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U.S. Department of State

Maldives Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

MALDIVES

The Republic of Maldives comprises 1,190 islands scattered across an area 500 miles long by 75 miles wide in the Indian Ocean. The population is about 245,000 persons. The Maldives has a parliamentary form of government with a very strong executive. The President appoints the Cabinet, members of the judiciary, and one-sixth of the Parliament. The President derives additional influence from his constitutional role as the protector of Islam. Political parties are officially discouraged, and candidates for the unicameral legislature, the Citizens' Majlis, run as individuals. The Majlis selects a single presidential nominee who is approved or rejected in a national referendum. The Majlis must approve all legislation and can enact legislation without presidential approval. Civil law is subordinate to Islamic law, but civil law is generally applied in criminal and civil cases. The judiciary is subject to executive influence.

The National Security Service (NSS) performs its duties under effective civilian control. The NSS includes the armed forces and police, and its members serve in both police and military capacities during their careers. The police division investigates crimes, collects intelligence, makes arrests, and enforces house arrest.

Fishing, small-scale agriculture, and tourism provide employment for over one-half the work force. Tourism accounts for over one-quarter of government revenues and roughly 40 per cent of foreign exchange receipts. Manufacturing accounts for 6 percent of Gross Domestic Product (GDP).

The Government restricts human rights in several areas. The Majlis assumed a more active political role and its members routinely differ with government policy on many issues. However, the President's power to appoint a significant portion of the Parliament still constrains citizens' ability to change their government. An easing of government restrictions and the Press Council's balanced handling of issues related to journalistic standards allowed a greater diversity of views in the media. Nevertheless, a journalist was convicted in 1996 for comments in an article about the 1994 general elections. In addition, the Government banned a book in September because it contained derogatory comments about a previous president. The Government limits freedom of assembly and association. There are significant restrictions on the freedom of religion, and women face a variety of legal and social disadvantages. Some of these restrictions are linked to the Government's observance of Shari'a (Islamic law) and other Islamic customs. The Government restricts worker rights. Nonetheless, there was some progress in certain areas, as the courts were reorganized, and constitutional reforms were finalized.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There were no reports of beatings or other mistreatment of persons in police custody. Convicted criminals may be flogged under judicial supervision when this punishment is prescribed by Islamic law (i.e., only when the criminal confesses to the crime and only for the offenses of marital infidelity and alcohol abuse). There were, however, no public floggings in 1997. Punishments are usually confined to fines, compensatory payment, house arrest, imprisonment, or banishment to a remote atoll. The Government generally permits those who are banished to receive visits by family members.

Prison conditions, including food and prisoner housing, are adequate. Prisoners are allowed to work in prison and given the opportunity for regular exercise and recreation. Spouses are allowed privacy during visits with incarcerated partners.

The Government has permitted prison visits by foreign diplomats.

d. Arbitrary Arrest, Detention, or Exile

The Constitution states that no person shall be apprehended, except on a verdict specified by Shari'a or civil law. Police initiate investigations based on suspicion of criminal activity or in response to written complaints from citizens, police officers, or government officials. They are not required to obtain warrants for arrests. Based on the results of police investigations, the Attorney General refers cases to the appropriate court. The authorities generally keep the details of a case confidential until they are confident that the charges will be upheld.

Depending on the charges, a suspect may remain free, detained in prison, or under house arrest for 15

days during investigations. The President may extend pretrial detention for an additional 30 days, but in most cases the suspect is released if not brought to trial within 15 days. Those who are released pending trial may not leave a specific atoll. The law, however, permits indefinite detention without charge while an investigation continues for suspects accused of drug abuse, terrorism, or attempted overthrow of the Government. A small number of people were detained for investigation. There is no right to legal counsel during police interrogation. There is no provision for bail.

The Government may prohibit access to a telephone and non-family visits to those under house arrest. While there have been no reported cases of incommunicado detention in recent years, the law does not provide safeguards against this abuse.

The Government detained three individuals in April 1995 who remained under house arrest without charge until October 1995, when their detention was lifted. No charges were brought against them. The Government has offered no reasons for their detention. It is widely believed, however, that their detention was the result of political differences with the Government rather than due to any threat that the men--all of whom are elderly and well known figures--pose to national security.

There were no reports of external exile. However, the Government sometimes banishes convicted criminals to inhabited atolls away from their home communities.

e. Denial of Fair Public Trial

The Constitution does not provide for an independent judiciary. The judiciary is subject to executive influence. In addition to his authority to review High Court decisions, the President influences the judiciary through his power to appoint and dismiss judges, all of whom serve at his pleasure and are not subject to confirmation by the Majlis. The President has nevertheless removed only two judges since 1987. Both dismissals followed the recommendation of the Justice Ministry which found the judges' professional qualifications to be below standard. The President may also grant pardons and amnesties.

In September the court system, under the Ministry of Justice, was reorganized and court administration has improved. There are three courts: one for civil matters; one for criminal cases; and one for family and juvenile issues. A principal judge for each court is appointed by the President on the recommendation of the Ministry of Justice. There is also a High Court on Male', which is independent of the Justice Ministry and which handles a wide range of cases, including politically sensitive ones, and acts as a court of appeals. Under a 1995 presidential decree, High Court rulings can be reviewed by a 5-member advisory council appointed by the President. The President also has authority to affirm judgments of the High Court, order a second hearing, or overturn the Court's decision. In addition to the Male' courts, there are 204 general courts on the islands.

There are no jury trials. Most trials are public and are conducted by judges and magistrates trained in Islamic, civil, and criminal law. Cases on outer islands are usually adjudicated by magistrates, but when more complex legal questions are involved, the Justice Ministry will send more experienced judges to handle the case.

During a trial, the accused may defend himself, call witnesses, and be assisted by a lawyer. Courts do not provide lawyers to indigent defendants. Judges question the concerned parties and attempt to establish the facts of a case.

Civil law is subordinate to Islamic law, or Shari'a. Shari'a is applied in situations not covered by civil law as well as in certain acts such as divorce and adultery. Courts adjudicating matrimonial and criminal

cases generally do not allow legal counsel in court because, according to a local interpretation of Shari'a, all answers and submissions should come directly from the parties involved. However, the High Court allows legal counsel in all cases, including those in which the right to counsel was denied in the lower court. Under Islamic practice, the testimony of two women is required to equal that of one man in matters involving finance and inheritance. In other cases, the testimony of men and women are equal.

Ilyas Ibrahim, the President's chief rival for the 1993 presidential nomination, had been tried in his absence in 1994 and sentenced to 15 years' banishment on the charge of illegally attempting to become President and to 6 months banishment for violating his oath as minister. Ilyas returned from his self-imposed foreign exile in April 1996 and was placed under house arrest for several months. He has since been pardoned by the President and there are no restrictions on his political rights.

There were no reports of political prisoners.

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

The Constitution prohibits security officials from opening or reading letters, telegrams, and wireless messages or monitoring telephone conversations, "except in accordance with the specific provisions of the law." The NSS may open the mail of private citizens and monitor telephone conversations if authorized in the course of a criminal investigation.

Although the Constitution requires the authorities to respect private premises and dwellings, there is no legal requirement for search or arrest warrants. The Attorney General or a commanding officer of the police must approve the search of private residences.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Law No. 4/68 of 1968 prohibits public statements that are contrary to Islam, threaten the public order, or are libelous. In April 1996, a journalist was sentenced under this law to 2 years' imprisonment for comments made about the 1994 general elections in an article published in the Philippines. On appeal the High Court reduced his sentence to 6 months. The journalist was pardoned by the President at the beginning of 1997.

The Penal Code prohibits inciting the people against the Government. However, a 1990 amendment to the Penal Code decriminalized "any true account of any act of commission or omission past or present by the Government in a lawfully registered newspaper or magazine, so as to reveal dissatisfaction or to effect its reform."

The Press Council established by the Government in December 1993 is composed of official government and private media representatives, lawyers, and government officials. The Council reviews charges of journalist misconduct (advising the Ministry of Information, Arts, and Culture on measures to be taken against reporters, when appropriate) and promotes the professional standards within the media (recommending reforms and making suggestions for improvement). The Council met regularly and private journalists were satisfied with its objectivity and performance. Regulations that made publishers responsible for the content of the material they published remained in effect, but did not result in any legal actions against publishers. The Government agreed that private journalists, rather than the Government, should take responsibility for preparation of a journalistic code of ethics. Individual newspapers and journals established their own ethical guidelines in many cases. The Government has

not amended regulations that make publishers responsible for the content of the material they publish, despite reports in 1994 that the regulations were under review and a change was likely.

There were no reports of government censorship of the electronic media, nor were there closures of any publications or reports of intimidation of journalists. The Government banned a book written by an elderly close relative of the President for its derogatory comments about a deceased previous president, after the relatives of the latter complained. No journalists were arrested in 1997. The Government discontinued its practice of providing reporting guidelines to the media in 1994.

Television news and public affairs programming routinely discussed topics of current concern and freely criticized government performance. Regular press conferences instituted with government ministers in 1995 continued. Journalists are more self-confident than in the past; self-censorship appears to have diminished, although it remains a problem. Since it is not clear when criticism violates Law 4/68, journalists and publishers continue to watch what they say, particularly on political topics, to avoid entanglement with the Government.

The Government owns and operates the only television and radio station. It does not interfere with foreign broadcasts or the sale of satellite receivers. Reports drawn from foreign newscasts are aired on the Government television station.

Cable News Network is shown, uncensored, daily on local television. In October 1996, a company began providing Internet services. The Government enacted no regulations governing Internet access but does seek to block distribution of pornographic material via Internet.

Ninety-one newspapers and periodicals are registered with the Government. Aafathis, a morning daily, is published by the brother of the President's principal political rival, Ilyas Ibrahim, and is often critical of government policy. Another daily, Miadhu, began publishing in October 1996 and Haveeru is the evening daily. Both Miadhu's and Haveeru's publishers are progovernment.

There are no legal prohibitions on the import of foreign publications except those containing pornography or material otherwise deemed objectionable to Islamic values. No seizures of foreign publications were reported during the year. There are no reported restrictions on academic freedom, nor any governmental censorship or control over classroom materials. Some teachers are reportedly vocal in their criticism of the Government.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right to assembly, as long as the law or the Islamic code of behavior are upheld. The Home Ministry permits public political meetings during electoral campaigns but limits them to small gatherings on private premises.

The Government registers clubs and other private associations if they do not contravene Islamic or civil law. While not forbidden by law, political parties are officially discouraged by the President on the grounds that they are inappropriate to the homogeneous nature of society. However, many Majlis members were active and outspoken critics of the Government and have stimulated closer parliamentary examination of government policy.

c. Freedom of Religion

Freedom of religion is significantly restricted. The Constitution designates Islam as the official religion

and requires all citizens to be Muslims. The practice of any religion other than Islam is prohibited by law. However, foreign residents are allowed to practice their religion if they do so privately.

There are no places of worship for adherents of other religions. The Government prohibits the importation of icons and religious statues. It also prohibits non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of Shari'a and may result in a loss of the convert's citizenship, although law enforcement authorities say this provision has never been applied.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens are free to travel at home and abroad, emigrate, and return. Because of overcrowding, the Government discourages migration into the capital island of Male' or its surrounding atoll. Foreign workers are often kept at their work sites. Their ability to travel freely is restricted, and they are not allowed to mingle with the local population on the islands. The issue of the provision of first asylum did not arise in 1997. The Government has not formulated a policy regarding first asylum. There were no reports of forced expulsion of those having a valid claim to refugee status.

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

Citizens' ability to change their government is constrained, as a strong executive exerts significant influence over both the legislature and the judiciary. The Majlis chooses a single presidential nominee who must be a Sunni Muslim male. The candidate is not permitted to campaign for the nomination and is confirmed or rejected by secret ballot in a nationwide referendum. In 1993 President Gayoom was reelected to a fourth 5-year term.

The elected members of the Majlis serve 5-year terms. All citizens over 21 years of age may vote. Of the body's 48 members, 40 are elected--2 from each of the 19 inhabited atolls and 2 from Male'--and the President appoints 8 members. Individuals or groups are free to approach members of the Majlis with grievances or opinions on proposed legislation, and any member may introduce legislation. There are no political parties, which are officially discouraged.

The Office of the President is the most powerful political institution. The Constitution gives Islamic law preeminence over civil law and designates the President as the protector of Islam. The President's authority to appoint one-sixth of the Majlis members, which is one-third of the total needed for nominating the President, provides the President with a power base and strong political leverage.

Relations between the Government and Majlis have been constructive. The Government may introduce legislation, but may not enact a bill into law without the Majlis' approval. However, the Majlis may enact legislation into law without presidential assent if the President fails to act on the proposal within 30 days or if a bill is repassed with a two-thirds majority. In recent years, the Majlis has become increasingly independent, challenging government policies and rejecting government proposed legislation.

In 1993 the Majlis introduced a question time in which members may question government ministers about public policy. Debate on the floor has since become increasingly sharp and more open. The last Majlis election was held in December 1995. According to South Asian Association for Regional Cooperation observers, the elections were generally free and fair. Irregularities were observed and repolling required in one of 29 constituencies. Over 200 candidates campaigned freely for 40 seats.

Since 1980 the Government, with the participation of the citizen's special Majlis, conducted a review of the 1968 Constitution to revise and modernize it. Many of the draft proposals would strengthen civil and political rights and restrict the power of the Government. The new Constitution was approved and ratified in November and was to go into effect on January 1, 1998.

Women are not eligible to become president but may hold other government posts. For reasons of tradition and culture, few women seek or are selected for public office. Three women served in the Majlis and one in the Cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Although not prohibited, there are no active local human rights groups. The Government has been responsive to at least one foreign government's interest in examining human rights issues. The Government also facilitated the visit of a team of South Asian Association for Regional Cooperation election observers in 1994.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution declares all citizens equal before the law, but there is no specific provisions to prohibit discrimination based on these factors. Women have traditionally been disadvantaged, particularly in terms of education and the application of Islamic law to matters such as divorce, inheritance, and testimony in legal proceedings.

Women

There are no firm data on the extent of violence against women because of the value attached to privacy in this conservative society. The Government has commissioned a study from a local NGO on domestic violence, but the results were not available by year's end. Police officials report that they receive few complaints of assaults against women. Women's rights advocates agree that wife beating and other forms of violence are not widespread. Rape and other violent crimes against women are rare. None were reported or prosecuted in 1997.

Women traditionally have played a subordinate role in society, although they now participate in public life in growing numbers and gradually are participating at higher levels. Well-educated women maintain that cultural norms, not the law, inhibit women's education and career choices. In many instances, education for girls is curtailed after the seventh grade, largely because parents do not allow girls to leave their home island for one having a secondary school. Due largely to orthodox Islamic training, there is a strong strain of conservative sentiment--especially among small businessmen and residents of the outer islands--which opposes an active role for women outside the home. The Government has undertaken legal literacy programs to make women aware of their legal rights.

Under Islamic practice, husbands may divorce their wives more easily than vice versa, absent any mutual agreement to divorce. Islamic law also governs inheritance, granting male heirs twice the share of female heirs. A woman's testimony is equal to only one-half of that of a man in matters involving finance and inheritance (see Section 1.e.). Women who work for wages receive pay equal to that of men in the same positions. About 10 per cent of uniformed NSS personnel are women.

Children

The Government does not have a program of compulsory education. The percentage of school-age children actually in school is as follows: (grades 1-5) 99.26 percent, (grades 6-7) 96.2 percent, and grades (8-10) 51.09 percent. Of the students enrolled 49.27 percent are female and 50.73 percent are male. The Government is committed to protection of children's rights and welfare. Government policy provides for equal access to educational and health programs for both male and female children. Laws protecting children's rights apply with equal force to children of either sex.

Children's rights are incorporated into law, which specifically protects children from both physical and psychological abuse, including abuse at the hands of teachers or parents. The Ministry of Women's Affairs and Social Welfare has the authority to enforce this law, takes its responsibility seriously, and has received strong popular support for its efforts. The Government is reviewing this law to see if improvements and additional protections are necessary. There is no reported societal pattern of abuse directed against children.

People with Disabilities

There is no law that specifically addresses the rights of the physically or mentally disabled. However, the Government has established programs and provided services for the disabled. There is no legislated or mandated accessibility for the disabled.

Persons with disabilities are usually cared for by their families. When such care is unavailable, they are kept in the Institute for Needy People. The Government provides free medication for all mentally ill persons in the islands, and mobile teams regularly visit mentally ill patients.

Section 6 Worker Rights

a. The Right of Association

While the Government does not expressly prohibit unions, it recognizes neither the right to form them nor the right to strike. There were no reports of efforts to form unions during the year.

The work force consists of approximately 60,000 persons, about 20 percent of whom are employed in fishing. About 23,000 foreigners work in Maldives, many in tourist hotels, factories, or on construction projects. The great majority of workers are employed outside the wage sector. The Government estimates that the manufacturing sector employs about 15 percent of the labor force and tourism another 10 percent.

Workers can affiliate with international labor federations.

In 1995 the U.S. Government suspended Maldives' eligibility for tariff preferences under the U.S. Generalized System of Preferences because the Government failed to take steps to afford internationally recognized worker rights to Maldivian workers.

b. The Right to Organize and Bargain Collectively

The law neither prohibits nor protects workers' rights to organize and bargain collectively. Wages in the private sector are set by contract between employers and employees and are usually based on the rates for similar work in the public sector. There are no laws specifically prohibiting antiunion discrimination by employers against union members or organizers. The Government has exerted pressure in the past to discourage seamen from joining foreign seamen's unions as a means to secure higher wages. There have

been no reported complaints alleging such discrimination or claiming government interference with workers' attempts to join unions in the past 4 years.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor is not prohibited by law. However, there were no reports that it is practiced. The Government does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur.

d. Status of Child Labor Practices and Minimum Age for Employment

There is no compulsory education law, but more than 96 percent of school-age children to grade 7 are enrolled in school. A 1992 law bars children under 14 years of age from "places of waged works and from work that is not suitable for that child's age, health, or physical ability or that might obstruct the education or adversely affect the mentality or behavior of the child." An earlier law prohibits government employment of children under the age of 16. There are no reports of children being employed in the small industrial sector, although children work in family fishing, agricultural, and commercial activities. The hours of work of young workers are not specifically limited by statute. The Government does not specifically prohibit forced and bonded labor by children, but such practices are not known to occur (see Section 6.c.). A Children's Unit in the Ministry of Women's Affairs and Social Welfare is responsible for monitoring compliance with the child labor regulations. It relies upon complaints filed with it rather than initiating its own inspections to ensure compliance. As a result, oversight is incomplete.

e. Acceptable Conditions of Work

In 1994 the Government promulgated its first set of regulations for employer-employee relations. The regulations specify the terms that must be incorporated into employment contracts and address such issues as training, work hours, safety,

remuneration, leave, fines, termination, etc. There is no national minimum wage for the private sector, although the Government has established wage floors for certain kinds of work. Given the severe shortage of labor, employers must offer competitive pay and conditions to attract skilled workers.

There are no statutory provisions for hours of work, but the regulations require that a work contract specify the normal work and overtime hours on a weekly or monthly basis. In the public sector, a 7-hour day and a 5-day workweek have been established through administrative circulars from the President's office. Overtime pay in the public sector was instituted in 1990. Employees are authorized 20 days of annual leave, 30 days of medical leave, maternity leave of 45 days, and special annual leave of 10 days for extraordinary circumstances. There are no laws governing health and safety conditions. However, there are regulatory requirements that employers provide a safe working environment and ensure the observance of safety measures. It is unclear, however, whether workers can remove themselves from unsafe working conditions without risking the loss of their jobs.

In 1997 the Government for the first time worked closely with the International Labor Organization (ILO) to address a number of labor issues, including the right of association, the right to organize, and acceptable conditions of work.

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