the recommendations of the Group of Eminent Jurists on reform of the JSC and then to discussing these reforms at a planned national roundtable on the Justice Sector. The Government also stands ready to work on constitutional amendments to reform the JSC, including its composition and mandate.

Elimination of slavery and servitude

Reply to the issues raised in paragraph 18 of the list of the issues

106. A draft bill prohibiting and punishing all forms of trafficking in persons is being prepared with the assistance of the Australian Government. According to the latest information the draft bill is nearly in the completion stage. Once completed the bill will be reviewed by local authorities and translated into Dhivehi and sent to parliament for approval.

107. With regard to the measures being taken to deal with the trafficking of individuals, the Department of Immigration and Emigration has finalised and endorsed its Human Trafficking Action Plan for 2011-2013. Under the Action Plan, an Anti Human Trafficking Unit has been established at the Department of Immigration and Emigration (16 December 2011) and three staff have been trained for the Unit. A 24/7 toll-free help-line will also be announced shortly, to assist in providing information and for the submission of complaints. Stricter screening measures will also be put in place for issuing Employment Approvals/Work Permits. Workers with invalid work permits are given opportunities to re-register with a new employer without the employer or worker incurring any fines. Language training is to be provided for the staff of Department of Immigration and Emigration and Labour Relations Authority (LRA) or translators are to be placed at borders to assist in identification of victims and providing necessary assistance to the victims.

108. Since, at present, there is no dedicated safe-house for the victims of trafficking, they are held in protective custody. They are provided with food and medical services. The Maldives Police Service is working to operationalize a new Victims Support Unit.

109. The Labour Relations Authority and the Department of Immigration and Emigration assist the voluntary departure of victims of forced labour, using the deposit money submitted by employers at the time of recruitment.

110. To help support this and other work, on 5 August 2011, the Maldives signed a cooperation agreement with the International Organization for Migration (IOM) and became a member of the IOM on 5 December 2011.

111. The Maldives is currently in the process of completing the internal procedures to become a party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons. This will be submitted for Parliamentary approval by mid 2012.

112. Maldives is also in the process of completing the internal procedures to become a party to the United Nations Convention against Transnational Organized Crime (UNTOC). This has been approved by the Cabinet and is currently in the final stages of receiving Parliamentary approval, after which the Maldives will accede to the UNTOC.

113. The Maldives is in the process of ratifying the core International Labour Organization (ILO) Conventions. The internal procedure is being completed and it has been submitted to the parliament for approval, after which Maldives will ratify the Conventions.

114. The Maldives is considering signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Maldives committed to do so during its universal periodic review process.

115. A new Expatriate Employment Regulation was adopted in June 2011.

116. An integrated investigation unit was established in April 2011 between the Department of Immigration and Emigration and Maldives Police Service to investigate cases of fraud and fraudulent recruitment practices.

117. There are no baseline data available on human trafficking issues. There are no prosecutions, convictions and sanctions imposed on persons involved in human trafficking.

118. Immigration department had conducted human trafficking victim identification training to Maldives Police Service on the 29 May 2011 and to labour inspectors of Ministry of Human Resource Youth and Sports on the 6 April 2011.

119. The Government does not directly provide protection – rescue, repatriation, rehabilitation and reintegration services for trafficked persons, but there are some general limited support services and shelters for women and children who are victims of violence and exploitation.

Non-discrimination, freedom of religion and belief, and participation in public affairs

Reply to the issues raised in paragraph 19 of the list of the issues

120. Article 10 of the Constitution of the Maldives states that the religion of the state is Islam and Islam shall be one of the bases of the laws of the Maldives. No law contrary to any tenet of Islam shall be enacted in the Maldives. Therefore, the Maldives does not intend to remove the said reservation to article 18 of the Covenant.

Reply to the issues raised in paragraph 20 of the list of the issues

121. The Maldives maintains a reservation to article 18 of the Covenant. The Maldives does not have any plans to reform the above-mentioned provisions.

Reply to the issues raised in paragraph 21 of the list of the issues

122. The Maldives is a 100 per cent Muslim country. The Constitution designates Islam as the official State religion and the law stipulates that a non-Muslim may not become a citizen of the Maldives. The law does not provide for freedom of religion; the practice, in public, of other faiths; the building of places of worship of other religions; or the import of religious icons. Notwithstanding, non-Muslim foreign residents are allowed to practice other religions privately, and the import of religious literature such as Bibles, is permitted for personal use.

Reply to the issues raised in paragraph 22 of the list of the issues

123. The Maldives is a 100 per cent Muslim country. The Constitution designates Islam as the official State religion and the law stipulates that a non-Muslim may not become a citizen of the Maldives. The law does not provide for freedom of religion; the practice, in public, of other faiths; the building of places of worship of other religions; or the import of religious icons.

Freedom of opinion and expression

Reply to the issues raised in paragraph 23 of the list of the issues

124. It is not the case that there is widespread harassment and intimidation directed against journalists.

125. Freedom of opinion and expression is guaranteed by the 2008 Constitution.

126. Today, the Maldives boasts a vibrant media community encapsulating a broad cross-section of political and social views. There are twelve daily newspapers, four private television stations, seven private radio stations, a myriad of magazines and other publications, and countless blogs and on-line chat rooms operating in a country with a population of only 300,000 people. Moreover, criticism of the Government and other organs of the State, and debates on difficult societal issues such as marital rape and child abuse are now commonplace. The 2009 World Press Freedom Ranking, compiled by Reporters without Borders, showed the Maldives making the largest advance of any country in the world – rising 53 places to 51st place – putting the country just behind established democracies such as France, Spain and Italy.

127. The Maldives now has a Maldives Media Council Act that establishes the Council as an independent, self-regulatory body.

128. In April 2010, a Bill establishing the Maldives Broadcasting Corporation was enacted. Under the Bill, the board of the MBC is chosen by parliament. In May 2012, President Waheed handed over control of the Maldives National Broadcasting Corporation (MNBC –public service television and radio provider) to the MBC in order to remove Executive influence over public broadcasting.

129. A Bill on Freedom of Information was re-tabled in 2008. Moreover, in November 2009, amendments were passed to the Penal Code in order to make defamation a civil rather than criminal offence. This was one of the key recommendations of the Special Rapporteur on freedom of expression following his visit to the Maldives.

Reply to the issues raised in paragraph 24 of the list of the issues

130. Media freedom has remained steady with the constitution protecting freedom of expression “but also restricting freedom of speech ‘contrary to the tenets of Islam. Blocking websites that’s controversial to Islam /religion, however, the government is working to ensure the media is free to tackle any subject. It was by the current administration of President Dr. Waheed Hassan who took office in February 2012 that Maldives National

Broadcasting Corporation was handed over to the Parliament created 'Maldives Broadcasting Corporation that had ended executive control of the media.

Dissemination of information relating to the Covenant and the Optional Protocol

Reply to the issues raised in paragraph 25 of the list of the issues

131. Although the initial report was not prepared in consultation with civil society and the national human rights institution, their comments were taken into consideration in the preparation of this list of issues. At a broader level, the Government works closely with civil society and non-governmental organizations in promoting and protecting human rights in the Maldives.
