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## 2009 Human Rights Report: Maldives

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2009 Country Report on Human Rights Practices

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The Republic of Maldives is a multiparty democracy with a population of approximately 390,000. In August 2008 parliament ratified a new constitution that provided for the first multiparty presidential elections. In October 2008 Mohamed Nasheed became the country's first directly elected president in relatively free and fair elections. The constitution establishes a bill of rights and mandates a strict separation of powers among all the branches of government. On May 9, the country held its first multiparty parliamentary elections. The ruling Maldivian Democratic Party won 26 out of the 77 seats in the Majlis (parliament); 28 seats went to the main opposition party, former president Maumoon Gayoom's Dhivehi Rayyithunge Party (DRP); and the remaining seats went to independent candidates and smaller members of the coalition government and opposition. Election observers from the British Commonwealth, Sri Lanka-based diplomatic missions, and local organizations such as Transparency Maldives reported the elections were relatively free and fair, with minor voting irregularities. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens and upheld civil liberties. Its human rights record continued to improve from the previous year, although some issues remained, including abuse of detainees by security forces, the unequal treatment of women, and restrictions on religious freedom and workers' rights.

### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

The Maldivian Detainee Network (MDN) reported that on March 20, Ahmed Shiyam, who was serving a 25-year sentence at Maafushi prison for drug-related offences, died in detention. Prison medical officials initially declared that Shiyam died of a drug overdose; however, doctors at the local hospital were unable to determine cause of death. Shiyam's death remained under investigation at year's end.

In 2008 authorities charged police corporal Ahmed Shah with assault in connection with the 2007 death of Hussain Salah near the police base of Atoluvehi. Salah had been arrested on drug charges, and police claimed that he had been released; however, the Human Rights Commission of Maldives (HRCM) concluded there was insufficient evidence to try

Shah and the case was being treated as a suspected custodial death. On November 15, the court acquitted Shah of the charges and stated that there was insufficient evidence to convict him.

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, although there were reports of mistreatment of persons by security forces.

On September 22, several detainees at Maafushi jail reported to the local media and the HRCM that members of the Emergency Support Group (ESG), a team of special security forces tasked with maintaining order in the prison, indiscriminately attacked detainees on September 21. Twelve detainees were reportedly injured. The Department of Penitentiary and Rehabilitation Services' (DPRS) investigation on the incident continued at year's end.

In February the HRCM released its annual report, which included an investigation into alleged September 2008 abuse of a detainee at Maafushi jail. The HRCM determined that five officers of the ESG were responsible. The HRCM stated that it was examining how to obtain financial compensation for the detainee from DPRS and was not aware of any action taken against the ESG.

The law permits flogging as a form of punishment. In July local and international media reported authorities sentenced an estimated 180 persons to public flogging for engaging in extramarital affairs. An 18-year-old woman was flogged in public on July 5 and received 100 lashes. Reports indicated that the woman fainted and was taken to the hospital for medical treatment. Abdulla Mohamed, head of the country's Criminal Court, told the local media that flogging was meant as a deterrent and not designed to cause injury, as regulations prohibit those carrying out the sentences from raising their arms above their shoulders.

#### Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers. Officials did not hold pretrial detainees separately from convicted prisoners. Independent inspections by MDN and HRCM officials revealed that security forces regularly mistreated and abused detainees.

During the year there was a hunger strike, several riots, and repeated jailbreaks in the country's largest prison, Maafushi.

On January 10, detainees went on a hunger strike reportedly due to the government's failure to deliver on promises made in December 2008 to address overcrowding, poor ventilation and lighting, inadequate medical treatment, and to institute rehabilitation and parole programs for prisoners. An estimated 85 percent of detainees were arrested for drug-related offenses.

In February the HRCM cited the absence of rehabilitation programs and the intermingling of experienced criminals with those convicted of petty crimes as the major causes of problems in Maafushi prison. The report also revealed the use of homemade weapons and drug trafficking by detainees. The HRCM cited lack of security for both prisoners and security officers as a serious concern. The HRCM's recommendations included giving full authority and responsibility over the prison to the DPRS for more effective site management; immediate establishment of a Prison's Act; and revision of prison regulations to conform to international best practices. There was no reported response to the HRCM's recommendations by year's end.

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In April detainees set fire to various areas of the Maafushi prison, causing damage to the health center, a workshop, and a desalination plant. Also on April 5, a prison raid in Maafushi revealed homemade bombs, literature about Islamic extremism, knives, mobile phones, syringes, trowels, and maps of the prison.

In July dozens of detainees demanding their release, vandalized cells and sawed through cell bars. Mohamed Rasheed, director general of the DPRS, acknowledged to the local media that the riots were a result of lax security and noted the need to improve human resources and renovate prison facilities.

In October there was another riot in the Maafushi prison, and detainees set fire to various parts of the facility, resulting in severe damage. Following the riot several detainees were transferred to a military center in Addu atoll, under the management of the Maldives National Defense Force (MNDF). The detainees were to be kept at the center until the Maafushi prison was repaired. The HRCM expressed concern over military personnel's supervision of detainees and recommended placing management under the DPRS. At year's end the detainees were still at the temporary facility.

There were repeated jailbreaks at the Maafushi prison, as well as at Feydhoofoinolhu jail, which had initially been constructed for use by the Education Ministry for extracurricular school activities. Since 2006 Feydhoofoinolhu acted as a minimum-security jail and accommodated the detainees in excess of the capacity of the Maafushi prison.

The government generally permitted regular prison visits by the HRCM, the MDN, and the International Committee of the Red Cross (ICRC). In its annual report, the ICRC stated that it visited detainees regularly and shared its findings and recommendations confidentially with authorities. The government also allowed access to prisons to the jail oversight committee, composed of judges and members of parliament. The oversight committee has a mandate to conduct quarterly visits and submit a report directly to the president. These reports were not available to the public.

During the year the government continued construction of a new jail for 200 persons adjacent to Maafushi prison; the new facility was designed to relieve overcrowding at Maafushi.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The constitution also provides compensation for those detained without legal justification.

#### Role of the Police and Security Apparatus

The MNDF is responsible for external security. The MNDF also handled disaster relief operations and national emergencies. The director of the MNDF reports to the minister of defense. The president is commander-in-chief of the MNDF. In 2008 the Majlis enacted a new Armed Forces Act that establishes legal parameters for the MNDF's role.

The Maldives Police Service (MPS), which is responsible for internal security, public safety, and law and order, was separated from MNDF in 2004 and is subordinate to the Ministry of Home Affairs. The president appoints the MPS commissioner, who reports to the minister of home affairs.

The prosecutor general referred cases to the appropriate court based on the results of police investigations. The authorities generally kept the details of a case confidential until they were confident that the charges were likely to be upheld. Three units under the Special Operations and Security Department of the MPS replaced the Star Force, formerly an elite unit of the MPS. These units are the Special Weapons and Tactic Team (SWAT), the Industrial and Personal Security Unit, and the Riot Police. The Police Integrity Commission (PIC), established in 2006 to investigate allegations of police corruption and impunity, was inactive, holding no hearings in 2008. In July President Nasheed appointed five new commissioners to the PIC. The commission was the primary mechanism available to investigate security force abuses. On

August 31, the PIC reported that it investigated 16 cases involving police conduct in public places and internal police disputes. The PIC determined that the cases did not merit criminal prosecution, and none of the cases were forwarded to the prosecutor general. The PIC instead made recommendations to the MPS and the Ministry of Home Affairs to establish a detention facility that meets international standards.

#### Arrest Procedures and Treatment While in Detention

The law of arrest requires that no person be arrested unless the arresting officer observed the offence, had reasonable evidence, or had an arrest warrant issued by the court. The constitution provides for an arrestee to be informed of the reason for arrest within 24 hours and provides for the right to hire a lawyer. The law also requires that a detainee be informed of the right to a lawyer at the time of arrest. Prisoners had the right to a ruling on bail within 36 hours; however, reports indicated that bail procedures were not publicized adequately, explained, or implemented consistently. Under the new constitution, a lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. According to the Attorney General (AG), police normally informed the arrestee's family of the arrest within 24 hours, although the law does not require that police inform the family of the grounds for the arrest. Authorities generally permitted detainees to have counsel present during police questioning.

The law provides for investigative detention. Once a person is detained, the arresting officer must present evidence to a court within 48 hours to justify continued detention. Based on the evidence presented, the prosecutor general has the authority to determine whether charges will be made. If law enforcement authorities are unable to present sufficient evidence within 48 hours, the prisoner is eligible for release. Judges have the authority to extend detention upon receiving an arresting officer's petition citing factors such as the detainee's previous criminal record, the status of the investigation, the type of offense in question, and whether the detainee would pose a threat if released.

#### e. Denial of Fair Public Trial

The law/constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

In 2008 the government established an interim Supreme Court. The five-member court, appointed by the former president, is independent from the executive. It hears appeals from the High Court and considers constitutional matters brought directly before it. The seven-member Judicial Services Commission (JSC) is responsible for judicial appointments, examining the conduct of judges, and any dismissals of judges and recommended candidates for judgeships to the president. The legislation setting up the commission permits the body to accept or veto presidential appointments to judgeships. The JSC did not publicize deliberations or make recommendations on the hiring, dismissal, or discipline of judges during the year.

There are three lower courts: one for civil matters, one for criminal cases, and one for family and juvenile cases. The High Court handles a wide range of cases, including politically sensitive ones. The president's judicial advisory council, led by the chief justice, reviews all appealed court rulings.

#### Trial Procedures

The law provides that an accused person is presumed innocent until proven guilty. There were no jury trials. Most trials were public and were conducted by judges and magistrates, some of whom were trained in Islamic, civil, or criminal law. Regulations rather than laws govern trial procedures. The prosecution collects all evidence and presents it to a judge, who has the discretion to choose what evidence he will share with the defense. Judges question the concerned parties and attempt to establish the facts of a case. An accused person has the right to defend himself or herself "in accordance with Shari'a. During a trial the accused may call witnesses and has the right to be represented by a lawyer. Under the

constitution a lawyer may be appointed by the court in serious criminal cases if the accused cannot afford one. The judiciary generally enforced these rights.

Under the constitution, the prosecutor general is a separate and independent body subject only to general policy directives by the AG on the conduct of criminal proceedings. The Prosecutor General's mandate includes supervising prosecution of all criminal cases and determining whether charges should be pursued based on evidence presented by investigating authorities.

Civil law was subordinate to Shari'a, which was applied in situations not covered by civil law, as well as in family matters such as divorce and adultery. Courts adjudicating matrimonial and criminal cases generally did not allow legal counsel in court because, according to 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 a lower court. Those convicted had the right to appeal. Under the country's Islamic practice, the testimony of two women equals that of one man in matters involving Shari'a, such as adultery, finance, and inheritance. In other cases the testimony of men and women was equivalent.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees. The government declared that it no longer has political prisoners. Local nongovernmental organizations (NGOs) confirmed that no one had been arrested solely for their political beliefs since the inauguration of the new government. As for previous political prisoners, government observers claimed that they have been released after the charges against them were withdrawn or found to be without merit. Amnesty International had stated that "it continues to be concerned about the detention of Prisoners of Conscience who have been imprisoned solely for their political beliefs" but did not cite specific cases or provide a number of political detainees.

In November 2008 the High Court overturned a verdict against journalist Abdullah Saeed who had been sentenced to life imprisonment for drug possession in 2005. He was released on November 30, 2008.

#### Civil Judicial Procedures and Remedies

A civil court addressed noncriminal cases. On February 3, Mariyam Manike filed a civil suit against the ministry of defense over the killing of her son, Evan Naseem, in 2003 by eight former security officers at Maafushi prison. The case continued at year's end.

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

The law prohibits security officials from opening or reading wireless messages, letters, telegrams, or monitoring telephone conversations, "except as expressly provided by law." In practice the government generally respected privacy rights. Security forces may open the mail of private citizens and monitor telephone conversations if authorized to do so by a court during a criminal investigation.

The constitution provides that residential premises and dwellings should be inviolable and can be entered without consent of the resident only under exigent circumstances or under the authorization of the court.

#### Section 2 Respect for Civil Liberties, Including:

##### a. Freedom of Speech and Press

The constitution guarantees freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press in most cases. However, the law limits a citizen's right to freedom of expression in order to protect the "basic tenets of Islam" and prohibits inciting citizens against the government.

There are almost 200 independent newspapers and periodicals; however, government ministers owned several of the daily publications.

In July Reporters Without Borders (RSF) issued a statement urging authorities and political parties to respect freedom of the press. The statement stemmed from a series of incidents including attacks against opposition and state media journalists by supporters of political parties and after the head of a privately owned television station reportedly was summoned and warned by the information department for programs it considered objectionable. Tourism, Arts, and Culture Minister Mohamed Thoyyib assured RSF that the government had no intention of arresting journalists, taking them to court, or withdrawing licenses.

There were no legal prohibitions on the import of foreign publications except for those containing pornography or material otherwise deemed objectionable to Islamic values.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail, which was widely available in the capital and increasingly present in outlying atolls. There were, however, reports of the Ministry of Islamic Affairs blocking certain Web sites.

In March the Telecommunications Authority of Maldives announced that nine Web sites with anti-Islamic and pornographic content were blocked at the request of the Ministry of Islamic Affairs. One of the Web sites posted an audio clip of a Ministry of Islamic Affairs official reportedly threatening an imam.

In December 2008 the Ministry of Islamic Affairs blocked a Dhivehi and English-language Web site promoting Christianity.

#### Academic Freedom and Cultural Events

The law prohibits public statements contrary to government policy or to the government's interpretation of Islam. In response to the law, there were credible reports that academics practiced self-censorship.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The constitution provides for "freedom of peaceful assembly without prior permission of the State," and the government generally respected this in practice. Although freedom of assembly was also included in the previous constitution, it came with the clause "in a manner that does not contravene the law."

##### Freedom of Association

The constitution provides for freedom of association; however, the government imposed some limits on this freedom in practice. The government registered clubs and other private associations only if they did not contravene Islamic or civil law.

#### c. Freedom of Religion

The law does not provide for freedom of religion and significantly restricts it. The constitution designates Sunni Islam as the official state religion. The law prohibits the practice of any religion other than Islam and confers citizenship exclusively on Muslims. The government allowed non-Muslim foreign residents to practice their religion only if they did so privately and did not encourage citizens to participate. The president, members of the People's Majlis, and cabinet members were required to be Sunni Muslims.

There were no places of worship for adherents of other religions. The government prohibited the import of icons and religious statues, but it generally permitted the import of religious literature, such as Bibles, for personal use. It also prohibited non-Muslim clergy and missionaries from proselytizing and conducting public worship services. Conversion of a Muslim to another faith is a violation of the government's interpretation of Shari'a and may result in punishment, including the loss of the convert's citizenship; however, there were no known cases of such loss of citizenship.

The Ministry of Islamic Affairs mandates Islamic instruction in schools, funds the salaries of religious instructors, and certifies imams, who are responsible for presenting government-approved sermons. No one may publicly discuss Islam unless invited to do so by the government, and imams could not prepare sermons without government authorization. The minister of Islamic Affairs had the sole authority to grant preaching licenses.

#### Societal Abuses and Discrimination

There were some reports of discrimination against various Islamic subgroups.

In April the Ministry of Islamic Affairs requested that police investigate independent prayer groups reportedly led by unlicensed preachers. During the year the ministry received criticism for its restrictions on issuing preaching licenses. The ministry cited the threat of religious extremism as the reason behind the investigations. In January, however, the ministry banned a religious group from practicing Friday prayers separately at the Dharumavantha mosque, stating that doing so violated the Protection of Religious Unity Act, which promotes religious homogeneity.

There were no known Jewish citizens or residents, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at [www.state.gov/g/drl/rls/irf](http://www.state.gov/g/drl/rls/irf).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Employers often housed foreign workers at their worksites.

The law allows for banishment to a remote atoll as a punishment, but this was seldom practiced.

#### Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and the government had not established a system for providing protection to refugees or persons seeking asylum. The government has cooperated in the past with the Office of the UN High Commissioner for Refugees; however, asylum issues did not arise during the year. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice

through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

On May 9, the country held its first multiparty parliamentary elections. These were the first elections under the new government. The previous Majlis was composed of 50 members, including eight presidential appointees. The new Majlis, however, had 77 seats, all directly elected for five-year terms. The ruling MDP won 26 out of 77 contested seats. The main opposition party, former president Maumoon Abdul Gayoom's DRP, won 28 seats. The People's Alliance (PA) won seven seats, which gave the opposition DRP-PA alliance a total of 35 seats, four short of a majority. The smaller members of the coalition government won three seats while the remaining 13 seats went to independent candidates. Election turnout was 79 percent of registered voters. Although there were sporadic confrontations and reports of electoral irregularities, including allegations of bribery and intimidation, election observer groups, such as Transparency Maldives and the British Commonwealth, reported the elections to be generally free and fair.

Under the constitution local elections were scheduled for July 1; however, members of parliament were unable to agree on a decentralization model, thus delaying the elections. At year's end, no date had been set for local elections. A limited number of women held prominent positions in government. The minister of health and family, the deputy minister of education, and five members of parliament were women.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. In 2008 the government established an independent Anti-Corruption Commission (ACC) to investigate corruption charges involving senior government officials.

Approximately 150 cases from the previous board were transferred to the new commission. In May President Nasheed established a Presidential Commission to investigate allegations of widespread corruption by high-level officials from the previous government, including former president Gayoom. The government created the commission after the ACC and independent audit reports revealed cronyism and misappropriation of state funds. The commission has authority to summon, interrogate, and take statements that may be used as evidence in court. At year's end the investigation continued.

There are no laws that provide for access to government information.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The HRCM was fully functional, with Ahmed Saleem serving as president.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for the equality of all citizens, but there is no specific provision to prohibit discrimination based on race, gender, religion, disability, or social status. Women traditionally were disadvantaged, particularly in the application of Shari'a in matters such as divorce, education, inheritance, and testimony in legal proceedings.

## Women

A man can be convicted of rape in the absence of a confession only if there are two male witnesses or four female witnesses willing to testify.

In March Mazeena Jameel, permanent secretary of the Ministry of Health and Family, stated that out of 10 rape cases reported, only two led to convictions, partly due to the difficulty of proving rape.

Under the law, spousal rape is not a crime.

There are no laws in force regarding domestic violence against women or workplace harassment, nor were there firm data on the extent of violence against women.

In 2008 the Ministry of Gender and Family released data showing an increase in the reported cases of violence against women, although NGOs believed that most cases remained unreported. Several reasons were cited for the silence on the issue, including fear of reprisals from abusers, losing custody of children, lack of economic independence, insensitivity of police when dealing with victims, absence of regulation in media concerning the privacy of the victim, dealing with the stigma attached to being a victim, and low conviction rates.

In May an official of the Ministry of Health and Family, formerly the Ministry of Gender and Family, stated to the local media that access to justice was one of the biggest obstacles to eliminating gender-based violence.

The 2006 Ministry of Gender and Family study on women's health and life experiences noted that one in three women between the ages of 15 and 49 years reported some form of physical or sexual violence at least once in their lives. One in five women between the ages of 15 and 49 years reported physical or sexual violence by a partner, and one in nine reported experiencing severe violence. One in six women in Male and one in eight countrywide reported experiencing childhood sexual abuse under the age of 15 years. Of those women between the ages of 15 and 49 years who had ever been pregnant, 6 percent reported having been physically or sexually abused during pregnancy. A survey reported that many respondents perceived women to be subordinate to men, and that men had used Islam to justify restrictions and violence against women.

In cases of harassment involving physical assault, violators can be prosecuted under the "indecent assault" laws.

Although women traditionally played a subordinate role in society, they participated in public life. Women constituted approximately 40 percent of government employees. The literacy rate for women was approximately 98 percent. In 2007 the government appointed the first female judges. The minimum age of marriage for women was 18 years, but marriages at an earlier age were common.

Under Islamic practice husbands may divorce their wives more easily than vice versa, absent mutual agreement to divorce. Shari'a also governs estate inheritance, granting male heirs twice the share of female heirs. Women who worked for wages received pay equal to that of men in the same positions. According to an HRCM report published in August, despite provisions in the constitution and the 2008 Employment Act, there were no policies in place that provide equal opportunities for women's employment. The absence of childcare facilities made it difficult for women to remain employed after they had children; it was socially unacceptable for women to stay on resort islands for extended periods, which discouraged women from working at tourist resorts. The HRCM also received reports that some employers discouraged women from marriage or pregnancy, as it could result in termination or demotion.

On March 8, the government established an Rf 10 million (\$780,000) Fund for the Economic Development of Women. Provided by the Asian Development Bank as part loan and part grant, the project is designed to encourage economic independence by assisting women in setting up small- and medium-sized enterprises.

On May 5, the government in partnership with the UN launched a two-year program to deal with gender-based violence. The program's objectives include raising awareness of gender-based violence, developing social support and counseling, providing women with legal options, and advising them on economic opportunities that would empower them to leave abusive relationships. The action plan was to involve various stakeholders in government including police, health ministry, religious leaders, and the judiciary to ensure cooperation and accountability.

There are Family and Children's Centers (FCSC) on every atoll in the country. They are intended to help streamline the process of reporting abuse against women and children. The centers had a shortage of trained staff and faced legal challenges such as collecting evidence about abuse cases.

Prostitution was illegal but occurred on a small scale. In March and June, police arrested 10 foreign residents at a guesthouse in Maafannu and a health center in Hanveiru on charges of prostitution.

A 2006 NGO report concerning the UN Convention on the Elimination of Discrimination Against Women stated that many women reported sexual harassment in public places and at their places of employment.

Couples and individuals had the right to decide freely and responsibly the number, spacing, and timing of children, and to have the information and means to do so free from discrimination, correction, and violence. Access to information on contraception and skilled attendance at delivery and in postpartum care was widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

#### Children

Citizenship is derived through one's parents (*jus sanguinis*). A child born of a citizen father or mother, regardless of the child's place of birth, can derive citizenship.

Education is not compulsory, but there was universal access to free primary education. In many instances parents curtailed education for girls after the seventh grade by not allowing them to leave their home island for another island with a secondary school.

Government policy provides for equal access to educational and health programs for both male and female children.

The law sought to protect children from physical and psychological abuse, including at the hands of teachers or parents. The Ministry of Health and Family has the authority to enforce the law and receives strong popular support. The ministry reported child abuse, including sexual abuse. On November 4, parliament passed the Child Sex Abuse Act which codified child sex offenses for the first time and outlined sentences of up to 25 years for those convicted. There were reports that although the courts had the power to detain perpetrators, most were released pending sentencing and were allowed to return to the communities of their victims.

In March the FCSC stated that the biggest challenge they faced in their efforts to protect children's rights was the release of pedophiles into the communities of their victims.

According to statistics from the MPS, from January to March, 34 cases of child sexual abuse were reported, and 23 pedophiles were arrested. An MPS officer attributed the increase to growing public awareness.

In February police arrested Hussain Fazeel after they discovered pornographic images of children on his computer and videos of him having sex with approximately 35 underage boys, some of them reportedly as young as 10 years of age. On November 25, Fazeel was sentenced to six years imprisonment for 39 counts of child sexual abuse.

In March police arrested Ahmed Ibrahim for sexual abuse of two underage boys. According to police, Ibrahim had lured the boys with promises of high-paying jobs in the tourism industry. DRPS officials stated that Ibrahim was an escaped convict serving a sentence for sexual abuse.

In May police arrested the father, uncle, and four family friends of a 10-year-old child on charges of repeated sexual abuse. According to police the child had been abused since she was five years old.

#### Trafficking in Persons

The constitution and laws do not specifically prohibit trafficking in persons.

There are no laws that specifically prohibit trafficking for commercial sexual exploitation; however, provisions of the 2008 Rules of Procedure can be used to prosecute cases of trafficking for sexual exploitation.

The country was a destination country for a number of migrant workers, predominantly from Bangladesh and India, who came to work in the construction and tourism sectors. It was unknown how many of these workers were trafficking victims, but of the 80,000 expatriate workers in the country, an estimated 20,000 were there illegally. These illegal workers were most at risk of becoming trafficking victims, as they lacked proper documentation to be in the country. In addition, most migrant workers, illegal and legal, borrowed large sums of money to pay foreign employment agents in their search for job opportunities in the country.

A small number of foreign women, predominantly from Sri Lanka, Thailand, India, and China, were trafficked to the country for sexual exploitation. In 2008 there were two identified cases of sexual exploitation in the country, one involved an Indian woman and one involved a Sri Lankan woman. Although there were no precise figures on the total number of victims, it is believed to be small. A small number of local teenage girls under the age of 18 years were trafficked to Male from other islands in the country to work as domestics in exchange for room and board and access to a better education than was available on their home islands.

The country was not a source country for the international trafficking of persons.

Traffickers in the country fell into at least two different categories depending on their victims. For internal trafficking local girls were generally sent by their parents from the outer islands to Male, so that they could receive a better education. The traffickers in these cases were affluent families in Male. The girls were identified and brought to Male based on personal relationships. If the two families did not know each other, a third party known to both families would act as an intermediary. There was no formal process or agents used. Once the girls were in Male, they faced an increased vulnerability to trafficking. There were allegations that some ended working full time as domestics and never attended school. There were allegations that girls were also sexually abused by the families with whom they stayed. Although this form of internal trafficking historically has been practiced in the country, improved education opportunities on the other islands has helped to curb this practice.

The second group of traffickers was employment agents, both within the country and outside. The law requires employers to use domestic employment agents to bring workers to the country. There were about 200 registered employment agents in the country. In order to operate, agents needed to register with the Ministry of Human Resources, Youth, and Sports to receive quotas and work permits to bring in workers. Labor trafficking, however, occurred not just with employment agents but with employers. The trafficking offenses included fraudulent offers of employment, withholding of passports, withholding salaries, or not paying promised wages.

There were no known instances of government officials participating in, facilitating, or condoning trafficking.

The rights of trafficking victims for both sexual and labor exploitation were respected. The government did not provide trafficking victims with any special legal, medical, or psychological services to which citizens were not entitled. There were no known instances in which trafficking victims were fined or prosecuted. The government's policy was to return foreign trafficking victims to their countries of origin as quickly as possible. There were no reports of persons being returned against their will.

Officers with the Police and the Department of Immigration and Emigration had training in the proactive identification of trafficking victims. The training appeared to be widespread and effective.

The Department of State's annual *Trafficking in Persons Report* can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

Although the constitution provides for the rights and freedom from discrimination of persons with disabilities, no law specifically addresses the rights of persons with physical or mental disabilities. Government programs provided services for persons with disabilities, including special educational programs for persons with hearing and vision disabilities. Inadequate facilities made it difficult for persons with disabilities to participate in the workforce. On November 9, there was a highly publicized report of Mariyam Rizwana, the first deaf citizen teacher.

On July 21, the Maldives Deaf Association received funding from the Ministry of Human Resources, Youth, and Sports to facilitate arts and crafts courses for deaf persons between the ages of 18 and 35 years old.

On October 29, President Nasheed launched the country's first sign-language dictionary. The objective of the book was to serve as a bridge between the deaf community and the rest of society. Handicap International funded the project.

The government established disability awareness and empowerment campaigns on some of the more populous islands. The government integrated students with physical disabilities into mainstream educational programs. Families usually cared for persons with disabilities; when family care was unavailable, persons with disabilities lived in the Ministry of Health and Family's Institute for Needy People, which also assisted elderly persons. When requested the government provided free medication for all persons with mental disabilities on the islands, but follow-up care was infrequent.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law prohibits homosexual conduct, and it was considered socially unacceptable. The punishment for men includes banishment for nine months to one year or 10 to 30 lashes. For women the punishment is house arrest for nine months to one year. There were no organizations concerned with lesbian, gay, bisexual or transgender (LGBT) issues in the country. There have not been any reports of officials complicit in abuses against the LGBT community. There were no reports of official or societal discrimination based on sexual orientation in employment, housing, access to education, or health care.

#### Other Societal Violence or Discrimination

There were no reports of official or societal discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

##### a. The Right of Association

For the first time, the constitution recognized the right to form associations, including the right to form trade unions and to participate or not participate in their activities. The constitution states explicitly that all rights and freedoms in the statute apply to "everyone" without any form of discrimination, including migrant workers.

The 2008 Employment Act, however, did not address the formation of trade unions. There were no reports during the year that labor unions were formed, but several worker associations had been established, primarily in the tourism sector. The existing organizations and associations active in the area of workers' rights do not have the legal authority to function as trade unions and enter into formal negotiations on behalf of workers they represent.

The constitution states that every person employed in the country has the freedom to stop work and to strike. This newly granted right was exercised frequently in the last year, particularly in the construction and tourism sectors. Police sometimes employed force to suppress strikes. Workers' associations that have been established include the Teachers' Association of the Maldives, Tourism Employees' Association of Maldives (TEAM) and Fishermen's Association. TEAM organized work stoppages to protest against unfair working conditions, low wages, and long working hours.

The Employment Act does not cover emergency workers, air and sea crews, police, armed forces, executive staff of any company, and workers who are on call.

#### b. The Right to Organize and Bargain Collectively

The new constitution and Employment Act do not address workers' rights to bargain collectively, but in practice informal collective bargaining involving employee associations primarily in the tourism sector began within days of the new law taking effect. Traditionally, wages in the private sector were set by contract between employers and employees and were based on rates for similar work in the public sector.

Problems arose in some resorts when employees' associations petitioned for wage increases and improvements in the conditions of work. When one resort operator refused to meet the demands and fired the leaders of the employees' association, the employees went on strike. In one instance police used force to remove the fired workers.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, there were no reports that such practices occurred. The HRCM reported, however, that some domestic workers, especially migrant female domestic workers, were in some cases trapped in circumstances bordering on forced labor in which employers used threats and intimidation to prevent them from leaving. Some teenage boys and girls who were sent to the city of Male for educational purposes found themselves working as domestics in exchange for food and lodging.

Migrant workers were predominantly employed in the construction and tourism sectors, where some could find themselves in situations of forced labor. The majority of victims of forced labor were reportedly coerced to work through one or more of the following practices: the holding of passports by employers, fraudulent offers of employment, not being paid the promised salary, and not being paid at all. It is unknown how widespread these problems were.

Generally, the Ministry of Human Resources blacklisted companies who violated the provisions of the Employment Act thereby preventing violators from bringing in new workers until violations were rectified. A fine of not more than Rf 5,000 (\$397) could be imposed on violators.

#### d. Prohibition of Child Labor and Minimum Age for Employment

The Employment Act sets 16 years of age as the minimum age for employment, with an exception for children who voluntarily participate in family businesses. The Employment Act also prohibits employment of children in "any work that

may have a detrimental effect on his health, education, safety, or conduct." Child labor, however, was a problem in the fishing sector, small commercial activities, and family enterprises.

The Department of Gender and Family Protection Services of the Ministry of Health and Family was responsible for monitoring compliance with the law regarding child labor. Based on the limited information available, the ministry's enforcement appeared to be effective. The Ministry of Health and Family, the Ministry of Human Resources, Youth and Sports, and the Family and Child Protection Unit of Maldives Police Service received complaints of child labor, conducted inquiries, and initiated legal action.

#### e. Acceptable Conditions of Work

The 2008 Employment Act establishes maximum hours of work, overtime, annual and sick leave, maternity leave, and guidelines for work place safety. The act also provides a mechanism to establish a minimum wage in the private sector. The minimum wage in the government sector was approximately Rf 2,600 (\$206) per month, which was adequate for a decent standard of living for a worker and family. Because of the tight labor market, private sector employers generally offered competitive pay and conditions to attract skilled workers.

The Employment Act also provides for a 48-hour per week limit on work with a compulsory 24-hour break if employees work six days consecutively. Overtime is possible; for example, employees in tourist resorts may work an additional two hours per day paid at overtime rates. The Employment Act states that employees working overtime shall be paid 125 percent their hourly working wage and, if working on a Friday or a public holiday, they shall be paid 150 percent their hourly working wage. The public sector provides a seven-hour workday and a five-day workweek.

With the exception of a few government-controlled corporations and a number of private companies, the HRCM reported that employers in general have not taken steps to comply with the Employment Act. Migrant workers were particularly vulnerable to exploitation and, upon arrival in the country, they found unacceptable work conditions, but they were forced to accept work at whatever wage was offered for debt repayment to the employment agency. The HRCM found many instances of nonpayment of wages to migrant workers and inadequate housing. Bangladeshi High Commissioner Professor Selina Mohsin reported that 110 Bangladeshi migrant workers died last year from construction-related injuries such as falls, heart attacks, extreme tension and stress, and the effects of working in hazardous environments without proper ventilation. The HRCM reported, however, that the status of migrant workers employed in the categories of senior management, professionals, and skilled workers was different. These workers enjoyed a status similar to citizens, if not at times better.

Under the Employment Act, workers have the right to refuse work that is dangerous; there are no reports as to whether this right is exercised in practice. Regulatory requirements in certain industries, such as construction and transport, require employers to provide a safe working environment and ensure the observance of safety measures. According to an HRCM report in August, there are no national standards for safety measures and as a result, such measures were at the discretion of employers.

Some employers that produce for export have adopted health and safety standards. Employers in different sectors, however, have reportedly not taken similar measures. The Employment Act grants workers the right to compensation if fired without cause. The act specifically bans discrimination based on race or color but it notes that "any preference given to Maldivians by an employer in granting employment shall not be deemed discrimination."

In December 2008 the government established a Labor Relations Authority and a Labor Tribunal to implement the new Employment Law. The Labor Tribunal did not begin operations until mid-April due to the absence of office space, budgetary constraints, and the need to revise the draft regulations.

In August the HRCM stated in a report that employment-related disputes were the most common complaints received at the commission. The report called for amendments to the Employment Act and claimed that relevant stakeholders were not consulted when it was formulated, resulting in conflict and nonimplementation of provisions in the law, including a cap on working hours and a minimum wage. The HRCM added that the institutions created by the establishment of the Labor Relations Authority were not yet fully functional and the courts have refused to hear labor disputes.

In May the government acceded to the International Labor Organization.