



**I**nternational  
**C**ovenant on  
**C**ivil and  
**P**olitical  
**R**ights

ICCPR

**SHADOW  
REPORT**

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## Acronyms

<b>AGO</b>	Attorney General's Office
<b>AHTD</b>	Anti-Human Trafficking Department
<b>APF</b>	Asia-Pacific Forum of National Human Rights Institutions
<b>ATA</b>	Anti-Torture Act
<b>Constitution</b>	the Constitution of the Republic of the Maldives
<b>CAT</b>	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CPA</b>	Criminal Procedure Act
<b>CRPA</b>	The Child Rights Protection Act
<b>CSO</b>	Civil Society Organization
<b>DDCom</b>	Commission on Death and Disappearance
<b>DJA</b>	Department of Judicial Administration
<b>DV</b>	Domestic Violence
<b>DVPA</b>	The Domestic Violence Prevention Act
<b>FCSC</b>	Family and Children Service Centres
<b>FPA</b>	Family Protection Authority
<b>GANHRI</b>	Global Alliance of National Human Rights Institutions
<b>HPSN</b>	Home for People with Special Needs
<b>HRCM</b>	The Human Rights Commission of the Maldives
<b>HRCA</b>	Human Rights Commission's Act
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>JJA</b>	Juvenile Justice Act
<b>JJS</b>	Juvenile Justice Systems
<b>JSC</b>	Judicial Service Commission
<b>MBC</b>	Maldives Broadcasting Commission
<b>MCS</b>	Maldives Correctional Services
<b>MJA</b>	Maldives Journalist Association
<b>MoD</b>	Ministry of Defense
<b>MoED</b>	Ministry of Economic Development
<b>MoF</b>	Ministry of Finance
<b>MOHA</b>	Ministry of Home Affairs
<b>MoHSnT</b>	Ministry of Homeland Security and Technology
<b>MoSFD</b>	Ministry of Social and Family Development
<b>MPS</b>	Maldives Police Service
<b>NIC</b>	National Integrity Commission
<b>NHRI</b>	National Human Rights Institutions
<b>NPM</b>	National Preventive Mechanism
<b>OPCAT</b>	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment
<b>PGO</b>	The Prosecutor General's Office
<b>PHTA</b>	the Prevention of Human Trafficking Act
<b>PPA</b>	Prison and Parole Act
<b>SOE</b>	State-Owned Enterprise
<b>SOP</b>	Standard Operating Procedures
<b>TIP</b>	Trafficking in Persons
<b>WDC</b>	Women's Development Committees

## **Introduction**

1. The Human Rights Commission of the Maldives (HRCM) was established under Presidential Decree on December 10, 2003. On August 18, 2005, the Human Rights Commission's Act (6/2006) (HRCA) was ratified, thereby making HRCM the first independent and autonomous statutory body in the Maldives. The amendments brought to the Human Rights Commission Act in August 2006 broadened the mandate and powers of HRCM, making it compliant with the Paris Principles. With the ratification of the Constitution of the Republic of the Maldives (Constitution) in August 2008, the HRCM was made an independent and autonomous constitutional body.
2. HRCM currently holds 'B' status under the Global Alliance of National Human Rights Institutions (GANHRI) and is an Associate Member of the Asia-Pacific Forum (APF) of National Human Rights Institutions (NHRI).
3. In December 2007, HRCM was designated by a Presidential Decree as the National Preventive Mechanism (NPM) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (OPCAT). As prescribed under the OPCAT, HRCM was designated as the NPM through legislation with the ratification of the Anti-Torture Act (13/2013) (ATA) in December 2013.
4. This report underlines priority concerns for the UN Human Rights Committee in relation to the second periodic report submitted by Maldives under Article 40 of the Covenant pursuant to the optional reporting procedure, due in 2021.
5. In 2017 and 2023, HRCM conducted field monitoring visits to the outer islands to assess the implementation status of this convention. During these visits, HRCM engaged with state authorities, including island councils, Women's Development Committees (WDC), schools, health facilities, Family and Children Service Centres (FCSC), police stations, Civil Society Organizations (CSO), and parents, to gather comprehensive insights.
6. To prepare this report, HRCM acquired information from relevant stakeholders, including the government authorities, institutions and civil society organizations in addition to the review of in-house monitoring data and complaints received concerning civil and political rights. This report reflects, information received by state institutions on efforts to implement this Convention, in-house monitoring data and findings from NPM's visits to places where persons are deprived of their liberty.

## **Article 2 Ensure Rights without discrimination & Article 3 Ensure equal enjoyment of treaty rights between men and women**

7. There is a lack of public awareness of the covenant, with both State institutions and private associations failing to promote it.<sup>1</sup> While some State institutions had conducted awareness sessions, staff generally lack proper understanding of the application of the Convention.<sup>2</sup>

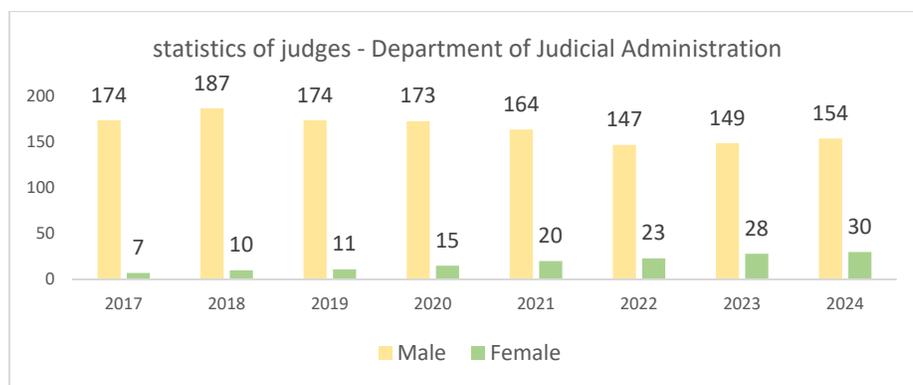
## Discrimination

8. Despite progress, employment disparities persist for people with disabilities, with their Labor Force Participation Rate (LFPR) being half that of the general population (31.0% vs. 60.2%) and their unemployment rate being higher (7.1% vs. 5.3%).<sup>3</sup> Limited vocational programs including public and private sector and tailored self-employment initiatives hinder equal access to employment, and the lack of skill development opportunities further hinders their job market entry.<sup>4</sup> In 2016, the government allocated jobs to persons with disabilities, but limited efforts were made to build capacity and provide reasonable accommodations, leading to low job retention.<sup>5</sup> However, lack of job opportunities for persons with disabilities appears as an apparent gap identified against their financial independence.<sup>6</sup>
9. Employment discrimination, primarily based on political affiliation has affected employees in both state-owned and private companies, leading to job losses and job creation. Some employees attributed discrimination to family background, viewing it advantageous for employment.<sup>7</sup>
10. The Prosecutor General's Office (PGO) currently has no records of individuals convicted of discrimination or bias-driven crimes and the Maldives Police Service (MPS) has no segregated data on prevalence of crime, or the number of individuals arrested, adjudicated, convicted, or serving sentences for discrimination and bias-driven violence, as it is currently difficult to ascertain if a crime was motivated by discrimination.<sup>8</sup>

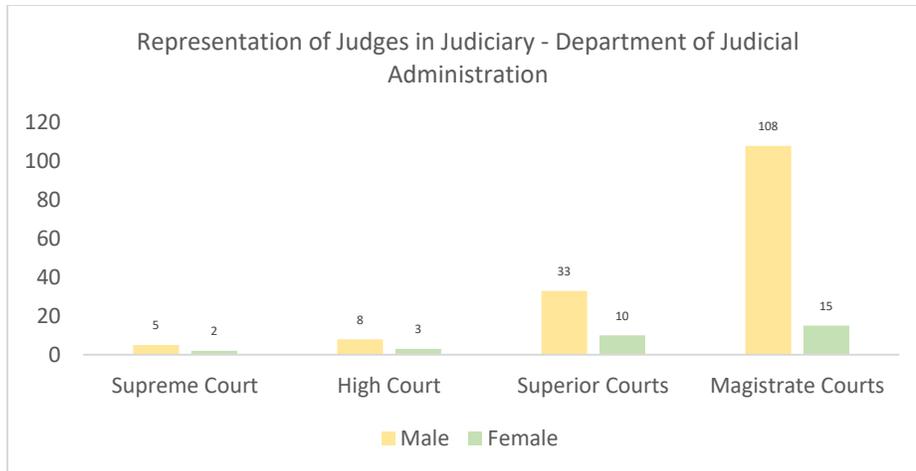
## Equal participation of women in politics and community

11. The eighth Amendment to the Decentralization Act (Act no. 07/2010), enacted on December 15, 2019, introduced electoral quotas for women, reserving 33% of all local council seats. The first female president of an Atoll Council was elected in February 2024, since the Maldives began implementing the Decentralization Act.<sup>9</sup> Even though the number of women in council positions increased their representation in higher council roles remains lacking. This highlights the persistence of gender disparities in leadership within these bodies.
12. Despite legal provisions for gender equality, women encounter obstacles in achieving parity with men due to societal attitudes and traditional roles.<sup>10</sup>
13. Women's participation in decision-making and electoral processes remains low, with limited opportunities provided by political parties.<sup>11</sup> The 2019 amendments to the Decentralization Act allocated 33% of local council seats to women, resulting in 39.5% after 2020 elections. Due to lack of awareness on the need and the purpose of the introduction of 33% quota for the councils, many assumed that the allocated seats are seats that women can compete for and rest of the 67% seats are not allocated for women. This is indirect association that will have negative subliminal effect.

14. The Gender Equality Act (18/2016)'s implementation gaps are primarily due to the lack of reporting, with only 75 institutions establishing redress mechanisms for Gender Based Discrimination (GBD) by February 2022, necessitating increased awareness about their availability and utilization.
15. The Act also mandated the establishment of WDCs to ensure the inclusion and participation of women in the decision-making process. However, they face financial and resource constraints, negative public perceptions and poor working relationships with the councils.<sup>12</sup>
16. In previous administration, 33.33% of Cabinet Ministers were women with portfolios assigned in non-stereotypical sectors such as transport, environment, climate change and technology, arts, culture and heritage and defence. While the number of female Cabinet Ministers has decreased (13.6% in 2024) in the current administration, and female Ministers hold conventional portfolios such as gender, agriculture and higher education, further pushing the existing gender stereotypes. However, gender parity has been achieved among heads of diplomatic missions in the Maldivian Foreign Service.<sup>13</sup>
17. Despite this progress, there is a low representation of women in the newly elected Parliament. Among the 368 candidates who contested for the 93 seats, only 43 were women, a slight improvement from previous years. However, despite this increase, only 3 of them were able to secure seats in the parliament, decreasing women representation in the parliament from 4.6% to 3.2%.
18. The Gender Equality Action Plan (2022-2026) aims to introduce a 33% quota of reserved seats for women in Parliament, but no concrete implementation steps have been taken so far. This would have a significant impact on efforts towards gender mainstreaming and gender sensitive legislative drafting.
19. Significant progress has been made in the judiciary with the appointment of the first female Justices at the Supreme Court in 2019, and the first female Judge to the Criminal Court and Juvenile Court was appointed in 2020 resulting in female judges now presiding over cases in all tiers of the judicial hierarchy. The number of female judges in the judiciary has increased from 7 in 2017 to 25 in 2023.<sup>14</sup>



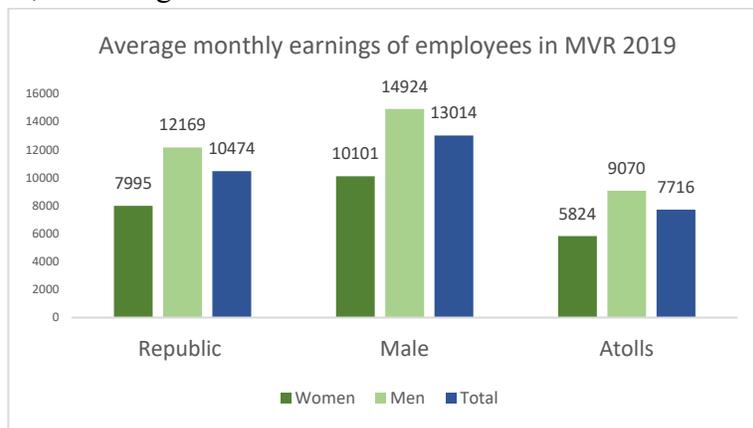
*Source: information from Department of Judicial Administration*



*Source: information from Department of Judicial Administration*

20. Pursuant to Employment Act (2/2008) it is unlawful to discriminate in determination of wages on the basis of gender.<sup>15</sup> Additionally, Gender Equality Act (mandate that employers in both public and private sectors provide equal wages to men and women performing the same responsibilities.<sup>16</sup>

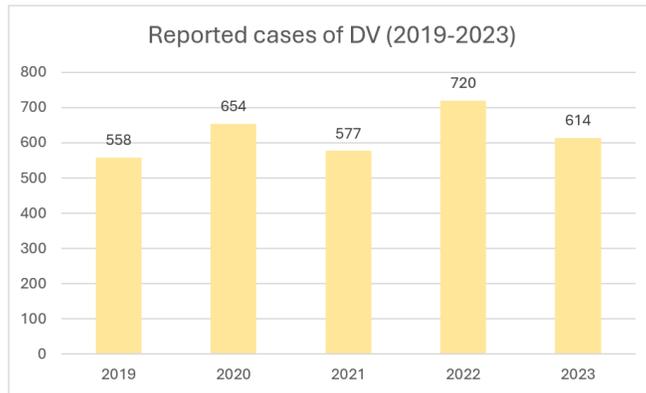
However, according to Household Income and Expenditure Survey (2019), there is a significant disparity in the average income between men and women in the country. The average income for men is MVR 12,169 whereas for women, it stands at MVR 7995 indicating that, on average men earn 52.2% more than women.<sup>17</sup>



*Source: National Bureau of Statistics, household income and expenditure survey 2019*

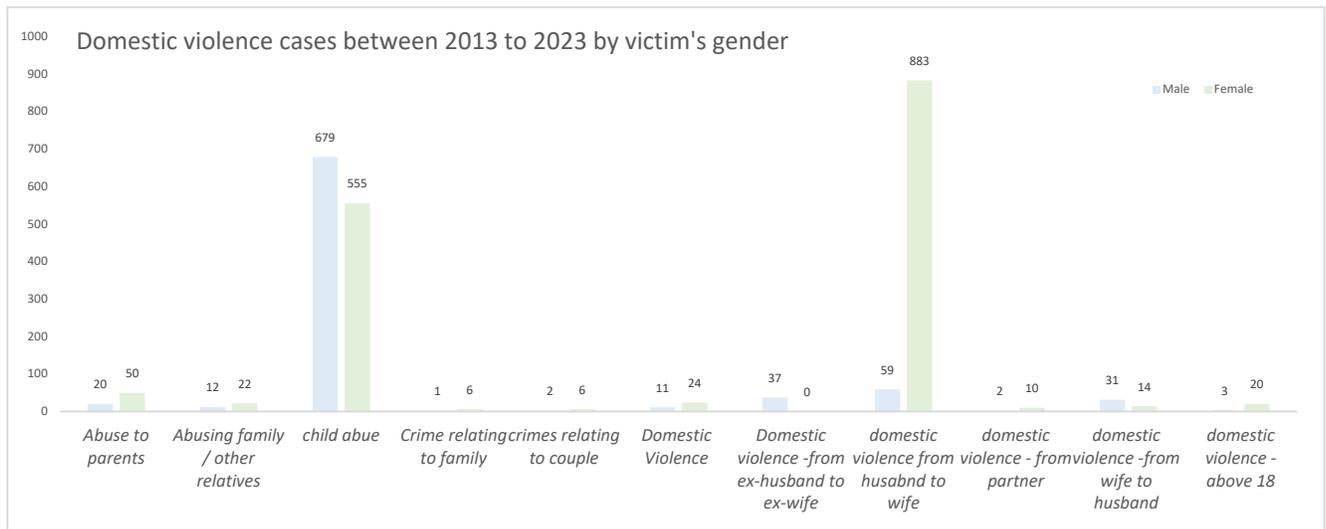
### Violence against women and children

21. Domestic Violence (DV) reporting has increased, yet many victims hesitate and withdraw cases due to fear, economic dependence, delayed legal proceedings and concerns about confidentiality.<sup>18</sup> DV cases face delays in resolution, with challenges in maintaining confidentiality and obtaining court orders.<sup>19</sup> DV is often regarded as a family matter leading to stigma and inadequate support from authorities.<sup>20</sup>

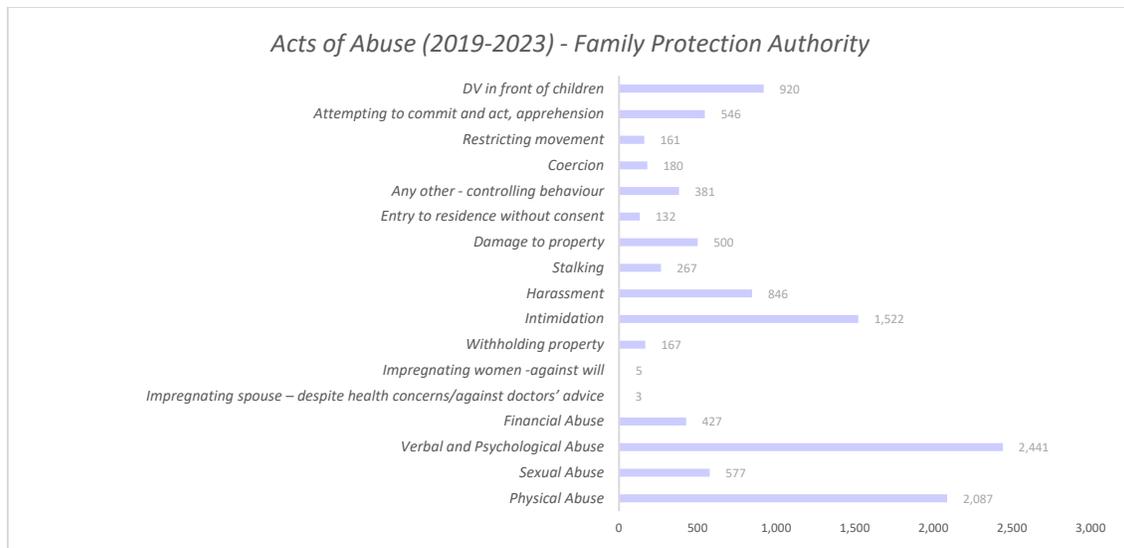


Domestic Violence cases reported to FPA (2019-2023)

*Source FPA*



*Source: information shared by Maldives Police Service*

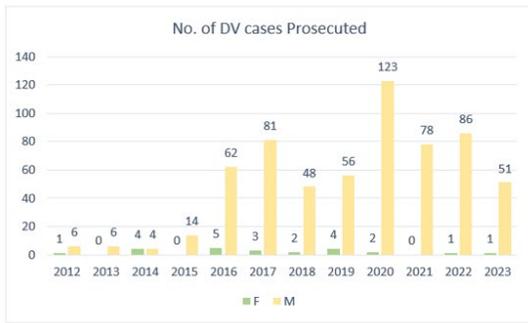


*Source: information shared by FPA on acts of abuse as per DVPA (2019-2023)*

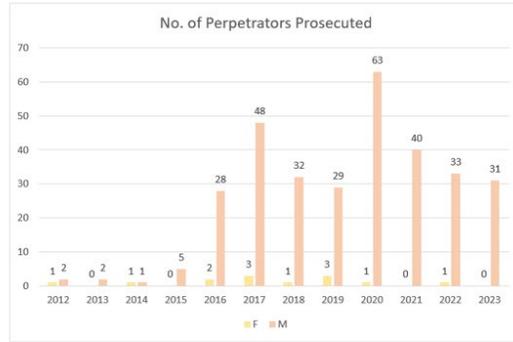
22. Addressing DV cases presents significant challenges for law enforcement agencies, such as MPS and PGO. A shortage of training for staff handling DV incidents hampers their effectiveness, while underreporting due to fear of retaliation or disbelief complicates identification and resolution. Emotional trauma inflicted by abusers lacks sufficient evidence, further hindering prosecution efforts. Staffing shortages strain resources, impeding the MPS's and PGO's ability to respond adequately. Victims' hesitation to pursue charges, compromised cooperation during trials, and insufficient evidence due to the intimate nature of DV contribute to prosecution challenges. Since DV itself is not directly criminalized as an offense under Domestic Violence Protection Act (DVPA), actions constituting DV are addressed through provisions in the Penal Code (9/2014) and the Act on Prohibition of Threats and Use of Dangerous Weapons (17/2010). Moreover, the criminal justice system lacks adequate protection and support for emotionally vulnerable DV victims, failing to recognize the unique dynamics of abuse. Limited inter-agency communication delays reporting and intervention, highlighting the need for improved coordination among relevant agencies for better outcomes and perpetrator accountability.

21

23. Between 2012 – 2023 PGO has prosecuted 638 DV cases. Total number of perpetrators prosecuted were 327 (314 men and 13 women) out of which only 78 (76 men and 2 women) were convicted.<sup>22</sup>



Source: Information shared by Prosecutor General's Office



Source: Information shared by Prosecutor General's Office



Source: Information shared by Prosecutor General's Office

24. MoSFD had established homes to accommodate persons under state care and three shelters among these shelters were utilised to house victims of DV and to provide psychosocial support to victims. As these shelters are also utilised for housing children under state-care for reasons other than DV, the NPM has issued recommendations for MoSFD to ensure that children and women are housed separately when kept in state-care.
25. <sup>23</sup> Though, the number of DV cases lodged has increased, the number of DV victims who sought shelter at these places were noticeably low. In 2022, two DV victims were sheltered, one was a female with two children and the other was a male. While in 2023, one female victim with three children received shelter, in 2024, so far only one DV victim received shelter.<sup>24</sup>

Year	Number of DV victims provided with shelter		Age group		
	Female	Male	18-35	35-55	55+
2022	2 (1 client with 2 kids)	1			
2023	1 (With 03 Kids)				
2024	1				

26. DV awareness programs face community resistance, and some staff lack familiarity with relevant legislation.<sup>25</sup>
27. DVPA requires the State to provide aid to DV victims who cannot afford a lawyer. Family Protection Authority (FPA) initiated legal aid services on August 1, 2023. These services were designated exclusively for victims of DV seeking assistance with matters such as obtaining protection orders, emergency protection orders, and addressing civil compensation cases falling under the purview of the DVPA. These services did not extend to cases outside the scope of the DVPA, including divorce proceedings, child custody disputes, and instances of sexual offense and harassment. Victims can also access legal aid through local CSOs who provide legal services.
28. Concerns were raised over delays in the investigation of abuse cases by MPS and MoSFD/FCSCs.<sup>26</sup> The public often expressed their concerns over the law enforcement agencies frequently failing to take action in response to repeated criminal offenders, and criminal suspects, alleged of committing or organizing major criminal activity, being released from custody due to insufficient evidence.<sup>27</sup>
29. It is of grave concern that the Clemency Act allows the President to award a remission on the remainder of the sentence served by child abuse convicts. In this regard, 3 child sexual offenders were granted early releases under this provision.<sup>28</sup>

## **Recommendations**

- **Intensify the efforts undertaken to investigate cases on GBV.**
- **Criminalize DV as a separate offence in legislative framework.**
- **Enact Legal Aid Act**
- **Intensify the efforts undertaken to provide psychosocial support to victims of domestic violence.**
- **Strengthen institutional capacity to protect confidentiality and privacy of the victims.**
- **Introduce legislative quotas to guarantee equal opportunities for women running for parliament**
- **Amend Political Party Act (4/2013) to incorporate temporary special measures to ensure that parties provide equal opportunities for women and men in determining candidates for any constitutional election and representatives in senior decision-making positions of parties**
- **Incorporate temporary special measures into the internal governing regulations of the political parties, considering the existing obstacles faced by women, to guarantee equal participation of women and men in determining the candidate(s) to contest on behalf of the party in any constitutional election.**
- **Amend the Clemency Act to exclude child sexual offenders from all categories of clemency.**

## **Article 4 – Derogation**

30. Section 45 of the Constitution guarantees the right not to be arbitrarily detained, arrested, or imprisoned, except as provided by laws enacted by Parliament in accordance with Section 16 of the Constitution. This right is among those that may be restricted during a state of emergency pursuant to Section 255(b) of the Constitution. Although this Article of the covenant does not explicitly state Article 9 as a non-derogable right, the committee considers Article 9 effectively non-derogable due to the requirements of the non-derogable provisions or due to their status as norms of international law.<sup>29</sup>
31. The government declared a state of emergency in 2018, which resulted in withholding of the aforementioned rights as well as the entire CPA. The international community viewed this as a serious misuse of authority and a breach of the rule of law.<sup>30</sup> Although a State of Emergency decree's validity may be contested before the Supreme Court pursuant to Article 258, no such cases were filed in court.
32. Chapter 4 of the Counter Terrorism Act (32/2015) allows for the suspension of certain rights guaranteed under the Constitution, including search of persons without a court warrant, arresting without a warrant, keeping any person arrested for a duration of 48 hours without being brought before a judge and withholding private meetings with a lawyer for a period of 7 days. As procedural guarantees are not ensured within the Act, the withholding of certain rights such as holding private meetings with a lawyer for 7 days, the limitations on these rights may be subjected to misuse and abuse by State authorities. Concerns have also been raised by UN expert with regard to the number of exceptionalities created in the Act in relation to investigations and trials, including the above provisions under Chapter 4 of the Act. In addition, concern over the range of admissible evidence in cases of terrorism, including the significance given to intelligence reports by MPS were also raised.<sup>31</sup>

## **Recommendations**

- **Amend the Constitution to include Article 45 of the Constitution (No unlawful arrest or detention) under Article 255 which places a limitation on certain rights that cannot be restricted even in the case of a state of emergency.**
- **In addition to amending the Constitution, enact a legislation on state of emergency to detail out the procedural guarantees ensured under ICCPR.**
- **Review Counter Terrorism Act in line with international obligations and best practices**

## Article 6 – Right to life

33. Since 1953, the Maldives has maintained a de facto moratorium on the implementation of death sentence. However, from 2016 to 2022 Maldives consistently voted “No” on the UN resolution calling for a moratorium on the use of death penalty.<sup>32</sup>
34. State made the procedural arrangements to implement death penalty in 2014. In this regard Regulation on Investigation of Murder and Implementation of the Death Penalty was enacted (2014/R-33).<sup>33</sup> This regulation and amendment to the regulation (2016/R-41) provided hanging in addition to lethal injection as a method of execution for premeditated murder or deliberate manslaughter.<sup>34</sup>
35. Penal Code and the Criminal Procedure Act (12/2016) (CPA) ensure due process before imposing the death penalty, with appeals from lower courts automatically moving to the High Court and Supreme Court subsequently. Section 92 (k) of Penal Code further states that death penalty is available only for the most egregious imaginable form of a purposeful killing of another person in the most cruel and heinous manner.
36. Convictions for intentional murder result in a death sentence only upon confirmation through all appellate processes. Article 1204 of the Penal code includes specific conditions which includes proof requirements, confession use, and evidence requirements in death penalty cases. Section 1205 of the Penal Code applies punishment for hudood or qisas offenses.
37. Supreme Court in the case *Mohamed Shaifan v. Prosecutor General’s Office* [2023] SC 59, ruled to rescind the Article 1204 (c.2) stating that it obstructs the implementation of *qisas* (retaliation in kind, legal retribution or retributive justice) as per Islamic Shariah. In the Judgement it was stated that, it would be impossible to prove culpability to the level defined in the said Article, and hence the Article has been drafted in a manner that stipulates the court to do the impossible, thereby obstructing the implementation of *qisas*.
38. Section 13 of Regulation 2014/R-33 grants the murder victim's heirs the discretion to pardon the person facing execution. It is imperative to emphasize that Article 42 of Sentencing Guideline (02/2021) by the Supreme Court affirms that the death penalty is imposed if all heirs of the deceased, who are 15 years old and above wish for execution, but even if one refuses, the punishment is imprisonment as prescribed by law.<sup>35</sup> While Article 43 of sentencing guideline provides for the court to order expiation in all cases, except capital punishment, Article 44 stipulates MVR one million as financial compensation.
39. Article 5 (a.1) of the Clemency Act (2/2010) stipulates that murder is an offense that cannot be pardoned. However, Article 21 of Clemency Act grants the President the power to commute death sentences to life imprisonment, notwithstanding any other provision in this Act.<sup>36</sup> While High Court Justices in 2015 declined to annul these provisions of the Clemency Act (2/2010) in a case requesting their annulment (Case number: 2012/HC-DM/08), as these provisions not only address death penalty sought in punishment of

intentional homicide but are also subjected to other crimes that may include death penalty as a form of retribution; the ruling included that the President cannot commute death sentence for (*qisas*) intentional murder if all victim's heirs seek death penalty under Islamic Shariah.<sup>37</sup>

40. The Article 35(a) of Constitution provides special assistance and protection for individuals from family, community, and state. The Child Rights Protection Act (19/2019) (CRPA) states that the death penalty is not applicable to children due to their differing mental and physical development. Correspondingly, Article 74-1 of the Juvenile Justice Act (18/2019) (JJA) prohibits the death penalty for juvenile offenses before age 18, and convictions must be commuted to not more than three-fourths of the next most severe penalty.
41. Additionally, if the convict is pregnant, the sentence can be postponed until she gives birth and the child turns two years old.<sup>38</sup>
42. According to the decisions published by Supreme Court from 2012 to 2023 there are 5 people (males) on death row.<sup>39</sup>
43. Shari'ah law requires that criminal liability only accrues when a person reaches the age of balig (becomes an adult), is of sound mind and has free will. These criteria aim to ensure that individuals are held responsible for their actions only when they possess the necessary mental and physical maturity to understand the implications of their behaviour. Therefore, insanity is an accepted defence in Islamic Shariah for intentional homicide as it would eliminate the intention to commit the intentional homicide offence. Article 52 of the Penal Code allows for a pardon for an offender who commits a crime due to mental injury or disease, fails to understand the nature of their conduct, or lacks control to prevent the crime, as a forgivable defense for the offense committed. Additionally, Article 26 of the Penal Code stipulates that evidence of mental illnesses or defects is admissible to disprove the culpability necessary for an offence, and Article 62 states that a defendant who is incapable of understanding the charge or communicating their defence need not enter a plea of guilt or innocence in order to stand trial or be sentenced.
44. In 2015, HRCM's investigation found that a comprehensive psychosocial assessment was not conducted prior to the prosecution of an inmate sentenced to death. During its investigations, HRCM has requested on multiple occasions to carry out comprehensive psychosocial assessment and to provide necessary psychosocial support. However, the assessment was completed on July 13th, 2019. In light of the inmate's deteriorating psychological status while in death row in September 2022, the HRCM issued a directive to the MCS to conduct additional psychological consultations and further psychological assessment.
45. The UN Human Rights Committee has also raised concerns regarding the same case and has reminded the State party that it may not impose the death penalty on an individual with serious psycho-social and intellectual disabilities, or execute any individual with a diminished ability to understand the reasons for their sentence as this is a violation of Article 14 (1). The concerns raised include, adjudgment by court that the defendant was fit

for trial based on a lack of prior indication of a history of mental health, failure to conduct and consider a thorough psychiatric assessment despite the requests of family, the police and penitentiary doctor, inconsistent behaviour from the outset of proceedings including by rejecting State appointed counsel and insisting on his own representation, repeatedly changing pleas, and generally acting against his own interests

46. The government allocated MVR 4 million in the budget of 2016 to build a facility for the implementing death penalty.<sup>40</sup> The Maldives government was recommended to “permanently remove or repurpose all facilities for the death penalty” by the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment.<sup>41</sup> Regrettably, NPM was denied access to inspect this facility during its visits to Maafushi Prison. Nevertheless, during a high-level dialogue held with government agencies on November 24th, 2022, the former Minister of Home Affairs informed HRCM that the space previously designated for carrying out death sentences had been repurposed as a storage facility and that the original facility no longer existed. The government reaffirmed its stand on imposing death penalty-in a press conference held in December 2023.<sup>42</sup>
47. The Fourth Amendment to the Criminal Procedure Act (9/2014), enacted in November 2022, integrates elements of witness protection into the existing criminal justice framework. This amendment sanctions the State to pursue a witness protection order and mandates specific procedural safeguards to be observed when admitting testimony from witnesses under protection. However, the State is yet to enact an exclusive legislation on witness protection.

### Deaths in detention

48. From 2013 to 2023, 38 deaths in custody and detention were investigated by HRCM, out of which 36 were closed and 02 cases are currently ongoing investigations. Out of the cases closed, 34 were natural deaths and 02 were suicides. Investigations found negligence by authorities in two cases, including delays and insufficient medical assistance. During the course of the investigations, due to the lack of an independent forensic institute within the country, the HRCM sought independent forensic analysis in investigating such cases.

### Abortion

49. The Penal Code exclusively proscribes abortion occurring subsequent to the initial 120 days of conception.<sup>43</sup> Moreover, even in such instances, the law establishes an exception for abortion when the mother faces risk or when the pregnancy arises from sexual abuse and/or incest.<sup>44</sup> In addition a fatwa (Islamic Ruling) on guidance on the grounds on which abortion can be legal within an Islamic context was issued by Government’s council of religious scholars known as the Islamic Fiqh Academy in December 2013.<sup>45</sup>
50. The need to hide from public scrutiny makes unmarried women who unintentionally become pregnant at risk for unsafe abortions.<sup>46</sup> Furthermore, the reluctance to recognise

the prevalence of unsafe abortion by public health authorities is a serious gap in the health system.<sup>47</sup> Abortions from health facilities are reported through the vital registration system.<sup>48</sup> The number of miscarriages between 2016 and 2020 was found to be fewer than 3% of all births.<sup>49</sup>

### Use of force and firearms

51. HRCM conducted a policy review on use of force and firearms by the MPS in 2023, October. The review founded that the policies currently in place are in line with UN guidelines. However, HRCM investigations revealed instances where there were violations in the application of the use of force by MPS. HRCM investigated a total of 667 cases on violations of the use of force including firearms by MPS between 2013 and 2023. Presently 98 cases are still under investigation, while 543 cases were closed with unsubstantiated allegations and 26 cases were sent for prosecution.



### Corporal punishment

52. Constitution affords special protection and special assistance to children and young persons, provided by the family, the community and the State.<sup>50</sup>
53. The CRPA prohibits any kind of violence or cruel, or cruel, inhumane degrading treatment and punishment against children in different circumstances including at home, under the care of any guardian, care centres, at school or any other environment they live in.<sup>51</sup> DVPA prohibits physical abuse, intimidation and harassment against children, as the act recognizes relationship between parents and children as well as children and persons who have or had parental responsibility, as a domestic relationship.<sup>52</sup>
54. Education Act (24/2020) prohibits any kind of punishment, whether as a disciplinary measure or otherwise, or to inflict any kind of cruel and inhuman punishment or physical or mental harm on the student within the premises of the school and/or when the student is
55. JJA grants extensive rights for children including protection from any kind of punishment that may result in physical and emotional harm of the child.<sup>53</sup> While several Articles of the JJA relates to *hadd* and *qisas* crimes in terms of procedural aspects, it does not mention potential sanctions.<sup>54</sup> Under the current Juvenile Justice system, children are not prosecuted for *hadd* crimes by practice of the Prosecutor General's Office as the current juvenile

system recognizes diverting children from criminal behaviour through rehabilitative programs rather than sentencing to jail.<sup>55</sup>

56. According to Penal Code, offences for which punishments are predetermined in the Holy Quran, the offender shall be punished according to Islamic Shariah as prescribed by the Act and Quran.<sup>56</sup> Applying *hadd* punishments as prescribed by Islamic Shariah require meeting extensive evidentiary thresholds, including providing every element of the crime beyond any doubt and therefore are rarely prosecuted due to lack of such evidence.<sup>57</sup>

### **Recommendation**

- **Establish an independent forensic institution in the country**
- **Enact an exclusive legislation on Witness Protection**
- **Ensure the protection of witnesses in criminal cases.**
- **Uphold the provisions in the Child Rights Protection Act (19/2019) and the Juvenile Justice Act (18/2019) that prohibit the death penalty for juveniles and ensure these protections are not undermined by lowering the age of criminal responsibility.**
- **Ensure timely mental health assessments where necessary at pre-trial, remand, and conviction stages to uphold the principles of fair trials.**
- **Ensure that independent psychiatric assessments of individuals with serious psycho-social and intellectual disabilities are conducted during trial for capital crimes**

## **Article 8 - The freedom from slavery and servitude**

57. The construction industry employs the majority of migrant workers.<sup>58</sup> Migrant workers engaged in labour-intensive manual work often lack adequate and substantial social protection<sup>59</sup> and were subjected to acts indicative of fraudulent recruitment, confiscation of passports, non-payment of wages, forced labour, and debt bondage.<sup>60</sup> Employers continue to withhold the passports of migrant workers for the purpose of safekeeping.



Source: cases lodged to HRCM regarding migrant workers from 2013 to 2022

58. "Quota trading" (an illegal practise) but is the most common path to irregularity where employers recruit more than required number of migrant workers and subcontract them to other employers, rendering migrant workers to vulnerability to exploitation.<sup>61</sup> Concurrently

migrant workers often abscond which is undoubtedly influenced by high recruitment charges, believing they can find better working and living conditions elsewhere, potentially leading to debt.<sup>62</sup> Migrants remain forced to pay off their migration-related debts while providing for themselves and their families back home.<sup>63</sup> In comparable situations, that some employers neglect to complete the requisite documentation despite some migrant workers have already paid for it.<sup>64</sup>

59. Maldivian employers often prefer to hire workers outside legal channels to bypass quota restrictions, save on financial and administrative costs, and maintain flexible employment arrangements.<sup>65</sup> Additionally, high costs result in less frequent employment site inspections by authorities.<sup>66</sup>
60. As of 2020, there were 66,000 migrant workers without valid documents.<sup>67</sup> A total of 43,787 migrant workers were registered under the regularization programme undertaken by Ministry of Economic Development (MoED) from 1<sup>st</sup> October 2021 to 31<sup>st</sup> August 2022. Of the applicants 44% of were regularized and 20% were voluntarily repatriated.<sup>68</sup> Moreover, 3,828 migrant workers were unable to provide any identification document at the time of registration and was informed to request for regularization through a prospective new employer.
61. According to the statistics shared by Maldives Immigration the highest number of migrant workers were repatriated.

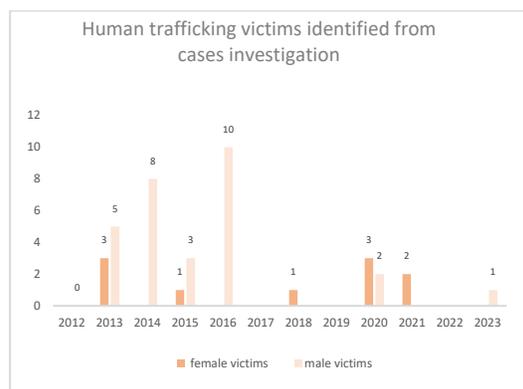
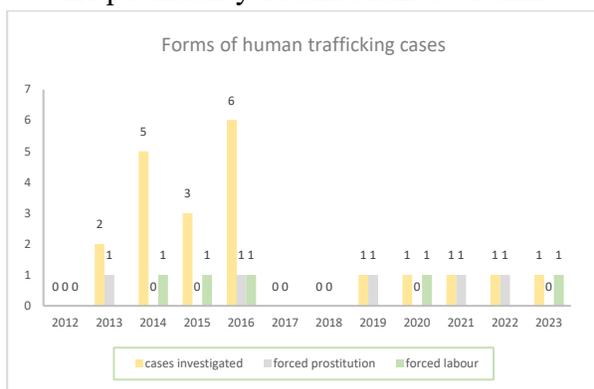


*Source: Maldives Immigration*

62. Government announced the establishment of minimum wage in 2021.<sup>69</sup> The Seventh Amendment to the Employment Act (15/2022) indefinitely postponed the minimum wage setting for only migrant workers, which inadvertently leads to increased risk of underpayment and workplace discrimination.<sup>70</sup> Migrant workers in the construction sector often earn lower wages than the local minimum wage.<sup>71</sup> Concurrently, non-payment and delays in the payment of wages were a common occurrence for migrant workers involved in labour-intensive manual work.
63. The absence of official documentation continues to be a deterrent for migrant workers to lodge complaints to state authorities leaving them vulnerable to exploitation and mistreatment.<sup>72</sup>

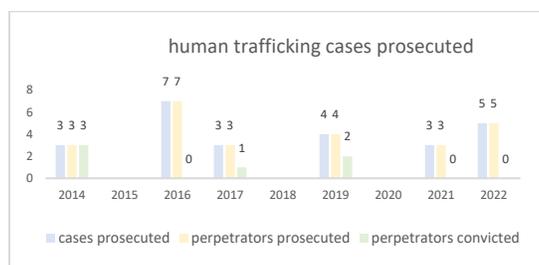
HRCM has observed that in some cases investigated, one of the government hospitals halted accepting physical cash which presented challenges for undocumented migrant workers without bank accounts or who are unfamiliar with digital banking services. This particularly made migrant workers especially undocumented migrant workers more vulnerable in accessing health care services, as they remained reluctant to seek medical care from such health care facilities. Ministry of Finance (MoF) informed HRCM that in response to specific requests from health care providers, the MoF has been lifting the restrictions and that they are working to address this concern. However, this issue still persists in some hospitals.

64. Migrant workers specially in the construction sector continue to live in congested conditions, despite the endorsement of necessary regulations under the Employment Act.<sup>73</sup> On average, there were 11 migrant workers sharing a room across all types of living quarters in the country.<sup>74</sup> Among migrant workers residing in collective living quarters, 12% share their beds with another individual.<sup>75</sup>
65. The Trafficking in Persons (TiP) hotline remains suspended due to a lack of dedicated staff, however, 24-hour hotline operated by the Anti-Human Trafficking Department (AHTD) of MPS did not identify any potential victims, which is an indication that additional effort is required to address this issue given the high number of suspected trafficking victims.<sup>76</sup>
66. The application of the victim identification guideline remained nominal for various reasons, including a lack of adequate capacity and resources in the process of identifying trafficking victims.<sup>77</sup> Moreover, there is no standard mechanism to be followed by authorities in identification of potential victims and referrals, which may lead to a dearth of referrals and the potentiality of unidentified victims.<sup>78</sup>



67. According to the human trafficking investigations conducted by the MPS between 2012 and 2023, it was found that 29 male migrants and 10 female migrants were identified as victims in 26 cases where the perpetrators were alleged to have engaged in forced labour or forced prostitution.<sup>79</sup> It is important to note that some employers use the pretext of tourism or employment in “health spas”,<sup>80</sup> to bring women into Maldives and then force them into sex trafficking.<sup>81</sup>
68. Some of the challenges investigators face include the reluctance of victims to provide accurate information and a lack of willingness to support law enforcement authorities.<sup>82</sup>

Other significant challenges were the inability to provide proper victim support during interactions with victims and the lack of adequate interpretation services.<sup>83</sup> Similarly, limiting disclosure of witness information remains challenging.



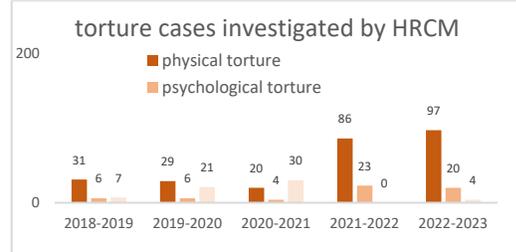
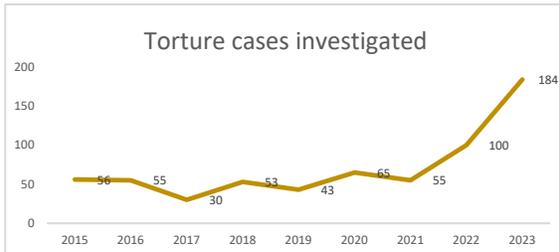
Source: information shared by Prosecutor General's Office

69. A total of 25 cases were prosecuted between 2014 and 2022 under the Prevention of Human Trafficking Act (12/2013) (PHTA).<sup>84</sup> The limited number of police officers investigating human trafficking cases is a factor that impacts the duration of the investigation.<sup>85</sup> Additionally witnesses also change their minds or depart from the country further complicating the investigation process.<sup>86</sup> Similarly, lack of specialized prosecutors with specialty in countering human trafficking was a challenge faced by PGO.<sup>87</sup> The absence of an exclusive legal framework for witness and victim protection, in addition to trial delays, remains a contributing issue, although with elements of witness protection integrated into the CPA.<sup>88</sup>
70. The Fourth Amendment to the CPA (9/2014), integrates elements of witness protection into the existing criminal justice framework. However, the State is yet to enact an exclusive legislation on witness protection.
71. Access to entitlements and services, and to initiate investigations under the PHTA, granted upon the declaration of a trafficking victim or potential victim by AHTD of the MPS. Nevertheless, absence of an established SOP on providing medical treatment, lack of availability of TIP-sensitized counsellors and psychologists, and language barriers between counsellors and TIP victims remained as challenges in providing assistance to victims.<sup>89</sup> Moreover, the unavailability of experienced female interpreters is also a challenge, whilst female victims prefer with female interpreters for communication.
72. Government continues to revise its draft AHT victim assistance and shelter regulation for past several years.<sup>90</sup> During this time victims are being provided accommodation in guest houses in different islands and agreements were made with these businesses.<sup>91</sup>
73. Following the 2018 transition of administration, the trafficking mandate was shifted from MoED to Ministry of Defense (MoD) in 2019, leading to the establishment of a National Anti-Human Trafficking Steering Committee (NAHTSC)<sup>92</sup> and Anti-TIP office with the allocation of funds.<sup>93</sup> With the change of government in 2023, the trafficking mandate was shifted from MoD to MoHSnT. This is positive progress considering that the MoHSnT's mandate encompasses other relevant aspects of combating human trafficking.

## **Recommendations**

- **Ensure fair wages for migrant workers and they are covered by the minimum wage order set by the government**
- **Increase government oversight of private recruitment agencies for safe and orderly migration**
- **Review the victim identification procedure to identify victims and potential victims of human trafficking**
- **Ensure all stakeholders utilise the victim identification procedures in place**
- **Intensify the efforts undertaken to investigate all forms of human trafficking allegations**
- **Intensify efforts to ensure victims of human trafficking are provided all necessary services as per the legislative framework such as the medical treatment, psychosocial support, interpreter services and legal assistance**
- **Standardize the documentation of disaggregated data on human trafficking cases and incidents**
- **Establish a coordination mechanism to facilitate data sharing related to migrant workers**
- **Intensify the capacity building efforts to law enforcement officials working to combat human trafficking**
- **Enact a legislation on the protection of the rights of workers in line with international standards**
- **Sign and ratify International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

**Article 7: The right to be free from inhuman or degrading treatment or punishment & Article 10: People deprived of their liberty shall be treated with humanity.**



*Prevalence of Torture, Cruel or Inhuman Treatment at Detention Facilities*

74. While HRCM is mandated under law to conduct criminal investigations into alleged torture, and despite relevant institutions being reminded on multiple occasions, institutions at times choose not to pursue cases of torture with HRCM.
75. Considering the alleged torture cases submitted to and investigated by HRCM during the past 5 years the number of reported cases of alleged physical torture during 2021–2022 was four times higher than the previous year. The most common forms of physical torture recorded involve beating, striking with fists or legs, or using hard objects like plastic tubes, rods, batons, or weapons. Alleged cases of psychological torture submitted to and investigated by HRCM have also increased fivefold in the past two years. The most common forms of psychological torture involved included unscheduled transfers to a centre or place other than the centre of detention without prior notice or without prior arrangement creating a sense that the person is to be subjected to torture, stripping naked in the public, or in front of any others and sleep deprivation, or denial of rest.
76. During the past five years, an overwhelming majority (97.9%) of the allegations were against the MPS, MCS, and MoSFD. The MPS in particular faced the majority of these allegations (66.8%), with MCS and MoSFD accounting for 25.8% and 7.4%, respectively.
77. HRCM faced significant challenges when investigating torture cases due to the high evidentiary burden required to prove allegations of torture under the ATA. Without clear and direct evidence, it was often challenging to demonstrate the intention of the accused as stipulated under section 10 of the ATA.
78. HRCM lacks sufficient financial, technical, and human resources to fulfil the criminal investigation mandate efficiently. Addressing the current challenges necessitates strengthening staffing shortages and pay harmonising. Additionally, enhancing capacity in investigations, forensic examinations, documentation, interviewing techniques, and information analysis. Forensic analysis requires to be conducted by certified individuals or organizations to ensure the validity of the legal documents that can be used in court. The

lack of an independent forensic laboratory in the country remains an issue of concern, as HRCM has to depend on MPS forensic expertise and there is a potential for biased reports due to the conflict of interest.

79. Other than the victim's testimony, there is frequently little to no other proof available which can be difficult to substantiate due to the absence of corroborating evidence in medico-legal reports. Additionally, absence of witnesses; and unwillingness on the part of witnesses, victims, and their attorneys to fully engaging in the investigative process further complicates the process. Moreover, the limited availability of CCTV footage which would offer crucial video evidence in such cases.
80. Even in cases where the HRCM determined that the evidentiary requirements were met, the Prosecutor General's Office only prosecuted 3 cases, citing insufficient evidence or failure to prove the intention of the alleged perpetrator under Section 10 of the ATA in 10 cases. In instances where the PGO declined cases, HRCM forwarded cases to MPS to investigate the case under the Penal Code of the Maldives or National Integrity Commission (NIC) to investigate any unethical behavior by law enforcement officials, in order to provide alternative remedies to the victims.
81. The current definition of facilities covered under ATA uses the terminology "detention" and therefore, does not encompass all places where persons are deprived of liberty including old-age homes, state care facilities that accommodate children, quarantine places, and solitary healthcare facilities. This has posed challenges to the preventive work undertaken by HRCM. HRCM has proposed amendments to AGO to redefine the terminology in line with Article 1 and 4 of the UN Convention Against Torture (CAT).
82. The ATA served as a crucial human rights protection framework. However, HRCM having to undertake the criminal investigation element of this legislation poses a conflict in its mandate and several challenges as a result of carrying out these investigations. While NHRIs are mandated to be monitoring bodies and work with the State through mediation and directives, a mandate of holding people criminally culpable and forwarding cases for prosecutorial decision is in direct contradiction to what the Paris Principles envisages. In addition to the role of NHRI, HRCM is also the NPM and have been carrying out a preventive approach through constructive dialogue for over 15 years. The outcomes of the criminal investigations diminish the space for constructive dialogue and mediation.

#### NPM

83. The NPM visits police stations, police custodial, jails, reintegration centers, juvenile detention centers, Home for People with Special Needs (HPSN), detoxification and rehabilitation centers (DRC), as well as immigration detention centers. Since the establishment of NPM, has a total of 228 visits to a number of these different facilities have been conducted.
84. The obligation of NPM to conduct unannounced visits and inspect the facilities is respected by all authorities. Moreover, the NPM observed that the independence of the NPM has been guaranteed with no influence from any government (or other) body practicing its influence

over the NPM. Nonetheless, it is significant to mention that the NPM frequently has to wait for extended periods to get access to correctional facilities. Even after access to the facility, access to various areas and units within the facility is delayed due to a lack of coordination between prison staff and security officers. While documentation analysis is a key part of inspection, delay in providing documentation and registers caused hinderances in the effective execution of inspections. Management of correctional facilities request NPM to complete the inspection of the facility and interviews within official business hours and accessing the facility after business hours requires further authorisation from the prison management. With the available budget and current staff strength, an inspection of a facility is currently being executed within 3-4 days and these delays posed by the facilities hinders NPM from conducting a comprehensive inspection within this timeframe. Despite discussions with key stakeholders in attaining unfettered entry and access to all detention facilities, the issue remains unresolved.

85. NPM observed continuous overcrowding in K. Maafushi Prison, Male' Prison, Asseyri Prison and Dhoonidhoo custodial. The material conditions and sanitary conditions of most detention centers remain below par.
86. Prisons usually segregate prisoners based on risk levels as required by the Prison and Parole Act (14/2014) (PPA). However, facilities such as police stations do not segregate detainees by risk levels or type of crime, in most cases due to lack of space in these facilities. Detainees in these facilities are usually only segregated by age and gender.
87. NPM observed that detainees were informed of their rights upon arrest and provided with legal representation by the State if they were minors or individuals who are eligible under legal aid regulation.
88. The remand units remain overcrowded due to prolonged trial periods leading to remand prisoners being housed in the same units as convicted prisoners. Contrary to what is mentioned in paragraph 166 of the periodic report submitted by the state, remand prisoners remain in MPS police custodial facilities for a prolonged period as there are delays in transferring these detainees by MCS to their remand units. MCS has informed HRCM that this is caused due to the overcrowding of correctional facilities. HRCM receives a large number of complaints from these detainees as they do not have access to privileges granted to remand prisoners under the PPA - conjugal visits, smoking and access to prison commissary eligibilities. HRCM has raised this issue in several forums and has had discussions with all relevant stakeholders to resolve the matter and have seen little to no progress.
89. A separate wing within the female unit of K. Maafushi prison is dedicated to female remand prisoners.
90. Instances of violence among prisoners, including sexual abuse, were observed, especially by detainees in remand. The NPM received complaints of sexual abuse and harassment towards female prisoners by other female prisoners in K. Maafushi Prison and that no action was taken by prison officers when reported. NPM observed that records such as event logs

of these occurrences were not maintained in the facility. The NPM also received complaints of harassment and abuse towards female prisoners by prison officers when body searches were conducted.

91. Prisons lack the resources to conduct least invasive methods of body searching and all prisoners are subjected to strip searches in Maafushi Prison following their return to the facility after court proceedings and out-of-prison medical consultations. This procedure is also implemented following conjugal visits. The prison management disclosed that this is a routine procedure used to prevent and manage the issue of prisoners bringing drugs and other contraband into the facility. In some instances, female prisoners weren't given a cloth to cover their bodies when searches were conducted. Many female prisoners mentioned that they opt not to leave the prison premises for specialized medical visits to evade the invasive strip search. In addition to prisons this issue persists in police custodial as well.
92. The regulations under the PPA are not in compliance with the Act. Specifically, custodial regulations permit facilities to deny prisoners and detainees access to basic services (basic rights) as a disciplinary action, even though the PPA explicitly prohibits detainees from having their basic rights violated. For instance, NPM observed that individuals are denied family visits detained for over 20 days; 5-minute family calls were denied in their 15 days of incarceration; outdoor activities were discontinued despite their weekly entitlement of one hour of outdoor activities.
93. The NPM observed that some detainees kept in some prisons are kept in conditions where they do not receive any meaningful human contact. These detainees can only interact with prison officers. MCS claims that these cells are designated for prisoners who need to be isolated for medical purposes and prisoners with mental health disorders going through severe psychotic episodes. However, NPM has been informed by inmates that in some instances these cells have been used to detain prisoners as a disciplinary measure to segregate them from the general prison population.
94. It is also a major concern that inmates going through severe psychotic episodes and incoherent states are isolated and kept in these cells for a prolonged period. As there are limited forensic psychiatric professionals working in the prisons and MCS officers lack the capacity and skills to deal with mental health patients, these inmates remain in unsanitary and poor conditions. Due to the violent nature of these inmates, food and medication is provided to them at a distance while the cells remain locked. HRCM has raised this concern and have had discussions with authorities to establish proper forensic mental health mechanisms within the penitentiary in order to prevent inhumane treatment and facilitate adequate treatment and care. Although some policy efforts are being undertaken, the issue remains as a grave concern.
95. While detainees have access to medical care, they face challenges in accessing specialist doctors and receiving follow-ups for medical examinations and laboratory tests. This issue is further aggravated by the fact that access to specialists and healthcare professionals is

prevalent across the country. It is also noteworthy that a large majority of cases lodged and investigated by HRCM are related to health rights of inmates.

96. NPM did not observe cases of outright malnutrition. However, there were cases where the amount of food provided for people kept in detention or the HPSN was inadequate.
97. NPM observed that no proper complaint mechanism was established in the HPSN, and individuals in the DTRC were not allowed to report complaints directly to the HRCM but were informed to file complaints with the National Drug Agency (NDA) directly.
98. The material conditions of the HPSN were poor and underfunding contributes to the deteriorating conditions of the facility. It lacks adequate resources and no special programs were in place for technical, vocational, and educational development. Minors undergoing treatment remain unsegregated, and persons with psychological disabilities are not segregated from elderly patients without psychological disabilities.
99. Foreigners awaiting deportation are detained in the Immigration Detention Center established within Hulhumale' Prison and more recently the Immigration Detention Center in Hulhumale' Phase – 2 since June 4<sup>th</sup> 2023. The immigration detention centres are run by Maldives Immigration under the powers vested upon the Immigration Controller in the Immigration Act (1/2007). The Immigration Detention Centre established inside the Hulhumale Prison facility was a separate unit setup concurrently with the criminal detention units of MCS. The security of the immigration detention unit was managed by MCS and the same procedural practices apply to both administrative immigration detainees and correctional inmates. As criminal detention and administrative detention practices, and the procedural guarantees and safeguards afforded for these two types of detention differ, HRCM advised on separating the Immigration Detention Centre from this facility and that separate regulations should be introduced in the treatment of immigration detention. The new Immigration Detention Centre setup separately by Maldives Immigration with a capacity of 200 detainees only houses administrative immigration detainees. However, the security of this facility is also managed by the MCS. Work is underway to sign an MoU between MCS and Maldives Immigration to clearly state the responsibilities of each institution in operating the facility. Hence, the current situation remains that the roles and responsibilities of MCS and Immigration in the treatment of detainees in the Immigration detention centres are unclear. The immigration detention centre in Hulhumale' Prison was shut down later in 2024 and the separate detention centre established in Phase 2 is exclusively used immigration detention. NPM was informed that a separate unit within this facility has been designated for female migrants.
100. MCS held programs in phases to rehabilitate convicts in prisons. Participants for these programs were selected based on a predetermined quota, and new participants were allowed to join the program as soon as new slots opened up. However, the phase program was later discontinued and prisoners only have access to religious education programs. No rehabilitation programs are conducted in prisons even though a large proportion of the prison population are sentenced for drug abuse. Drug rehabilitation is provided in NDA run

facilities and prisoners who are court mandated to go through the programs are transferred to these facilities or to the community as part community rehabilitation. A comprehensive rehabilitation program focusing on different crimes is lacking and as a result, recidivism is prevalent and prisoners who complete their sentence face challenges in reintegration back to society.

101. A total of 3813 state authorities participated in several capacity building programs conducted by HRCM from 2014 to 2022. The various training sessions comprised of introduction to human rights, Universal Declaration of Human Rights (UDHR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), OPCAT, Nelson Mandela Rules, local human rights mechanisms, fundamental rights and freedoms guaranteed in the Constitution, ATA, role of HRCM, role of NPM, duties of custodial officers, rights of detainees, use of force, issues identified by NPM, findings of investigations.

Awareness sessions conducted by HRCM from 2014-2022 on National Legislation on Anti-Torture & International Standards		
	Civil Servants	12
	Fiyavathi	209
	Other Government Institutions	77
	Home for People with Special Needs	43
	Hulhumale Hospital	19
	Indira Gandhi Memorial Hospital	83
	Maldives Correctional Service	919
	Maldives Police Service	2406
	National Integrity Commission	30
	Ombudsperson's Office for Transitional Justice	15

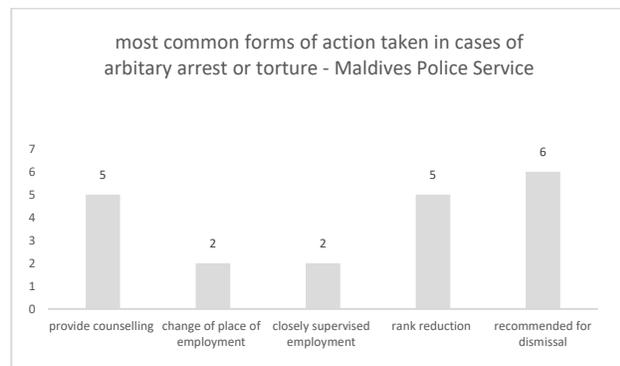
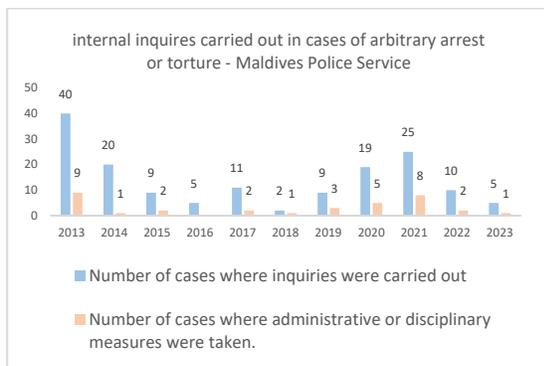
*Source: awareness sessions conducted by HRCM to state authorities from 2014 to 2022*

## **Recommendations**

- **Establish prison and custodial facilities that are in line with international standards.**
- **Enforce categorization of prisoners as outlined in the Nelson Mandela Rules**
- **Establish an independent forensic institution.**
- **Review and amend the Anti-Torture Act in line with CAT convention**
- **Consider amending the Anti-Torture Act to remove the mandate of the HRCM to conduct criminal investigations of human rights violations, allowing the HRCM to focus on its core functions and better align with the broader mandates expected of an NHRI.**
- **Ensure that basic rights guaranteed to persons deprived of liberty are not withheld as a disciplinary measure.**
- **Allocate adequate financial and human resources to significantly improve the conditions of places where people are deprived of their liberty to ensure the full implementation of the Nelson Mandela Rules.**
- **Take concrete measures in a holistic manner to reduce pre-trial detention and review the procedural framework to establish alternatives to pre-trial detention.**
- **Grant the National Preventive Mechanism timely access to all places of detention where persons are deprived of their liberty.**
- **Ensure that the isolation of persons deprived of liberty for various purposes is in line with the Nelson Mandela Rules.**
- **Adopt less invasive methods in body searches in prisons and custodial centers such as electronic body scanners.**
- **Establish a mechanism to ensure access to specialist healthcare services for-all persons deprived of their liberty.**
- **Ensure that an independent complaint mechanism is established in all places where persons are deprived of their liberty and are under state care.**
- **Establish a mechanism where psychiatric patients and geriatric/elderly persons are kept under State care in separate facilities**
- **Introduce comprehensive rehabilitation and re-integration programs and ensure periodic evaluation.**
- **Establish a holistic forensic mental health mechanism.**
- **Expedite the enactment of a mental health legislation and ensure that the legislation includes forensic mental health provisions.**

## Article 9: The right to liberty and freedom from arbitrary arrest or detention

102. Constitution guarantees everyone the right to arrest or detain, be brought within 24 hours before a judge and be released with or without conditions. This provision is also reflected in the CPA. Those arrested or detained without legal authority or justification have the right to compensation. HRCM found that victim's rights were infringed in 1 of 62 cases investigated on alleged unlawful detention between 2013 and 2022, and action was taken to assist the victim in getting civil compensation.
103. Constitution grants everyone the right to seek legal counsel, with the state providing a lawyer for those unable to afford one in serious criminal offences. Out of the 14 cases investigated by HRCM related to right to legal representation between 2013 and 2022, it was identified that a judicial proceeding was carried out in the absence of a legal counsel, a person to represent the best interest of a child in 1 case.



Source: Maldives Police Service

104. From 2013 to 2023, internal inquiries were conducted by MPS in 155 cases of arbitrary arrest or torture. Administrative or disciplinary measures were taken in 34 of these cases. The most common forms of action taken were those recommended for dismissal, providing counselling, and demotion by MPS. Failure to inform the alleged torture cases by authorities to HRCM as per the ATA remains as an issue of concern.



Source: information shared by Department of Judicial Administration

105. Between 2013 and 2023, courts declared that arrests and detention were unlawful in 12 cases. However, it is observed that no cases pertaining to compensating victims of unlawful arrest and detention were lodged with the courts. The criminal justice system faces several obstacles including an excessive number of individuals detained in pretrial custody for extended periods, challenges in implementing the right to legal representation in practice, and excessive delays in criminal processes.
106. According to CPA Article 60(i), detention period must be revised every 30 days to determine whether there is still a justifiable reason to keep the arrest in place. However, courts faced difficulties in reaching the 30-day deadline because of space constraints in the court and administrative challenges. Consequently, the remand prisoners face prolonged periods under remand.
107. According to data shared by the MoHSnT under the ATA in 2023, 295 people, out of the total prison population of 1,244 were in remand. The percentage of remand prisoners had increased to 23.7% on 2023.<sup>94</sup> HRCM held deliberations with relevant authorities towards ways to reduce the duration in pre-trial detention.

### **Recommendation**

- **Ensure that law enforcement officials who commit acts of torture are not afforded impunity.**
- **Intensify efforts to take effective measures to prevent instances of arbitrary arrest and afford compensation to those who have been arrested arbitrarily.**
- **Intensify efforts undertaken to reduce pretrial detention, establishing new separate facilities for pretrial detainees and effectively implementing alternative measures to detention.**

## **Article 11 - Freedom from being Imprisoned Over a Debt**

108. Article 55 of the Constitution stipulates that no one shall be imprisoned on the ground of non-fulfilment of a contractual obligation.<sup>95</sup>
109. In cases of non-compliance with civil agreements, courts have had issued orders to comply with these civil obligations, and in instances of refusal to obey such orders were considered as non-compliance with court order and punished with house arrest or detention. It was pointed out that imposing such penalties for non-enforcement of judgements relating to a civil contract is contrary to the principles guaranteed by Article 11 of the Covenant and Article 55 of the Constitution. Due to this technicality, the courts viewed the imposed penalties issues due to the breach of court order, which were carried out in authority assigned to the courts, rather than a sanction issued for non-fulfilment of a contractual obligation.<sup>96</sup> However, the enactment of Civil Procedure Act (2021/32) brought an end to this practice.<sup>97</sup>

### **Recommendations**

- **Adopt alternative measures in cases of non-compliance with contractual obligation.**

## **Article 12: The right to liberty and freedom of movement**

110. HRCM found that two complainants were kept in the immigration detention centre for over two years as witnesses to an ongoing criminal case. Authorities were asked not to deport them until the case was submitted to the Criminal Court and their witness statements were taken. It is an issue of concern that migrant workers were held in prolonged detention for the sole purpose of taking their witness statement. Thus, HRCM raised this concern to authorities including Presidents Office, PGO and MI to find an amicable solution and recommended relevant authorities to develop an SOP to be followed in dealing with cases.
111. HRCM observed that some migrant workers whose criminal charges were dropped by the PGO due to lack of strong evidence were held at MCS facilities instead of immigration detention for a prolonged period until deportation is arranged.

### **Recommendations**

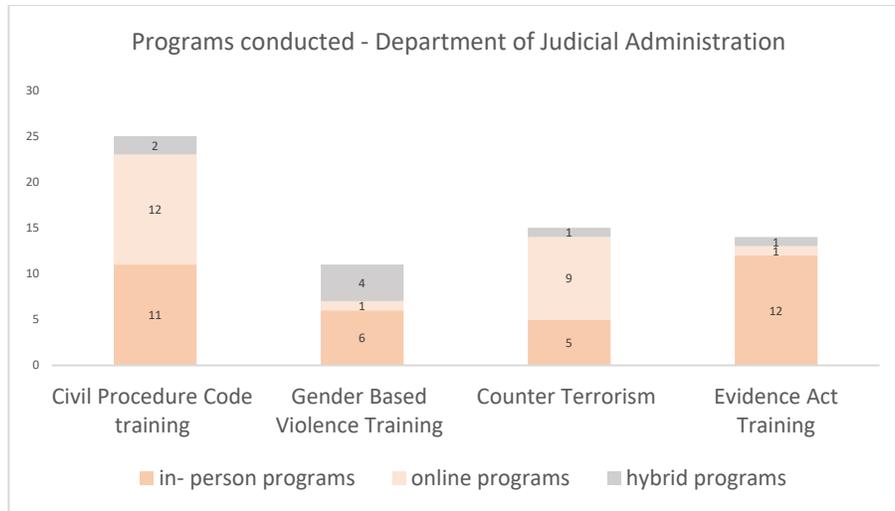
- **Ensure prompt transfer of migrant workers to Immigration Detention Centers immediately upon dismissal of their criminal charges to enhance the procedural efficiency and to uphold due process.**
- **Accelerate the process of obtaining witness statements from migrant workers awaiting deportation to ensure procedural guarantees and safeguard their rights.**

## **Article 14 – The Right to Equality Before the Law; the Right to be Presumed innocent until proven guilty and to have a fair and public hearing.**

112. On August 30, 2017 the Supreme Court of the Maldives suspended fifty-six (56) lawyers, who signed a petition calling for the independence and reform of the judiciary. The Supreme Court dismissed the petition without review, raising questions about the legal basis for its dismissal. Moreover, the lawyers were investigated for obstructing the judiciaries and the judges' independence. Civil Society organizations urged the Supreme Court of the Maldives to rescind the indefinite suspension of these lawyers.<sup>98</sup>
113. On February 1, 2018 the Supreme Court of the Maldives ordered the release of nine members of the opposition parties, who were convicted/charged with a wide range of offenses. Instead of implementing this judgment, the Government of the Maldives responded by declaring a state of emergency and suspending a range of human rights protections. Further, on the night of February 5, police forcefully entered the Supreme Court and removed Chief Justice from court premises; later arrested on charges of corruption and "obstructing the administration of law or other government functions." Following these events and in light of the concerns raised by the President of the Maldives, on 6 February 2018, the remaining three judges of the Supreme Court overturned parts of the February 1, 2018 judgment, including the verdict to release members of the opposition parties.<sup>99</sup>
114. The International Commission of Jurists and other international organizations raised concerns about the independence of the judiciary and highlighted that the conduct of the then remained judges of the Supreme Court suggested a risk that the judges themselves could become complicit in the ongoing human rights abuses that have taken place. These organizations urged the Government of the Maldives to lift the state of emergency, release Supreme Court judges and all other incarcerated political prisoners, in the 1<sup>st</sup> February ruling of the Supreme Court, and ensure the independence of the judiciary.<sup>100</sup>
115. The Judiciary agreed on the adoption of 'Bangkok General Guidance for Judges on Applying a Gender Perspective' and to adopt effective measures to incorporate gender perspective in their judicial roles and functions. This was pledged in the Regional Consultation on the Adoption of the Bangkok General Guidance for Judges on Applying a Gender Perspective in South and Southeast Asia (2023).<sup>101</sup>
116. In recent years the Judicial Service Commission (JSC) ramped up its efforts to investigate complaints received against judges and hold judges accountable. It launched numerous investigations into judges' conduct and took actions against judges in a number of instances, to address the complaints of the public, including media about the lack of integrity of judges. In 2022, disciplinary actions were taken against ten (10) judges under

the Judicial Service Commission Act (No. 2008/10).<sup>102</sup> Further in 2023, JSC investigated and took administrative action against 7 judges and 1 judge was removed.<sup>103</sup>

117. JSC has been observed to face significant challenges in maintaining its impartiality. The political affiliations of its members have raised concerns about their ability to perform their duties without bias. This situation undermines the JSC's effectiveness in its primary role of overseeing the judiciary, potentially compromising its ability to hold judicial members accountable for any transgressions.<sup>104</sup>
118. In 2019, The Supreme Court of Maldives enacted the 'Judicial Reform Roadmap'. The roadmap outlines goals that the judiciary intends to accomplish over a five years period. This roadmap asks for the amendments of legislations pertaining to the judiciary, in order to enhance educational and ethical standards of judges and has appealed to amend the composition of the JSC to ensure better oversight in to ethical conduct of judges.<sup>105</sup>
119. Although, the use of online means to conduct court trials has increased the number of cases concluded from courts, delays of cases remain persistent in the judiciary. The public trust in the judiciary remains low as court proceedings were delayed and postponed for months, and years without a verdict. The courts face lack of sufficient resources, including adequate work space and human resources. Likewise, lack of training opportunities, which are mostly limited to online programs has resulted in court officials being unfamiliar to new laws and regulations.<sup>106</sup>
120. Courts offered interpretation services to defendants and witnesses.<sup>107</sup> A database of interpreters in several languages is compiled by the Department of Judicial Administration (DJA). Nevertheless, in some cases, the unavailability of interpreters caused delays without action.<sup>108</sup>
121. Some absentia judgments made prior to the adoption of 2008 Constitution were not enforced and individuals were brought to implement these sentences many years later when they were seized during traffic checks and other police arrests. As the implementation of these sentences are taking place years later at a time when people's lives have changed significantly, and in reference to multiple complaints received from such inmates, HRCM had consultation dialogues to raise its concerns with relevant authorities.<sup>109</sup>



*Source: information received from Department of Judicial Administration*

## **Recommendations**

- **Allocate adequate financial resources to strengthen the judicial administration in order to speed up trials.**
- **Ensure gender equal representation of judges in lower and superior courts.**
- **Conduct a comprehensive review on revising the composition of the Judicial Service Commission of the Maldives to ensure accountability of judges.**
- **Provide appropriate funding to implement juvenile diversion program.**
- **Develop and implement a plan to build capacity of judicial staff of existing human rights laws. Particularly focusing on laws established to protect the rights of the vulnerable population.**

**Article 16: The right to be recognized as a person before the law  
& Article 26 - Everyone is equal before the law and has a right to  
legal protection “of the law” without discrimination.**

122. Women face discrimination in employment, with a labour force participation rate of 48.4% compared to 79.5% for men. Unpaid care work, a lack of child-friendly environments, affordable childcare facilities, and flexible working hours hinder women's opportunities and impact their careers. Despite the tourism sector being the largest contributor to the Maldivian economy, only 11% of resort workers are women, with foreign women representing the majority. Women continue to face discrimination in politics, as women are underrepresented in political decision-making positions, including parliament, local councils, and government ministries. The Maldives presently has a low representation of women in key leadership roles. Women represent 39% of the local councils and 4.6% of the Parliament. Moreover, this figure plummeted to 3.3% in the recently elected new parliament. Only two parliament members are women out of the 93 parliament representatives.<sup>110</sup>
123. Overwhelming number of participants in the atoll monitoring meetings believed that, political ideology is taken into account when it comes to services such as housing, social security, government loans, and employment. Participants including the media, civil society and the public noted that, while a significant number of jobs have been created both in the greater male' region and in the outer islands, such employment is often politically influenced and that the position is reserved for a particular person. This prevents young people from entering the job market and the most capable people from being selected for the jobs. Participants in the State-owned Enterprises (SOEs) also informed that such appointees are often connected to politically influential persons, and there are challenges in taking action against them even in cases of administrative and ethical issues on their part.<sup>111</sup>
124. Efforts to combat discrimination against women include the implementation the Gender Equality Act (18/2016), mandating institutions and private businesses to eliminate gender-based discrimination. MOSFD has informed that proposed amendments to the Sexual Harassment and Abuse Prevention Act (16/2014) have been shared with AGO, to ensure effective monitoring of the mechanisms established in workplaces to combat sexual harassment.<sup>112</sup>
125. Elderly people living in outer islands have difficulty accessing tertiary care medical facilities with relevant specialists. Therefore, there is often a delay in accessing medical services, especially when they have to travel for services with the extra expenses of travel and accommodation.
126. Different groups in society, particularly women, face multiple forms of discrimination when accessing justice. Victims of gender-based discrimination often encounter obstacles

due to limited access to legal aid services and insufficient awareness of their rights. Many women struggle to navigate complex legal procedures, especially in cases of gender-based violence, given the resulting distress, increased vulnerability, and unfamiliarity with court processes. The absence of dedicated victim support staff within courts further deters women from seeking justice, compounded by victim-blaming attitudes and a lack of gender sensitivity among magistrates and judges.

### **Recommendations**

- **Ensure priority provision of priority and reasonable accommodation throughout the health care sector for elderly persons and persons with disability.**
- **Build capacity of judicial staff on victim support and sensitize on gender based violence and support.**

## **Article 17 - The Right to Privacy and Its Protection by the Law**

127. Everyone has the right to respect for their home, family life, and private communications under the Constitution.<sup>113</sup> The Constitution further states that residential property is inviolable and cannot be invaded without the owner's permission, unless it is necessary to stop an urgent and serious threat to life or property or until a court order.<sup>114</sup>
128. Significant concerns have been raised by CSOs and community members regarding breach of confidentiality and information leaks in cases reported and/or investigated by State institutions especially FCSCs, MPS and courts.<sup>115</sup>
129. There was a rise in cases of hacking of private data, leaking them on social media followed by blackmail. Victims were mostly women and girls. Efforts have been made by MPS to sensitize school students regarding cyber safety, and as such, awareness sessions were conducted for teachers, parents, and school students.<sup>116</sup>
130. From 2020 to 2023, 7 cases were submitted to the National Integrity Commission (NIC) regarding the search of private property without a court order of which the four cases were submitted against the Maldives Police Service.<sup>117</sup>
131. In March 2024, Government established the National Cybersecurity Agency. The agency is mandated to establish national cyber security policies and standards, enhance cyber defence capabilities in government institutions and work at the national level to obtain the instruments and resources required to improve the cybersecurity capabilities.<sup>118</sup>

## **Recommendations**

- **Intensify mechanism to ensure confidentiality of cases submitted government institutions and courts.**
- **Develop and conduct comprehensive awareness programs on cyber safety to parents and students.**

## **Article 19 - Freedom of Expression and Freedom of Opinion**

### **Press Freedom**

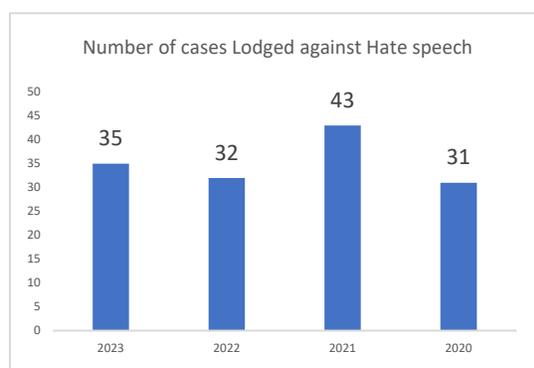
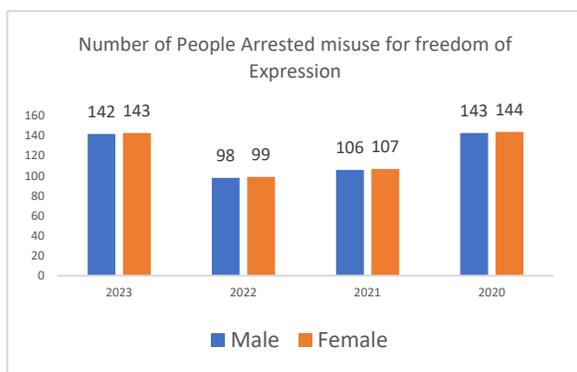
132. The Constitution grants freedom of thought and expression and the freedom to communicate opinions in a manner that is not contrary to the tenets of Islam.<sup>119</sup> Further, it accords the right to freedom of press, including the right to espouse, disseminate, and publish news information and views and explicitly stipulates that, “no person shall be compelled to disclose the source of any information that is espoused, disseminated or published by that person”.<sup>120</sup> Likewise, Constitution further complements freedom of expression and opinion through provision of freedom to acquire and impart knowledge, information and learning.<sup>121</sup>
133. Although efforts were taken to realize the right to freedom of express and opinion, press freedom and freedom of expression were circumscribed to some extent over the past few years. The introduction of the defamation law posed a significant challenge to freedom of speech particularly with the imposition of severe penalties on media institutions for government criticism.<sup>122</sup> Raajetv, the primary opposition broadcasting channel was imposed with hefty fines, which led the organisation to the brink shutdown.<sup>123</sup> The Act was later revoked in 2018 by the successive government.<sup>124</sup>
134. Journalists and the civil society raised concerns as the newly enacted Evidence Act (Act No. 11/2022) extends scope for journalists to be compelled to disclose sources of information contained in their reporting. The courts and tribunals have the authority to compel journalists to reveal their sources when deemed necessary, leading to a curtailment of press freedom. During the drafting stage of the bill HRCM proposed amendments to Section 136 proposing a revision that source disclosure should occur only under circumstances mandated by an upper court order and should be used as a last resort. Other stakeholders including CSOs and journalists also raised similar concerns and proposed amendments. The bill was passed on 30<sup>th</sup> June 2022 without considering these concerns. Government later proposed amendments to the Parliament on 17<sup>th</sup> October 2022 in response to these concerns. However, the Act came into force in January 2023 prior to the amendment being considered at the Parliament. Later these amendments were rejected from Parliament floor on 26<sup>th</sup> April 2023 and were sent back to Committee. As a result, these amendments have not been passed till date.<sup>125</sup>
135. The Commission on Death and Disappearance (DDCom) was established to independently investigate unresolved cases of murder and instances of enforced disappearance. DDCom

investigated the abduction of journalist Ahmed Rilwan Abdulla in August 2014 and the murder of blogger Yameen Rasheed in April 2017. Despite multiple attempts, HRCM to this date has not received the final reports and findings of DDCOM.<sup>126</sup>

136. The Maldives' rank in the World Press Freedom Index had risen since 2019. However, in 2022, the rank declined from 72<sup>nd</sup> to 87<sup>th</sup> position.<sup>127</sup> Further, the Reporters Without Borders index has fallen from 100 to 106 in 2024.<sup>128</sup> Further, reporters without borders index have fallen from 100 to 106 in 2024.<sup>129</sup> Among reasons for the index to fall includes, journalists facing harassment, intimidation, and threats and lack of transparency in allocating advertising revenue.<sup>130 131</sup>
137. Many media outlets are dependent on funding from SOEs for their operations.<sup>132</sup> The dependency on the SOE places both direct and indirect influence on the media<sup>133</sup>. This prevents the media from independently reporting, as they fear the loss of funding from SOEs. This prevents the media from independently reporting, as they fear the loss of funding from SOEs. The government has recently announced a plot of land for the media to stay on rent-free.<sup>134</sup>

### Right to Information

138. The Constitution of the Maldives states that all information concerning government decisions and actions shall be made public, except information that is classified as state secrets by a law enacted by the People's Majlis (Article 61(c)). The NGOs expressed concern that the term "threat to national security act" has been misused.<sup>135</sup> Hence, for journalists and the public, the lack of access to information remains as one of the biggest obstacles which hinders freedom of expression.
139. The following chart depicts data on cases from MPS regarding misuse of freedom of expression;



140. MBC reports that media outlets often face threats from gangs and criminals.<sup>136</sup> Likewise, MJA reports that 54% of journalists had received multiple threats of violence.<sup>137</sup>
141. Subsequent to Information Commissioner's judgement 17 appeal cases were concluded at the High Court, out of which final verdicts were reached at the Supreme Court in 4 cases. With the exception of 1 case, in all other cases the court ruled in favour, affirming the decisions of the Information Commissioner's Office (ICOM).<sup>138</sup>
142. Media continues to highlight the challenge of obtaining information from government institutions. The ICOM reports that in 2023, there were 179 cases regarding failure to provide access to information with responses sent to 145 institutions. However, no actions were taken against those who failed to disclose information.<sup>139</sup>

143. In December of 2023, government blocked two websites that had published articles criticising the government. The reason for the government to block these were because these websites were not officially registered as media agencies. This decision to block news websites sparked widespread criticism and journalists and human rights defenders' views this move as once again regressive step on the constitutional right to freedom of expression.

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144. The absence of a mechanism for safeguarding human rights defenders is a significant concern that warrants a multisectoral remedy.

## **Recommendations**

- **Amend the Evidence Act to include safeguards with regards source disclosure.**
- **Ensure protection and safety of journalists and media personnel.**
- **Establish a multisectoral mechanism to safeguard human rights defenders.**

## **Article 20 Propaganda for War and Advocacy of National, Racial or Religious Hatred**

### **Xenophobia**

145. Xenophobia and general intolerance towards migrant workers among community is an issue of concern that needs to be addressed.
146. Locals did not accept migrant community gatherings in public places during their leisure time.<sup>141</sup> Furthermore, Locals had traits of ‘selective acceptance’ in the integration of the migrant community and displayed selective acceptance of migrants’ occupations based on their perceived utility to the community.<sup>142</sup>
147. During the presidential election, political demonstrations mainly focused on the imprisonment of former president Abdulla Yameen, and the presence of the Indian military in the Maldives.<sup>143</sup> One of the reasons the government dispersed these demonstrations was the use of T-shirts with disparaging slogans and the carrying of banners and flags reading “India Out.”<sup>144</sup> In 2022, the President issued a decree, 'Prevention of Planned Activities to Instigate Hatred Against Certain Nations Under Various Slogans,' which prohibited the use of ‘India Out’ in demonstrations and protests.<sup>145</sup>

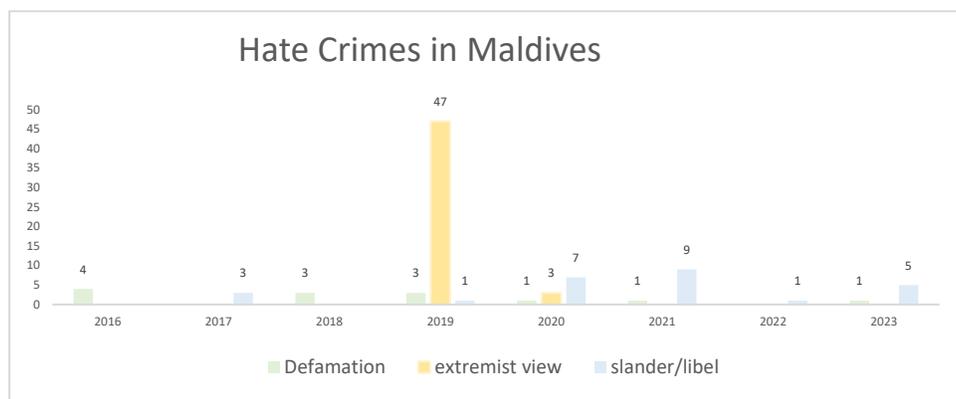
### **Extremism and hate speech**

148. HRCM observed that media disseminate misinformation and disinformation leading to the propagation of hate, negative rhetoric, defilement of reputation and defamation. The State lacks guidelines and financial resources to effectively address this issue and as a result appropriate actions were not taken against these actions.
149. During electoral periods, political actors have engaged in defilement and some candidates and political actors have faced death threats and physical assaults.
150. The Maldives confronts issues of extremism and hate speech, which were often propagated through social media platforms.<sup>146</sup> Journalists, bloggers, politicians and religious scholars have been targeted with physical violence. Among the more startling instances included: in 2012, Dr. Afrasheem Ali, a member of parliament and religious scholar recognized for his sermons advocating gender equality and progressive perspectives, was fatally stabbed to death;<sup>147</sup> Ahmed Rilwan, a journalist, was abducted and disappeared in 2014 following his accusations of corruption against several politicians.<sup>148</sup> Three years after Ahmed Rilwan’s abduction, his friend and human rights blogger, Yameen Rasheed, was murdered in 2017.<sup>149</sup>
151. In 2019, the DDCOM verified Ahmed Rilwan's death and premediated murder was linked to an Islamic extremist group.<sup>150</sup>

152. The threat of terrorism and violent extremism, although currently low in practical terms, was consistently assessed as significant.<sup>151</sup> In addressing the concerns related to religious extremism and its impact on society, it is important to recognise that there are groups of individuals with religious extremist views on remote islands who refuse to send their children to formal education system or to be vaccinated.<sup>152</sup>
- In 2019 HRCM received complaints regarding children from allegedly extremist families being home-schooled and not registered in formal education. Investigation of these cases revealed that related government authorities, MOE and MGFSS, assisted in school enrolment and worked to provide school supplies. These authorities also held discussions to provide alternative educational or vocational methods to cater to individual child's needs. MPS disclosed that over 4,000 social media pages promoted extremism and hate speech.<sup>153</sup> In 2019, MPS revealed that 173 locals had travelled to Syria to join ISIS and further stated that Maldivian refugee children in Syria were in dire conditions, and their families had contacted authorities.<sup>154</sup> Moreover, MPS further revealed that there were more than 1,400 Maldivians across the nation who held extremist ideologies and were ready to resort to violence at the smallest provocation.<sup>155</sup>
153. Government undertook measures to repatriate and reintegrate families who were living in life threatening and destitute conditions in war zones.<sup>156</sup> Prior to their return to Maldives, DNA tests were administered to confirm the Maldivian nationality of all individuals.<sup>157</sup>
154. HRCM has recently reviewed Counter Terrorism Act (32/2015) and advised the State on ways to strengthen the procedural framework of repatriation and reintegration based on HRCM's monitoring and inspection findings since the establishment of repatriation and reintegration mechanism. The current practice of administrative detention for minors, based on their return from conflict zones without criminal charges, contravenes child welfare principles. HRCM recommended individual assessments and prioritizing alternatives to detention and that the term "detention" be substituted with a more child-centric terminology. The law mandates that a court be consulted regarding the administrative detention of minors under the age of 15. The current practice is that minors are not present at the court during these trials. However, HRCM has advised that the legislation explicitly state minors under that age of 15 be exempt from appearing in court to be questioned. In addition, since the law requires that a court be consulted, it was also recommended that the law specifically state which court to be consulted when making decisions regarding minors under that age. The role of education, health, and other professionals in the rehabilitation and reintegration process needs to be elaborated, and multidisciplinary collaboration is essential for effective outcomes. There is also a lack of regulatory guidelines specifying the post-reintegration monitoring process and HRCM has recommended that a multisectoral mechanism be included in the post-reintegration monitoring process.<sup>158</sup>
155. Process of establishing the repatriation and reintegration mechanism was not fully consultative and fell short in including a multisectoral participation. However recent

consultations and discussions have brought a positive progress in this regard and the current revision of this mechanism is carried out through a better consultative process.

156. In May 2021, a bomb attack was targeted to the parliament speaker and former president Mohamed Nasheed, leaving him critically wounded.<sup>159</sup> The Former President accused by opponents of being an "enemy of Islam," survived the attack.<sup>160</sup> MPS disclosed that extremists had been planning a terror attack against the former President since 2019.<sup>161</sup> Political Party 'The Democrats' has persistently expressed concerns regarding government's efforts to investigate and deliver justice in this case. The party criticised the state authorities for failing to ensure the constitutionally mandated security, despite having prior intelligence about assassination attempt on former president, Mohamed Nasheed.<sup>162</sup>
157. The fifth amendment to the Penal Code criminalizing hate crimes was ratified in November 2021.<sup>163</sup> HRCM is concerned that this amendment could potentially lead to the conviction of individuals who are merely expressing criticism of others' statements. There exists ambiguity in distinguishing hate speech from expressions falling within the ambit of freedom of speech. HRCM recommended aligning this legislation with international standards such as the Camden Principle and The Rabat Plan of Action when determining the categorization of hate speech.



Source: Maldives Police Service

## **Recommendations**

- **Take concrete measures and advocacy programs to reduce xenophobia**
- **Ensure adequate resources and further enhance the capacity of law enforcement officers to combat extremism.**
- **Intensify the programs conducted by religious leaders to promote tolerance, diversity and countering extremist narratives.**
- **Strengthen the repatriation and reintegration programs conducted to families repatriated from war zones.**

- **Align fifth Amendment of the Penal Code in line with this covenant and international standards such as Camden Principle and the Rabat Plan of Action.**

## **Article 21 - The Right to peaceful assembly**

158. As stipulated in Article 32 of the Constitution, everyone has the right to freedom of peaceful assembly without the prior permission of the State. However, under Article 24(g) of the 1st Amendment to Freedom of Peaceful Assembly Act (1/2013), assembly is restricted in the capital city of the Maldives. It has been noted that any kind of assembly or procession may be held only in places designated and publicly announced by the MoHA, except with the written permission of the MPS. In addition, the MoHA issued a notice on July 4, 2020, stating that gatherings in the city area without immediate permission can only be held in one area. Therefore, the right to freedom of assembly has been restricted in a manner contrary to the standards prevailing in a free democratic society as set out in Article 16 of the Constitution.<sup>164</sup> A bill was submitted to Parliament on August 8, 2019 to repeal the first amendment to the Freedom of Peaceful Assembly Act (1/2013). However, as the Bill has not been passed by Parliament to date, HRCM has requested that the Act be amended at the earliest opportunity in accordance with the Constitution and ICCPR.<sup>165</sup>
159. Despite labour rights concerns, employment associations remain inactive. Employees related strikes and demonstrations are limited and employees are reluctant to raise their voices and protest in fear of being negatively labelled by the management.<sup>166</sup>
160. The lack of opportunities to establish trade unions in the Maldives was a major challenge in the promotion of employment rights. In a progressive step, the long-awaited Industrial Relations Act (1/2024) was enacted in 2023. Consequently, employees trade unions are formally recognized, and employees are provided with the right to collective bargaining. However, thus far, no trade union has been officially registered under this provision.
161. During the 2023 presidential election period, political demonstrations primarily took place in relation to the imprisonment of former president Abdulla Yameen and against the operation of Indian military in Maldives. Demonstrations were also held in outer islands to coincide with the president's campaign activities. In such instance of demonstrations, police used force to disperse demonstrations and both protesters and police officials have been injured in clashes between protesters and police forces.<sup>167</sup>
162. In some demonstrations, some protesters engaged in obstructive behaviour, and children were involved in age-inappropriate demonstrations.
163. It was observed that women and men have equal access in taking part in these demonstrations and rallies. However, more women than men were seen in the forefront. Most of the demonstrations that took place in Male' City were dispersed with varying degrees of violence.
164. HRCM had initiated investigations into complaints filed by individuals or their representative political parties alleging various injuries caused by security forces during

dispersion of demonstrations. A significant challenge in investigating such cases were the lack of cooperation from the alleged victims and the difficulties in obtaining evidence related to the injuries. <sup>168</sup>

165. On June of 2022 a Presidential Decree was issued on the 'Prohibition of Hatred Planned Expressions Against Certain Nations' prohibits the use of 'India Out' in demonstrations and in protests. The decree mentions its reason as, the anti-India activities reaching an extent of threatening national security, upset peace and internal stability, undermine territorial security, endanger independence, and sovereignty of Maldives. <sup>169</sup> The enactment of this presidential decree banned the then opposition party's 'India Out Campaign'. However, Article 16 of the Constitution clearly states that any right guaranteed under the Constitution cannot be restricted, except through a law passed by the People's Majlis and any such law enacted by the People's Majlis can limit the rights and freedoms to any extent only if demonstrably justified in a free and democratic country. <sup>170</sup> HRCM has advised the then administration to dissolve the Presidential Decree and to follow Article 16 of the Constitution in limiting any constitutionally guaranteed right.

### **Recommendations**

- **Amend the Right to Peaceful Assembly act and revise its regulations to ensure freedom of peaceful assembly.**
- **Ensure that rights guaranteed under the Constitution is only limited through a legislation passed by the Parliament to any extent only if demonstrably justified in a free and democratic society at all times, as stipulated under Article 16 of the Constitution.**

## **Article 22 - The right to freedom of association and to join a trade union**

166. Members of the associations revealed that certain civil society organizations are perceived by the community as promoting a particular political ideology and views their work as politically motivated. Additionally, members of the civil society expressed that recruiting volunteers and obtaining funding for the organizations were challenging.<sup>171</sup>
167. HRCM investigation found that the decision to dissolve MDN by the government was taken without awarding the organisation with due process to defend their actions, claiming that this was not a mandated provision in the Associations Act (1/2003) in effect at the time of the incident. The legislation did not specifically stipulate that the CSO had to be afforded with the opportunity to defend itself in circumstances where administrative action was taken against them. HRCM is of the opinion that it is not in-line with the principles of natural justice and due process and the Constitution and its spirit upholds these rights and principles. Therefore, even if a legislation does not specifically laydown a procedure for principles of natural justice and due process, it is not an acceptable practice to dismiss these fundamental safeguards. While HRCM found this a matter of grave concern, this loophole in the legislature has since been amended, and the current Associations Act (3/2022) ratified in 2022 makes it liable for the registrar of associations to provide the associations with the opportunity for accountability prior to any action being sanctioned against them.
168. Organisations supporting extreme religious views or ultra-nationalist ideologies attempted to shut down CSOs and intimidated rights activists. Targeted social media campaign alleged some CSOs of being anti-Islamic. Proponents of this campaign accused the authority of attempting to secularize the education system in collaboration with civil society organizations and called for the abolition of prominent human rights based CSOs.<sup>172</sup> It was also observed that media reports propagated negative narratives towards CSOs and some Human rights defenders. Concerns over lack of concrete actions being taken to address these issues.<sup>173</sup>
169. In 2024, the long-awaited Industrial Relations Act (1/2024) was enacted. The legislation permits the formation of employers' and trade unions, lays out the guidelines for the conduct of trade unions, and makes it easier for employees and employers to resolve conflicts. Unless otherwise provided in another Act, the National Defence Force, MPS, and all persons appointed and dismissed by the president of the Maldives are exempt from the scope of this Act.<sup>174</sup>

### **Recommendations**

- **Take appropriate measures to enhance and safeguard civic space.**
- **Take appropriate action against individuals and groups who threaten the work of human rights defenders.**

## Article 23- The Right to Marry and Family

170. Marriage is prohibited for children under the age of 18.<sup>175</sup>
171. Matters relating to family and marriage law are based on Shari'ah Law; in the Maldives, a marriage is only legally recognized if it is registered and solemnized.<sup>176</sup>
172. The law permits a male citizen to marry a non-Muslim female where such marriage is permissible under Islamic Shariah (i.e., if the foreigner is Christian or Jewish); non-Muslim female foreigners need to convert to Islam for the marriage to be solemnized in the country.<sup>177</sup> While the law prohibits for a female citizen to marry a non-Muslim foreigner,<sup>178</sup> in practice it is obligatory that he first converts to Islam in order for the marriage to be registered in the country.<sup>179</sup> Additionally, he must earn at least monthly MVR 15,000 (US \$ 946.97).<sup>180</sup>
173. Children born to a Maldivian citizen will be granted Maldivian citizenship.<sup>181</sup> However, children born outside of marriage to foreign women and Maldivian men are not eligible to become citizens since Islamic Sharia views them as fatherless.
174. A resident visa is issued for one year if it is a new application.<sup>182</sup> Nevertheless, marriage visa extensions are issued for 5 years.<sup>183</sup> Moreover, since 2020 foreigners with children from a divorced or deceased Maldivian spouse are eligible for a residence visa, and should be renewed every 5 years.<sup>184</sup>
175. Equal distribution of matrimonial property was guaranteed under the 2<sup>nd</sup> amendment to Family Act in 2016.<sup>185</sup> Accordingly, if there is an existing pre-nuptial agreement between the spouses, prior to granting leave for divorce or prior to the dissolution of marriage, the court has power to equitably distribute matrimonial property acquired during the marriage.<sup>186</sup> In addition, equitable distribution of matrimonial property is granted where a couple having a pre-nuptial agreement is unable to agree upon the distribution of the property acquired during the subsistence of the marriage.<sup>187</sup> However, the concept of pre-nuptial agreements is not a common practice thus it is not widely known or considered by most.
176. While the divorce rate remains high, a mother's remarriage is grounds upon which she loses custody of her children.<sup>188</sup>
177. Polygamous marriages are permitted when men declare their financial competency in providing for wives and children. On an average 162 polygamous marriages were registered annually from 2015 to 2021.<sup>189</sup> Anecdotal reports suggest that men enter polygamous marriages covertly by getting their marriage solemnized overseas to circumvent restrictive provisions of law.<sup>190</sup> Concurrently, out of court and underage marriages remained as an area of concern that lacks comprehensive data.<sup>191</sup>
178. It is an offence to remain in an unregistered marriage.<sup>192</sup> Lack of proper documentation of marriages solemnized overseas can be a significant factor that inhibits couples from getting their marriages registered.

179. An average of 13 declaration of paternity cases were filed annually from 2015 to 2021.<sup>193</sup> While DNA is admissible as persuasive evidence in criminal cases, it is not admissible in courts to determine paternity of a child due to absence of legal provisions on application of scientific methods to determine paternity.<sup>194</sup>
180. It is disconcerting that more women believe that human rights are incompatible with Islam and strongly support the statement “A good wife always obeys her husband even if she disagrees”.<sup>195</sup>
181. HRCM investigation found that since 2015 MCS had temporarily halted marriages of inmates till a regulation related to marriage of inmates was established. MCS drafted a regulation in 2015, and is still in the process of finalizing this draft along with the comments from AGO.

### **Recommendations**

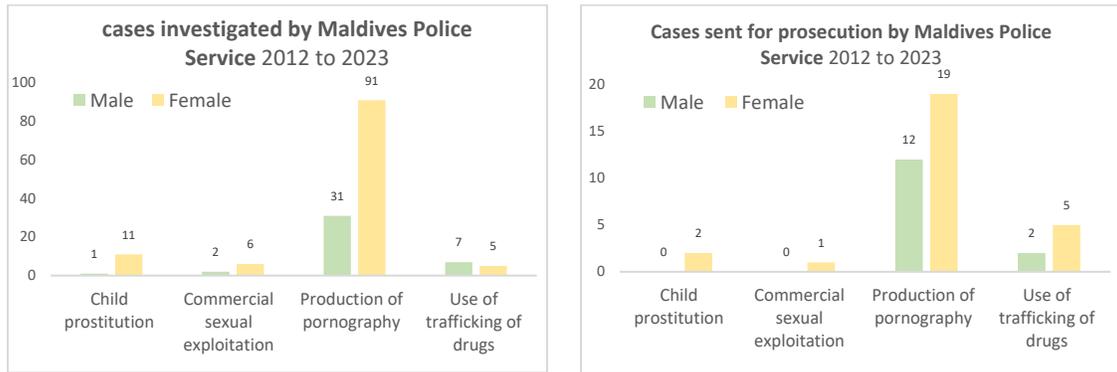
- **Expedite the reforming the Family Act (Act number 4/2000) and ensure that it is in line with international obligations.**
- **Amend the legislative framework to include equitable division of matrimonial property as the default position of the law.**
- **Expedite the regulation related to marriage of inmates to ensure right marriage and family for inmates.**

## **Article 24 – Children’s rights**

### **Birth Registration**

182. While birth registration is high in the Maldives, less than 1% of the children under 5 years remain without being registered.<sup>196</sup> Birth registration was frequently postponed for years until marriages solemnized overseas are officially registered or delay faced in obtaining vital records such as lost documents (example foreign birth certificates).<sup>197</sup> In isolated occurrences parents have been forced to register their children as born out of wedlock due to obstacles in registering a marriage solemnized overseas, this complicates child support and family relations as the father has no legal obligation towards the child.<sup>198</sup>

## Worst forms of Child labour



*Source: information received from Maldives Police Service*

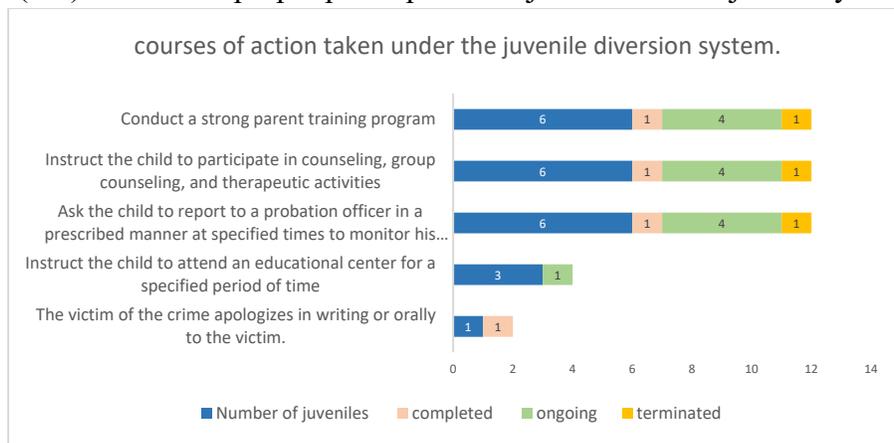
183. Exploitation of underage children aged 15 to 18 by organized crime groups for drug-related offenses remains on the rise and the use of children in the production of pornography remained highest among the total number of forms of child labour investigated.<sup>199</sup> Lack of adequate training in comprehending the complexities of the legal and procedural aspects of child labour exploitation is one of the reasons investigators struggle to discern between different forms of exploitation, such as sex trafficking and sexual abuse.<sup>200</sup> In addition to potentially retraumatizing survivors, the struggle to differentiate between these offenses could result in case misclassification and complicate the investigation process.<sup>201</sup> According to MPS it is also challenging to efficiently gather and analyse evidence due to limited forensic capabilities, which makes finding perpetrators and monitoring potential human trafficking activities difficult due to inadequate surveillance equipment.<sup>202</sup>
184. Identification of hazardous occupations or activities prohibited for children is stipulated in the General Regulation on Child Rights Protection Act (2020/R-70). There were no penalties imposed on child labour violations identified.<sup>203</sup> According to Labor Relation Authority (LRA) difficulties faced in the law enforcement efforts related to child labour include budgetary constraints and lack of awareness of this regulation.

<b>Findings on the Worst Forms of Child Labor report</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Labor Inspections Conducted at Worksite	288	356	230	62	124	656
Number of Child Labor Violations Found	0	0	0	0	14	24
Number of Child Labor Violations for Which Penalties Were Imposed	N/A	N/A	N/A	N/A	N/A	0

*Source: Findings on the Worst Forms of Child Labor*

## Juvenile Justice

185. The JJA outlines the rights of children in conflict with the law, aims to prevent juvenile delinquency, and prescribes swift reform through rehabilitation. However, there are still gaps in the effective implementation of these provisions.
186. While a special facility is designated in capital city to take testimony of minors in child-friendly setting, in islands where there are no such facilities, children are either brought to the nearest school or any other child friendly environment to take their testimony.<sup>204</sup> Court ensures secure recording and use of children's statements using modern technology.<sup>205</sup>
187. Legal proceedings involve technical language and concepts that can be confusing for children.<sup>206</sup> In circumstances where law enforcement officials fail to comprehend the information they require from the child and the purpose it will serve in terms of the administration of justice; the child is not properly informed of the consequences of the information being disclosed, which makes it difficult to later admit that information as evidence.<sup>207</sup> Additionally, not all defence attorneys working with children have received specialized training, making it challenging for them to become familiar with juvenile justice systems (JJS) and ensure proper participation of juveniles in the justice system.<sup>208</sup>



Source: Department of Juvenile Justice

188. Implementing diversionary measures requires children to take criminal responsibility for their actions and complete rehabilitation programs. Conversely, implementing reintegration programs in general is challenging for a multitude of reasons, including inadequate interagency coordination, a shortage of qualified personnel, budget constraints, and a lack of decentralized services, which remained impediments to providing social reintegration services.<sup>209</sup>
189. Article 80 (b) of JJA stipulates the establishment of at least one residential treatment centre, half way house / shelter and long-term residential care facility within 18 months of enforcement of this Act. Furthermore Article 82 and 84 mandates custodial and correctional facilities to be established. However, there has been significant delay in the establishment of these facilities.
190. Juveniles in the Juvenile Detention Center in Asseyri Prison are separated from other prisoners. Nevertheless, Juveniles can converse with other prisoners due to the proximity

of the cells and interact with them in other settings under JJA makes no explicit provisions on juveniles remanded in the trial phase; consequently, convicted juvenile offenders and juveniles for trial are detained together.<sup>210</sup>

191. A number of juveniles are admitted to these centers as minors (below 18 years of age) and kept in juvenile detention centers even after they are 18 years old. Moreover, if a minor in the juvenile justice system under the JJA loses their status as a minor, they will still be bound by the law and treated as minors.<sup>211</sup> Additionally, the JJA does not address the transfer of a juvenile offender who attained adulthood to a detention center under a separate system for the purpose of separating them from minors (children under 18 years).<sup>212</sup> This has led to incarcerated juvenile offenders who have attained adulthood being curtailed from certain benefits afforded to adults.
192. While the programs offered in Asseyri Prison includes religious education, and skill development, absence of an ongoing program accompanied by restrictions in access to yard time leaves them with little to no work or responsibility.<sup>213</sup> Under JJA, correctional services are now in the process of developing programs related to drug rehabilitation for juveniles with the help of the Department of Juvenile Justice (DJJ).
193. School dropouts remained over represented among children in conflict with law.<sup>214</sup> While being overaged makes it difficult for children to return to school, low literacy levels make it challenging for them to enrol in vocational training programs.<sup>215</sup> Some of the other socio-economic challenges faced by children in conflict with the law include mental health issues, unfavourable family environments, unemployment, and stigma.<sup>216</sup> Moreover, the NPM observed that in some cases, MCS is in discussion with the Ministry of Education (MoE) to formulate a customised educational program to juvenile offenders.
194. CRPA and the JJA raise the age of criminal responsibility to 15 years. However, it is of concern that in April 2024, government announced to lower the age of criminal responsibility to 12 years.<sup>217</sup> Moreover, to institutionalise juvenile offenders for a longer period and mandate them to serve in security forces for five years after they turn 18.<sup>218</sup> HRCM considers lowering the age of criminal responsibility as an issue of concern as punitive measures in juvenile justice has unfavourable consequences to juveniles. Furthermore, enlisting juvenile delinquents to security forces is also a concern of HRCM. Establishment of mechanisms to rehabilitate at risk youth without the requirement of having to take criminal responsibility should be the way forward, rather than lowering the age of criminal responsibility to 12 years. In addition, addressing the root cause of child recruitment in criminal activities and penalizing the recruiters should be prioritized.

## **Recommendations**

- **Ensure that investigators are provided with continuous capacity building programs to enhance the comprehension of the complexities of legal and procedural aspects of child exploitation.**
- **Strengthen the reporting mechanisms in place to report child labour and the efforts undertaken to impose penalties in cases where child labour is found.**
- **Establish a coordination mechanism among stakeholders mandated to protect the rights of children.**
- **Enhance sensitization of judiciary, law enforcement, legal professionals and case/social workers to ensure juvenile participation and to facilitate informed decision making.**
- **Increase access to realize the right to education to juvenile offenders.**
- **Expedite the establishment of juvenile facilities stipulated in JJA and all centers are equipped with child-friendly facilities**
- **Amend the Juvenile Justice Act (18/2019) to explicitly include a provision to segregate juvenile offenders who attained adulthood to a detention centre under a separate system.**
- **Address the challenges faced by Department of Juvenile Justice to fully implement the JJA.**
- **Review the decision to lower the age of criminal responsibility.**
- **address the root causes that lead to juvenile delinquency and strengthen the mechanism in place to hold perpetrators who recruit juveniles culpable**
- **Strengthen the social protection mechanism to address at risk youth**

## **Article 25: The right to participate in public affairs, to vote and to be elected and access to public service**

195. Following the 2013 September 7<sup>th</sup> Presidential elections, political tensions resurfaced with the Jumhooree Party contesting the results in the Supreme Court, alleging constitutional issues and election irregularities. Street protests, media campaigns, and threats against election officials complicated the situation. The Supreme Court invalidated the first round and issued new guidelines, leading to the runoff election on November 16<sup>th</sup> 2013.<sup>219</sup>

196. General Elections Act (3/2023), introduced on February 14<sup>th</sup> 2023, permits visually impaired individuals to mark the ballot independently using a template.<sup>220</sup> Presidential Elections Act (4/2023) mandates the Elections Commission (EC) to provide at least 14 days for candidates to submit applications.<sup>221</sup> These amendments were passed on June 22, 2023

and merely two months before the Presidential Election. Amending electoral laws closer to the election date posed challenges in effective dissemination of information to the public and proper implementation of the amendments.

197. The 2nd amendment to the General Elections Act states that any additional mark, writing, or drawing besides a tick against the preferred candidate renders the vote invalid. Despite this law, the EC has imposed various criteria for determining invalid votes. In a Gazette announcement on September 4, 2023, five days before the election, it was decided that placing more than one tick mark against a candidate is prohibited. However, these varying criteria have caused confusion among eligible voters about valid voting criteria and inconsistency during vote counting. Changing the criteria closer to the election day contributed to the rise in invalid votes. The percentage of invalid votes in presidential elections has remained at 1% since 2008, but it doubled to 2% in the second round. The threefold increase in invalid votes in 2023 compared to previous elections was a concern.
198. HRCM and election monitors have proposed numerous reforms to strengthen the election's legal system over the years. However, changes have often been reactive, addressing immediate issues rather than comprehensive reforms.
199. It remains a challenge for HRCM to monitor polling stations under the category of "observer" status included in the current electoral legislative framework, as this category does not permit the use of digital devices. Thus, HRCM is unable to utilise digital devices within polling stations to streamline the process of live documentation within polling stations. In addition, HRCM seeks authorization from the EC to utilize materials such as papers and pens for record keeping. HRCM has recommended to amend the electoral legislative framework to allow HRCM to carry out its monitoring mandate in its full capacity as the NHRI.
200. Within the campaigning period for the past two Presidential elections, both administrations are reported to have employed a significant number of employees for the State-Owned Enterprises. Moreover, the inauguration and completion of state projects closer to the date of elections have raised concerns over the misuse of state resources. This was observed to have an undue influence and advantage to the incumbent administrations.
201. In broadcast media, equal opportunities for all candidates are lacking and the state media accused of being biased towards the incumbent administration. The state lacks guidelines and financial resources to effectively address the persisting misinformation, disinformation and mal-information. Political actors have engaged in defilement and some candidates and political actors have faced death threats and physical assaults.
202. Though campaigning generally proceeded smoothly, there were isolated incidents of tampering with campaign materials, police confiscation, rally disruptions, and arrests for allegedly offensive speech.
203. Given the setup of the polling booths, the secrecy of the votes were compromised in polling stations with limited space. This concern was raised by observers, monitors, CSOs

and EC later addressed this issue by slightly changing the design of the booths to improve privacy.

204. All election laws are available on the EC's website with amendments. However, accessibility for persons with disabilities needs improvement as more effort needs to be put to create awareness and accessibility to persons with disabilities, elderly and women.

205. 1.9% of the total voter turnout was assisted voters spread across 77.5% of the polling stations.<sup>222</sup> Under the General Elections Act, assisted voting is allowed only if a person is unable to tick the ballot paper due to a physical disability. As this right is not afforded for a person with psychological disabilities, the right to assisted voting is not guaranteed to all persons with disability under this law.

## **Recommendations**

- **Conduct a review of the legislative framework through a multisectoral consultative process involving all relevant agencies to bring holistic changes to the electoral legal framework and ensuring the participation of persons with disabilities in this process.**
- **Amend and update the electoral legal framework to ensure access to all especially persons with disabilities.**
- **Amend the electoral legal framework to limit the broad interpretation of valid and invalid votes.**
- **Amend the legislative framework to strengthen the provisions that prevent the misuse of state resources and resources during electoral period.**
- **Amend the electoral legislative framework to ensure that HRCM is able to carry out its monitoring mandate in its full capacity as the NHRI.**
- **Establish a mechanism that links the voter registration database to the register of persons with disabilities.**
- **Enhance the voter education programs targeting persons with disabilities, elderly, and other vulnerable groups.**
- **Incorporate into the legislative framework the provision of financial support to the media through a fair and transparent system to prevent undue interference in the media during the election campaign**
- **Ensure that programs broadcasted by the state media provide equal opportunities without any discrimination from the ruling party or other political parties**
- **Formulate guidelines for the media to prevent misinformation, disinformation, and hate speech propagated by the media**
- **Ensure the secrecy of ballots for all eligible voters to the fullest extent by revising the design and placement of booths at polling stations**

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- <sup>199</sup> *Information received from Maldives Police Service*
- <sup>200</sup> *Information received from Maldives Police Service*

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<sup>201</sup> Information received from Maldives Police Service

<sup>202</sup> Information received from Maldives Police Service

<sup>203</sup> United States Department of Labor. *2022 Findings on The Worst Forms Of Child Labor*, retrieved on May 2<sup>nd</sup> 2024 from  
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<sup>204</sup> Information received from Department of Judicial Administration

<sup>205</sup> Information received from Department of Judicial Administration

<sup>206</sup> Information received from Department of Judicial Administration

<sup>207</sup> Information received from Prosecutor General's Office

<sup>208</sup> Information received from Prosecutor General's Office

<sup>209</sup> Transparency Maldives (2022). Situational analysis of the pathways to social reintegration for offenders and drug-dependent persons in the Maldives 2022 , page 33 retrieved on May 2<sup>nd</sup> 2024 from <https://transparency.mv/wp-content/uploads/2022/08/Social-Reintergration.pdf>

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<sup>210</sup> Information received from Maldives Correctional Service

<sup>211</sup> *Juvenile Justice Act (18/2019), Article 108*

<sup>212</sup> HRCM legal review

<sup>213</sup> *Observation from NPM visit to Asseyri Prison*

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<sup>220</sup> 3rd Amendment to General Elections Act (Law number 11/2008),

<sup>221</sup> 4th Amendment to - Presidential Elections Act (Law number 12/2008)

<sup>222</sup> Transparency Maldives (2023), *2023 Presidential Election: Pre-Election Assessment*, retrieved on May 16<sup>th</sup> 2024 from  
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