



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Second periodic report submitted by Maldives
under article 40 of the Covenant pursuant to the
optional reporting procedure, due in 2021***

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List of Abbreviations

ACC	Anti-Corruption Commission
AGO	Attorney General's Office
BCM	Bar Council of the Maldives
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRPA	Law No: 19/2019 (Child Rights Protection Act)
CSOs	Civil Society Organisations
DDCOM	Presidential Commission on Investigation of Murders and Enforced Disappearances
DJA	Department of Judicial Administration
DJJ	Department of Juvenile Justice
DV	Domestic Violence
DVPA	Law No: 3/2012 (Domestic Violence Prevention Act)
EC	Elections Commission
FPA	Family Protection Authority
GBD	Gender-Based Discrimination
GBV	Gender-Based Violence
GEAP	Gender Equality Action Plan (2022–2026)
HPA	Health Protection Agency
HRC	UN Human Rights Committee
HRCM	Human Rights Commission of the Maldives
ICCPR	International Covenant on Civil and Political Rights
ICS	Inspector of Correctional Service
IOM	International Organisation for Migration
JJA	Law No: 18/2019 (Juvenile Justice Act)
JSC	Judicial Service Commission
MBC	Maldives Broadcasting Commission
MCS	Maldives Correctional Service
MDN	Maldivian Democracy Network
MMC	Maldives Media Council
MMPRC	Maldives Marketing and Public Relations Corporation
MNDF	Maldives National Defence Force
MOGFSS	Ministry of Gender, Family and Social Services
MPS	Maldives Police Service
NACP	National Anti-Corruption Policy
NDA	National Drug Agency
NGOs	Non-Governmental Organisations
NHRI	National Human Rights Institution
NIC	National Integrity Commission

NMRF	National Mechanism for Reporting and Follow-up
NPM	National Preventive Mechanism
NRR	National Resilience and Recovery Plan 2020–2022
OTJ	Ombudsperson’s Office for Transitional Justice
PCCAR	Presidential Commission on Corruption and Asset Recovery
PGO	Prosecutor General’s Office
SAP	Government’s Strategic Action Plan 2019–2023
SDGs	Sustainable Development Goals
SOEs	State-owned Enterprises
SOPs	Standard Operating Procedures
TIP	Trafficking in Persons
WDCs	Women’s Development Committees

I. Introduction

1. Methodology, Consultation and Information Dissemination

1. This report is submitted in accordance with Article 40 of the International Covenant on Civil and Political Rights (“ICCPR”), for the period from July 2012 to February 2022 and captures the progress Maldives has achieved in the performance of its obligations under ICCPR. This report focuses on the implementation status of the recommendations issued by the Human Rights Committee (“HRC”) in its Concluding Observations adopted in August 2012¹ following the consideration of the Maldives’ initial periodic report, as well as the issues identified in the list of issues adopted by the HRC in November 2020².

2. Preparation of this report was undertaken through the Maldives National Mechanism for Reporting and Follow-up (“NMRF”), established by President Ibrahim Mohamed Solih on 5th November 2020. The ICCPR Subcommittee of the NMRF which formulated the report, is a treaty-based subcommittee led by the Attorney General’s Office (“AGO”) and comprising of all relevant Government and State stakeholders involved in the promotion and protection of the ICCPR rights.

3. Additionally, the report takes into account inputs from the Human Rights Commission of the Maldives (“HRCM”) in its capacity as the National Human Rights Institution (“NHRI”), the Children’s Ombudsperson’s Office, civil society organisations (“CSOs”) and non-governmental organisations (“NGOs”). All CSOs/NGOs working for the protection and promotion of human rights in the Maldives were invited via public announcement and email, to give their views on the report and take part in a consultation meeting. Responses were received from only one CSO.

4. Educating the public and creating awareness on human rights is mandated to the HRCM by the 2008 Constitution of the Republic of Maldives³. The ICCPR, along with its Optional Protocol, Concluding Observations and information on civil and political rights, have been made available online by HRCM⁴. HRCM also ensures that discussions of the rights in ICCPR and the Constitution are included in most of its advocacy and education programmes conducted for State institutions, parents, teachers, students and CSOs/NGOs.

5. As a standing follow-up mechanism did not exist prior to the formation of the NMRF, Government has not carried out wide dissemination of ICCPR, its Optional Protocol, the initial report and Concluding Observations. However, with the establishment of the NMRF, and specifically the ICCPR Subcommittee within the NMRF, Government assures that dissemination of the documents will be carried out, to increase awareness amongst all stakeholders, CSOs/NGOs and the general public.

2. Allegations of Reprisals

6. While HRC has noted in its Concluding Observations⁵, that it has received information that some individuals who provided information to the HRC for the consideration of the Maldives’ initial report were subjected to threats and intimidation, Government notes that it has not been made aware of the specificities of this information. The Maldives Police Service (“MPS”) also confirms that no such report has been filed. Therefore, Government will provide any information required by the HRC upon receipt of the specific information that it is referring to.

7. With the assumption of office by President Solih in November 2018, Maldives has entered a new era of democratic rule, where the current administration has created safe spaces for individuals and CSOs to prosper and exercise their rights and freedoms, without fear of

¹ CCPR/C/MDV/CO/1.

² CCPR/C/MDV/QPR/2.

³ <https://presidency.gov.mv/Pages/Index/15>.

⁴ <https://hrcm.org.mv/en/civil-and-political-rights>.

⁵ CCPR/C/MDV/CO/1, para. 26.

reprisals. The Constitution guarantees the right to engage in any conduct or activity that is not expressly prohibited by Islamic Shariah or by law⁶ and every individual has the right to equal protection and equal benefit of the law⁷.

8. There are constitutional⁸ and legislative⁹ protections to anyone exercising their right to freedom of thought and freedom to communicate opinions and expression, without being subjected to threats and intimidation by both State and non-State actors. This includes engagement with UN human rights mechanisms such as the HRC. Measures taken by the Government in this regard are detailed under paragraphs 72–74 of this report.

3. Political Landscape and National Planning

9. This periodic report captures a unique period in our democratic journey. The tumult caused by the unexpected change of Government in February 2012 was still unsettled when a new regime was elected in 2013. The term from November 2013 to November 2018, saw unprecedented levels of deterioration in democratic values and respect for human rights in Maldives.

10. In November 2018, President Solih assumed office with a vow to foster a culture of respect for human rights, strengthen democratic norms and enhance the governance system. In its first 100 days, Government achieved 83% success in completing the 100-day pledges.¹⁰

11. Subsequently, a comprehensive Government’s Strategic Action Plan (2019–2023)¹¹ (“SAP”) was launched, the first in over a decade, forming the basis of all development efforts. SAP focuses on 5 sectors; Blue Economy, Caring State, Dignified Families, *Jazeera Dhiriulhun* (the island life), and Good Governance. Promotion and protection of human rights is mainstreamed throughout these 5 sectors, and cross-cutting themes including climate resilience and sustainability, and gender equality are reflected. SAP sets out policies for equitable distribution of resources to achieve decentralised governance, and sets realistic and achievable priorities and targets for development. SAP is also aligned with the Sustainable Development Goals (“SDGs”) and practices results-based resource allocation and budgeting.

4. COVID-19 pandemic and National Resilience and Recovery Plan

12. The COVID-19 pandemic amplified the symptoms of our volatile economy and social sector. The economic shocks that we experienced with the complete closure of tourism in 2020, caused us to be one of the worst hit in the world by the pandemic¹². The gaps in our health and social sector were exposed, revealing an urgent need for addressing structural and systemic weaknesses.

13. It was crucial that our response to the pandemic was swift but holistic. President Solih in May 2020, established the National Taskforce on Resilience and Recovery, to manage the Maldives’ response to the pandemic and devise a holistic and cohesive resilience and recovery plan. The taskforce operated through 4 working groups: finance, economic recovery, social sector and crime prevention and counter-terrorism.

14. The output was the National Resilience and Recovery Plan 2020–2022¹³ (“NRR”), which takes into consideration the key priorities identified in SAP, and incorporates new

⁶ Article 19 – Constitution.

⁷ Article 20 – Constitution.

⁸ Articles 18, 20, 21, 27, 28, 33, 42, and 65 – Constitutions.

⁹ Associations Act, Act on Prohibition of Threats and Use of Dangerous Weapons and the Penal Code of the Maldives.

¹⁰ <https://presidency.gov.mv/HundredDays/Index/>.

¹¹ <https://presidency.gov.mv/SAP/>.

¹² <https://www.undp.org/sites/g/files/zskgke326/files/publications/UNDP-MV-Rapid-Livelihood-Assessment-Impact-of-COVID-19-Crisis-in-the-Maldives-2020-Part-I.pdf>.

¹³ <https://presidency.gov.mv/Pages/Index/224>.

strategies to remedy the deficiencies highlighted by the pandemic. This reprioritised plan now forms the basis of our development and recovery efforts.

15. As we build back our economy and strengthen the social protection system, Maldives faces a multitude of challenges due to its limited resources. However, we remain resolute in the fulfilment of our international human rights commitments, and are pleased to report to the HRC, the results of this administration's determination and perseverance to restore rule of law, democratic norms and respect for human rights in the Maldives.

II. Replies to the list of issues prior to reporting

5. Reply to paragraph 1 of the list of issues (CCPR/C/MDV/QPR/2)

16. Maldives has made remarkable progress in strengthening its legal and institutional framework pertaining to the promotion and protection of human rights. Below is a summary of the most notable legislations enacted during this reporting period.

- (a) Act on Freedom of Peaceful Assembly – 10th January 2013
 - An extension of Article 32 of the Constitution which guarantees the right to freedom of peaceful assembly without prior permission of the State, this Act elaborates the right and establishes the parameters of exercising this right.
- (b) Political Parties' Act – 12th March 2013
 - This Act governs political parties in the Maldives. It established the rules on formation, registration and operation of political parties, and regulates participation in elections, financial matters and conduct.
- (c) Anti-Human Trafficking Act – 8th December 2013
 - This Act establishes the crime and punishment of human trafficking, with an aim to prevent the act of trafficking, and sets up a mechanism for victim protection. The second amendment brought to the Act in April 2021, seeks to align the definition of human trafficking with the UN Trafficking in Persons ("TIP") Protocol and introduces provisions which criminalise internal and cross border child trafficking for exploitative purposes.
- (d) Anti-Torture Act – 23rd December 2013
 - This Act codifies the principles enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT") and recognises torture as a distinct criminal offence. It provides mechanisms for civil redress and rehabilitation.
- (e) Right to Information Act – 12th January 2014
 - The law determines the principles through which the right to information is defined. With the purpose of transparency and accountability, this Act details procedures through which the public can access information produced, held or maintained by State institutions.
- (f) Gender Equality Act – 23rd August 2016
 - A notable achievement in solidifying women empowerment policies, this Act recognises gender-based discrimination ("GBD"), both direct and indirect, and enables measures to be imposed against all ideas and practices that promote GBD. It further demarcates violence against women as gender-based violence ("GBV"), obliges public and private institutions to establish specific complaints mechanisms to address work place GBD, and creates a positive obligation on all stakeholders to actively facilitate participation of women.
- (g) Act repealing the Protection of Reputation and Freedom of Expression Act (Anti-Defamation Act) – 22nd November 2018

- The Anti-Defamation Act passed in August 2016 was repealed.
 - (h) Whistle-blower Protection Act – 17th October 2019
 - This act enables protection of journalists and individuals who expose corruption within the State, and contains detailed procedures on acting on information from whistle-blowers.
 - (i) Juvenile Justice Act (“JJA”) – 20th November 2019
 - This Act creates a distinct track in the criminal justice system for children in conflict with the law, emphasises rehabilitation and reintegration, and introduces diversion mechanisms and targeted interventions to help children and youth at risk of offending. The law transforms treatment of children in conflict with the law in line with international best practice, without resorting to judicial proceedings.
 - (j) Child Rights Protection Act (“CRPA”) – 20th November 2019
 - This Act repeals the 1991 Act of Child Rights Protection, is compliant with the Convention on the Rights of the Child, and expressly recognises the rights of children to education, adequate health care and to be protected from all forms of discrimination, mental and physical harm, abuse and exploitation, among a host of other rights. More significantly, the Act sets the legal age of marriage as 18 years and raises the age of criminal responsibility to 15 years. The Act also prohibits the imposition of death penalty against minors and prohibits subjecting children to torture.
 - (k) Amendment to the Human Rights Commission’s Act – 22nd September 2020
 - Amendments were brought to the Human Rights Commission’s Act to ensure their independence and accountability. Provisions have been inserted to ensure that the members of the Commission act independently and uphold strict ethics and standards. Provisions on asset declaration and strengthened accountability to the Parliament have also been added.
 - (l) Education Act – 10th November 2020
 - This Act establishes a mechanism to ensure the right to education. It includes the rights of children and adults to receive education as well as the rights and responsibilities of parents and teachers with respect to students.
 - (m) Transitional Justice Act – 17th December 2020
 - This Act established an Ombudsperson’s Office for Transitional Justice (“OTJ”), with a mandate to investigate systematic violations of human rights and fundamental freedoms perpetrated by State institutions or senior officials of State institutions between 1st January 1953 and 17th November 2018.
 - (n) Climate Emergency Act – 18th May 2021
 - This Act stipulates actions to address climate emergency resulting from swift acceleration of the severity of repercussions from climate change.
17. Additional laws have been passed to strengthen institutional frameworks or procedural safeguards in protecting ICCPR rights. As such, the Government notes the following:
- (a) Prisons and Parole Act of Maldives – 23rd December 2013
 - This Act overhauls the entire prisons system in the Maldives, establishing the Maldives Correctional Service (“MCS”) and mandating it with operating the Maldives prisons system as well as conducting rehabilitation and reintegration programmes.
 - (b) National Integrity Commission’s Act – 6th September 2015
 - This Act established the National Integrity Commission (“NIC”), mandated with strengthening the integrity of law enforcement agencies and employees

of such agencies. The Commission is empowered to investigate cases of misconduct and unlawful acts carried out by law enforcement agencies and their personnel.

- (c) Criminal Procedure Act – 2nd May 2016
 - This Act established a comprehensive set of rules for all the criminal justice sector institutions in investigating, prosecuting and adjudicating criminal offences in the Maldives. It also details the rights afforded to those accused of criminal offences under the Constitution.
- (d) Presidential Commissions’ Act – 24th June 2019
 - This Act affords statutory powers to Presidential Commissions to conduct full-fledged criminal investigations, including powers to independently seek arrest and search warrants. It also demarcates the rules for operations as well as rules on independency and accountability.
- (e) Legal Professions Act – 27th June 2019
 - Bar Council of the Maldives was established under this Act, enabling self-regulation of the legal profession for the first time in Maldives.
- (f) Maldives Police Service Act – 27th December 2020
 - This Act overhauls the 2008 Police Act, introducing a number of much needed reforms to the governance of police. The new Act decentralises service provision, sets forth a human-rights centered policing approach and promotes professional standards within the police force.
- (g) Maldives Statistics Act – 20th July 2021
 - This Act establishes a national statistics framework, and entails processes for collection, analysis, usage and publication of national statistics, under an established national standard.
- (h) Civil Procedure Act – 16th December 2021
 - The first consolidation of such nature, this Act encompasses rules relating to pre-trial procedures, proceedings at trial, general rules of evidence applicable to civil cases, judgments, orders and enforcement of judgments in civil proceedings.

18. Government is resolute in implementing its Legislative Agenda (2018–2023) in order to strengthen the legislative framework pertaining to the protection of human rights and enhancement of the governance system. To that end, key legislations currently being deliberated on in the Parliament include the Evidence Bill and a revamped Associations Bill.

19. Furthermore, a Personal Data Protection Bill, Bills on Freedom of Expression and Freedom of the Press, Bill on Right to Strike, Bill on Protection of Vulnerable Individuals, Mental Health Bill, National Registration Bill, Legal Aid Bill, and Bills amending the Disabilities Act, the Social Protection Act and the Anti-Torture Act are all in the pipeline.

20. In strengthening the legal and institutional frameworks, Government affords a special priority to ensuring that implementation can be achieved in a decentralised manner. The proposed National Development Plan and the National Spatial Plan will disperse services across all regions of Maldives in the core spirit of decentralization. Decentralization policies in SAP and NRR seek to address and eliminate the differences in basic services between the capital Male’ and other islands. Government is investing like never before in scaling up services, such as health, education, waste management, etc. available at the island and regional level, to facilitate growth of urban centres in line with the National Spatial Plan.

21. Government policies on decentralisation have been legitimized to give more strength to the local councils and increase people’s participation in local governance, with fiscal decentralisation at the forefront of these changes. The eighth amendment to the Decentralisation Act was enacted on 15th December 2019, which for the first time,

established electoral quotas for women, clearly defined roles and responsibilities of Women's Development Committees ("WDCs") and enhanced their fiscal independence.

22. Government is confident that successful implementation of its decentralisation policies will empower local councils and increase efficiency and effectiveness of service delivery at local levels, resulting in meaningful development.

6. Reply to paragraph 2 of the list of issues

23. Government's foreign policy based on climate diplomacy, promoting democracy and human rights, have allowed Maldives to re-establish itself in the international sphere. This has been further validated by the landslide election of the administration's Minister of Foreign Affairs, as President of the 76th General Assembly of the UN.

24. As part of our efforts towards international re-engagement, President Solih established NMRF in November 2020, which prioritized and streamlined our reporting obligations and implementation efforts. As the mechanism is still fairly new, implementation of the previous cycle's recommendations was carried out by stakeholder institutions, without a cohesive mechanism for cooperation or monitoring. Specific measures taken to implement the recommendations from the previous cycle are detailed in the relevant sections of this report. Maldives assures the HRC of its commitment to ensure timely execution of its reporting obligations and robust implementation and follow-up through the NMRF.

25. HRCM has been closely monitoring implementation of the Concluding Observations on an annual basis since 2013. Information gaps within institutions and different levels of cooperation from State authorities were identified as the main challenges faced in monitoring implementation. Field visits were conducted by HRCM to islands in 2017 to monitor implementation of ICCPR recommendations, and a field visit was conducted in 2019 to monitor implementation status of accepted recommendations from the Universal Periodic Review, which includes civil and political rights.

26. While there is no specific mechanism in place for the implementation of the Committee's Views issued through the individual complaints procedure under the Optional Protocol, the Views are taken into consideration by all relevant stakeholders and its implementation is carried out accordingly. Since 2016, coordination of implementation measures is being undertaken by AGO.

27. Measures taken by Maldives to ensure compliance with the Views adopted by the Committee in respect of Maldives during this reporting cycle, are detailed below:

(a) Communication No. 2270/2013 and 2851/2016 – The current administration accepts the HRC's Views on the matter. Government is pleased to note that the obligations imposed on Maldives through the Views in order to provide the author with an effective remedy, has been fully implemented. As such, the conviction forming the subject matter of the communication has been quashed by the Supreme Court of Maldives on 26th November 2018, and the author's right to stand for office, including the office of President, has been restored.

(b) Communication No. 2785/2016 – Maldives' response to the Views was communicated to the HRC on 12th September 2019. Judicial interventions are required to give effect to the Views, and quashing the conviction forming the subject matter of the Views and ordering a retrial is only possible if the Supreme Court decides to review the case. The act of murder forming the subject matter of the Communication, is one of the cases that is being investigated by the Presidential Commission on Investigation of Murders and Enforced Disappearances ("DDCOM"). Maldives reiterates its commitment to upholding the informal moratorium on the execution of death penalty.

(c) Communication No. 3248/2018 – Maldives' response to the Views was communicated to the HRC on 16th November 2021. Measures have been taken to remedy the negative impacts of the *suo motu* proceedings of the Supreme Court and the resulting guidelines that sought to limit the independence of the HRCM. An amendment brought to Human Rights Commission's Act has effectively superseded the aforementioned Supreme

Court decision, reinstating and reinforcing HRCM's authority to independently operate as the NHRI of the Maldives. Details at paragraphs 35–37 below.

7. Reply to paragraph 3 of the list of issues

28. ICCPR provisions are realised in the Maldives through our constitutional and legal framework. Maldives acceded to ICCPR on 19th September 2006. This binds the State to fully implement the Covenant. As a dualist state, treaties do not have the status of law in the Maldivian legal system. Therefore, as ICCPR provisions have to be incorporated into domestic law in order for it to be binding on citizens, the substantive rights stipulated in ICCPR have been covered in the following manner.

<i>ICCPR Article</i>	<i>Constitutional/Legal Provisions</i>
6	Article 21 Constitution
7	Article 54 Constitution Anti-Torture Act
8	Article 25 Constitution
9	Article 21 Constitution
10	Articles 48 and 57 Constitution Criminal Procedure Act
11	Article 55 Constitution
12	Article 41 Constitution
13	Articles 17, 21 and 45 Constitution
14	Articles 20 and 42 Constitution
15	Article 61(b) Constitution
16	Articles 20 and 21 Constitution
17	Article 45 Constitution Criminal Procedure Act
18	Article 27 Constitution (reservation applicable)
19	Article 27 Constitution
20	Article 17 Constitution Penal Code of the Maldives
21	Article 32 Constitution Act on Freedom of Peaceful Assembly
22	Article 30 Constitution Associations Act
23	Article 34 Constitution Family Act
24	Article 35 Constitution CRPA JJA

ICCPR Article	Constitutional/Legal Provisions
25	Article 30 Constitution Political Parties' Act
26	Article 20 Constitution
27	Articles 17 and 35 Constitution

29. The Constitution further states that when interpreting and applying constitutional rights and freedoms, a court of tribunal shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom, and shall consider international treaties to which the Maldives is party to.¹⁴

30. In that regard, Maldivian courts have referenced Covenant provisions in multiple cases. Some examples are as follows:

(a) In ruling on maintenance of public order, Supreme Court stated that, the preamble of ICCPR demonstrates that the State parties to this Covenant has agreed that promoting of rights under the Covenant is an individual responsibility and must be realized as an individual duty to promote and observe the rights. Additionally, Articles 6, 9, 12(1), 17, 19(2), 21 and 23 of the Covenant was highlighted in its elaboration.¹⁵

(b) In inferring interpretations of the rights laid down in Chapter 2 of the Constitution, the Supreme Court referred to Article 14 of ICCPR and stated that all persons shall be equal before the courts and tribunals, and that everyone is entitled to a fair and public hearing by a competent, independent, impartial court established by law in the determination of any criminal charges, or civil suits.¹⁶

(c) In a case where the defendant was accused of murder, the Supreme Court stated that the defendant was informed of the charges against him, the offenses committed and the basis of the claim, in a clear and precise manner, in accordance with Article 14(3)(a) of ICCPR.¹⁷

(d) The most significant is the overturning of the conviction of former President Mohamed Nasheed. The Supreme Court in reviewing the conviction, invoked Article 14(5) of the ICCPR, stating that appealing the decision of the lower court by a defendant to a criminal case is a fundamental right, which is guaranteed as an essential right under the criminal procedures of different democratic jurisdiction and is guaranteed under Article 14(5) of the ICCPR.¹⁸

31. With regard to the status of ICCPR in cases of incompatibility between Shariah law and provisions of ICCPR, Article 10(a) of the Constitution states that the religion of the State of the Maldives is Islam and that Islam shall be one of the basis of all the laws of Maldives. Article 10(b) further states that, no law contrary to any tenet of Islam¹⁹ shall be enacted in the Maldives. The rights and freedoms enshrined in the Covenant, will be guaranteed in a manner that is not contrary to the Constitution.

32. With regard to the reservation of Maldives to Article 18 of ICCPR, Article 10(a) of the Constitution states that the religion of the State of the Maldives is Islam. Islam is a primary feature of the Maldivian identity and one of the basis of all laws enacted in the Maldives. Therefore, Maldives does not intend to review its position regarding its reservation to Article 18 of ICCPR.

¹⁴ Article 68 – Constitution.

¹⁵ Supreme Court' case no: 2012/SC-C/24 (Attorney General's Office (*ex parte*)).

¹⁶ Supreme Court' case no: 2013/SC-A/13 (*Island Beverages Maldives Pvt Ltd v. Saariya Hassan*).

¹⁷ Supreme Court' case no: 2016/SC-JC/07 (*Prosecutor General v. Ahmed Murrath*).

¹⁸ Supreme Court's case no: 2018/SC-A/50 (*Prosecutor General's Office v. Mohamed Nasheed*).

¹⁹ Article 274(a) of the Constitution defines a "tenet of Islam" as, the Holy Qur'an and those principles of Shariah whose provenance is not in dispute from among those found in the Sunna of the Noble Prophet, and those principles derived from these two foundations.

8. Reply to paragraph 4 of the list of issues

33. The HRCM is constitutionally mandated to investigate and report on the observance of human rights, and to take steps to secure appropriate redress where rights have been violated. Although the Constitution and the Human Rights Commission's Act does not specifically mention fundamental freedoms, the mandate conferred on the HRCM shall be read to include fundamental freedoms as well. In practice, there has been no questions in terms of the HRCM's mandate to cover all human rights and fundamental freedoms.

34. The independent functioning of HRCM was threatened by the result of *suo motu* proceedings initiated by the Supreme Court against HRCM in 2014, which restricted their ability to engage with international mechanisms.

35. Efforts were undertaken to rectify the restrictions and as such, in 2019, Parliament passed a resolution stating that the Supreme Court's guideline undermines the HRCM's constitutional powers. Furthermore, on 22nd September 2020, the second amendment to the Human Rights Commission's Act was enacted, which stipulates that the HRCM shall enjoy unfettered authority to establish bilateral and multilateral relations with law enforcement agencies, forensic investigatory institutions, NHRIs, regional organisations and other states in the effort to protect and promote human rights. The amendment also states that the HRCM can submit reports and findings in the Commission's capacity as the NHRI, in relation to the various international treaty obligations of Maldives.

36. These legislative amendments effectively supersede the aforementioned Supreme Court decision, reinstating and reinforcing the Commission's authority to independently operate as the NHRI of Maldives and communicate with UN bodies.

37. The amendment also adds safeguards to prevent corruption within HRCM, mandates all appointed individuals to declare their assets, and prohibits them from obtaining undue benefit from their position or to exercise undue influence. Rules on conflict of interest and strengthened accountability to the Parliament have also been incorporated, and HRCM is also required to publish an annual human rights report.

38. Powers have also been granted to HRCM to provide effective civil remedies in cases where human rights violations occur. HRCM is currently in the process of formulating the necessary regulations.

39. Government notes the budgetary challenges faced by HRCM. To address this, the budget of the Commission was increased by 17.9% in 2021. However, the approved budget for the year 2022 is less and therefore, negotiations are currently ongoing with stakeholders to increase it.

40. Government is committed to strengthening the functions and autonomy of the HRCM, in order to ensure its compliance with the Paris Principles. However, currently there are no plans to amend the provision in the Human Rights Commission's Act which requires members of the Commission to be Muslims.

9. Reply to paragraph 5 of the list of issues

41. Government has been implementing strategic measures to strengthen principles of integrity, increase accountability and transparency in public sector institutions. In that regard, Government is pleased to highlight the following measures:

(a) *Zero-Tolerance to Corruption Policy* – On 12th February 2019, President Solih inaugurated the “Zero Tolerance to Corruption Campaign” as part of the Government's first 100-day pledges. The campaign offers assurance to the public that this administration will not tolerate corruption at any level.

(b) *Whistle-blower Portal* – A Whistle-blower Portal was launched under the aforementioned campaign, whereby complaints could anonymously be submitted through a system, which gets reviewed by the Presidential Action Committee and is forwarded to the Anti-Corruption Commission (“ACC”) for further investigation. As of 31st December 2021,

1281 complaints have been received to the portal, out of which 965 were deemed to be valid. After evaluation, 271 complaints have been forwarded to the ACC.

(c) *Whistle-blower Protection Act* – This Act enacted on 17th October 2019 establishes relevant mechanisms to provide incentives or legal protection to whistle-blowers, and details procedures on acting on information from whistle-blowers.

(d) *Expanding the definition of corruption* – On 6th May 2021, a second amendment was brought to the Anti-Corruption Commission’s Act, amending the definition of corruption and acts of corruption, to include acts of corruption and all enabling acts. The definition of acts of corruption has been expanded to include the offences in the Penal Code, and any other acts of corruption provided for in other laws.

(e) *Prohibiting Illicit Enrichment* – On 6th May 2021, the fourth amendment to the Penal Code of the Maldives was enacted, criminalising illicit enrichment.

(f) *Asset Declaration* – Government has initiated asset declaration of all political appointees and board members of State-owned Enterprises (“SOEs”), under which, the President and his Cabinet declared their assets to the public for the first time in Maldives. Legislations governing independent institutions have been amended to insert provisions on asset declaration.

(g) *The Presidential Commission on Corruption and Asset Recovery (“PCCAR”)* – Within days of assuming office, President Solih established the PCCAR to investigate matters of corruption, theft and misuse of public property that took place from 1st January 2012 to 17th November 2018. The Commission has been afforded powers similar to that allowed for investigative bodies through the Presidential Decree and the enactment of the Presidential Commissions’ Act in 2019.

(h) *Eliminating all avenues for corruption within the State* – Eliminating corruption is a specific subsector under the Governance Sector of SAP, inclusive of policies on adopting zero tolerance in eliminating corruption within all affairs of the State, and fostering greater accountability, transparency and integrity of State institutions.

(i) *Amendments to laws governing independent institutions* – Laws governing the Elections Commission (“EC”), ACC, Civil Service Commission, HRCM, the Auditor General and the Prosecutor General have been amended in 2020, inserting provisions to ensure that the members of the Commissions/head of institution act independently and uphold strict ethics and standards. Provisions on declaration of assets and strengthened accountability to the Parliament have also been added.

(j) *Transparency in public finances* – Work is underway to amend the Public Finance Act and the Public Finance Regulation to address gaps in the legal framework and enhance transparency. Government procurement guidelines and manuals are being reviewed and revised. A standardised procurement process for SOEs have been established.

42. With regard to the legal framework in place to address corruption in different State entities including the judiciary, Government notes that prevention and prohibition of corruption was governed by the 2000 Act on Prevention and Prohibition of Corruption, up until 6th May 2021. The Act was repealed by the fourth amendment brought to the Penal Code, which incorporates the offenses in the said Act to the Penal Code. The powers of the ACC to prevent and investigate corruption are derived from both the Constitution and Anti-Corruption Commission’s Act.

43. ACC launched the National Anti-Corruption Policy (“NACP”) on 12th December 2021, which sets standardised and harmonised activities for State institutions in relation to corruption prevention. Successful implementation of the NACP will address loopholes in the system, including integrity and transparency issues within the judiciary. It has a separate pillar focusing on justice sector integrity and accountability, including the introduction of revolving door policies for judges, lawyers and prosecutors. Mandatory asset declaration of judges is now being imposed.

44. The Judicial Service Commission (“JSC”) is mandated under the Constitution and the Judicial Service Commission’s Act to investigate judicial misconduct cases. However, if any

complaint consists of an allegation of corruption, JSC forwards the case to ACC. During the last two years, JSC has forwarded 2 such cases to the ACC for investigation.

45. In response to reports that the legal definition of corruption is vague and too narrow to effectively facilitate prosecution, Government is pleased to note that the legal definition of corruption has been amended via the second amendment to the Anti-Corruption Commission's Act as highlighted above at paragraph 40(d).

46. Furthermore, the fourth amendment to the Penal Code broadens the scope of bribery and corruption offences, and adds new offences such as illicit enrichment and embezzlement of State funds.

47. The table below shows the data on investigations relating to corruption carried out by the ACC and forwarded to the Prosecutor General's Office ("PGO") for prosecution, within the reporting period.

<i>Year</i>	<i>Cases investigated</i>	<i>Cases sent for prosecution</i>
2012	431	49
2013	620	57
2014	783	35
2015	855	21
2016	829	16
2017	1326	12
2018	1299	7
2019	710	3
2020	961	15
2021	588	22

48. During the reporting period, a total of 251 charges were filed by the PGO in 34 cases. While 12 cases are pending judgment, convictions have been secured in 7 cases and in 11 cases, the defendants have been acquitted.

49. During this reporting period, the Maldives Marketing and Public Relations Corporation ("MMPRC"), which is a 100% SOE, was involved in a grand corruption scheme, whereby more than US\$ 86.1 million was funnelled through private companies, in tourist resort island deals.

50. The PCCAR was mandated to specially focus on this and investigation was carried out as a joint investigation with the ACC and MPS. A total of 116 cases were/are being investigated as part of the MMPRC Case Joint Investigation, the status of which are detailed below:

(a) 9 cases have been closed, out of which the Criminal Court have issued a judgment in four cases and charges have been filed at the Criminal Court in the other five cases.

(b) Investigation has been completed in 7 cases, out of which two cases are pending prosecution at PGO, two cases have been returned by the PGO to the PCCAR for additional information and three cases have been filed at the court.

(c) There are 9 cases in the last stages of the investigation and investigation is ongoing in 15 cases. 16 cases are at the initial stages of investigation and investigation is on hold in 3 cases.

(d) Relating to the dollar transactions carried out via private companies, 8 cases need to be sent to the AGO to file civil cases, 16 cases have been filed and investigations are ongoing in 28 cases. Investigation is at the final stage of 5 cases, which have been identified as cases where possible money laundering charges may be filed.

51. Through its investigations into the MMPRC case, PCCAR has observed that corruption is enabled through weaknesses in the system. A report has been submitted by the

PCCAR to the President in July 2020, in which the Commission has issued recommendations for the systematic issues or risks observed.

10. Reply to paragraph 6 of the list of issues

52. COVID-19 control measures are imposed through the legal framework created by the 2012 Public Health Protection Act. The Act provides for the Minister of Health to declare a State of Public Health Emergency, which was declared for the first time in the Maldives on 12th March 2020, and remains to this day. The Act affords numerous powers to the Director General of Public Health, who heads the Health Protection Agency (“HPA”), which is mandated by law, inter alia, to prevent and control the spread of such communicable diseases.

53. All restrictive measures imposed as a result of the COVID-19 pandemic are issued by Director General of Public Health, pursuant to powers afforded under the Act, including orders for isolation, quarantine, restriction of movement and assembly, and closure of businesses and services.

54. All measures imposed are published, and were announced through daily media briefings initially held by the National Centre for Emergency Operation, which was a multisectoral centre established to deal with all issues related to the pandemic. The work has now been permanently shifted to the Health Emergency Operation Centre, under the Ministry of Health. A dedicated website²⁰ has been set up, with daily updates.

55. A chronology of events up until 15th July 2020 has been included in the “Rapid Livelihood Assessment – Impact of the Covid-19 Crisis in the Maldives” report, compiled by the Ministry of Economic Development in collaboration with the UNDP.²¹

56. Restrictive measures imposed by the Government have had limiting effects on rights including freedom of assembly and movement. Limitations were imposed on the number of people who are able to gather at once. Curfews were imposed whenever infection rates increased. As Maldives is geographically dispersed, all the islands were not put under lockdown at once, and instead, islands with active cases were put under monitoring, and movement in and out of these islands was restricted.

57. While restrictive measures affected aspects of elections held during lockdown periods, such as physical campaigning, Government ensured voting rights for everyone. The local council and WDC elections were held in April 2020, and a parliamentary by-election was held in February 2022. Special measures were taken to ensure that those positive for COVID-19 could also vote at a specific time, adhering to HPA guidelines. Additional budget was provided by the Government to ensure that EC can perform as per HPA guidelines.

58. The initial restrictive measures imposed by the Government to control the spread of COVID-19 cases was necessary due to the contagious nature of the disease, the threat posed to the health care system, the lack of treatment options and mortality rates for the disease. Considering the status of health services in the Maldives, all measures taken were crucial for the Maldives to slow the spread, which bought us time to scale up health services, such as establishing COVID-19 treatment facilities, quarantine and isolation facilities and flu clinics, and to procure relevant medicines and equipment.

59. Detailed information on the different types of measures imposed initially, its effects on human rights, why the measures were adopted, relevant legislation, whether the imposition of the measure was necessary and proportional, and whether they had discriminatory effects on various groups of population, have been provided by the Maldives in June 2020, to the Office of the High Commissioner for Human Rights, in response to the Joint questionnaire on COVID-19 and human rights.²²

60. Although the imposition of restrictive measures was necessary, Government put in every effort to minimize its adverse impacts on human rights. In this respect, the Public

²⁰ <https://covid19.health.gov.mv/en/>.

²¹ <https://www.undp.org/publications/rapid-livelihood-assessment-impact-covid-19-crisis-maldives>.

²² <https://www.ohchr.org/EN/HRBodies/SP/Pages/Joint-questionnaire-COVID-19.aspx>.

Health Emergency Act 2020 was enacted, which provided for special measures to protect persons facing economic hardships, as well as protection of the rights of the vulnerable population during the COVID-19 pandemic. These included measures to protect the rights of employees from reduced or delayed remuneration, forced furloughs and resignations; measures to protect tenants from forced evictions; and measures relating to provision of food, shelter and income support for vulnerable groups, especially women, children, persons with disabilities, and migrant workers.

61. A high priority was also placed on ensuring fundamental rights of detained, such as the right to appear before a judge within 24-hours of being detained and the right to a lawyer. Access to courts and lawyers was ensured virtually for detainees.

62. Incentives and protections such as income support allowances, deferment of bank loan repayments, business support packages, geographically targeted utility subsidies and food subsidies were also provided.

63. In periods where movements were restricted, Government ensured provision of essential goods and services by issuing movement permits to limited number of people from each household. Permits were also issued for essential travel within and between the islands.

64. While Maldives continues to maintain some measures in islands which are brought under monitoring due to increases in COVID-19 cases, those measures which impeded the right to freedom of assembly and freedom of movement have all been lifted. Other restrictive measures continue to be scaled back as the risk posed to the population reduces with improvements in treatment outcomes and high vaccination uptake rates.

65. Maldives began its national COVID-19 vaccination programme in February 2021, aiming to vaccinate the entire population. With vaccine equity at the heart of our efforts, Maldives has ensured organised and equitable distribution of free vaccines across the country. Vaccination status as at 28th February 2022 is as follows:

<i>Percentages based on total and eligible population:</i>				
		<i>1st Dose</i>	<i>2nd Dose</i>	<i>Booster Dose</i>
Total Population	545 847	72.95%	67.98%	24.32%
Eligible Population (12+)	452 798	87.95%	81.96%	29.31%

11. Reply to paragraph 7 of the list of issues

66. Government recognises the wide misuse of the Prevention of Terrorism Act during the previous regime, to suppress opposition activists and politicians. Government is pleased to note that an amendment has been brought to the Prevention of Terrorism Act in October 2019 which seeks to better define an act of terrorism, in line with the UN security council resolutions, in order to prevent the law from being utilised to suppress political dissent.

67. An act of terrorism is now defined as: causing grievous injury to a person; causing a threat to the life of someone other than the perpetrator; taking hostage or kidnapping; destruction of property; hijacking a vessel; causing a public health threat to the public or a group; causing a security threat to the public or a group; causing destruction to critical infrastructure or causing the suspension of public services to achieve the following purposes: 1) to promote a radical/extremist political or religious view; and 2) to compel the Government to do or not do something, or to propagate fear among the public or a group.

68. The second amendment also revamps the Act to include essential elements to assist authorities under special circumstances in preventing acts of terrorism and further accentuates political and religious extremism and radicalisation as terrorist acts.

69. A third amendment to the Act was ratified in December 2021 outlining the procedures and rules for returning fighters, as well as the rights of those fighters who are detained. It also includes special measures to help safeguard the welfare of the children of the fighters.

12. Reply to paragraphs 8 and 9 of the list of issues

70. Article 10(a) of the Constitution states that the religion of the State of the Maldives is Islam and that Islam shall be one of the basis of all the laws of Maldives. Article 10(b) further states that, no law contrary to any tenet of Islam shall be enacted in the Maldives. Therefore, provisions contrary to Shariah law cannot be incorporated into the Maldivian legal framework.

71. Maldives has non-discriminatory provisions on the basis of race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island.²³ Contrary to the information received by the HRC, no Anti-Discrimination legislation is under consideration at the Parliament. If the reference is to a legislation on gender equality, Government notes that the Gender Equality Act has been enacted on 23rd August 2016.

72. As stated above, Government does not tolerate hate speech in any of its forms and is committed to taking appropriate measures to prevent threats, harassment or attacks against human rights defenders. MPS continues to counter threats and harassment, both on online platforms and in person. Threats against journalists, human rights defenders or CSOs are treated as special cases and are investigated by the Serious and Organised Crime Department of MPS.

73. Investigating and ensuring accountability for cybercrimes remains a challenge due to the lack of a legal framework governing this area. Work is underway to enact a Cybercrime Prevention Bill, and a new Evidence Bill was submitted to the Parliament in August 2021, enactment of which will overhaul the outdated 1976 Evidence Act.

74. Furthermore, an amendment was brought to the Penal Code in November 2021 criminalising hate speech. This includes the criminalisation of speech accusing an individual of being against the religion Islam, speech inciting hate against a person on the basis of Islamic faith, and labelling, attempting to label or accuse an individual of being a disbeliever in public. The amendment also criminalises incitement of violence and assault on the basis of the above, and aims to prevent the reoccurrence of heinous crimes which have been committed against individuals in the Maldives, due to incitement of violence against them.

75. With regard to the murder of blogger Yameen Rasheed, MPS conducted a thorough investigation and sent the case for prosecution, whereby the Prosecutor General filed charges against 6 persons. On 19th January 2022, the Criminal Court found 2 out of the 6 accused guilty of murder and sentenced them to life imprisonment. The Prosecutor General will make a decision regarding appealing the judgments of the 4 who were acquitted once the case report is issued by the Criminal Court.

76. When DDCOM was established in 2018, the aforementioned murder trial was ongoing. As the outcome of the case may be affected if DDCOM were to open a new investigation, upon advice from the PGO, DDCOM decided to defer the investigation. However, representatives of the Commission attended all the scheduled trial hearings and closely monitored the proceedings of the case.

77. With the conclusion of the trial at Criminal Court in January 2022, DDCOM has now officially launched an investigation into the case. MPS has also been providing access and assistance to DDCOM.

13. Reply to paragraphs 10 and 11 of the list of issues

Gender Equality

78. Government is pleased to report on the progress Maldives has made in achieving gender equality and promotion and protection of women's rights. Most significantly, the transformative Gender Equality Act was enacted, which recognizes both direct and indirect GBD.

²³ Article 17 – Constitution.

79. The Act enables measures to be imposed against all ideas and practices that promote GBD, demarcates violence against women as GBV, obliges private and public institutions to establish specific complaints mechanisms to address workplace GBD, and creates a positive obligation to actively facilitate participation of women.

80. Furthermore, the Act mandates establishment of redress mechanisms to receive complaints of GBD at places of employment. As of 16th February 2022, a total of 75 institutions have established this mechanism. Till date, no cases of GBD have been reported to the respective institutions nor to the Ministry of Gender, Family and Social Services (“MOGFSS”). The lack of reporting is a concern that needs to be addressed through raising awareness on the availability and usage of these redress mechanisms.

81. Maldives acknowledges the gaps in the implementation of the Gender Equality Act. To eliminate these, gender equality has been reinstated as a key focus of national development. A Gender Equality Policy was adopted in September 2019, which forms the basis of the Gender Equality Action Plan (2022–2026) (“GEAP”), which is in the final stages of adoption.

82. Furthermore, regulations have been published relating to the reporting mechanism (in October 2021) and to assign responsibilities under the Act to local councils (in December 2021). With these regulations, Government hopes to enable effective implementation of the Act across the country.

Participation of Women in Decision Making and Public Life

83. Recognising gender as a governance issue, Government ensured inclusion of policies in SAP to increase the participation of women in decision making and public life.

84. To that end, amendments were brought to the Decentralisation Act in 2019, to allocate 33% of all local council seats specifically to women, incentivising women to contest for elected office. This is the first temporary special measure introduced through legislation which has resulted in 388 women to be elected to the local councils nation-wide following elections held in April 2020, exceeding the 33% quota and acquiring 39.5% of local council seats.

85. The amendment also afforded enhanced recognition to the WDCs to allow women to assume leadership roles and effectively participate in the development of their own communities. It also allocated at least 5% of the council’s grant budget to the WDCs, enhancing fiscal independence. Positive changes have been brought to the allowance of WDCs since January 2022.

86. As for the Government, currently 33.33% of Cabinet Ministers are women, and for the first time, female Cabinet Ministers have been assigned portfolios in non-stereotypical sectors such as transport, environment, climate change and technology, arts, culture and heritage and defense. The Maldivian Foreign Service set a worthy example by achieving gender parity among the heads of diplomatic missions.

87. Despite the progress, Government acknowledges the low rate of women representation in the current Parliament. To address this, SAP envisages introduction of temporary special measures to internal primaries of political parties to further improve the participation of women in the political arena. The GEAP also includes actions to introduce and endorse a 33% quota of reserved seats at the Parliament for women.

88. To increase awareness, in 2020, awareness raising on political participation of women was integrated into the EC’s Voter Education Campaign. HRCM has conducted various broadcasting and social media awareness activities, focusing on the importance of women participation in public and political affairs.

89. Government acknowledges that more awareness can be created regarding the quota system, and the purpose and need for temporary special measures. To that end, both SAP and GEAP contains policies for conducting training, refresher and media sensitisation programmes.

90. Enhanced gender representation in the judiciary is a top priority in the Government’s judicial reform agenda. As such, the first women Justices to the Supreme Court were

appointed in 2019 and the first woman judge to the Criminal Court was appointed in 2020. A woman judge has also been appointment to the Juvenile Court with the enactment of the JJA, which requires judges who adjudicate cases of children to be comprised of both genders.

91. Today, for the first time in Maldives, women judges are adjudicating over cases in all tiers of the judiciary. This is a remarkable progress considering that in 2017, there were only 7 women judges in the entire judiciary, compared to 20 now. Furthermore, 42.7% of the total number of staff in the judiciary are women.

Reports of Threats and Harassment

92. In response to reports that women are threatened, harassed and stigmatized for not wearing headscarves in public, Government notes that are no records of such incidents having being reported to the MPS. However, any such reports will be thoroughly investigated with utmost priority by the Serious and Organized Crime Department if the reported case involves religious extremism and radicalization, and by the Family and Child Protection Wing if the reported case includes GBV.

Family Law

93. Government is fully committed to removing the barriers faced by women in family law matters. The family law reform initiative undertaken by this administration, seeks to identify gaps in the family law system with a focus on the Family Act, the CRPA, the Domestic Violence Prevention Act (“DVPA”) and related regulations.

94. The review will result in recommendations for reform on: the solemnisation of marriages including polygamous marriages; registration of marriages; functions of the registrar of marriages; divorce proceedings; child custody proceedings; division of matrimonial assets; spousal support; child maintenance; other proceedings involving family matters.

95. Through this reform initiative, Government hopes to ensure the rights of women in family law on an equal footing with men, in all aspects that is not contrary to Shariah Law. At the end of the review, earmarked for completion this year, Government will submit a revised law which introduces a modern family legal system that promotes, protects and fulfils women’s and girl’s human and constitutional rights in line with Article 10 of the Constitution.

Gender-based Violence and Domestic Violence

96. This reporting period saw the enactment of multiple laws that deal with one or more forms of GBV. The Prevention of Sexual Abuse and Harassment Act defines what constitutes sexual abuse and harassment, outlines responsibilities of different parties, and details measures to be taken to prevent such acts in places of employment, educational, health and social institutions. The Sexual Offences Act established sexual offences and its penalties, and details procedures to be adhered in such cases.

97. Government prioritises minimising sexual harassment, domestic violence (“DV”) and other forms of GBV, and as such, several actions has been identified in SAP, to achieve this, including conducting a review of DVPA implementation, ensuring effective implementation of GBV related laws, conducting sensitisation refresher trainings targeting enforcement agencies, formulating and operationalising SOPs for DV shelters and establishing an emergency fund for survivors and families affected by DV.

98. The DVPA enacted in April 2012, forms the basis of DV prevention efforts in the Maldives. A General Regulation on the Prevention of Domestic Violence was published in September 2018. The Family Protection Authority (“FPA”) has the primary implementation mandate under the DVPA, which includes regulating survivor support services and providing services to perpetrators.

99. Some significant efforts for effective implementation of DVPA carried out over this reporting period include:

(a) service mapping of existing services available to DV survivors which facilitated the identification of service providers to make referrals (2013);

(b) formulation and endorsement of the Domestic Violence Prevention National Strategy (2014–2016) and development of a monitoring and evaluation tool to measure its progress (2014);

(c) development of a commentary on DVPA to standardise interpretation;

(d) formulation of the second Maldives Domestic Violence Prevention Strategic Plan (2017–2021), which identifies prevention, protection, partnership, accountability and governance as the five national priority areas²⁴;

(e) publishing regulation for a collaborative framework among key service providers responding to DV; and

(f) development and distribution of a handbook for first responders of DV, with information on initial risk assessment and safety plans, and administration of training on use of this handbook.

100. Work is also underway to develop a guideline for implementation of a perpetrator rehabilitation programme and development of minimum standards for DV service provision for victims.

101. In order to address the conflicting responsibilities and duties of the FPA and MOGFSS and the monitoring role of FPA, amendments have been proposed to the DVPA. Work is also underway to review the DVPA with stakeholder engagement and a draft review report has been formulated.

102. Fostering awareness on DV is key to its prevention, and as such, numerous awareness and sensitisation programmes are carried out by the relevant authorities regularly. Some details of such programmes carried out during the reporting period are as follows.

(a) FPA regularly conducts awareness, sensitisation and prevention programmes focused on DVPA, the cycle of violence and healthy relationships, and to encourage community reporting of DV. Programmes are conducted annually for capacity building, sensitization and awareness raising of service providers who work with survivors. FPA has also engaged men as ‘agents of change’ to stop DV and programmes were conducted to counteract ideologies and beliefs which perpetuate DV.

(b) MOGFSS also conducts gender sensitisation sessions, which include a GBV component. In 2016 and 2017, during 16 Days of Activism, awareness sessions and door to door campaigns were carried out to foster awareness on violence against women, DV and GBV. In 2018, MOGFSS collaborated with the American Centre Maldives, to carry out safe space discussions under the theme “violence is never the answer”. A session for the Filipino community in the Maldives was also conducted in 2018, focusing on DV, GBV and sexual harassment. Panel discussions on violence against women were conducted throughout 2018 and 2019.

(c) A nationwide campaign to combat DV, “*Geveshi Gullhun*” (domestic relationship), was initiated in July 2020 for a period of two years. This campaign was the Government’s response to the surge in DV reports to MOGFSS during the COVID-19 lockdown period. The campaign aims to reduce the incidence of DV and GBV, encourage and empower reporting, strengthen and expand the services available for victims and address behavioural and attitudinal changes relating to the root causes of DV and victim blaming. The campaign uses different platforms of social and mass media to create awareness and increase capacity building of social service delivery sector.

Mechanisms for Protection

103. With regard to shelters for DV victims, MOGFSS has operationalised 5 accommodation blocks as shelter for survivors. All accommodation blocks are staffed with care workers, security, programme officers and an administrative officer. The blocks are designed to have a medical room and a room for persons with disabilities, and are equipped to provide for basic services such as food, medical assistance and psychosocial support. The

²⁴ Due to the COVID-19 pandemic, this Strategic Plan has been extended until the end of 2022.

standard operating procedures (“SOPs”) for these shelters are currently under review. The shelters’ quality standards are checked and monitored by the Quality Assurance Division of MOGFSS.

104. During the reporting period, FPA was in agreement with the Institute of Mental Well-Being, a private psychological clinic, to offer psychosocial support to victims of sexual offenses under the Sexual Offences Act, up until 2021. Currently, FPA is working on partnering with a private psychological clinic to provide psychosocial support to victims under both the Sexual Offences Act and the DVPA.

105. The table below contains data on remedies and psychosocial support provided to victims during the reporting period.

<i>Year</i>	<i>Number of DV/GBV victims who were provided psychosocial support by MOGFSS</i>
2012	41
2013	55
2014	82
2015	48
2016	83
2017	73
2018	83
2019	124
2020	140
2021	180

106. In 2019, a points system with a criterion to provide psychological assistance to victims of sexual abuse was developed, and this was reviewed in 2021 to include both victims under the Sexual Offences Act and DVPA.

Facilitation of Complaints and Statistics

107. Due to limitations within the DVPA, FPA has yet to establish a formal complaints mechanism. However, survivors, family members, friends or anyone witness to DV can lodge complaints to FPA anonymously or otherwise, through phone, email, the FPA website, or in person.

108. All complaints received are forwarded to the relevant institutions. Where necessary, case coordination meetings are held with relevant institutions to discuss any issues. Larger system issues identified from these meetings are brought to the attention of the relevant committees established under the Regulation on the Prevention of Domestic Violence.

109. As a measure to increase reporting, PGO with the assistance of UNDP, has created booklets to inform victims and vulnerable witnesses on the legal protections available to them, and the services provided by the PGO’s Witness and Victim Support Unit. Capacities for prosecutors to handle such cases are built through trainings and ensuring adherence to specialised procedures.

110. MPS also implements a project focused on combatting crimes against women, children and families, and ending all forms of violence against them. Sensitisation programmes on child rights and protection, and programmes for parents in relation to the CRPA and DVPA are conducted. A family and child centred investigation course is run for investigators to equip them with the necessary tools to facilitate complaints from victims. All DV cases are handled by the specialised Family and Child Protection Wing of MPS.

111. The following table details the data on cases relating to DV lodged at the MPS:

<i>Year</i>	<i>Logged Cases</i>	<i>Sent to PGO</i>
2012	180	20
2013	210	14
2014	192	15
2015	349	38
2016	303	49
2017	279	27
2018	240	7
2019	221	12
2020	247	28
2021	229	15

112. It should be noted that the only criminal offense contained in the DVPA relates to violation of a protection order. So far, 10 cases have been prosecuted in relation to this crime. Domestic violence cases are prosecuted under other laws such as the Penal Code and the Sexual Offences Act. However, even though a charge is raised through other legislations, protection and procedural rules in the DVPA apply in all such cases.

113. DV cases are also reported to the MOGFSS. The following table shows sex and type disaggregated data on GBV and DV cases reported to the MOGFSS from 2017–2021.

<i>Type</i>	<i>2017</i>			<i>2018</i>			<i>2019</i>			<i>2020</i>			<i>2021</i>		
	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>	<i>M</i>	<i>F</i>	<i>T</i>
Rape	0	7	7	0	14	14	0	18	18	1	23	24	0	9	9
Sexual Violence/Abuse	1	22	23	1	20	21	2	39	41	2	36	38	5	22	27
Physical Violence/Abuse	20	162	182	10	166	176	15	160	175	17	179	196	24	170	194
Emotional Abuse/Verbal Abuse	20	89	109	14	62	76	15	80	95	17	92	109	23	146	169
Neglect	9	14	23	8	8	16	9	13	22	5	8	13	4	7	11
Forced Marriage	2	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Stalking	0	2	2	0	2	2	1	3	4	0	1	1	0	2	2
Commercial Exploitations	1	2	3	0	7	7	2	0	2	0	0	0	1	4	5
Forced Labour	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Harassment	0	2	2	0	4	4	1	8	9	0	2	2	1	18	19
Economic & Financial Abuse	1	7	8	1	7	8	1	5	6	0	5	5	0	5	5
Withholding/ Damage to Property	1	7	8	1	7	8	3	4	7	0	2	2	1	6	7
Controlling Behaviour	3	14	17	1	13	14	1	12	13	0	6	6	1	9	10
Intimidating	5	34	39	0	37	37	5	36	41	2	21	23	6	30	36
Grand Total	63	362	425	36	347	383	55	378	433	44	375	419	66	428	494

14. Reply to paragraph 12 of the list of issues

114. Termination of pregnancy within 120 days of conception is not criminalised in the Maldives. The Penal Code only criminalises abortion after the first 120 days of conception, and even in such case, the law creates an exception for abortion where the mother is subjected to risk or where the pregnancy has resulted from sexual abuse and/or incest. The Penal Code prevails over the Fiqh Academy ruling in 2013, and therefore, in response to HRC's query, Government notes that when a woman's life is at risk and when women are victims of rape or incest, abortion is legal in the Maldives, regardless of the time period.

115. Mechanisms are in place to detect the occurrence of unsafe abortion and provide safe abortion services at the health facility when needed. Any abortion which takes place at a health facility is documented in the health information system. Maldives Health Profile reported 158 abortions attended within health facilities by healthcare professionals in 2019. Abortions from Health facilities are regularly reported through the vital registration system.

116. The National Reproductive Maternal Newborn Child and Adolescent Health Strategy (2020–2025) prioritizes sexual and reproductive health areas.

15. Reply to paragraphs 13 and 14 of the list of issues

117. There are multiple safeguards to ensure that the imposition of the death penalty complies with ICCPR requirements. Section 1205 of the Penal Code provides that if a *hudood* or *qisas* offence under Islamic Shariah has been proven beyond all doubt, the penalty afforded to such a crime under Islamic Shariah must be imposed. In the Maldives, death penalty is only imposed for a conviction of murder. The death penalty sentence is subject to automatic appeal and must be confirmed by the Supreme Court. The law also explicitly states that the President will have the discretion to pardon death sentences within the parameters of Islamic Shariah.

118. Death penalty cannot be abolished in Maldives without preceding domestic legislation and wider public consultation on the issue. Maldives reiterates its commitment to uphold the informal moratorium on the application of death penalty. Currently, effecting judicial reform, and implementing measures to enhance the underlying legal framework of the criminal justice system takes precedence over resuming executions.

119. Maldives is unable to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, since it relates to abolishing the death penalty.

120. In response to reports that facilities have been built at Maafushi Prison for the purpose of carrying out hangings, Government notes that the facility has never been used, will not be used to carry out executions and will be repurposed. Some of the resources obtained for the facility, such as the vehicle, medical grade bed, medicine carrying trolleys, bed sheets, pillows and mattresses are currently being used for other purposes in Maafushi Prison.

121. With regard to measures taken to prevent and address the current and foreseeable future effects of climate change and environmental degradation, Government notes that policies on clean energy, waste as a resource, water and sanitation, environmental protection and preservation, and resilient communities are all included in SAP, with targets and actions to fully realise the right to a safe, clean, healthy and sustainable environment, as provided by the Constitution²⁵.

122. Government is also on track to achieve net-zero emissions by 2030, contingent on adequate support. Government has planned interventions in: energy, transport and waste sectors; enhancement of adaptation and resilience building; food security; coastal protection; resilience of critical infrastructure; enhancing climate governance; accessing financing; and implementation of measures to address impacts of climate change on vulnerable groups.

123. A Climate Emergency Act was enacted in 2021, providing the legal structure and actions to address the climate crisis and also provides for carbon budgeting to meet net-zero

²⁵ Article 22 – Constitution.

emissions by 2030. The Maldives Energy Act has also been enacted in 2021, which stipulates guidelines for the provision of energy in Maldives, covering both production and consumption phases.

124. Maldives recognises the importance public and CSO participation in development of laws and policies on climate change. One of the guiding principles of the Maldives Climate Change Policy is ‘Ensuring Intergenerational Equitability’, and at all stages of the formulation of this policy framework, and implementation of climate actions, equitable engagement between population groups was ensured.

16. Reply to paragraph 15 of the list of issues

125. The 2013 Anti-Human Trafficking Act established the crime and punishment of human trafficking, with an aim to prevent the act of human trafficking, and sets up a victim protection mechanism.²⁶

126. Following the enactment of the Act, a National Steering Committee on Human Trafficking was established in 2016, which held regular meetings until 2017. During that time, the Committee formulated a National Anti-Human Trafficking Action Plan, and convened a multi-sectoral technical level committee to monitor its implementation. The Committee also adopted and published Victim Identification Guidelines, initiated a number of awareness raising programmes and established a National Victim Support Hotline.

127. However, staff shortages, issues in composition and a lack of commitment rendered the committee defunct after 2017, until it was reconstituted and reconvened in 2019.

128. In the meantime, in order to enhance monitoring and data collection, MPS developed a case management system and integrated it into the MPS information system in 2018. In the performance of its obligations under the Anti-Human Trafficking Act, the MPS established a temporary shelter for men and women separately; conducted radio programmes on raising awareness and advocacy; conducted specialised training programmes for anti-human trafficking department staff; conducted training on identifying victims of human trafficking for frontline police officers in Male’ and atolls; and conducted a training of trainers for 12 investigating officers.

129. MPS also collaborated with the International Organisation for Migration (“IOM”), to enhance the capacities of investigation officers around identification of victims and investigating such crimes. Over 150 officers have been trained through 2015 to 2018 across the country, including trainers for new investigators.

130. Charges were raised for the first time under the Anti-Human Trafficking Act in 2016 which resulted in a conviction of sex trafficking. In 2019, Maldives Immigration forwarded 27 cases of suspected fraudulent recruitment and human trafficking to MPS for further investigation.

131. So far, a total of 11 cases involving 23 individuals have been prosecuted. 4 individuals have been found guilty in 2 cases, while acquittals were rendered in 5 cases. 4 cases are currently ongoing.

132. PGO also conducted a training on prosecution of human trafficking cases in collaboration with UNODC and works with MPS in the early stages of investigation to ensure successful prosecution.

133. In relation to human trafficking and exploitative labour practices with regard to migrant workers, Government is taking steps to identify such cases and ensure rights of victims. In February 2019, 24 recruitment companies were blacklisted on the Expat Online System and remain blacklisted to date. Only limited access is given to pay visa fees, extend quota duration and work permit duration for the regular expats registered under these companies.

²⁶ <https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/106008/137131/F1205714061/MDV106008%20%2Eng.pdf>.

134. Furthermore, Government initiated a Regularisation Programme for migrant workers in September 2019, allowing the Government to identify and attend to victims of human trafficking. As such, 2 victims were housed in a temporary shelter and have now been allocated to new employers and reintegrated into the society.

135. Despite the challenges of the pandemic, in 2020, Government undertook a number of key initiatives in this area, notably, establishment of an Anti-Trafficking in Persons Office (“Anti-TIP Office”), allocation of funds from the State budget for anti-human trafficking activities and setting-up of a victim shelter in the island of Gulhifalhu in K. Atoll. This temporary shelter setup will become permanent once the Victim Assistance and Shelter Service Regulation has been endorsed. The Anti-TIP Office will work with an international consultant provided by IOM to review the draft Regulation and to review the existing SOPs on Victim Identification & Referral passed by the Steering Committee in 2016.

136. In 2021, the Anti-Human Trafficking Act was amended to align the definition human trafficking with the UN TIP Protocol and to streamline the Steering Committee.

137. The Maldives National Anti-Human Trafficking Action Plan (2020–2022)²⁷ was endorsed in March 2020 by the Cabinet, and is being implemented and monitored by the Anti-TIP Office. It is aligned with SAP and carries forward unfinished tasks and activities of the previous National Action Plan (2015–2019). The new plan also signifies a greater commitment to transparency, progress-reporting, information-sharing, engagement with international partners and awareness-spreading.

138. Government recognises the importance of studying the root causes of trafficking and the extent of its existence in our communities. As such, Government hopes to conduct a baseline study in 2022 when inter-atoll travel becomes more feasible. The Anti-TIP Office is also working with a consultant from UNODC, to explore the feasibility of a pilot survey for Illicit Financial Flows in human trafficking and smuggling of migrants.

17. Reply to paragraphs 16 and 17 of the list of issues

Absolute Prohibition of Torture

139. The legal framework prohibiting torture stems from the Constitution, which expressly states that no person shall be subjected to cruel, inhuman or degrading treatment or punishment, or to torture, and that everyone deprived of liberty through arrest or detention as provided by law, pursuant to an order of the court, or being held in State care for social reasons, shall be treated with humanity and with respect for the inherent dignity of the human person²⁸. A person may be deprived of the rights or freedoms only to the extent required for the purpose for which he is deprived of his liberty.²⁹

140. The Anti-Torture Act was enacted on 23rd December 2013, codifying the principles of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”). The Act recognises torture as a distinct criminal offence and defines the offences and penalties for inflicting torture or other cruel, inhuman or degrading treatment or punishment. The Act also recognises the commission or infliction of such an act or the detention of people in certain ways, as criminal offences in all circumstances.

Statute of Limitations

141. With regard to the statute of limitations, the Penal Code details all the defences available to the accused by law. One of the non-exculpatory defences entailed in Chapter 60 of the Act is that prosecution will be barred if charges are not raised within the time limits set out in Section 61 of the Act. Section 61 sets out the limitation of 8 years for felonies and 3 years for misdemeanours from the time of committing the crime.

²⁷ <https://www.gov.mv/dv/files/maldives-national-anti-human-trafficking-action-plan-2020-2022.pdf>.

²⁸ Article 54 – Constitution.

²⁹ Article 57 – Constitution.

142. The first amendment brought to the Penal Code in 2015, excludes some specialised laws relating to criminal offences from the provisions of the Penal Code, which includes the Anti-Torture Act. This means that the Anti-Torture Act will supersede the Penal Code when dealing with acts of torture. However, the same section also states that defences available to the accused under the Penal Code, will be available to those being charged under the specialised acts. Since the statute of limitation is set out as a defence in the Penal Code, it is available as a defence to those being accused of acts of torture. A review of the Anti-Torture Act is in the pipeline, and this issue will be addressed through the review.

Prisons and Parole Act

143. In response to reports that the 2015 amendments to the Prisons and Parole Act of Maldives removed provisions that protected detainees' rights to freedom from torture and other ill-treatment, Government clarifies that the 2015 amendment removed Section 47 of the Act, which states that, the process adopted in detaining and imprisoning people shall be one that does not impose any other punishment on the person other than the punishment of being detained, and that any of their fundamental rights are not violated.

144. However, this was done so, because a complete chapter on detainees' rights and freedoms was included in the same amendment. As such, Chapter 6 adds clauses 61 to 68 to the Act, which details the fundamental rights and freedoms afforded to detainees, including the situations where a right or freedom can be restricted. Therefore, the Prisons and Parole Act still includes provisions that protect detainees' fundamental rights to freedom from torture and ill-treatment.

145. Under Section 26 (b) of the Act, officers and employees of the MCS are prohibited from torturing or treating inhumanly any detainee or prisoner, which is categorised as a disciplinary offence. Furthermore, Section 105 explicitly prohibits the imposition of any punishment that may physically harm the detainee. Section 113(a) of the Act also states that any work assigned to a detainee to be carried out in the prison, shall not be assigned to intentionally to torture or inflict harm on the detainee.

146. Government also notes that a review is ongoing to formulate a new law on prisons and parole, which is expected to be completed by March 2022.

Torture Cases

147. The following table provides available data on number of complaints of torture investigated and prosecuted between the years 2012–2021.

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021 (September)
Cases submitted/investigated	105	74	33	68	33	45	45	68	54	39
Closed after investigation (including previous years)	-	-	35	48	52	40	39	48	-	25
Sent for prosecution	0	0	0	3	1	0	0	5	2	7
Rejected due to lack of evidence	-	-	-	3	1	-	-	4	1	-
In the process of being reviewed by PGO	-	-	-	-	-	-	-	-	1	6
Prosecuted	-	-	-	-	-	-	-	1	-	1

148. Since the 2 cases which have been prosecuted are still ongoing, there have been no convictions so far.

National Preventive Mechanism

149. Pursuant to the Optional Protocol to CAT, HRCM was designated as the NPM. A specific department carried out the functions with a mandate to prevent torture and other

cruel inhumane treatment of persons deprived of their liberty, raise awareness and promote a preventive culture in places of deprivation of liberty.

150. With the enactment of the Anti-Torture Act in 2013, an Anti-Torture Section was established at the HRCM on 23rd March 2014, mandated with exclusively investigating torture cases identified by and lodged at HRCM.

151. Under the Prisons and Parole Act, independent institutions such as the HRCM, international organisations and relevant parliamentary committees are afforded explicit powers to visit prisons and carry out inspections. This power is regularly exercised by HRCM to visit prisons and other places of detention.

152. HRCM is currently working on identifying gaps in the interpretation of the Anti-Torture Act and its Regulations, to address any conflicts in interpretation of places of deprivation of liberty.

Transitional Justice

153. Transitional justice forms a primary pledge of the Government and as such, on 17th December 2020, the Transitional Justice Act was ratified, establishing the OTJ, which is mandated to investigate and reveal systematic violations of human rights and fundamental freedoms perpetrated by State institutions or senior officials of State institutions between 1st January 1953 to 17th November 2018, and provide victims of such acts with justice. The OTJ is comprised of three ombudspersons, who were appointed by the President in January 2021.

154. The Act seeks to provide recognition for victims of violations of human rights and fundamental freedoms, and provide peace, reconciliation and reparations, while effecting institutional reforms to ensure such violations do not repeat in the future.

155. OTJ allowed three months beginning 13th June 2021, to submit cases, during which an advocacy and public awareness campaign was carried out to inform the public about transitional justice and the functions of OTJ. Out of the 488 cases received, decision has been made to investigate 451 cases. OTJ will hold public hearings in historical cases and cases of high public interest, affording an opportunity for victims to share their experiences before the public.

156. Cases to be investigated by the OTJ includes those relating to torture that allegedly took place prior to 2008 and also torture that allegedly took place at the time of the demonstrations of 8th February 2012 in Male' and Addu.

Prison Overcrowding

157. Maldives acknowledges the weaknesses in the current system with regard to prison overcrowding, and is working with conviction to remedy them. As such, Government has prioritised and allocated resources to the establishment of a prison complex in Hulhumale', expected to be completed by end of 2023. This will enable relocation of the current Male' prison to Hulhumale' and increase the capacity from 200 to 600 inmates. Furthermore, construction of a new prison in the island of Neykurendhoo in H.Dh. Atoll is expected to commence in 2022.

158. A Special Managements Unit has also been established in Maafushi Prison in February 2021. This Unit is able to house 100 inmates, and specifically houses and rehabilitates radicalized inmates.

159. As a measure to address prison overcrowding, Government has plans to implement non-custodial measures. Regulation on implementing non-custodial sentencing has been published by MCS on 16th January 2022, and work is underway to finalise SOPs required for implementation. The Supreme Court has issued rules governing non-custodial sentencing in June 2021, and courts have begun to convert whole or part of jail sentences to community service, house arrest, fine or probation. Work is also underway to hire and train parole officers.

160. Government is also reviewing enforcement of judgements, and exploring the possible imposition of concurrent sentences instead of consecutive sentences for certain types of offences.

Pre-trial Detention

161. The Criminal Procedure Act has strict measures to control pre-trial detention, and MPS has fully incorporated the standards into its SOPs and practices. The Act lays out time periods for investigation and raising charges. As such if a person charged with a criminal offence is under detention, the Prosecutor General has to file charges against them within 30 days from the day they were brought before a judge (which would have occurred within 24 hours from their arrest).³⁰ This means that, as a general rule, both the investigation and filing of charges must be done within a maximum of 31 days of an arrest.

162. In exceptional circumstances, where the detained person is suspected of a serious criminal offence, and if the investigation of the crime cannot be completed within 30 days, then MPS can request the Prosecutor General for an extension to complete the investigation, and the Prosecutor General has the power to grant an extension, not exceeding 30 days.³¹ Surmising the above, the maximum time period a person can be detained for, from the point of arrest to filing a charge, is 61 days.

163. In practice, pretrial detainees are only held in police custodial facilities up to 45 days, which has contributed to significantly decrease the pretrial duration, compared to before the Act came into force.

164. Furthermore, in December 2018, the Prosecution Directives were revised after almost a decade by the Attorney General and further amended in October 2019. The renewed Directive includes, an obligation on the Prosecutor General to ensure timely review of remand periods. In line with the Directives, the Prosecutor General commenced an extensive review of delayed trials and prolonged remand periods of accused persons in December 2019.

165. The regular review of remand decisions was mandated further by third amendment to the Criminal Procedure Act enacted in September 2020. The Act obligates a judicial review of the decision to keep an accused in remand every 30 (thirty) days. With these obligations, PGO has set up a special unit to monitor the legality of detention prior to and during trial.

166. In response to reports that pretrial and remand detainees are not always held separately, Government clarifies that the requirements in the Prisons and Parole Act is to house those under investigation in custodial prisons, those who have been remanded by a court order until the beginning of the trial or until the conclusion of the trial in remand prisons and those serving sentences in general prisons. Therefore, as per the law, Government notes that pre-trial detainees are house separately in remand prisons, while convicts are housed in general prisons.

Compliance with Covenant and Complaints Mechanism

167. As for ensuring that the provisions of the Covenant are upheld in all places of detention, Government notes that limitations in current infrastructure hinder major upgrades. However, Government is certain that the new prisons being built will enable the Government to meet the required standards.

168. Prison staff have received trainings on the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), and this training has been incorporated into the recruitment curriculum. Work is also underway to develop a comprehensive data management software for efficient record managing, information capturing and tracking of prison population, that can in turn assist to fast-track parole and clemency procedures.

169. With regard to the availability of a complaint mechanism for inmates, the Prisons and Parole Act provides for a mechanism to send letters/complaint forms to Government institutions, independent institutions and any other persons. Complaints can also be submitted to the Inspector of Correctional Services (“ICS”), who is mandated with the monitoring and reporting of the conditions and procedures of the prisons. Contrary to what was practiced in the previous administration, inmates are now allowed to send letters/complaints in sealed envelopes to interrogating authorities, allowing them to submit confidential complaints.

³⁰ Section 94(a) – Criminal Procedure Act.

³¹ Section 94(d) – Criminal Procedure Act.

170. The ICS is also empowered to make unannounced visits to the prison and meet with inmates to make the necessary inquiries. MCS also has a department of Ethics and Professional Standards that accepts and investigates complaints regarding the conduct of prison officers.

171. During the COVID-19 lockdown period, continued communication between the detainees and all oversight bodies such as the HRCM and the ICS was ensured through creation of online options to send letters, forms and complaints.

Rehabilitation and Reintegration

172. Rehabilitation in lieu of imprisonment for drug offenders was introduced with the enactment of the Drugs Act in 2011. In order to enhance rehabilitation of drug offenders, the NRR contains policies which envisages a complete re-designing of the current treatment and rehabilitation programmes. A drug offender remand centre was established on 4th February 2021 in Gulhifalhu in K. Atoll, with a bed capacity of 100. Currently the centre is being used as a detoxification centre. The National Drug Agency (“NDA”) is in discussions to resolve the legal challenges faced with regard to the centre.

173. Furthermore, MCS in collaboration with NDA has launched additional rehabilitation programmes for drug offenders within the prison on 27th February 2022. Government also notes that the recently established medical centre in Maafushi Prison is now licensed to provide detoxification treatment for drug users.

174. Effective rehabilitation of prisoners is key to ensuring meaningful reintegration of prisoners back to the society. The revised organisational structure of MCS has established a Rehabilitation Command, which carries out tailored rehabilitation, community-based programmes and vocational trainings for prisoners. The rehabilitation framework is being revised and will comprise of 5 areas targeting specific themes; drug rehabilitation, sex offenders/child abusers, religious extremists, juvenile delinquents, and a general rehabilitation programme.

175. A special programme is conducted at the Special Management Unit to rehabilitate extremist inmates with the aim to reintegrate them back into society. Necessary training programmes have been conducted with the assistance of UNODC and the European Union for prison officers assigned to the Unit. This effort aims to resolve the issue of prison radicalization.

176. Government also carries out the “*Fahi Furusathu*” (opportunity) initiative, where parolees are provided with jobs, and as such, MCS is currently working with 2 SOEs and is working to expanding this programme to engage as many organisations as possible.

COVID-19 Measures

177. Extensive measures were taken in places of detention to protect detainees, particularly vulnerable detainees, from COVID-19. President granted clemency to 170 eligible prisoners and 45 undocumented expatriates held at the Hulhumale’ Detention Centre were repatriated to their country during the COVID-19 lockdown period. Prisoners with long term medical illnesses were transferred to house arrest under monitoring.

178. Furthermore, suspects were not taken into custody unless absolutely necessary and especially if they showed symptoms of COVID-19. Where a detainee presents symptoms of COVID-19, they are immediately transferred to a place of isolation. If found positive to COVID-19, and treatment cannot be provided within the prison, the detainee is changed to house arrest under conditions, or transferred to a hospital facility in severe cases.

179. With the initial outbreak, screenings of detainees and staff for fever and flu like symptoms were conducted daily. Medical personnel working at prisons were provided with training on COVID-19 such as using PPE, and taking samples for testing. New prison arrivals were kept separate from general prison population for a period of 14 days. Random sampling was also conducted.

180. Movement of prisoners in and out of the prison were limited to medical treatments and court appearances. Court proceedings and lawyer meetings were held via video

conferencing. Staff accommodations were set up within detention facilities to limit their travel.

181. Special protective measures, such as restriction of inward and outward movements, and setting up of quarantine, isolation and sanitising areas, were taken in drug rehabilitation centres. Temporary detox facilities were also established in different areas in the Male' region by the NDA and outreach programmes such as home visits are conducted.

National Integrity Commission

182. Government notes that the Police Integrity Commission has been replaced by the independent NIC established by the National Integrity Commission Act in 2015. As the five members of NIC are appointed through nomination from the President and further confirmation by the Parliament, Government believes that the composition does guarantee independence.

183. The mandate of investigating torture or ill-treatment lies with the HRCM pursuant to the Anti-Torture Act. However, the NIC is empowered to investigate cases of misconduct and unlawful acts carried out by law enforcement agencies and their personnel. So far, PGO has prosecuted 37 cases submitted by the NIC.

18. Reply to paragraph 18 of the list of issues

184. Government assures the HRC that Maldives fully respects the principle of non-refoulement in practice and complies with its international and national obligations to that end.

185. The Anti-Torture Act incorporates Article 3 of CAT, and prohibits the extradition of a person from Maldives to another country or returning to the person's native country, if there are substantial grounds for the relevant Government authorities to believe on the basis of reasonable proof or evidence that they would be in danger of being subjected to torture.³² Furthermore, in cases where extradition or exchange of convicted person to another country is governed by a treaty, obligation to prevent torture and any other inhuman or degrading punishment under international conventions may be implied in the treaty, in the absence of such an express provision thereto.³³

186. Maldives informs that it carries out third party resettlements. As such, 2 successful third country resettlement processes have been carried out so far with the assistance of the UN High Commissioner for Refugees and IOM.

187. Both the 2015 Extradition Act and the 2014 Transfer of Prisoners Act also prohibit repatriation of a foreign national if it would put them at risk of torture, and/or any other inhumane or degrading conduct. Moreover, all cases of extradition are subject to judicial review.

188. Maldives also confirms that detention of foreigners for expulsion by Maldives Immigration has always been used as a measure of last resort. Any decisions of expulsion and deportation, can be appeal at the courts of Maldives.

19. Reply to paragraphs 19 and 20 of the list of issues

Fundamental Legal Safeguards

189. The landmark Criminal Procedure Act consolidates and elaborates all rights to be afforded to detained persons as provided for in the Constitution. The Act stipulates that once a person is informed that they are under arrest, they should be given a legal warning which includes: a) informing the person that they are under arrest and under which Act and for which offence they are being arrested; b) informing the person of their right to remain silent with the exception of providing their identity; c) informing the person of their right not to

³² Section 42 – Anti-Torture Act.

³³ Section 41 – Anti-Torture Act.

answer questions but that it is preferable for them to provide answers; d) informing the person that anything they say can be used against them in court; and e) informing the person that they have the right to a lawyer and that if they cannot afford a lawyer and if they are suspected of committing a serious criminal offence, they have the right to obtain state provided legal aid.³⁴

190. Furthermore, the Act states that information of the person under arrest shall be recorded as soon as they are brought to a police station; if a person under arrest is being questioned by the police, they shall be given the opportunity to telephone their relative, friend or lawyer before being questioned; and that they should be given the opportunity to inform where they are being held.

191. MPS also conducts a question-based medical examination as soon as the person is brought into custody, and a medical doctor is arranged to examine the individual, if requested by the arrestee.

192. An information session on rights of detainees/prisoners and freedom from torture is included in police recruitment trainings, prison officer trainings and the Anti-Torture online course that commenced in 2021.

193. With the enactment of the Criminal Procedure Act arresting powers are only vested with the MPS, unless clear powers are afforded to another institution through another legislation. As such, the Maldives National Defence Force (“MNDF”) no longer carry out arrests.

194. However, in circumstances wherein the Captain of an MNDF Coast Guard vessel deems that a suspicious activity mentioned in Section 41(a) of the Armed Forces Act is or might be carried out by a vessel or a person on board, they are authorised to detain such a vessel or a person on board, to enforce fishery and/or maritime related laws, until they can be handed over to the MPS for investigation.

195. MNDF also provides any required assistance to MPS upon request, and in accordance the Armed Forces Act, in order to maintain peace and security in issues of civil disturbances or situations of threats to national security. Where MNDF operates at the front line in civil disturbances, MNDF has powers to detain suspects and hand them over to MPS. Even in such circumstances, all detainees are afforded all the legal safeguards as per the Criminal Procedure Act.

Right to be Produced Before a Judge upon Arrest

196. The Constitution clearly stipulates that everyone has the right on arrest or detention, to be brought within 24 hours before a judge, who has the power to determine the validity of the detention. This is further elaborated in the Criminal Procedure Act and the JJA. The Criminal Procedure Act also sets out the mechanism for an arrestee’s legal right to apply for a habeas corpus writ to determine the legality of the individual’s arrest.

197. This right is only altered under the third amendment brought to the Prevention of Terrorism Act in December 2021. However, even under the amendment, arrestees to whom this alteration applies has to be brought before of a judge within 48 hours of arrest.

Legal Aid

198. In response to reports that arrested individuals have been unable to access legal counsel due to inability to afford a lawyer, Government notes that the Constitution requires the State to provide legal counsel for those who cannot afford a lawyer within the context of serious criminal cases.³⁵

199. State-funded legal aid is provided by AGO in line with the Legal Aid Regulation. As per the Regulation, if the applicant is an adult and is suspected of committing a serious criminal offence listed in the Criminal Procedure Act, and if the individual passes the “financial means test” provided for in the Regulation, then they are eligible for legal aid. All

³⁴ Section 44 – Criminal Procedure Act.

³⁵ Article 53(b) – Constitution.

child applicants are eligible for legal aid regardless of the type of crime they are accused of or their financial means.

200. Government confirms that all individuals who apply for legal aid and fit the criteria stated in the Regulation, are afforded State-funded legal aid services. The number of applications received and the provision of this right has increased drastically over the reporting period, as detailed in the table below:

<i>Year</i>	<i>No: of Applications</i>	<i>No: of cases where legal aid was provided</i>
2012	8	4
2013	21	5
2014	30	12
2015	37	22
2016	50	26
2017	84	44
2018	57	23
2019	105	50
2020	122	68
2021	307	228

201. Government also intends to introduce a Legal Aid Bill, to provide for a legal framework to establish an effective and sustainable national legal aid system, to strengthen access to legal aid. Government is currently in the process of drafting the legislation and aims to submit it to Parliament this year.

Judicial Reform

202. This administration assumed office with pledges to bring about significant reforms to reinstate public trust in the judiciary, which had been tainted with allegations of corruption, partiality and political influence.

203. An assessment was conducted in May 2019 to assess the deficiencies in the judiciary and the feasibility of implementing reform proposals. This assessment informs the Government’s judicial reform plan, which is three-pronged: reforming jurisdiction and structure of the courts; enhancing internal court administration; and ensuring accountability and integrity of judges.

(a) *Reforming the jurisdiction and structure of the courts:* Amendments to the Judicature Act of the Maldives have been formulated to redefine the authority of courts and tribunals to inhibit judicial overreach and enhance accountability. Work is also underway to introduce district court and circuit court models. In the meantime, for administrative ease, Magistrate Courts have been divided into clusters, based on the case load, proximity and number of judges.

(b) *Strengthening internal court management:* Independent functioning of the Department of Judicial Administration (“DJA”) has been ensured by enabling it to be run by a Chief Judicial Administrator, who is appointed by the JSC. This was done through an amendment brought to the Judicial Service Commission’s Act in September 2019, which also mandates appointment and removal of all court registrars to the Chief Judicial Administrator. Work is underway to broaden the mandate of court registrars, to eliminate any potential undue influence of judges over judicial administration. This will also contribute to enhancing efficiency of judges. A competency-based training curriculum for non-judicial personnel has been developed in collaboration with the American Bar Association. Work is also underway to roll-out court management models for appellate courts.

(c) *Enhancing the accountability and integrity of judges:*

i. With regard to selection process for appointment of judges, JSC has adopted a new Appointment Regulation in October 2019, which advocates transparency and

gives equal opportunity for new candidates to compete for courts. The criteria consist of educational qualification, experience, integrity and performance in the interview. In order to vet judicial candidates and analyse their integrity, an intensive screening process is conducted, through which their criminal history is explored. Candidates are then arranged in scoring order and JSC members vote on every candidate in an open ballot. The candidate who gets the majority votes first is selected. JSC is currently working with the UNDP to revise this Regulation based on a white paper formulated by the American Bar Association.

ii. Amendments to the Judges' Act have been formulated to enhance rules of conduct, introduce mechanisms to periodically evaluate their capacity and competency, and set mandatory asset declaration rules.

iii. While conducting appraisals of judges is mandated under the Judges' Act, it had not been effectively carried out in the past. The current JSC prioritised reviewing and strengthening the appraisal process, as well as carrying out an appraisal of all sitting judges. As such, a Judicial Competency and Performance Appraisal Policy and Regulation was formulated, which constitutes the guiding document to enforce judges' appraisals. The entire process is now governed by the Regulation on Judges' Appraisal Procedure published in June 2021. Appraisals are now conducted by a committee appointed by JSC. Judges are to be appraised on their capacity to issue judgments based on legal arguments, integrity, impartiality, professionalism, communication and management skills.

iv. Procedures regarding disciplinary hearings against judges have been revamped through amendments to the Judicial Service Commission's Act. The new procedures emphasize due process requirements and transparency in enforcing disciplinary measures. The amendment also, for the first time in Maldives, established an appeal process for disciplinary decisions. This means that any disciplinary measures imposed can now be appealed to committee of judges convened for the purpose.

v. Work is also underway to update the professional status of judges, develop a complaints management system and conduct trainings for JSC personnel and investigators.

204. Government is confident that the progress so far and ongoing efforts will deliver a judiciary, that is impartial, fair and just.

Composition of JSC

205. Reforming the composition of JSC is a pledge of the Government and is included in the SAP. Government will bring the necessary amendments in 2023.

206. Government notes that since its formation in 2008, for various reasons, the function assigned to JSC was not effectively executed in the past. However, the current JSC has been pursuing its mandate vigorously and the improvement in public confidence towards the functions of JSC is evident by the increased number of complaints brought to the JSC in 2019. The table below shows the number of complaints received by JSC during the reporting period.

<i>Year</i>	<i>No: of Complaints Received</i>
2012	51
2013	62
2014	48
2015	30
2016	36
2017	9
2018	7
2019	114
2020	41
2021	26

Prosecution

207. With regard to autonomy of prosecutors, Government notes that the PGO is an independent institution established by the Constitution and empowered by the 2008 Prosecutor General's Act. The Constitution obligates the Prosecutor General to be independent and impartial, and not be under the direction or control of any person or authority in executing responsibilities powers. The Prosecutor General also has execute responsibilities and exercise without fear, favour or prejudice, subject only to the Prosecution Directives and on the basis of fairness, transparency and accountability.³⁶

208. As for the appointment of prosecutors, the minimum criterion for starting prosecutors is a Bachelor of Laws Degree, rendering a degree with only the Shariah component insufficient for appointment. Two interviews and an exam are conducted and each appointed prosecutor must complete a three-month induction programme and score higher than a determined level to continue working as a prosecutor.

Training Judges and Prosecutors

209. A high priority has been placed on continuing legal education and professional development of judges. Maldives Judicial Academy has been re-established to be run by the DJA. A Judicial Academy Advisory Board was convened in January 2021, comprising of the Chief Judicial Administrator, Director of the Judicial Academy, 4 members of the JSC, a Justice from the Supreme Court and an education sector representative. The Board advises the Academy on programmes, ensures compliance with JSC policies and enacts policies and procedures for the Academy's effective administration.

210. A judges' training needs assessment has been formulated with the assistance of UNDP and a judicial curriculum has been developed in 2020. Work is also underway to install a digital classroom.

211. The table below shows data on trainings conducted for judges and judicial personnel in the year 2021.

	<i>No. of programmes conducted</i>	<i>No. of individuals trained</i>
Conducted by the Judicial Academy		
Judges	23	703
Judges and Staff together	2	360
Staff	26	2 282
Total	51	3 345
Opportunities provided by other organizations		
Judges	5	27
Judges and Staff together	2	27
Staff	4	11
Total	11	65

212. Training calendar for the year 2022 includes 74 training programmes, aimed at both judges and non-judicial personnel.

213. Creating awareness on sexual and gender-based violence within the judiciary is a priority outlined under SAP. A sensitization programme has been conducted for 92 participants on domestic violence and sexual offences and 27 participants have also trained as trainers. 25 judges have been trained on sexual and gender-based violence, conducted in collaboration with FPA and MOGFSS. A further training on domestic violence and sexual offences were carried out for 30 judges in December 2021. DVPA trainings have also been conducted for 16 judges.

³⁶ Article 220(c) – Constitution.

214. As for the PGO, the Research and Development Unit offers refresher trainings and one day of the week is allocated to learning new issues and updating prosecutors on new laws and precedents.

215. As noted above, a Shariah only degree is insufficient to qualify as a prosecutor. PGO is made up of prosecutors who have received education from Malaysia, the United Kingdom, Egypt, India, Sri Lanka and the Maldives, and therefore, there are no gaps in common law interpretation due to exclusive Islamic training.

Bar Council of the Maldives

216. Since its establishment in June 2019 through the enactment of the Legal Professions Act, the Bar Council of Maldives (“BCM”) has commenced operations and introduced multiple mechanisms to govern the Maldivian legal profession.

217. The new criteria for admission as a lawyer consist of: a degree in law, obtained from an education institution accredited by the BCM; not having been convicted of a serious criminal offence in the past 5 years; completing a 1-year licensing training; and successfully completing a bar examination.

218. A Licencing Committee has been convened to ensure that applicants have fulfilled all the requirements, and final decision on admission is made by the Executive Committee of BCM. Applicants have a right to appeal the decision to the Appeals Committee.

219. BCM has also been working on formulating the bar examination, and intends to hold the first bar examination in the 2nd quarter of 2022. As of 23rd February 2022, 3 applicants have completed the licensing training programme, while 55 applicants are currently undergoing training.

220. Comprehensive rules on ethics and professional conduct of lawyers, has been set out in the Regulation on Professional Conduct, published in September 2021.

221. Regulation Governing Disciplinary Proceedings of Lawyers was published in June 2020, setting out the procedures to file an ethics violation, investigate and take disciplinary measures against lawyers. This Regulation was amended in September 2021, inserting provisions to ensure the expedition of the investigation process. Furthermore, an ethics committee has been set up to investigate and take actions against lawyers who have violated the code of conduct.

222. From June 2019 till February 2022, a total of 46 disciplinary complaints have been submitted to the BCM, out of which 39 cases were registered. 20 cases were sent to a panel for investigation and currently 16 cases are under investigated. Investigation of 4 cases have been completed and no disciplinary measures were taken.

20. Reply to paragraph 21 of the list of issues

223. Article 10(a) of the Constitution states that the religion of the State of the Maldives is Islam and that Islam shall be one of the basis of all the laws of Maldives. Article 10(b) further states that, no law contrary to any tenet of Islam shall be enacted in the Maldives.

224. The application of the principles set out in Article 18 of ICCPR shall be without prejudice to the Constitution.

21. Reply to paragraphs 22 and 23 of the list of issues

Freedom of Expression

225. Everyone has the right to freedom of thought and the freedom to communicate opinions and expression in a manner that is not contrary to any tenet of Islam.³⁷

³⁷ Article 27 – Constitution.

226. While Government is firmly committed to upholding the civil liberties as prescribed in the Constitution, Government also believes that the freedoms afforded should be exercised with caution so as not to disrupt the national harmony, as well as in a manner that does not advocate or incite any form of hatred.

227. Islam is vital to the Maldivian identity. A public undermining of the Islamic principles is a highly emotional and sensitive issue for Maldivians. Therefore, any expression which contradicts a tenet of Islam threatens the religious harmony and public order of the country. Maldives believes that States enjoy a wide margin of appreciation, as States are in a better position to evaluate which statements are likely to disturb the public order and the religious peace in the country.

228. Nevertheless, as stated at the outset of this report, Maldives has entered a new era of democratic rule, where the current administration has created safe spaces for individuals and CSOs to prosper and exercise their rights and freedoms, without fear of reprisals.

229. As such, the first bill ratified by President Solih was the Act on Repealing the 2016 Anti-Defamation Act, which was utilised by the previous administration to impose heavy penalties for alleged acts of defamation and to silence critics, threatening freedom of expression.

Protection of Journalists

230. In addition to freedom of expression, the Constitution guarantees the right to freedom of the press³⁸ and Maldives recognises the vital role played by journalists in ensuring accountability and good governance.

231. Maldives has risen to the 72nd place in the 2021 rankings of the World Press Freedom Index, which is up from the 120th place three years ago. This improvement reflects the progress Maldives has made in ensuring the right to freedom of press in the country.

232. With regard to illegal interference in the media, safeguards are in place to prevent its occurrence. The Maldives Media Council (“MMC”), works to address the difficulties journalists encounter as a result of certain police practices and investigation procedures.

233. MMC also observes journalists during street unrests and has acted as a mediator between journalists and relevant agencies. For rallies and political events, media personnel/reporters have been continually urged to utilize their Media Pass to ensure that their status as journalists can be verified.

234. The Maldives Broadcasting Commission (“MBC”) issues accreditation cards for the safety of those journalist covering demonstrations. Relevant guidelines on covering protests have been formulated and a threat analysis survey to identify the challenges and barriers confronted by the journalists was conducted. A dispute resolution policy is being implemented and in 2021, trainings were conducted to broadcasters on covering protests and unrest.

235. MPS affords special protections and privileges to journalists with accreditation passes, when covering gatherings or protests. Government considers the safety of all journalists a priority and the MPS maintains a good working relationship with all local members of the media.

236. Government is also pleased to inform that in February 2022, MPS has commenced using body-worn cameras, and currently 200 bodycams are in operation in the Greater Male’ Region and the city of Addu. A policy has been formulated to govern the operation of cameras and allows for the publicizing of the recordings.

Attacks on Journalists and Human Rights Defenders

237. Over the reporting period, Maldives has seen unfortunate incidents of attacks on journalists, which have even resulted in loss of life. Bringing those responsible to justice, is a high priority pledge of the Government. As such, on the day of assuming office, President

³⁸ Article 28 – Constitution.

Solih established the DDCOM, tasked with investigating all suspicious deaths and disappearances between the 1st January 2012 and 17th November 2018.

238. The DDCOM initiated inquiries into the murders of religious scholar and former Member of Parliament, Dr. Afrasheem Ali, blogger Yameen Rasheed, and the disappearance of journalist Ahmed Rilwan Abdulla, and has discovered that these cases are interlinked.

239. The investigations carried out by the DDCOM has indicated that Yameen Rasheed's murder was part of a campaign of attacks and intimidation against other individuals that began around in 2011, and which the Commission believes ultimately led to the abduction of Ahmed Rilwan Abdulla as well.

240. The Preliminary Report issued by the DDCOM in September 2019, indicates the involvement of violent extremists and their affiliated criminal gangs in the kidnapping of Ahmed Rilwan Abdulla. An international expert has been working with the DDCOM in an effort to expedite the conclusion of the investigation. Additional international specialists, a financial investigations adviser and a witness protection advisor have also been appointed.

241. In July 2021, President Solih designated a National Steering Committee comprising of a representative from the President's Office, the Minister of Home Affairs, Attorney General and the Prosecutor General, to assist the DDCOM in expediting its investigation, by eliminating the bureaucracies faced by the Commission in obtaining relevant documents or support from relevant State institutions.

242. Government is confident that the work of DDCOM will enable the perpetrators to be held accountable and that the case of Ahmed Rilwan Abdulla will soon attain closure. Government is pleased to inform that the DDCOM will hold a public briefing disclosing its findings regarding the disappearance of Ahmed Rilwan Abdulla around July this year.

Right to Freedom of Peaceful Assembly

243. The constitutional right of freedom of assembly and the parameters within which the right is to be exercised is entailed in the 2013 Freedom of Peaceful Assembly Act. This Act replaces the 2008 Regulation on Assembly, specifies the rights of the organisers and participants, and defines the different types of assembly.

244. While the Act obligates parties holding organised assemblies to notify the MPS, the Act explicitly states that permission is not required and that the purpose of giving the notice is to afford sufficient time for the MPS to prepare and make arrangements; a) to ensure that the assembly is peaceful; b) to protect the rights of others; c) to maintain public security and peace; and d) to inform organisers of any restrictions that MPS deems necessary to be imposed, as required by the Act. Furthermore, the Act entails the circumstances and procedures for limiting the right to freedom of assembly, in accordance with Article 21 of ICCPR, and instances where limitations cannot be placed on the right to assembly.

245. The first amendment brought to the Act in 2016 restricted the use of public space in Male' for assembly, to one area. Government has submitted a bill to the Parliament to repeal this amendment. However, a private member bill was submitted prior to the Government's submission with the same purpose and therefore, the private member bill is currently being considered.

246. With regard to the standards for police in controlling large crowds of protestors, Government notes that the newly enacted Maldives Police Service Act provides for more accountability on the use of force by police officers. The law broadly regulates engagement with the public, and consequences of use of excessive force.

247. As for the incidents which occurred during the 2012 demonstrations, HRCM investigated allegations of torture and other human rights violations that allegedly took place on 8th February 2012 and the findings of the investigations has been published.

248. HRCM concluded that: the police used excessive, unnecessary, disproportionate force in dispersing the protestors; actions of protesters did not warrant use of less lethal weapons, and yet, non-threatening protestors were controlled using batons and tear gas; protestors were not given enough time to leave the area, nor were they given warning that force and weapons will be used to disperse them; the circumstances did not warrant that the police disperse the

crowd without prior warning; MPS responded with physically and mentally harmful force towards some political activists who did not show any resistance; and that a disproportionate number of male officers were involved in arresting female protesters in ways which were not only mentally and physically harmful, but also degrading.

249. Following the change in administration in 2018, three police officers were charged with abusing their authority in order to control the said protests. However, one of the accused was acquitted by the Criminal Court, following which the PGO made the decision to drop the charges against the other two officers.

250. As noted above, OTJ has received cases pertaining to the alleged torture that took place during the 8th February 2012 protests, and are currently being investigation. The Transitional Justice Act allows the OTJ to mediate a reconciliation, forward the case for prosecution, forward the case for compensation and recommend systemic changes to prevent similar breaches.

Right to Freedom of Association

251. Government has submitted a new Associations Bill to the Parliament in October 2019, to replace the 2003 Associations Act, and modernize the law in line with best practice, to ensure free and full exercise of the constitutional right to freedom of association.

252. On the issue of the dissolution of the civil society organisation, Maldivian Democracy Network (“MDN”), Government urges the HRC to view this as an isolated incident, and be assured that the Government would not arbitrarily limit the space for CSOs or human rights defenders.

253. The decision to dissolve MDN was reached after completing due process. A thorough and a comprehensive investigation was conducted by the MPS, following which measures were taken by the Ministry of Youth, Sports and Community Empowerment within its mandate and authority, on legitimate grounds and in conformity with the relevant laws.

254. The investigation conducted by the MPS in October 2019, concerned the content of a report titled “Preliminary Assessment of Radicalization in Maldives” published by MDN on its website in 2015. The Ministry of Islamic Affairs had also shared its discoveries on the issue with the Ministry of Youth, Sports and Community Empowerment.

255. MPS upon conclusion of the investigation confirmed that the Report had content, which sought to intentionally mock tenets of Islam and the Prophet Muhammed. The MPS identified many instances where the information presented in the Report contradicted Islamic beliefs and Islamic Shariah, challenged established principles of Islam, negatively impacted the perception of Muslims, and incited hatred within the community. Certain parts of the Report explicitly refuted established Islamic principles, questioned the authenticity of Islamic principles and made insulting remarks about the Prophet Muhammed and his ways of life. This compromised a fundamental tenet of the Maldives and threatened the religious peace of the Maldivian community.

256. A detailed account of the decision to dissolve MDN was provided by the Government of Maldives on 15th January 2020, in response to a Joint Communication sent by 5 special rapporteurs on the issue.³⁹

257. With regard to the right of association in the context of labour disputes, Government notes that the constitutional provision of the right to freedom of association encompasses the right to form trade unions, to participate or not participate in their activities.⁴⁰

258. Government has prioritised the formulation of an Industrial Relations Bill to regulate trade unions. Work is underway to review the current draft for alignment with Government policies and international obligations. The Bill was drafted with expert assistance from the International Labour Organisation, and is in conformity with the Freedom of Association and Protection of the Right to Organise Convention of 1948 (C087).

³⁹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35112>.

⁴⁰ Article 30 – Constitution.

259. In response to reports that the Government has detained and deported migrant workers for taking part in protests regarding their labour conditions, Government notes that the freedom to stop work and to strike in order to protest, is a fundamental right afforded to every person employed in the Maldives and all other workers, under the Constitution.⁴¹

260. However, following the outbreak of the COVID-19 pandemic and the declaration of the State of Public Health Emergency, precautionary restrictive measures were imposed to contain the spread, which included restriction of public gatherings in the Greater Male' region. Under the Public Health Emergency Act 2020, adherence to the orders of the Director General of Public Health is mandatory, and the MPS is afforded powers to detain those in violation of directions to comply with the orders.

261. Government clarifies that no one has been deported for taking part in protests, and persons involved in the protests were referred to the Maldives Immigration by the MPS only if they were found to be in violation of the Maldives Immigration Act. Maldives Immigration has only detained and deported foreigners who have acted in violation of the Act.

22. Reply to paragraphs 24 and 25 of the list of issues

262. Maldives is pleased to report to the HRC, the progress it has made in the protection of the rights of children in conflict with the law. The 2019 JJA codifies the rights and protection afforded to such children, creates a distinct justice system, introduces diversion mechanisms for at-risk youth and children in conflict with the law, and focuses on rehabilitation and reintegration.

263. The law further obligates consideration of the best interests of the child at every stage of the criminal process. Arrest or detention is only allowed to be used as a last resort and even then, the period of detention has to be the absolute minimum period required.

264. With regard to death penalty, Government is pleased to confirm that both the JJA and the CRPA prohibits the imposition and use of death penalty for minors, and for crimes committed before the age of 18. As such, previously imposed death sentences have all been commuted.

265. PGO does not charge minors unless the crime is extremely serious, such as large-scale drug trafficking, murder and rape cases, and is in the best interest of the child. When children are involved in serious crimes, PGO investigates whether they were exploited into committing the crimes.

266. Additional protection measures stipulated in the JJA includes the requirement that only specially trained staff in a specific department at the MPS and the PGO, comprising of officers/prosecutors of both genders, are to handle cases. Furthermore, only the Juvenile Court shall have jurisdiction, at first instance, to adjudicate cases concerning offences committed by children, with the exception of the Drug Court, which can still adjudicate cases involving use of drugs by children. Judges presiding over juvenile cases have to be specifically trained.

267. The Department of Juvenile Justice (“DJJ”) has facilitated juvenile justice training for all relevant stakeholders, conducted awareness sessions and parent effectiveness trainings across the country.

268. A Training of Trainers programme module was developed by DJJ and UNODC, using which stakeholders including MPS, PGO, Juvenile Court, DJA, DJJ and MCS have been trained. Seminars on juvenile justice and child rights facilitated by the Juvenile Court, DJJ, MPS and PGO have been conducted from 2018 to 2020 for 85 participants, including magistrates and other stakeholders.

269. MPS has also trained its officers by conducting a sensitization programme on child rights and child protection, an advance child interviewing technique course, family and child

⁴¹ Article 31 – Constitution.

centred investigation course and programmes on monitoring children in conflict with the law. Furthermore, all prosecutors have received a general juvenile justice training.

270. Under JJA, children apprehended or arrested for allegedly committing an offence has the right to an attorney from the moment of apprehension or arrest, until the case is concluded. State-funded legal aid is provided to all such children who are unable to engage a lawyer, for any reason whatsoever.

271. With regard to rehabilitation, DJJ is in the process of finalizing arrangements with stakeholders involved in diversion, rehabilitation and early intervention programmes. NRR envisages the completion of infrastructure works for a new Juvenile Rehabilitation Facility in Kudahuvadhoon in Dh. Atoll, and implementation of reintegration programmes.

272. As for drug related offences, discussion panels are held to come up with rehabilitation treatment plans for juveniles with substance abuse disorders, and DJJ and NDA work together to provide drug rehabilitation.

273. With regard to corporal punishment, CRPA states that no child shall be punished or harmed in a ruthless, inhuman or humiliating manner at home or educational institution or institution where the child is housed or any other environment where the child resides, effectively prohibiting corporal punishment in all institutional settings.

274. Although Maldivian criminal legislations allow imposition of hudood punishments, actual imposition of these punishments are at the discretion of the judge. As stated above, Government is committed to implementing judicial reform and training judges.

275. Similar to the Maldives' position on the death penalty, flogging cannot be abolished without preceding domestic legislation from the Parliament or wider public consultation on the issue. The move towards a new position must be constitutional and must reflect the wishes of the Maldivian people.

276. However, Government notes that JJA introduces stringent safeguards to ensure that children in conflict with the law are afforded special considerations in situations where they are accused of *hudood* offences. The safeguards ensure that children are treated as not having the same capacity as adults, that measures are taken to ascertain the actual capacity of the child in committing the alleged offence, and that the requirements prescribed for a hudood penalty are met in the stages of investigation, prosecution and conviction. In that regard, the Act mandates that the prosecution have access to a report prepared by the DJJ indicating the situation of the child.⁴²

277. The Act also mandates prosecution to take into account, the mental and physical wellbeing of the child, social status of the child, probability of the child being a victim of organised crime or any other exploitative act, gravity of the offence and the child's awareness on the legality of the act. In conducting trials, the Act expressly states that the judge shall refrain from convicting, where there is any form of doubt as to the child having committed the offence.

278. The Act also stipulates that the judge has to evaluate the capacity of the child to commit the crime; whether the alleged crime satisfies all elements prescribed in Islamic Shariah beyond any doubt; if the case is built on a confession or eye witness testimony, whether the confession or testimony meets all the requirements prescribed in Islamic Shariah beyond any doubt; the extent to which all the elements of the alleged crime satisfy the requirements prescribed in Islamic Shariah beyond any doubt; and the circumstances under which the alleged crime was committed.

279. While the enactment of the CRPA and the JJA has transformed the child rights protection system in the Maldives, is it crucial that effective implementation is carried out, and in that regard, Government is pleased to note that all stakeholders are working together to identify gaps and address them, to ensure successful implementation.

⁴² Chapter 16 – Juvenile Justice Act.

III. Conclusion

280. Maldives has made significant progress in the performance of its obligations under ICCPR, especially over the past 3 years. However, the challenges we face due to our limited capacity and resources, have been undeniably exacerbated by the COVID-19 pandemic, which has ultimately resulted in a slowed-down, and sometimes, deviated implementation of our initially set national goals.

281. Despite the challenges, Government assures the HRC of its conviction to uphold democratic values and protect the civil and political rights of all in the Maldivian jurisdiction.
