



Opening Statement at the Review of the Maldives by the  
Committee on the Elimination of Racial Discrimination

Maldives

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Thank you Mr. Chairperson,

Excellencies, ladies and gentlemen,

I am delighted to be with you here today to discuss the Maldives implementation of the Convention on the Elimination of All Forms of Racial Discrimination. Let me at the outset convey that we are here to engage in discussion with the Committee. Our main interest in being here today is to listen to what you have to say, to hear your concerns, and to be guided by your recommendations.

The Maldives has a pro-human rights policy and we have prescribed to the international human rights conventions with a view to enforcing these basic standards nationally. It is noteworthy that enormous progress has been achieved in guaranteeing the fundamental freedoms and individual liberties of all within Maldivian society, The Maldives started enforcing a revised comprehensive Constitution just three years ago. Smooth and peaceful transfer of power from a thirty-year dictatorship to the first democratically elected President ensued.

The Maldives' ongoing democratic transition, and the related blossoming of human rights are home-grown achievements. However, this transition also reflects a strong and effective partnership that has evolved over the past seven years between the Maldives and the international human rights community.

In this regard, we value this Review by the Committee, as we believe that domesticating the ICERD is one area that we need to do more work in.

We are confident that this process will positively contribute to the strengthening of the national human rights framework.

Ladies and gentlemen,

Before I proceed let me introduce my Delegation today. I have with me H E Mr. Hassan Latheef, Minister for Human Resources Youth and Sports; and H.E. Ms. Iruthisham Adam, our Permanent Representative in Geneva.

It is my intention to use my Opening Statement to give an overview of the human rights situation in the Maldives and respond to the main themes highlighted by the Committee pertaining to the Maldives' implementation of the Convention.

#### *Overview*

The Maldives has undergone unprecedented democratic transformation over the last few years. Let me illustrate the new Maldives for your benefit:

- Three years ago, the Maldives had its first ever free and fair democratic multi-party election. Previously power had been in the hands of the same people for almost thirty years. Today, the Maldives has its first-ever democratically elected Government, sworn in after a peaceful ballot and an orderly transfer of power.



- The old Constitution of the Maldives was premised on concentrating power and wealth in the hands of the few, to the detriment of the many. Today, the Maldives has a new and modern Constitution which sets out a democratic governance system with clear separation of powers and guarantees the full enjoyment of human rights for all.
- Here in Geneva, five years ago, the Maldives was heavily criticized for its poor human rights record. We were Party to very few human rights conventions, and we had never received a visit from any Special Rapporteur. Today, we are a Member of the Human Rights Council, are Party to nearly all the conventions and most optional protocols, and have welcomed visits by five Special Procedure mandate-holders and have a Standing Invitation for all others to visit at their convenience.

Mr. Chairperson,

Maldivians are proud of these achievements. The upward curve of human rights protection has been attained with the assistance of bilateral partners and various stakeholders within the international human rights mechanism. Notwithstanding, these achievements should not mask the fact that we continue to be faced with enormous challenges as we strive to ensure that all those rights now protected by law are fully enjoyed in practice.

Nevertheless several factors slow the on-the-ground enforcement of some of these liberties; namely, fragile democratic fabric, infant democratic institutions, religious fundamentalism, heavy drug abuse, vulnerability of the country to environmental threats and most recently human trafficking.

Mr. Chairperson, Ladies and Gentlemen,

I would now like to respond and offer detailed information to the issues raised in the list of themes received from the Country Rapporteur.

The Maldives acceded to the ICERD in 1984. It is evident that the Maldives reporting under the Convention is less than stellar. In 1999 the Committee suggested for the Maldives to seek technical assistance from the OHCHR to complete its reporting obligations. In 2008 the Maldives drew up the Common Core document with the assistance of the OHCHR, which was a significant step towards managing the burden of treaty reporting for a small state such as the Maldives. Therefore, the government is pleased to resume its dialogue with the Committee. Our goal is to benefit from this discussion.

Previously the position of the Government had been to deny the existence of racial discrimination in the country citing that the Maldives “has a small homogenous population [...] and the people are of the same origin, pursuing the same religion (Islam) and speak the same language (Dhivehi). [...]” (CERD/C/203/Add.1). Today, however, the Government is of the view that the significant increase in the number of migrant workers in recent years is slowly transforming Maldivian society to a diverse community with increased inter-cultural linkages. Therefore, legislative and other affirmative measures are now required to prevent any forms of racial discrimination that may occur. In this regard some positive steps have taken place.



*Legal and institutional framework, policy and programmes*

(a)

The Constitution of the Republic of Maldives guarantees to all persons the same rights and freedoms and upholds the principles of equality and non-discrimination. Article 17 (a) of the 2008 Constitution expressly prohibits racism and reads; “Everyone is entitled to the rights and freedoms included in this Chapter 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”. These Constitutional guarantees are applicable to all individuals within the territory of the Maldives.

At a legislative level, the Maldives currently does not have an Anti-Discrimination Act but the drafting of such a Bill has been ear-marked for 2012. The Employment Act of 2008 also does not differentiate between locals and foreigners. Hence all employment related individual and collective rights under the Act are available to individuals employed in the Maldives.

Discrimination is thus expressly prohibited in the Maldives in a wide range of areas including employment, education, accommodation and the provision of goods and services.

(b)

The Maldives is now working on an Education Bill; a draft of which is currently in Parliament. Right to education is a Constitutional guarantee in the Maldives and by policy, the Government enforces compulsory primary and secondary education and the country is moving towards achieving universal access to secondary education.

Primary education in the Maldives starts at the age of 6 when children enrolled into a 7-year cycle starting from grade 1 and ending in grade 7. Universal primary education has been achieved with high enrolment rates for boys and girls. Despite the success it has achieved, the challenges of providing quality education in the context of the geographical isolation and remoteness of most inhabited islands of the Maldives still remain. Similarly, Secondary education in Government schools is also free in the Maldives.

Non-Maldivian students are enrolled in schools and they go through the same curriculum less the subjects taught in the local Dhivehi language.

(c)

I am proud to say that the national Human Rights Commission is one of the most active national institutions in Asia. If the Government had any criticism of the outgoing Commission, it was that it did not speak out publicly on more controversial human rights issues. Regarding compliance with the Paris Principles, the HRCM is fully compliant - with one exception: the rule, which states that members of the commission must be Muslim.

(d)



As stated in the Common Core Document, Maldivian law does not provide for freedom of religion, although in practice foreigners are allowed to practice religions other than Islam in private.

The Maldives maintains a reservation to article 18 of the Covenant on Civil and Political rights and there are no plans to withdraw it. As noted by the Special Rapporteur on freedom of religion, being a Maldivian and being a Muslim have become interlinked and inseparable. There is strong public support for the Maldives being, and remaining, a 100% Muslim country. Hence the practice, in public, of other faiths; the building of places of worship of other religions; or the import of religious icons is prohibited by law. Notwithstanding, non-Muslim foreign residents are allowed to practice other religions privately, and the import of religious literature is permitted for personal use.

While the Government is trying to maintain some semblance of balance in national debates on religious issues and regularly speaks-out against extremist views, there are clear limits to what it can do without a broader sea-change in public opinion on this issue.

#### *Situation of non-citizens*

(a)

The Maldives enjoys a culturally diverse society. Many migrant workers from India, Sri Lanka, Bangladesh and other South Asian and Southeast countries travel to the Maldives, attracted by the comparatively higher wages and close proximity to their home countries. Many of them work in the education, health, construction and tourism sectors. These migrants have made a major contribution towards shaping the modern day Maldives and the Government greatly values the thousands of migrant workers who contribute to our economy.

In an attempt to control and address the situation of illegal stay, the Government introduced an 8-week moratorium on foreign workers in 2009. This was preceded by the Ministry of Human Resources in carrying out an expatriate worker registration programme which attracted a large number of unregistered foreign workers to register with the authorities. As a result, 16,672 registered as illegal workers.

As I mentioned earlier the 2008 Employment Act does not differentiate between locals and foreigners. Chapter 2 of the Act prohibits forced labour and Article 4(a) 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, and family obligations, and in so far as it does not contravene the provisions herein age or disability.

The Employment Act limits the total work hours to 48 a week. The working hours of the employee are required by law to be stipulated in the job description given to the employee at the time of granting of employment. It also provides for six workdays within the week for all



employers. The Act clearly defines the parameters of the employer-employee relationship by stipulating the signing of an enforceable written employment agreement between the parties. Article 15 also requires employers to provide employees with a written job description.

Furthermore to protect the vulnerable migrant labour population the Expatriate Employment Regulation that came into force in April 2009 imposes several duties on the employer: be responsible for the employee during their stay in the Maldives; to pay the salary before the 7th of each month, due for work done during the past month; to provide adequate food and accommodation to the employee for the duration of the employment; to pay all expenses as agreed in the contract; to pay the work permit and all related fees; and to pay for all the costs of repatriating the expatriate employee, in case the Government requests such, prior to the end of the duration of the work permit.

Complaints arising out of the employment could be lodged with the Labour Relations Authority or the Employment Tribunal.

The Labour Relations Authority resolves wage and labour disputes, visits work sites and enforces labour regulations. There are no national laws governing health and safety conditions. There are regulatory requirements in certain industries such as construction and transport, that employers provide a safe working environment and ensure the observance of safety measures. The new Labour Law aims to provide protection for workers from retaliatory dismissal. Further, protection is also afforded through contract law.

The Employment Tribunal oversees all employment related affairs.

Turning to some specific rights, the right to association and the right to strike are now guaranteed under the Maldives Constitution. Such association could be for the purposes of social, economic, educational and cultural pursuits and it extends to the right to participate or not to participate in trade unions.

The right to strike was not provided before. However, the new Constitution recognises workers' rights to organise and bargain collectively. Strikes are uncommon in the Maldives, but have seen an increase recently.

Looking outward, the Maldives joined the ILO in 2009 and since then have been working towards setting international standards all across the labour sector. In this regard the Government is in the process of ratifying the core ILO conventions, which have now been submitted to Parliament in April this year. In a bid to regulate the labour industry the Government is also working to introduce accommodation regulations for all workers. The purpose of the regulation is to standardise and regulate the often-substandard accommodation provided by migrant workers by their employers. We have just completed the final consultations of the draft regulation with tripartite partners.

(b)



Turning to detainee rights and prison conditions, the Maldives, a country with a long and tragic history of torture and other cruel, inhuman and degrading treatment, was one of the original 20 States Parties, and first Asian country, to the OPCAT. It was also the first country to establish a National Preventative Mechanism, and was one of the first countries to receive the Subcommittee on the Prevention of Torture.

What is more, these international efforts have been translated into real on-the-ground progress. The Maldives' NPM is one of the most active, and a new Prison and Parole Bill, which is expected to be tabled shortly, will completely modernise and rationalise the Maldives detention system, placing a far-higher emphasis on rehabilitation and implementing a large number of the recommendations made by the SPT after their visit in late 2007.

The criminal procedures governing the criminal justice system are stipulated in law and hence there is no room for their selective application. Arrest procedures and interrogation rules governed by the Police Act (2008) and the Regulation on the powers given to Police Officers ensures that the likelihood of torture and other cruel, inhuman and degrading treatment is minimised. All suspects arrested for an offence (except for certain specific offences stated in the law, such as sexual offences against children) have the right to remain silent and the right to legal counsel. Every arrestee also has the right against self-incrimination pursuant to the Constitution of the Maldives. These constitutional rights are afforded to all arrestees at all stages throughout the criminal investigation process. The Police can detain a suspect without formally arresting a person for a maximum of 24 hours based on probable cause. Within this period, the suspect must be presented before a judge who then decides if and for how long the suspect may be detained.

Since the visit of the SPT in 2007, the Government has endeavoured to take steps to address the concerns raised in the Report. Pursuant to the Constitution, for those who cannot afford assistance of lawyers, the Government provides legal aid. Although due to the lack of interpreters, some cases involving foreigners have been prolonged but every effort is made by the authorities to provide translation services during investigation and trial stages.

Furthermore, systematic discrimination against foreigners does not take place in prisons. Access to medical care is available for all within the prison system. As part of the general reform measures implemented to reform the penitentiary system religious sensitivities of the inmates are taken into consideration as much as possible in the distribution of food.

As soon a foreigner is arrested, the accredited diplomatic Embassy or High Commission is notified immediately as per the Convention on Consular Relations. This has been a long-standing practice. They are also granted consular visits by their diplomatic representation.

The Maldives also has an access agreement with the ICRC in 2006 and the HRCM, in its capacity as the NPM, undertakes visits to the prisons. Finally, it is envisaged that, once enacted, the *Prisons and Parole Bill* will modernise the very old penitentiary system of the Maldives.

(c)



While the presence of the expatriate population had assisted Maldives in its economic progress, their presence has created challenges as well, both for the locals and the expatriates themselves. The most tragic of the predicaments is that the Maldives is increasingly becoming a destination for human trafficking. The US Trafficking in Persons Reports of 2009 and 2010 slated the Maldives as a Tier 2 country although making significant progress to comply with the minimum standards set out against human trafficking. The report noted that the Maldives was primarily a destination country for migrant workers from Bangladesh and India trafficked into labour and to a lesser extent, a destination country for women trafficked for the purpose of commercial sexual exploitation.

Though the Maldives does not have any laws prohibiting trafficking in persons and no official studies or reports have been conducted on the subject, due to the severity of the issue, the Government recently determined a strong policy against the country becoming a safe haven for traffickers. The Constitution also prohibits forced labour and slavery.

Following the announcement of the national counter-trafficking policy a National Counter Human Trafficking Action Plan was concluded in February. The Action Plan is premised on introducing a sound legislative framework to counter trafficking and to prosecute the perpetrators. At present an Anti-Trafficking Bill is currently been drafted with the assistance of the Australia Attorney General's Office. The Bill, which makes specific provision for women and children, will be finalized and sent to Parliament this year.

The Action Plan establishes a Steering Committee to oversee the system-wide efforts to fight trafficking. The Committee is accountable to the cabinet and is mandated to review anti-trafficking policies, issues and actions.

At a regional level the Maldives has entered into a SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution that was ratified in 2003. The US Report (mentioned above) noted that the Maldives as a destination country for women trafficked for the purpose of commercial exploitation. Pending the finalisation and enactment of the Anti-Trafficking Act, some existing laws covering sexual offences and child protection can be used to prosecute sex trafficking and child trafficking offences.

Internationally the Maldives has recently added its voice to the Bali Process to join forces with regional partners in fighting against trafficking. In this regard, the Maldives Police Service is working with the UNODC to establish an information sharing mechanism within the region. To this effect todate the Police Service has established a separate sub-unit within the Organised Crime Division that centrally deals with human smuggling, complete with a comprehensive database.

Furthermore, to implement a more harmonized migration policy and to build national capacity to combat human trafficking the Government recently entered into a cooperation agreement just this month with the International Organisation for Migration. The Maldives will become a full member of the IOM in December this year. In addition, a bilateral agreement with Bangladesh was signed in May which is aimed at further augmenting the positive steps taken



by the Ministry of Human Resources, Youth & Sports to address the previous administration's mismanagement of labour issues. A similar agreement with India is under review at present, which would assist the government in improving labour management

Further, to align the national standards the Maldives is now in the process of ratifying the UN Convention on Transnational Organised Crime, its Protocol on Trafficking in Persons and very importantly the Convention on Migrant Workers. The Maldives has benefited in past from subscribing to international rules on human rights. Hence, the Government is committed to see-through these reforms.

Mr. Chairperson, Ladies and Gentlemen,

I believe I have responded to all the themes identified in the list by the Country Rapporteur. Please bear in mind that the democratic and legal framework of the Maldives is a work-in-progress. We are, however, committed to fully establishing a modern legislative framework that would complement the Bill of Rights contained in the Constitution. Our work is driven by the goal of providing a better standard of life for all by paving the way for justice and equity.

I Thank you all.