



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### 105th session

#### Summary record (partial)\* of the 2902nd meeting

Held at the Palais Wilson, Geneva, on Friday, 13 July 2012, at 3 p.m.

*Chairperson:* Ms. Majodina

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Consideration of reports submitted by States parties under article 40 of the Covenant  
(continued)

*Initial report of Maldives (continued)*

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\* No summary record was prepared for the rest of the meeting.

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*The meeting was called to order at 3.10 p.m.*

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

*Initial report of Maldives (CCPR/C/MDV/1; CCPR/C/MDV/Q/1 and Add.1)*  
(continued)

1. *At the invitation of the Chairperson, the delegation of Maldives took places at the Committee table.*
2. **Mr. Jameel Ahmed** (Maldives), responding to reports that persons were routinely kept in police custody for more than 24 hours without charge, which exceeded the time limit provided for in the Constitution, said the Government ensured that the Maldives Police Service operated in accordance with the Police Act and the Constitution. However, a number of persons had been kept in police custody for more than 24 hours during the three years preceding the swearing-in of the current Government. He reiterated that, in accordance with the Constitution, no individual could be kept in police custody for more than 24 hours without being brought before a judge and without a court order being obtained. Once that time had elapsed, the individual was granted a remand hearing, when a judge would determine how long he or she could be kept in custody without charge.
3. He noted with regret that, while the Constitution had been amended in an effort to modernize the criminal justice system, since 2008 very few of the new provisions had been fully implemented, including those intended to expedite either the release or charging of detainees. The failure to implement those provisions could be attributed to the overhaul of the criminal justice system following the introduction of the new Constitution in 2008 and to the difficulties encountered in providing adequate resources to the relevant institutions. Recalling that the previous President of Maldives had advocated keeping individuals in police custody without charge for more than 24 hours and denying them their right to habeas corpus on several occasions, he hoped that in time the Maldivian justice system would come to emulate the system of other countries by charging individuals promptly, thereby obviating the need to keep them in police custody without charge for an extended period.
4. As to when the Evidence Bill would be adopted by parliament, he said that the Bill was currently at the committee stage; it would be adopted as soon as possible, particularly in view of its importance for the criminal justice system.
5. Maldives had moved away from the practice of holding trials based on confessions and now held trials based on evidence. Moreover, forensic evidence was now accepted by the courts, particularly in the case of serious offences such as murder or sexual offences.
6. Turning to the question of segregation in prisons, he said that unconvicted and convicted prisoners had already been segregated for some time and were now also segregated according to the seriousness of the offence they had committed. Prisoners were segregated according to gender as a matter of course.
7. Regrettably, his country's prison system had been neglected prior to the introduction of the new Constitution. In order to alleviate the overcrowding in many prisons, the Government had undertaken to renovate existing facilities and to add two blocks to one of the largest prisons. Prisoners could only be kept in isolation in exceptional circumstances; that practice was subject to stringent regulations. He explained that the Prison and Parole Bill was before parliament for consideration but the close scrutiny it required could delay its adoption.
8. With regard to trafficking in persons, the fact that the Department of State of the United States of America had accorded Maldives the status of "Tier 2 Watch List" was a

serious cause for concern and had spurred the Government to take steps to address that issue. To that end, the Government had drafted a bill on trafficking in persons, which had been submitted to parliament for consideration. However, some stakeholders had found the bill to be too rudimentary and had called for external input. Therefore, the Government, with the assistance of the Australian Government, was preparing a bill to prohibit and punish trafficking in persons; once completed, it would be translated and sent to parliament for approval.

9. As to the situation of illegal immigrants, the Government had announced an amnesty for all immigrants who had stayed beyond the period provided for by law. As part of the amnesty, the Government would bear the cost of repatriating such immigrants to their home country if and when they presented themselves to the authorities.

10. Turning to the question of attacks on the media, he said that the new Constitution provided that the media should be entirely independent of State control and that the Government fully supported the media's right to freedom of expression. It was true that, under the previous Government, journalists had been physically assaulted, television stations had been attacked and the media had been asked to censor certain material.

11. The Constitution also guaranteed the right to freedom of assembly, as shown by the fact that the demonstrations currently taking place on the streets of Malé were not subject to any unnecessary restrictions. However, under the previous Government, demonstrations had been forcibly suppressed. He emphasized that the reports of demonstrations having been dispersed did not accurately reflect the situation in Maldives.

12. According to Islamic law, marriage between a Maldivian man and a non-Muslim woman was only permitted when the non-Muslim woman was one of the "People of the Book", namely an adherent of Christianity or Judaism. In the case of a mixed marriage, a non-Muslim woman could take up permanent residence in Maldives but could not become a Maldivian citizen.

13. **Ms. Maumoon** (Maldives) said that the new Constitution guaranteed the full independence of the judiciary. In order to ensure its independence and effective functioning, the Judicial Service Commission was composed of representatives of various courts, including the Superior Court, the High Court and the Supreme Court, as well as the Speaker of the People's Majlis (parliament), the Attorney-General, a member of parliament and representatives of the President. She emphasized that, while the Commission continued to face numerous challenges, it was in no way dysfunctional or ineffective.

14. A representative of the previous President had sought to politicize the work of the Commission by vehemently objecting to the swearing-in of certain judges and magistrates who would not serve the President's political interests. Following that incident, that representative had attempted to tarnish the reputation of certain magistrates by making allegations against them and had described the whole judiciary as corrupt. Furthermore, the allegations made against Judge Abdulla Mohamed were most probably unfounded and had been fabricated to serve political interests. In addition, the head of her delegation, Mr. Jameel Ahmed, had been arbitrarily arrested in January 2012 with little regard for his rights. Judge Abdulla Mohamed had subsequently ruled that Mr. Jameel Ahmed's detention was illegal and, after having called for his release, had himself been abducted and detained for over 48 hours.

15. **Ms. Adam** (Maldives) said that the recommendations made by Mr. Leandro Despouy, former Special Rapporteur on the independence of judges and lawyers, had proved invaluable to her Government during the democratization process. In addition, the Permanent Mission of Maldives in Geneva had worked with the International Commission of Jurists (ICJ) to organize a mission to the country. However, very few of the recommendations made by ICJ had been implemented as they had not been accepted by the

judiciary. Nonetheless, the Government had continued its efforts to reform the justice sector and, to that end, had called upon a number of eminent jurists, under the auspices of the United Nations, to carry out a mission to Maldives to assist with judicial reform and strengthening. The Government had also called for a round table on reforming the justice sector composed of various representatives of the judiciary. Unfortunately, a lack of support from key domestic stakeholders had placed those initiatives on hold indefinitely.

16. **Mr. Jameel Ahmed** (Maldives) said that, while there was always room for improvement, the members of the judiciary were highly qualified professionals. The first female judge had been appointed in 2007, and there were currently five practising female judges and more female graduates waiting to be sworn in. Many of the judges had studied abroad and were trained not only in sharia but in other legal systems. He hoped that the judiciary would receive further training and development in the future.

17. **Ms. Maumoon** (Maldives) said that her Government strongly condemned religious hatred and was saddened to find that some political opponents were engaging in personal attacks against individuals based not only on their religion but also on their physical appearance, including skin colour. The Government hoped to effectively address the problem and thereby prevent further polarization within Maldivian society.

18. While the Government firmly believed in the freedoms of assembly and association, many of the recent protests that had been described as peaceful had in fact been violent, and there was an ongoing debate on the point at which the right to demonstrate infringed the rights of others to enjoy safety and security.

19. **Mr. Thelin** said that he wondered how the Government would be able to implement its Human Trafficking Action Plan for 2011–2013 without any baseline data on human trafficking-related issues. He suggested that the first priority should be to collect data on what, according to the available estimates, was a very serious problem.

20. **Mr. Salvioli** pointed out that the 15 cases involving the harassment and intimidation of journalists mentioned in the report of the Human Rights Commission of Maldives had occurred after the new Constitution had been adopted. He asked if any investigations had been conducted, any perpetrators identified, and any convictions or punishments handed down in those cases.

21. **Mr. Kälin** said that the Special Rapporteur on the human rights of internally displaced persons had met with communities that feared they would be forcibly relocated due to rising sea levels. He asked whether the present legal order included guarantees that such relocations would be voluntary rather than forced and that the affected communities would be properly consulted. He also wished to know if there were any provisions stipulating the conditions under which such relocations could be ordered and enforced, and the compensation to be provided.

22. He regretted that the State party was unable to accept the recommendation made during the universal periodic review urging it to ratify the Convention relating to the Status of Refugees. He asked what protections were in place to ensure that individuals were not deported or extradited to places where they were at risk of persecution, torture or similar human rights violations.

23. **Mr. Flinterman** said that he wished to underline the urgent need to adopt the bill prohibiting and punishing all forms of trafficking in persons, and requested further information on the content of the bill and of the Human Trafficking Action Plan for 2011–2013. He wished to know whether they included systematic procedures to identify trafficking victims, measures to raise public awareness, and steps to ensure that employers and labour-brokers did not abuse the sponsorship process in order to subject workers to forced labour.

24. **Mr. Bouzid** said that in 2009 Maldives had submitted to the Human Rights Council a proposal to hold a panel discussion on the relationship between climate change and human rights, and he asked what progress had been made in that area.

25. **Mr. O'Flaherty** requested further information on the Legal Aid Bill currently being drafted. Referring to paragraphs 102 to 104 of the written replies (CCPR/C/MDV/Q/1/Add.1), he asked how the Government could fully support a plan drawn up by the Judicial Service Commission when it considered that body to be so inherently flawed. He wished to know if the State party would consider appointing foreign judges, which was a common practice in other small countries that would otherwise suffer from a skills gap in the judiciary. It was his understanding that the five female judges all presided over lower courts, indicating a lack of female representation in higher instances.

26. **Sir Nigel Rodley** said that a bad judiciary that was independent and out of control was arguably worse than a judiciary that was competent but had trouble asserting its independence. It was worrying that the Constitution did not seem to require members of the judiciary to have the expertise necessary to perform such an important function. He reminded the State party that the actions of any branch of government, including the judiciary, could result in violations of the Covenant, and he asked for reassurances that the Maldivian judiciary was or would be one whose independence was worth safeguarding.

27. **Mr. Jameel Ahmed** (Maldives) said that one of the High Court judges was a woman; with many recent female graduates waiting to join the ranks of the judiciary, he expected the percentage of female judges to increase.

28. Forcible relocation had never been a Government policy or practice, and even though the Government provided compensation and housing incentives for those who did voluntarily relocate, some individuals chose not to leave, resulting in situations where some islands had 20 or fewer inhabitants. The Government needed to formulate a policy to consolidate development and infrastructure so that its citizens would have improved access to services.

29. The purpose of the Legal Aid Bill was to give effect to the constitutional provision enshrining legal aid as a fundamental right. The Bill was currently before the Attorney-General, and he hoped that it would soon be submitted to parliament.

30. Many aspects of the Judicial Service Commission needed to be reviewed. The problems did not stem from its composition alone; action must also be taken to enhance its capacity and resources. When the article of the Constitution concerning the composition of the Commission had been debated in parliament, it had been agreed that its membership should not only reflect the composition of the judiciary but should also include representatives of other institutions and professions, for instance, members appointed by the President, parliamentary representatives, and representatives of the legal profession and the Civil Service Commission. While it had recently been argued that the Commission's membership should have been confined to judicial officers, any amendment to the Constitution would require a two-thirds majority in parliament. Under the current circumstances, as the country struggled with street demonstrations, investigations of the transfer of power and an adverse economic situation, that would present a major challenge. The Government would therefore focus for the time being on supporting the Judicial Service Commission's strategic plan for institutional strengthening.

31. **Ms. Maumoon** (Maldives) said that the authorities had not resorted to forcible relocation, even after the tsunami when many people had opted for relocation on account of the difficulty of providing the requisite assistance to remote islands. Communities had been extensively consulted during the recovery period on where they wished to live.

32. Trafficking in persons was a complex issue that required urgent action backed by detailed research. The adoption of the Human Trafficking Action Plan and the establishment of the Anti-Human-Trafficking Unit at the Department of Immigration and Emigration were promising developments. There was as yet no safe house for victims. While victims were provided with food and medical services, the Government hoped to improve their situation with the support of its international partners.

33. The Government intended to discuss the possibility of acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

34. She acknowledged that the references to the Judicial Service Commission in the replies to the list of issues were somewhat contradictory. While the Government believed that measures should be taken to strengthen the judiciary with the support of external expertise, it was unable to impose such measures because of its commitment to the principle of independence of the judiciary. The judiciary felt that its independence, integrity and professionalism were under attack. Reform would not come about overnight but she was optimistic about the eventual achievement of a fully independent judiciary.

35. **Mr. Jameel Ahmed** (Maldives) reassured the Committee that all cases of attacks on journalists were being investigated and that steps had been taken in some instances to prosecute offenders. For instance, the perpetrators of an attack in 2011 on Villa Television (VTV), a private television channel, were currently being prosecuted. The Government strongly supported freedom of assembly and association and encouraged the law enforcement authorities to take such incidents very seriously. They were currently investigating head injuries sustained by three or four journalists during the recent demonstrations in Malé.

36. However, article 21 of the Covenant permitted restrictions on the right of peaceful assembly in the interests of public safety or public order (*ordre public*). Public property had been targeted and destroyed during the demonstrations in recent days, the car of the Minister of Gender, Family and Human Rights had been destroyed, and police vehicles and motorcycles had been set on fire. Members of political parties had also been targeted. In such circumstances the police dispersed demonstrations, especially those held after midnight.

37. He assured the Committee that incidences of torture and forcible arrest and detention would be investigated.

38. **Ms. Adam** (Maldives) said that her Government had been involved in highlighting the relationship between human rights, such as the rights to food, water and other basic necessities, and climate change. Resolution 7/23 of the Human Rights Council had been sponsored by more than 75 members in 2008, and the Council had decided, by resolution 10/4 of 2009, to hold a panel discussion on the subject. Three paragraphs of the outcome document had been incorporated in the agreements reached on 11 December 2010 in Cancún (Mexico) at the United Nations Climate Change Conference. The Council had adopted a further resolution on the subject (resolution 18/22) in 2011 and an Independent Expert on human rights and the environment had been appointed just a few weeks previously at the Council's twentieth session. As a member of the Human Rights Council and a country that was highly vulnerable to climate change, Maldives had played an active role in promoting the Council's action in that regard.

39. **Mr. Jameel Ahmed** (Maldives), noting that only a few of the judgements handed down against the previous Government by civil or criminal courts had been implemented, said that the current Government would comply fully with all judgements handed down against the executive branch. For instance, the previous Government had appealed against decisions at various levels of the judicial system calling for the restoration of the civil

service salaries that it had suspended. The current Government had assured the Civil Service Commission that it would comply with the Supreme Court's judgement and restore the salaries.

40. **Mr. O'Flaherty** said that some representatives of civil society had expressed concern about threats that had been issued against colleagues who had submitted reports to the Committee. In some cases their lives had actually been threatened. He was not imputing any such action to the current Government, but he would be very grateful if it could reaffirm its determination to protect civil society.

41. **Mr. Jameel Ahmed** (Maldives) said that such reports were a matter of grave concern. The law enforcement authorities would undertake a full investigation of threats to any representative of civil society. Such intimidation could also be addressed by the Human Rights Commission, parliament, the Police Integrity Commission and the judiciary. The Government would offer protection to all citizens regardless of their political beliefs. In recent months, for example, it had provided close personal protection, including bodyguards, to members of the opposition.

42. **Ms. Maumoon** (Maldives) reiterated the Government's commitment to the implementation of the Covenant and its full incorporation into domestic law. At the same time, the Islamic faith was an important component of Maldivian identity and any incorporation of international law was subject to the limits imposed by the Islamic faith and sharia, as specified in the Constitution. The Government looked forward to learning from fellow Muslim countries about progressive, modern and forward-looking interpretations of Islam that would ensure human rights for all without discrimination. Islam was basically a religion of equality and equity, and of social justice and rights for all.

43. The Maldivian authorities looked forward to receiving the Committee's conclusions and recommendations, which would help them to translate the principles and obligations contained in the Covenant into real progress and to consolidate their young democracy. The dialogue had indicated the areas on which they should focus, for instance: observing other Muslim States to see how Maldivian faith and identity could be better reconciled with full enjoyment of the rights contained in the Covenant; working with the independent commissions to ensure that they effectively fulfilled their crucial roles; working with parliament to expedite crucial human rights legislation, especially in the areas of gender equality, the new Penal Code, and the criminal procedure bill; refocusing and strengthening efforts to combat human trafficking; putting forward concrete proposals to reform and strengthen the Judicial Service Commission; and considering the Committee's other ideas on judicial strengthening.

44. She was optimistic that, with perseverance, the authorities would forge ahead in those and other areas despite the many obstacles in their path. Upon returning to Maldives, her delegation would consult President Waheed, the Government and national stakeholders on action to be taken on some of the recommendations and ideas expressed.

45. Her country was proud of having moved rapidly in recent years towards democracy and respect for human rights despite the many challenges to be met, and of having done so in a relatively peaceful environment. At the same time, the level of political tension, polarization and bitterness in the small community was saddening. She sincerely hoped that the current challenges would be overcome and that progress would be made in uniting the Maldivian people and further consolidating the young Muslim democracy. The support of the Committee and that of the wider international community would be greatly appreciated in that regard.

46. **The Chairperson** said that the Committee's first dialogue with a delegation from Maldives had covered a wide range of issues and been highly productive. The Committee's concerns included the continued reservation to article 18, which had adverse consequences

for a significant sector of the population, such as migrants and non-Muslims. The Committee was also concerned about allegations of systemic torture. It trusted that the authorities would act on a Committee member's suggestion that they set up an independent commission to look into criminal responsibility, to undertake investigations and to make reparations to victims.

47. The Committee took note of the current Government's full commitment to the principles of freedom of opinion and expression. Unfortunately, there continued to be allegations of systematic targeting of journalists covering anti-government protests and of assaults on demonstrators.

48. A great deal of time had been spent discussing the independence, competence and impartiality of the judiciary. There was clearly a serious need for reform of that branch of government, which played a crucial role in preserving the rule of law.

49. She trusted that the Government was serious about improving its compliance with the Covenant and other international instruments and about promulgating and implementing legislation to ensure that all Maldivians enjoyed human rights on an equal basis.

*The discussion covered in the summary record ended at 4.55 p.m.*