



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Visit to Maldives undertaken from 8 to  
11 December 2014: recommendations and  
observations addressed to the State party**

**Report of the Subcommittee\*, \*\*, \*\*\***

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\* The present document is being issued without formal editing.

\*\* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 25 November 2015. On 15 December 2020, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

\*\*\* The annexes to the present report are being circulated in the language of submission only.



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## I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) the Subcommittee on Prevention of Torture (SPT) carried out a follow-up visit to the Republic of the Maldives (the Maldives) from 8 to 11 December 2014.
2. The first regular visit to the country by the SPT had taken place from 10 to 17 December 2007 and the visit report transmitted to the State party on a confidential basis on 9 February 2009. It was published by the Government on 23 February 2009. To date, no reply has been received to the recommendations and requests for information made by the SPT in that first report.
3. Given the absence of a response by the Government of the Maldives and pursuant to the Optional Protocol, the SPT met with the Permanent Mission in Geneva on 5 June 2014, during the 23rd session of the SPT, and proposed a follow-up visit. Official letters of notification were submitted to the Permanent Mission on 15 August and 16 October 2014 respectively.
4. The SPT members who conducted the visit were: Petros Michaelides (Head of Delegation), Arman Danielyan, Lowell Patria Goddard and Suzanne Jabour. The SPT were assisted by two Human Rights Officers and a Security Officer from the Office of the United Nations High Commissioner for Human Rights (OHCHR).
5. During the visit, the SPT visited places of deprivation of liberty (annex 1), held a meeting with the Foreign Secretary and the Government focal point, conducted a joint exercise with the national preventive mechanism (NPM) and also met with representatives of civil society.
6. While the primary objective of the visit was to follow up on progress made by the State party in implementing the recommendations made following the 2007 visit, the SPT also encountered new issues relevant to its mandate. Therefore, this report covers implementation of both the SPT's previous recommendations as well as new recommendations in relation to the situation observed during the follow-up visit. This present report uses the generic term "ill-treatment" to refer to any form of cruel, inhuman or degrading treatment or punishment.
7. This present report and the 2007 report form part of a dialogue between the SPT and the Maldivian authorities, focusing on the prevention of torture and other forms of ill-treatment. In accordance with article 16 (2) of the Optional Protocol, this report will remain confidential until such time as the Maldivian authorities decide to publish it. The SPT believes publication of its reports would contribute to the prevention of torture and ill-treatment in the Maldives. Therefore, **the SPT recommends the State party authorize publication of this present report.**
8. The SPT wishes to draw the State party's attention to the Special Fund established by OPCAT, article 26. Applications can be made for funding for implementation of recommendations in SPT reports once those have been published.
9. The SPT requests that the Maldivian authorities reply to this report within six months from the date of its transmission, giving a full account of the measures taken to implement all of the recommendations made and indicating whether it intends to publish the current SPT report.

## II. Facilitation of the visit and cooperation by the authorities

10. The SPT expresses its deep appreciation to the NPM of the Maldives for the cooperation shown by the NPM during the visit. The SPT notes however a regrettable lack of cooperation by the Maldivian authorities during preparation for the visit in respect of a number of critical aspects, including the very late designation of a focal point and late arrangement of meetings with authorities in Malé. The last minute nature of practical arrangements threatened to prejudice the success of the visit before it had commenced.

11. On the eve of the visit, the Maldivian authorities sought postponement of the visit because of a water crisis in Male. While the SPT fully understood and sympathised with the people and the Government of the Maldives over the difficulties created by the water crisis, the request for postponement was not received until after the visit had formally commenced and all members of the SPT delegation were present in Malé.

12. Due to the water crisis the SPT was not able to meet with authorities at the commencement of the visit as planned and was not able to present its confidential preliminary observations to the Government at the conclusion of the visit.

13. However, the SPT was able to meet briefly with the Foreign Secretary on 8 June 2014. While the Government would not be able to actively assist or extensively engage with the SPT during their visit, due to preoccupation with the water crisis in Malé, the SPT was able to restructure its visit programme and achieve an effective outcome. The SPT members reiterated their willingness and availability to meet with the Government at the conclusion of the visit, should that be feasible.

14. However, as noted, this did not prove possible. The SPT is pleased to note, however, that the management of the four institutions visited by the members of the delegation offered a greater degree of cooperation and this allowed the SPT to carry out the functions laid down in the Protocol.

### III. Observations and recommendations

#### 1. Normative and institutional framework

##### Normative framework

15. The SPT welcomes the ratification by the State party in April 2010 of the International Convention on the Rights of Persons with Disabilities. At a national level, the SPT commends the State party on the adoption in December 2013 of the Anti-Torture Act, which criminalises torture, prohibits solitary confinement, and renders statements obtained through torture invalid as evidence in any proceedings. The same Act also designates the Human Rights Commission of Maldives (HRCM) as the NPM, making it a legislative body. However, the SPT is concerned by information indicating that the definition of torture established in the Act does not incorporate all of the elements defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). For example, it does not include acts of torture by persons acting in an official capacity, or at the instigation, or with the acquiescence or consent of an official, and it does not include acts of torture perpetrated with the aim of **discrimination**.<sup>1</sup> **The SPT recommends that the Maldives align the definition of torture established in the Anti-Torture Act with the elements of torture as defined in article 1 of the CAT, and the requirements as set out in article 4.**<sup>2</sup>

16. The adoption in 2013 of the Prisons and Parole Act, which specifies procedures for parole as well as for the imposition of disciplinary measures, is a welcomed improvement. However, the SPT notes with concern that, according to the information received, the complaint mechanism set out in the Act does not ensure its confidentiality and independence, since prisoners are required to hand in their complaints about prison conditions and allegations of ill-treatment to prison staff.<sup>3</sup> **The SPT recommends that the Maldives amend the provisions of the Prisons and Parole Act to ensure there is an effective, confidential and independent complaint system in operation.**

17. The SPT notes that the new Penal Code, adopted in 2014, legalizes corporal punishment as a form of disciplinary measure to be imposed on children by parents, guardians, teachers and others charged with the supervision or care of children. Flogging also remains as an applicable sentence under Islamic Sharia, including for children, although a new Regulation

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<sup>1</sup> Unofficial translation of the Anti-Torture Act, 2013.

<sup>2</sup> CAT/OP/MDV/R.1, para. 25.

<sup>3</sup> Unofficial translation of the Prison and Parole Act, 2013 (information facilitated by the NPM).

on flogging, adopted by the Supreme Court of Maldives in October 2014, provides for the sentence to only be implemented once the child has reached 18 years of age. The SPT reminds the State party that the practice of flogging is unacceptable and should not be available as a sentence for any offence. The SPT requests the State party to confirm whether the new Penal Code legalizes corporal punishment as a form of disciplinary measure to be imposed on children and, if that is the case, recommends that the Maldives amend the provisions of the new Penal Code and prohibit all types of corporal punishment for disciplinary purposes and as a sentence for crime under Islamic Sharia.<sup>4</sup>

18. The SPT expresses its concern over the lack of progress since 2007 in relation to the following issues:

(a) That no juvenile justice system has yet been established and that, pending such establishment, the regime for dealing with juveniles in conflict with the law does not always take their best interests into account;<sup>5</sup>

(b) That no information has been provided with regard to the process of adoption of the Sentencing Bill, the Bill of Evidence, the National Security Bill and the Detention Procedures Bill.<sup>6</sup>

19. **As a fundamental protection against torture, the SPT recommends that the State party strengthens its normative framework to bring it into full compliance with the Constitution and international standards. The SPT reiterates its previous recommendations<sup>7</sup> and urges the State party to implement them without further delay.**

#### **Institutional framework**

20. *Police Integrity Commission.* The Police Integrity Commission was established by the 2008 Police Act to independently investigate complaints against the Police.<sup>8</sup> However, the Commission's mandate is limited to drafting reports on the findings of its investigations and submitting them to the Minister of Home Affairs for implementation.<sup>9</sup> The Commission may also forward cases to the Attorney General's Office to lay criminal charges for those cases the Commission opts for.<sup>10</sup> The SPT is concerned that the lack of competence to issue direct recommendations could compromise the Commission's independence and the effectiveness of its work.

21. **The SPT recommends that the State party review the mandate of the Police Integrity Commission, to ensure that its independence from the Executive is guaranteed.**<sup>11</sup> The SPT requests the Maldivian authorities to provide further information on the number and type of complaints lodged before the Police Integrity Commission during the years 2013-2014 and the outcome of these investigations, including the number of prosecutions and convictions. In addition, the SPT requests information on the outcome of the examination of the 35 unfinished cases transferred from the Public Complaints Bureau to the Commission.<sup>12</sup> The SPT further requests information about the mandate of other bodies or offices vested with powers to examine complaints made against police, such as the internal investigation department and the Police Disciplinary Board, and information about the number and type of complaints lodged during the years 2013-2014 and the outcome of these investigations.<sup>13</sup>

22. *Prosecutorial oversight.* The Prosecutor General has the power to order any investigation that s/he deems desirable into complaints of criminal activity. However, prosecutors do not themselves have investigative powers and have no direct control over the

<sup>4</sup> CAT/OP/MDV/R.1, para. 29.

<sup>5</sup> CAT/OP/MDV/R.1, para. 33.

<sup>6</sup> Ibid.

<sup>7</sup> CAT/OP/MDV/R.1, para. 23, 25, 29, 33 and 2 43.

<sup>8</sup> Arts. 19 (b) and 23 of the Police Act 05/2008.

<sup>9</sup> Arts. 23 (b), (c), (d) and (e) of the Police Act.

<sup>10</sup> Arts 23 (f) and 36 (c) of the Police Act.

<sup>11</sup> CCPR/C/MDV/CO/1, para. 15.

<sup>12</sup> See CAT/OP/MDV/R.1, para. 50.

<sup>13</sup> See CAT/OP/MDV/R.1, para. 119.

investigative police,<sup>14</sup> which is inhibiting of their efficiency and the effectiveness of the investigations. Moreover, prosecutors cannot fully discharge their responsibility to monitor pre-trial conditions of detention because of serious financial and human resources constraints.<sup>15</sup> **The SPT recommends that the State party provide adequate financial, human and technical resources to the Prosecutor General's office to effectively perform its mandate, in particular to oversee the legality of police investigations and police arrests.**

23. *Independence and integrity of judiciary.* Despite important changes to judicial independence guaranteed by the Constitution, the SPT is concerned by allegations of political influence on the judiciary, which appears at least partly due to the lack of a robust and impartial process of vetting and re-appointment of judges and thus a failure to thoroughly scrutinize judicial integrity and independence. A related concern is the current composition of the Judicial Services Commission (JSC), responsible for the appointment and removal of judges, and is perceived as politicized.<sup>16</sup> The lack of transparency in the assignment of cases among the judiciary, as well as in the constitution of benches, and allegations of judicial misconduct, including corruption, results in public mistrust and contributes to a culture of impunity on the part of the Government.

24. **The SPT recommends the State party increase its efforts to establish a fully independent and well qualified judiciary, which is adequately resourced.** The composition and functioning of the Judicial Service Commission should be revised in line with the international standards of independence of the judiciary. The code of conduct of judges should be consistently enforced, with full respect for the fundamental guarantees of fair hearing. Moreover, the State party should ensure that any instances of political or other extraneous pressure on members of the judiciary are independently investigated and those responsible publicly held to account. The State should provide examples of the prosecution of such cases and of convictions obtained as a result in its replies to the present report.

25. *Delays in the administration of justice.* The SPT was concerned at cases of prolonged detention without judgment, which in the case of at least one female detainee from India, held at Dhoonidhoo detention centre, has been for a period of four and a half years,<sup>17</sup> and in another case for a period of three years.<sup>18</sup> These cases violate the principle of the presumption of innocence and the right of everyone charged with a criminal offence to be tried without undue delay.<sup>19</sup> Such cases also put additional strain on the pre-trial detention system, and impede detainees' access to rehabilitation services.

26. **The SPT recommends that the State party develops effective non-custodial measures as alternatives to pre-trial detention and ensures that (a) pre-trial detention is used as a last resort; (b) the period of pre-trial detention is not unduly prolonged, and (c) that independent judicial oversight of the period and conditions of pre-trial detention is regularly conducted.**

27. *Access to a lawyer and legal aid.* The SPT notes that legal aid is mandated in the Constitution, but only in serious criminal cases where the accused cannot afford to engage a lawyer. According to information obtained by the delegation, legal aid is provided by the Human Rights Commission of the Maldives and by the Government, but it is insufficient and inadequate. **The SPT reiterates its previous recommendations<sup>20</sup> and further recommends that the State party allocates sufficient technical and financial resources to the national system of legal aid in order to ensure that all persons deprived of their liberty can benefit from the assistance of a lawyer from the outset of their detention.**

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<sup>14</sup> Report of the Special Rapporteur on the independence of judges and lawyers, Mission to Maldives, A/HRC/23/43/Add.3, para 74.

<sup>15</sup> Ibid, para. 71.

<sup>16</sup> Ibid, para. 49.

<sup>17</sup> [Minivan News: "Indian national Rubeena held for four and a half years without charge", 6 January 2015.]

<sup>18</sup> [Interviews at the women's wing of Dhonidhoo detention centre].

<sup>19</sup> Article 14, ICCPR.

<sup>20</sup> CAT/OP/MDV/R.1, paras. 61, 62.

28. *Absence of an effective complaints mechanism.* The SPT remains concerned at the lack of progress with regard to its previous recommendation<sup>21</sup> on the requirement for independent complaints mechanisms to be available and accessible to detainees. In all of the places of detention visited, the majority of the persons interviewed did not trust the complaint mechanism and some were unaware of the possibility to lodge a complaint with the HRCM. Moreover, it appeared other existing inspection bodies, such as the Jail Oversight Committee, are not actually functional.<sup>22</sup>

29. **The SPT reiterates its previous recommendations in this respect<sup>23</sup> and further recommends that the State Party ensure that adequate information about the right to file a complaint against the police and prison staff and the procedure for doing so is made available and is widely publicized, including by its prominent display in all detention facilities.**

## 2. Situation of persons deprived of their liberty

### 2.1 Police custody and pre-trial detention

30. The SPT carried out a visit to the police station of *Guraidhoo* but there were no persons being held at the station, and no cells for that purpose. The police officer present advised that all arrested persons are transferred directly to Court and then on to Malé custodial within 24 hours after their arrest. This information was corroborated by the records inspected in the register of the police station.

31. The SPT was pleased to note that its previous recommendation<sup>24</sup> about bringing arrested or detained persons before the court within 24 hours seemed to be implemented at the police station on *Guraidhoo*. The SPT, nevertheless, received information during the course of other visits that some migrant workers, in conflict with the requirements of immigration law, were not taken to court within 24 hours.

32. *Access to a lawyer.* Despite the provision in article 51 of the Maldivian Constitution for detainees to have the right to adequate legal counsel, the SPT found that free legal assistance was not available to all who needed it. Some detainees interviewed during the visit, including a minor, informed the SPT they had waived their right to legal assistance without specifying the reasons. In another case, a detainee was allegedly held in detention for nine months without any access to a lawyer. Furthermore, the SPT received information about a detainee who was held in handcuffs for several days in a police station without access to legal aid.

33. In the light of the above, the SPT reminds the State party that a detainee must be given the right to legal assistance of his/her own choosing,<sup>25</sup> from the outset of detention.<sup>26</sup> An independent legal representative should be present to assist the detainee during all police interviews and during appearances before a judge, as a fundamental safeguard against torture and ill-treatment. If a detainee has been subjected to torture or ill-treatment, access to legal counsel will facilitate the right to make a complaint about such treatment, in addition to performing a preventive function.

34. **The SPT recommends that the authorities ensure that persons deprived of their liberty are consistently informed of their right to have access to a lawyer of their choice, are entitled to be provided with free legal aid services, and are able to freely exercise this right from the outset of the deprivation of their liberty, and throughout the entire criminal process.<sup>27</sup> Furthermore, if a detainee does not have a lawyer of his/her own**

<sup>21</sup> CAT/OP/MDV/R.1, para. 243.

<sup>22</sup> See CAT/OP/MDV/R.1, para. 33.

<sup>23</sup> Ibid.

<sup>24</sup> CAT/OP/MDV/R.1, para. 76.

<sup>25</sup> International Covenant on Civil and Political Rights (ICCPR), art. 14, para. 3 (d).

<sup>26</sup> CAT/C/GC/2, para. 13.

<sup>27</sup> Basic Principles on the Role of Lawyers (Basic Principles on the Role of Lawyers), Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 1990, principle 7.

**choice, he/she should be entitled to have one assigned to him/her, and benefit from free legal assistance by that lawyer if he/she does not have sufficient means to pay.<sup>28</sup>**

35. *Right to inform a third party of detention.* The right of persons deprived of their liberty to inform a person of their choice about their detention represents a basic safeguard against torture and ill-treatment.<sup>29</sup> According to the authorities, investigating officers were appropriately informing the family members about an arrest. In some instances it was said that detainees did not want their relatives to be notified and their request in this regard was taken into consideration.

36. The SPT reminds the State party that persons deprived of their liberty must be permitted to themselves notify or to require the competent authority to notify a person of their choice of their detention and of the place in which they are being held. Such notification must take place promptly after their initial detention or arrest and also after any transfer from one place of detention to another.

37. *Information on detainees' right.* The Constitution and the legislation are silent regarding the right of persons detained to be informed about their rights. However, during the visit to *Dhoonidhoo Custodial* the SPT delegation observed posters setting out the rights of persons detained written in several languages and placed in the reception area. Moreover, many of the detainees interviewed reported that they had been informed of their rights once they arrived at *Dhoonidhoo* and that they were given a form to sign setting out the rights contained in article 48 of the Constitution.<sup>30</sup> The SPT welcomes this improvement. However, the SPT reiterates that the right of persons detained to be notified of their rights, from the moment of deprivation of their liberty, should be reflected in the relevant legislation.<sup>31</sup> Moreover, a copy of the form containing the rights set out in article 48 of the Constitution should be provided to the detained person at the time they are taken into custody.

38. *Registration of detention.* The SPT welcomes the establishment of an electronic database in *Dhoonidhoo*, which records detailed information on the reasons for detention, its duration, information about transfers within and outside the institution, any appearance before a judge, complaints and requests, disciplinary measures and visits by a detainee's family and to the doctor. The delegation noted, however, that medical information about detainees was also included in the general database, including medical reports. There were separate paper files for each prisoner, as well as separate paper records of complaints and requests by detainees. **The SPT welcomes the improvement of a comprehensive computer record system.<sup>32</sup> However, the SPT reiterates its previous recommendation<sup>33</sup> that medical records of detainees should not be included in the general records of the database, in order to comply with the principle of medical confidentiality.**

39. *Disciplinary measures and solitary confinement.* Four isolation cells were used for disciplinary or segregation purposes in *Dhoonidhoo Custodial*. According to the administration there are plans to build new isolation cells next year. The SPT interviewed two women and three men who were in isolation cells (solitary confinement) for an indefinite period of time. While the detained persons were not aware of the possible length of their isolation, staff members gave varying and sometimes contradictory explanations about the rules and procedures of isolation.

40. The electronic database at *Dhoonidhoo* did not contain any information about the reasons, type and duration of punishments; nor was the name of the officer imposing the punishment recorded. Detainees do not have the right to appeal against the decisions of the officers. The SPT delegation was also informed that the punishments imposed are those provided for in Regulation 1/2014 of the Police Act and solitary confinement was not among them. Detainees in solitary confinement cannot leave their cells during the entire period of

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<sup>28</sup> See Body of principles for the Protection of All Persons under Any Form of Detention or Imprisonment, A/RES/43/173 (9 December 1988), Principle 17.

<sup>29</sup> CAT/C/GC/2, para. 13; Body of Principles, principle 16 (1).

<sup>30</sup> Interviews conducted in *Dhoonidhoo* and *Maafushi*.

<sup>31</sup> CAT/OP/MDV/R.1, para. 97.

<sup>32</sup> CAT/OP/MDV/R.1, para. 117.

<sup>33</sup> CAT/OP/MDV/R.1, para. 159.



isolation and nor were they informed about the duration of their isolation. In one specific case it was impossible to find any records about the reasons for and the length of isolation of the detainee interviewed in the isolation cell.

41. **The SPT recommends that all incidents, punishments and other disciplinary measures be systematically recorded, including the reasons for punishments, the type of punishment and its duration, and the name of the officer imposing the punishment. No punishments, other than those provided for by law or regulation, should be imposed and basic rights, such as contact with family, should not be subject to limitation.<sup>34</sup> Solitary confinement should be avoided for pre-trial detainees or only imposed, if part of prison regulations, as a measure of last resort, in exceptional circumstances and for as short a time as possible under strict supervision. Persons in solitary confinement should have access to fresh air for at least one hour a day. Persons facing disciplinary charges whilst in detention should be formally guaranteed due process rights, including the right to present their defense and to appeal to an independent authority against any sanctions imposed.**

42. **The SPT further recommends that detainees who are sanctioned or placed in disciplinary isolation cells be clearly informed about the reasons for and the duration of their isolation or punishment. They should also be provided with information about the available complaint mechanisms.**

43. *Access to healthcare.* In general, the visit identified systemic weaknesses in the health and mental health services in places of deprivation of liberty. The SPT reiterates that the Government of the Maldives is responsible for looking after the health and well-being of persons deprived of their liberty by the development of national health and mental health systems focused on the mental and physical wellbeing of detainees; and by providing access to such appropriate health care. The SPT found the situation of healthcare in most facilities it visited to be disturbing and access to medical services to be insufficient. Overall concerns included a lack of financial, material and human resources. The SPT acknowledges however that these 44. are matters of general concern in the Maldives country-wide.

44. The medical team at Dhonidhoo consisted of a doctor and two nurses. The medical unit operated according to regulated opening hours and in response to emergency cases. There was a small pharmacy with basic medications. There were no organizational charts or job descriptions. There was no clear or written strategy for dealing with emergency cases; no treatment protocols; no ethical code or guidelines. The SPT medical expert observed a total absence of adequate and appropriate medical treatment and follow-up. The case files examined contained only prescribed medications and the dates of consultations. There was no capacity or capability to treat severe cases; such cases had to be transferred to Malé. The same applied to cases of contagious diseases. Requests by detainees to be seen by a doctor were not recorded. The medical unit was not able to provide any documented record of cases of torture or ill-treatment.

45. *Dhonidhoo* had no record of providing access to doctors. A physical examination was performed on detainees at the time of arrest and normally before their reception at a police station. All detainees interviewed by the SPT stated that this examination was superficial and conducted in a perfunctory manner. According to the administrative staff, the police officers carried out a physical check-up on arrival and only in cases where injuries were present was there a referral to a doctor. However, this information was not confirmed by the detainees who were interviewed.

46. Medical examinations and the proper recording of injuries incurred by persons deprived of their liberty by police or other custodial officers constitute important safeguards contributing to the prevention of torture and ill-treatment and in the combating of impunity.<sup>35</sup> They can also protect police and prison personnel against false allegations. Such examinations should be carried out in private by a health professional trained in the description and reporting of injuries, should comprise an independent and thorough medical and psychological examination, and the results should be recorded in a confidential manner

<sup>34</sup> CAT/OP/MDV/R.1, para. 225.

<sup>35</sup> Committee against Torture, General Comment No. 2, CAT/C/GC/2, Para. 13.

and not able to be accessed by police or prison staff. They should be shared only with the detainee and/or the detainee's lawyer in accordance with the Istanbul Protocol.<sup>36</sup> The thorough recording of injuries may well deter those who might otherwise resort to ill-treatment. Whenever there is reasonable ground to believe that an act of torture or ill-treatment has been committed,<sup>37</sup> a State party should carry out a prompt and impartial investigation.

47. **The SPT recommends that all detainees be offered a medical examination as soon as possible after their initial detention. Such examination must be independent, free of charge and conducted in accordance with the Istanbul Protocol. The SPT also recommends the establishment of a system that guarantees prompt, free of charge access to medical care and treatment for those in police custody, whenever necessary.**

48. According to detainees interviewed in *Dhonidhoo*, medical assistance was irregular and in most cases access to medical staff was granted only after long delays. Detainees further indicated that access to medical care was often at the discretion of prison guards with a long waiting list before being seen by a doctor. In addition, there was no medical staff available at night or during the weekends.

49. The SPT recommends that medical assistance in all places of detention is available 24 hours a day, seven days a week. Working conditions, including the salaries of medical staff, should be adequate, so as to attract appropriately qualified personnel. Furthermore, medical personnel should be trained and supported through organizational staff care programs, so as to avoid the risk of burnout and in order to maintain professional currency and levels of efficiency, as well as to minimize the risk of conflict between medical staff and the administration in custodial facilities.

50. The SPT recommends that the State party ensure that a health professional examine every detainee as soon as possible after his or her admission and thereafter as necessary, in accordance with international standards.<sup>38</sup> Detainees should be able to seek professional medical assistance in confidence and without their request being obstructed or filtered by guards or other detainees.

51. The SPT recommends that the authorities introduce systematic medical examination of all persons in police custody and that these examinations are carried out without using any restraint measures. The SPT also recommends that medical examinations be conducted in accordance with the principle of medical confidentiality; non-medical persons, other than the patient, should not be present. In exceptional cases, where a doctor so requests, special security arrangements may be considered relevant, such as having a police officer within call. The doctor should note this assessment in the records, as well as the names of all persons present. However, police officers should always remain out of hearing and preferably out of sight of a medical examination.

52. The SPT recommends that every routine medical examination is carried out using a standard form that includes (a) a medical history (b) an account by the person examined of any violence (c) the result of the thorough physical examination, including a description of any injuries and (d) where the doctor's training so allows, an assessment as to consistency between the three first items. The medical record should, upon request from the detainee, be made available to him/her or to his/her lawyer.

53. *Conditions of detention of women.*<sup>39</sup> The conditions in the block accommodating female detainees in *Dhoonidhoo* appeared to have deteriorated since the SPT's initial visit in 2007 and were totally unacceptable. Nineteen women were accommodated in one multiple occupancy cell (15-20 m<sup>2</sup>). There was no furniture and all their personal belongings were kept on the floor, which was also used for sitting, sleeping and eating. The cell had an internal

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<sup>36</sup> Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>37</sup> UNCAT, art. 12.

<sup>38</sup> Standard Minimum Rules for the Treatment of Prisoners (SMRTP), rule 24; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("Body of Principles"), principle 24.

<sup>39</sup> There were 19 women, including 8 foreigners.

annex with only two toilets and two showers. There was no artificial light inside and detainees complained of poor access to clean drinking water. Additional water, as well as hygiene products, were lacking and needed to be purchased. Two further women were in isolation cells at the time of the visit and their conditions were very low grade. In addition, the women detainees had no access to any activities other than one hour outdoor exercise, reportedly in handcuffs, which were also used during transfers and as a punishment.

54. **The SPT reiterates its previous recommendation regarding appropriate sleeping accommodation and access to sanitation and drinking water in police detention centres.**<sup>40</sup>

55. *Conditions of detention of men.*<sup>41</sup> Male detainees were in two types of cells. The majority were in big multiple occupancy cells, located outdoors. The cells lacked basic privacy and were overcrowded and not all detainees had mattresses for sleeping. They were not taken out for exercise as the authorities considered they already had access to fresh air. There were two further blocks with small cells designed for one or two detainees. These were unacceptably dark and very small. Those incarcerated in them had to spend the whole day on the floor with no access to proper daylight. The guards on duty advised that these detainees were taken out for exercise in handcuffs only once a week for 45 minutes. Reportedly, even that was not always respected.

56. **The SPT recommends that all detainees, without exception, be given access to a minimum of one hour daily exercise in the open air. The SPT further recommends that authorities increase their efforts to provide all detainees with purposeful activities and improve the programme of activities offered in penitentiary establishments nation-wide. The SPT reiterates that the use of handcuffs as a means of punishment should be eliminated immediately and without exception,<sup>42</sup> including during outdoor exercise, other than where absolutely necessary or reasons acceptable under international standards, and only as a measure of last resort, for the shortest possible time, and when all other valid alternatives for appropriate control have failed.**

57. Washing facilities were inside cells. Detainees did not raise any issues about that. Detainees did however complain about mosquitoes and insects in the cells. In the outdoor cells detainees complained about ceilings leaking during wet weather and soaking their personal belongings.

58. The SPT urges the State party to take the necessary steps to ensure that conditions of detention in the country's detention facilities are brought in line with the Standard Minimum Rules for the Treatment of Detainees.

59. **The SPT further recommends renovating all of the cells in *Dhoonidhoo* to provide adequate personal space, appropriate daylight and ventilation. Appropriate measures against insects should also be taken.**

60. **The SPT recommends that all detainees be allowed, under appropriate supervision to communicate with their families and others. Stationery items should be permitted so that detainees can write letters to send out.**

## 2.2 Penitentiary institutions

61. *Women in prison.* The SPT visited the female unit at *Maafushi* prison, which was accommodating 41 women in five wings, guarded by 37 female staff. Each cell was intended for double occupancy, with an attached toilet and shower, screened by a low partition. Each cell had two barred windows which allowed adequate natural light and ventilation. Each cell was equipped with a shelf, table, two seats and a sleeping platform for one person, with the second occupant having to sleep on the floor. Mattresses in good condition were provided, plus bedding and pillows. Detainees complained about the poor nutritional quality of the food, which causes cutaneous and intestinal problems. They also complained about insufficient access to clean drinking water and to adequate hygiene pads. Those pads supplied by the

<sup>40</sup> CAT/OP/MDV/R.1, para. 151.

<sup>41</sup> During the visit there were 154 male detainees (including 34 foreigners).

<sup>42</sup> CAT/OP/MDV/R.1, para. 207.

prison had reportedly expired their use by date. Detainees have to purchase additional food and water, as well as hygiene products from the prison shop, without a price list being available. Detainees can work as prison cleaners for 30 MVR per day, and can participate in badminton and volleyball matches, as well as sewing, knitting and Quran reading classes. However, the possibility of taking educational classes in English, math, art or local language and the use of computers was no longer available.<sup>43</sup> Female detainees also expressed their wish to have access to books, including books of religious observance or instruction other than the Quran, and to be able to study.

**62. The SPT recommends the State party ensure female detainees the right of access to adequate nutritional food, sufficient clean drinking water and basic hygiene products to meet their specific needs. Moreover, female detainees should have access to the same educational opportunities as male detainees.**

63. Several female detainees mentioned there was a very high rate of drug dependency amongst them and that drugs were smuggled into the prison. A few were suffering from acute withdrawal symptoms, but could not obtain medical assistance, as there were no emergency services available. In addition, medical requests were not promptly dealt with, as the doctor only visited detainees once a week and the sole female nurse could not respond to all of the women's needs. During the visit, the SPT met with a pregnant woman who was drug dependent and suffering from health problems. Her request for referral to a gynecologist had been pending for weeks.

**64. The SPT reiterates its previous recommendations regarding the need for a greater and more frequent presence of female doctors at Maafushi prison<sup>44</sup> and for better access to specialist medical care for women detainees,<sup>45</sup> in particular, access to prompt pre-natal and post-natal care and treatment. Moreover, authorities should introduce programs for the treatment and rehabilitation of drug abusers and inform the SPT about the results of past programs undertaken.<sup>46</sup>**

65. *Men in prison.* The SPT was advised that *Maafushi* had 607 male detainees at the time of its visit. The significant proportion of these had been convicted of crimes related to drug trafficking. The cells in which they were housed were generally clean. However, there were no beds in the cells and few detainees had mattresses, whilst others used mats to sleep on. Although the cells were equipped with ventilators, the overall ventilation in the cells was poor and they were very hot. Toilets in the cells were screened only by a one meter high wall or a curtain.

66. The prison had exercise areas. However, detainees said they were only allowed out for a walk twice a week. Some were able to attend classes on Quran reading as well as computer classes, although the criteria for selection for such classes were not transparent. Detainees had a right to a seven minute free phone call to their relatives. Although this provided a good means for maintaining contact with families, detainees complained that the length and frequency of calls was insufficient.

**67. The SPT recommends taking appropriate measures for improving the living conditions, in particular the ambient temperature, ventilation and sanitary facilities in cells. The SPT further recommends that the State provide detainees with beds or at least mattresses.**

**68. The SPT recommends that the State party give priority to developing satisfactory programs of activities for all detainees. Detainees should have access to a wide range of purposeful work, including educational, sporting, recreational and social development. Young offenders should have a full program of education, culture, sport, recreation and vocational training. The SPT recommends that the State party set up an educational programme in the prison that facilitates access to basic and higher education, vocational**

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<sup>43</sup> CAT/OP/MDV/R.1, para. 174.

<sup>44</sup> CAT/OP/MDV/R.1, para. 175.

<sup>45</sup> CAT/OP/MDV/R.1, para. 228.

<sup>46</sup> CAT/OP/MDV/R.1, para. 235.

**training and library facilities, in order to support and promote detainees' rehabilitation and future useful re-integration into the community.**

69. Based on numerous complaints received, the SPT can only conclude that its previous recommendation<sup>47</sup> regarding bail regulations has not been implemented. The SPT therefore **requests information from the State party as to whether the procedure now provided for under the new Constitution has brought about any changes to the procedure governing pre-trial remand in custody and bail. If there have been changes, the SPT wishes to receive information on those changes. SPT further reminds the State party that the amount of any surety required should be in line with the financial means of the detainee concerned.** In this connection the SPT would like to receive detailed information on the number of requests for release on bail in 2014 and the number of persons granted bail in 2014.

70. *Complaint mechanisms.* The SPT observed there was an absence of any complaint mechanism in the prison. According to the authorities, detainees can write complaints and hand them over to the prison guards. Unsurprisingly however, none of the interviewed detainees had contemplated lodging a complaint, either because they did not trust the process or did not know about the procedures.

71. **The SPT reiterates its previous recommendation<sup>48</sup> that prison authorities ensure there is an effective, confidential and independent complaints and monitoring system in operation and that every request or complaint is dealt with promptly and replied to without undue delay.**

72. **The SPT also reiterates its previous recommendation<sup>49</sup> to introduce and maintain a specific register, where all incidents involving use of force would be systematically recorded. These records should include, at least, the date and nature of the incident, nature of restraint or force, duration, reasons, persons involved and authorization of the use of force.**

73. *Isolation.* During the SPT visit there were three cells in block 8 being used for solitary confinement. These cells did not have cross ventilation. They also lacked any basic hygiene or sanitary facilities. In one of the cells the open sewage pipe had to be used as a toilet. The detainees incarcerated in the cells had to sleep in their clothes as they were not provided with any mattresses or mats. The SPT further observed there were no mechanisms in place to appeal either the reasons for or the duration of the solitary confinement. Detainees who had been involved in security incidents were subject to even harsher sanctions.

74. The SPT recalls its previous recommendation<sup>50</sup> that all detainees, including those held in isolation, should be provided with appropriate bedding and mattresses, which, if necessary, are made of special indestructible material suitable for use in prisons. The SPT further recommends that proper sanitary facilities should be available for all persons in isolation.

75. *Juveniles in prison.* The SPT visited the juvenile wing of the female unit of *Maafushi*, in which one 15 year old girl was accommodated, essentially in isolation as she was the only juvenile detainee in the whole institution. The SPT learned during the visit that the two previously existing correctional facilities for children in the Maldives (the Educational Training Centre for Children in K. Maafushi, and the Correctional Training Centre for Children in K. Feydhoofoinlu), had been closed down in 2013 and there was no alternative institution for children in conflict with the law. When seen by the SPT members, the juvenile detainee in *Maafushi* had already served 8 months of a sentence of 20 months imprisonment for shoplifting. She had no counsel during her court proceedings and no one had appealed her sentence, which appeared to the SPT members to be both unduly harsh and wrong in principle. The SPT recalls that, according to clause 17 b) of the *Regulation on Conducting Trials, Investigations and Sentencing Fairly for Offences Committed by Minors 2006*, if the punishment prescribed for an offence is imprisonment, the judge, at his or her discretion, may order the minor to be placed in a juvenile detention centre or in a rehabilitation centre or

<sup>47</sup> CAT/OP/MDV/R.1, para. 82.

<sup>48</sup> CAT/OP/MDV/R.1, para. 122–124.

<sup>49</sup> CAT/OP/MDV/R.1, para. 206.

<sup>50</sup> CAT/OP/MDV/R.1, para. 213.

under house arrest, in order to facilitate participation in rehabilitation programs. The SPT considers, therefore, that the placement of this child in an adult prison, even if in a separate wing, contravenes clause 17. The SPT reminds the State party that deprivation of the liberty of a juvenile should be a disposition of absolute last resort and for the minimum necessary period and should be limited to exceptional cases.<sup>51</sup> The best interests of the child and her well-being should have been the guiding factor when imposing the sentence on this juvenile.

76. **The SPT recommends that the State party release this juvenile (if she has not already been released by the date of transmission of this report) and reassesses her case and any other similar case in line with the international standards applicable to juveniles in conflict with the law.**<sup>52</sup> The Maldivian authorities should give priority to the available existing alternatives to institutionalization, such as house arrest, and should develop new alternative sanctions for juveniles, like probation. If a juvenile must be institutionalised, because of the gravity of the offence, the loss of liberty should be restricted to the least possible degree, and priority should be given to correctional or educational facilities. In this regard, the authorities should provide information on the plans to re-open the Educational Training Centre for Children and the Correctional Training Centre for Children and to make them compliant with human rights standards. Moreover, the SPT reminds the State party that juveniles should have the right to legal counsel throughout proceedings and be able to apply for state funded legal aid.

77. Although the conditions of detention in the juvenile wing of *Maafushi* were decent, the 15-year old child was, as already noted, in *de facto* solitary confinement, as she could only leave her wing for one hour of exercise, and had only limited contact with staff at the detention facility. She did not receive any visits, as her family was poor and lived on another atoll. She had no money to pay for toiletry supplies or clothes and all her belongings were supplied by prison guards. She could not pursue her studies while in prison and no activity was organised for her. Her only reading materials were some samples of the Quran and some drawing and writing material. The delegation noted that the juvenile was in a clear state of distress and her situation must be characterized as ill-treatment.

78. The SPT reminds the State party that solitary confinement of juveniles should be prohibited because of the potential effect of social isolation on a child's well-being, including on their mental health. In addition, the State party should provide all children deprived of their liberty with the opportunity of continuing with education or training, and of engaging in activities that will help them integrate into society. They should also be provided with basic hygiene products and appropriate clothes free of charge.

79. *Access to healthcare.* The number of medical personnel at *Maafushi* prison was limited. Organizational charts, job descriptions, written medical protocols and training policies were missing. The medical team was supervised by the head of the medical unit who was not a medical specialist.

80. There were no routine medical check-ups carried out in the prison and detainees were seen only following their requests and complaints. Not all of the detainees had medical files. Severe cases were referred to Malé. A huge number of detainees reported dental problems that could not be treated, given the absence of a dentist in the prison. The prison also lacked all other types of medical specialization.

81. The medical unit did not have any medications for psychiatric patients although there were 40 psychiatric patients in the prison. In general, the SPT observed that there was no mental health policy at the national level, which inevitably had a negative impact on the detention system. The medical treatment in the prison was standardized and medications were not provided with the prior consent of patients. No special attention was paid to nutrition related risks for those who might be suffering from particular health problems.

82. The SPT recommends that the authorities consider introducing a system whereby the prison health team is supervised by a doctor or other health professional. The doctor or other

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<sup>51</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Beijing Rules), rules 1 and 2, UN Convention on the Rights of the Child (CRC).

<sup>52</sup> CAT/OP/KHM/R.1, paras. 156–158.

health professional should have responsibility and authority to ensure that prisoners' needs for adequate and appropriate medical care are met and that any official demands to participate in or condone the violation of patients' rights are resisted on ethical grounds. The health professional should report any situation in which he or she becomes aware of allegations or evidence that those in places of detention are being subjected to torture or cruel, inhuman or degrading treatment to the prison authorities and, where appropriate, to an independent mechanism. Furthermore, the health professionals should take into consideration any risk of reprisal or further punishment of prisoners when reporting on identified cases of torture.

83. The SPT recommends that the State party provide training to all staff members, including medical staff, about the operating international standards and mechanisms, including human rights conventions relevant to persons deprived from their liberty with a special focus on the CAT, OPCAT, the United Nations Convention on the Rights of Persons with Disabilities, the Bangkok Rules<sup>53</sup> and Istanbul Protocol.

84. Drug users and drug addicts are part of the prison population and do not receive the benefit of any specialized services in the Maldives. For the above reasons, **specialised centres (or at least one) for the treatment of drug users should be established on a national level in order to provide rehabilitation services for drug abusers and focus on social reintegration activities.**

85. In all places of detention visited, health professionals had no direct access to psychopharmacological drugs and an extensive procedure had to be followed to obtain such drugs.

86. **The complexity of procedures for the provision of mental health services in addition to the complete absence of mental health professionals places detainees who are in need at a high level of risk.**

87. In summary, the Maldives has no mental health legislation, no specialized facility for psychiatric patients, and no specialized institution for drug abusers. The Maldives should adopt mental health legislation to ensure that the deprivation of liberty of persons suffering from psychiatric problems is placed on a firm legal basis.

### 2.3 Home for People with Special Needs

88. The SPT visited for the first time the Home for People with Special Needs ("HPSN"), established in *K. Guraidhoo*, with a mandate to provide State institutional care for elderly people and people with psychiatric disorders, including children. HPSN has capacity for 200 persons and was accommodating 167 patients at the time, of whom 121 were psychiatric patients, including 4 mentally disabled children and 1 homeless child.

89. There is no mental health legislation in the Maldives and no regulations or judicial review of the institutionalisation of mentally disabled or geriatric patients. Institutionalization of a person is based on an agreement between the guardian/family and the Ministry of Law and Gender, without consultation with the affected person and sometimes against their will. A decision to institutionalise a person should, in principle, be accompanied by a referral letter from a psychiatrist, but this was found to not always be the case, and patients were at times brought to HPSN without documentation or an accompanying person. Moreover, there were 24 patients waiting for their guardians/families to take them back after having been discharged.

90. The SPT recommends that the State party set up community based or alternative services for persons with mental disabilities and elderly people, in order to provide less restrictive alternatives to institutionalisation. The State party should also enact legislation and adopt regulations that provide for adequate substantive and procedural safeguards for persons subject to confinement in institutions such as HPSN. These should include the free and informed consent of the person affected. The SPT reminds the State party that involuntary confinement in institutions should be a measure of last resort, for the minimum period of time and only when considered a necessary and proportionate response for protecting the person in

<sup>53</sup> United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders.

question from harm or preventing injury to others. Persons institutionalized on an involuntary basis should be assisted in obtaining access to effective remedies for the vindication of their rights, including initial and periodic judicial review of the lawfulness of the decision to confine involuntarily.

91. Patients in the HPSN were medically attended by a general practitioner, two staff nurses and four auxiliary nurses,<sup>54</sup> whose services were constrained by a lack of available human and material resources. There was no supervision at the facility by a psychiatrist, no capability to carry out blood or urine tests, and the treatment of mentally disabled patients was focused on medication. The medical staff at the facility faced difficulties in referring patients for specialist care due to the lack of referral protocols.

92. The SPT recommends that the State party provide HPSN with the required financial, material and specialist resources required to ensure that psychiatric patients receive appropriate psychiatric treatment at a level comparable to that in the general community, to prevent or reverse mental deterioration.

93. The medical staff at HPSN were assisted by 59 care workers in three shifts. In each shift, a maximum of three staff took care of a house accommodating 35 to 44 psychiatric patients.<sup>55</sup> These patients were frequently restrained in straitjackets throughout the night without doctor's order and without further supervision, rendering the patient vulnerable *vis-à-vis* other patients. Although there was a draft protocol for use of restraint by straightjacket, it had not been endorsed or implemented. Patients were also restrained by use of chemicals (injections) and there were isolation cells in each house, which were reportedly not used. The use of restraints was registered in the medical files, although the delegation was informed that this was not a consistently practice. Moreover, the delegation learned that psychiatric patients were verbally and sometimes physically mistreated by the care workers.

94. The SPT reminds the State party that restraints should be avoided as much as possible, or used only as a measure of last resort when permitted by law or regulation and all other non-coercive measures or less restrictive alternatives have failed. Restraints when used should be for the shortest possible time under strict supervision and in a manner that complies with the principle of proportionality. The use of restraints should always be recorded, together with the date and nature of the incident in question, the type of restraint or force used, its duration, the reasons for its use, the identity of the staff and patient involved and the authorization for using the restraint. The Maldivian authorities should also ensure that patients at HPSN are assisted by qualified and trained personnel and that inspections are carried out, aimed at the effective investigation and sanctioning of abuses.

95. Patients in HPSN were generally accommodated in wards of approximately 20 persons each. Women were housed in separate wings, and children were in the same ward as adults. Showers and toilets were observed to be filthy, water stagnated in the bathrooms, and the doors were deteriorated and did not close, so that patients had sufficient privacy. The SPT delegation was made aware of a general problem on the Island with clean water supply and potability.

96. In terms of available activities, staff were able to organise some recreational activities for patients with little funding. On the day of the SPT's visit, a sports competition and picnic and a singing contest were being held. There was a photograph gallery in the main building which recorded past occasions and portraits of patients both past and present. This was clearly of importance to both the patients and staff. Overall however, there appeared to be little or no funding available for rehabilitation programs, library facilities or study opportunities. Outside of the psychiatric unit, the staff did however appear caring

97. The SPT recommends that persons held in HPSN be provided with appropriate access to food and sanitation. Authorities should facilitate access to education for those willing to undertake it, also vocational training and library facilities, in order to assist rehabilitation and future re-integration of detainees back into the community. Children should be

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<sup>54</sup> NPM, Follow-up table to the recommendations of the SPT, November 2014, p. 40.

<sup>55</sup> Ibid.



accommodated separately and provided with recreational and educational activities appropriate to their status and well-being.

### 3. National preventive mechanism

98. The Maldives ratified the OPCAT on 15 February 2006. In December 2007, the HRCM was designated as NPM by Presidential Decree and notified on 15 November 2007. The NPM was therefore established very early in the life of the OPCAT and was one of the first in the region. Initially, it was established as a unit within the Complaints division of the HRCM, with staff appointed to carry out NPM activities. In 2009, a new NPM division was created to perform the NPM tasks in accordance with Paris Principles. In December 2013, through the adoption of the Anti-Torture Act (13/2013), the HRCM was officially designated as NPM. The NPM however remains located within the HRCM.

99. *Human and financial resources.* The NPM comprises a director and 4 staff members with appropriately diverse areas of expertise and skills in health, pre-trial detention, prisons and juvenile justice. One of the HRCM Commissioners is in charge of mentoring the NPM. This Commissioner is also a regional board member of the Association for the Prevention of Torture. The mandate of the NPM is not however separated from the mandate of the HRCM, nor does the NPM have a dedicated ring-fenced budget for its work.

100. The SPT notes that the lack of budgetary independence impacts on the independent functioning of the NPM. As the financial resources of the NPM are part of the HRCM's general budget, accessing sufficient ringfenced financial resources for the NPM remains a challenge. The overall budget received for 2012 was 271,362 MVR rather than 362,940 MVR as requested. The budget received for 2013, was less: from a requested sum of 484,680 MVR, the HRCM received 143198.26 MVR. A compounding factor of the budgetary constraints is that the NPM cannot hire experts to accompany it on visits.

101. As the HRCM does not itself have financial autonomy, the NPM does not enjoy financial autonomy either. Moreover, during the process of prioritization of the budget some NPM activities tend to get compromised for the sake of larger objectives of the Commission, notwithstanding the good level of cooperation between these two bodies.

102. The SPT observed that during the joint visits to places of deprivation members of the NPM introduced themselves as representatives of the HRCM, because the HRCM is a more widely recognized and better known institution. This could lead to confusion about the separate mandates of each institution, by both detaining authorities and detainees.

103. *Visits and reporting.* The NPM advised the SPT that it carried out 13 visits in 2009; 10 in 2010; 18 in 2011; 21 in 2012; 12 in 2013; and 18 in 2014. It develops annual plans for its visits and then carries out regular visits according to these plans. There are also follow-up visits to most of the places of deprivation of liberty on an annual basis. The decision as to which detention centres will receive follow-up visits is based on the recommendations and observations of the NPM during regular visits.

104. The NPM has submitted 56 reports to the relevant authorities and another 8 reports have been produced for internal use. In addition, three thematic reports have been produced: *Hiyaa* Report; Report on isolation of detainees in *Dhoonidhoo*; and Report on isolation of prisoners in Malé and *Maafushi* prison.

105. The NPM's reporting ends when it receives final endorsement of its reports from the HRCM. Delay in receiving a final endorsement causes delay in the finalization of the NPM's reports and impacts on its functional independence. To date, no NPM annual reports have been published and disseminated by the State Party. The NPM confirmed that no separate annual reports of its work have been published since its establishment: rather, its work is simply highlighted in the annual report of the HRCM.

106. During the SPT delegation's joint visit with the NPM to Maafushi, the SPT members were pleased to note how well regarded the NPM was by both the prison authorities and detainees. NPM members were observed to enjoy full access to all places of deprivation of

liberty within the prison and had access to all information concerning numbers of detainees and conditions of detention.

107. The SPT commends the adoption of the Anti-torture Act and the designation of the NPM. However, the SPT reiterates that the NPM should be funded through a separate budget line in the State budget, and be assured of complete financial and operational autonomy. To achieve this, the State Party should ensure that the funding of the NPM is effected through a separate line in the national annual budget, which should refer specifically to the NPM as the recipient of the designated funds. Such funding should be at a level that allows the NPM to carry out its own visiting programme on all atolls in the Maldives and to also conduct follow-up visits. Such funds should also be sufficient to provide for logistical and other infrastructure related needs, including the ability for the NPM to publish its own reports and relevant dissemination tools arising out of the execution of its mandate.

**108. The SPT reminds the State Party that the provision of adequate financial and human resources constitutes a legal obligation under Article 18, paragraph 3, of the Optional Protocol and wishes to be informed, as a matter of priority, about the steps the State Party intends to take to provide the NPM with adequate financial and human resources that will ensure it has complete financial and operational autonomy.**

109. The SPT further recommends that the budgets of the HRCM and the NPM be separated. The NPM, in cooperation with the HRCM, should create a clear mechanism of separation of their mandates and a scheme for sharing information that will avoid a duplication of their mandates. The NPM should undertake activities to increase the awareness of the general public, and especially persons deprived of their liberty, about its mission and its mandate.

110. The SPT recommends that the State party publish and widely disseminate the annual reports of the NPM, including transmitting them to the SPT, in accordance with Article 23 of the Optional Protocol. The SPT urges the State party to introduce an institutional forum for the discussion and follow up to such reports.

111. The SPT furthermore recommends that the State party issue an annual report describing the effectiveness of the interaction of the Government with the NPM in assessing and eradicating torture and ill-treatment in places of deprivation of liberty in the Maldives. This report should be given wide publicity, and could be integrated into a more comprehensive analysis of the human rights situation in the State party, but should be distinct from other statements related to the Human Rights Commission or any other body.

## **Annexes**

### **Annex I**

*[English only]*

#### **List of places of deprivation of liberty visited by the SPT**

Dhoonidhoo custodial

Gurahidhoo police station

Home for People with Special Needs (Gurahidhoo)

Maafushi prison

## **Annex II**

*[English only]*

### **Officials and other persons with whom the delegation met**

#### **A. National authorities**

Ali Naseer Mohamed, Foreign Secretary, Ministry of Foreign Affairs

Ms. Khadeeja Najeeha, Director, International Affairs, Ministry of Foreign Affairs

#### **B. Civil society**

Maldivian Democracy Network

Advocacy for the Rights of Children

Voice of Women

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