



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

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

**Comments of Maldives on the recommendations
and observations addressed to it in connection
with the Subcommittee visit undertaken from 8 to
11 December 2014**,***

[Date received: 18 October 2018]

* Reissued for technical reasons on 8 September 2021.

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

*** On 15 December 2020, the State party requested the Subcommittee to publish its replies, in accordance with article 16 (2) of the Optional Protocol.



Abbreviations

AGO	Attorney General's Office
CAT	Convention against Torture
HPSN	Home for People with Special Needs
HRCM	Human Rights Commission of the Maldives
MPS	Maldives Police Services
NGO	Non-Governmental Organization
NIC	National Integrity Commission
PGO	Prosecutor General's Office
PIC	Police Integrity Commission
SMR	Standard Minimum Rules
SPT	Subcommittee on the Prevention of Torture

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I. Introduction

1. A delegation of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (SPT Committee) visited the Maldives from 8 to 11 December 2014.
2. The purpose of this follow- up visit was to continue the dialogue and cooperation within the framework of the Optional Protocol as well as to assess the progress made with SPT recommendations from the SPT visit report in 2007.
3. Following this visit, by forwarding letter of 25 November 2015, SPT Committee sent a confidential report to the Government of the Maldives, which contains a series of recommendations for the national agencies for the prevention of torture, based on their findings from the visit dated above.
4. The Government of the Maldives hereby submits its response, which is based on the structure of the SPT report and refers to the recommendation numbers in the parenthesis. The individual answers are however, grouped according to the topic.

II. Response

A. Normative and institutional framework

Para. 15: The SPT recommends that the Maldives align the definition of torture established in the Anti-Torture Act with the elements of torture as defined in Article 1 of the CAT, and the requirements as set out in Article 4.2.

5. With respect to the aforesaid recommendation, the Report of the SPT Committee notes that the Anti-Torture Act does not include acts of torture by persons acting in an official capacity, or at the instigation, or with the acquiescence or consent of an official, and further that it does not include acts of torture perpetrated with the aim of discrimination.
6. In this regard, the Government of Maldives submits that the definition of torture prescribed in Article 10 of Law Number: 13/2013(Anti-Torture Act), is inclusive of the aforementioned acts and is fully compliant with the definition of torture provided under Article 1 of the Convention.
7. Torture is defined in Article 10 of the Anti-Torture Act as, “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person, by or at the instigation of or with the consent or acquiescence (knowledge) of a public official or any other person for any of the following purposes:
 - (a) To obtain information or confession from him or a third person;
 - (b) To inflict punishment unlawfully on him, for an act he or a third person has committed, or is suspected of having committed;
 - (c) To intimidate or humiliate him or a third person for an act he or a third person has committed, or is suspected of having committed;
 - (d) To intimidate or humiliate a third person for an act committed by him or suspected of having committed; orTo discriminate between two persons based on a reason which the law does not permit.
8. Any form of physical or mental torture, inhumane treatment, or any action that infringes the dignity of a person, is a criminal offence as per Article 21 of the Anti-Torture Act. Furthermore, Article 23 of the Anti-Torture Act provides that, any person who helps or assists in committing an act of torture will not be differentiated from the person who commits the act, and thus, shall be charged accordingly.
9. A victim under the Anti-Torture Act is inclusive of those who have suffered mental torture and acts of cruel, inhuman or degrading treatment or punishment. Articles 11–13 of the Anti-Torture Act provides that, physical torture includes, inter alia, beating, kicking,

electric shocks, pouring hot oil, pouring of acid, various sexual acts, while mental torture includes, blindfolding, detaining in a secret place, questioning for prolonged time without any break, solitary confinement, ill-treatment towards family members or relatives.

10. The aforementioned acts are punishable by appropriate penalties, after taking into account the gravity of the offence. The Anti-Torture Act prescribes a 25 year imprisonment for the offence, which is the gravest penalty for a criminal offence under domestic criminal legislations, save for the death penalty. It is therefore submitted that the Anti-Torture Act satisfies the requirements set out in Article 4.2 of the Convention.

Para. 16: The SPT recommends that the Maldives amend the provisions of the Prisons and Parole Act to ensure there is an effective, confidential and independent complaint system in operation.

11. Law Number: 14/2013 (The Prisons and Parole Act) ensures an effective, confidential and independent complaint system for the detainees. The existing complaint procedure set out in the Prison and Parole Act is also based on the UN Standard Minimum Rules (SMR) regarding the Treatment of Prisoners.

12. Pursuant to the Prisons and Parole Act, a prisoner or a detainee may submit complaints either to the internal complaint mechanism or to other state institutions.

13. Under the internal complaints mechanism provided in sections 89,90 and 91 of the Prisons and Parole Act, a prisoner or a detainee may submit complaints to the Director of Prisons or to a prison officer appointed by him. In order to ensure effectiveness of the system, section 89(c) (2) requires the Director of Prisons to communicate a decision to the prisoner or detainee within 5 days of submission of the complaint.

14. A prisoner or detainee who disputes or has a grievance about the decision of the Director of Prison may submit a complaint to the Inspector of Correctional Service in accordance with section 90 of the Prisons and Parole Act. The Inspector of Correctional Service, pursuant to section 9 of the Prisons and Parole Act, has an independent monitoring and reporting function. Under the Act, the Inspector of Correctional Service is required to report to the Minister of Home Affairs.

15. Pursuant to section 90(b) of the Act, and Prison Administration Regulation, which is enacted under the Act, prisoners and detainees have the right to directly submit complaints or letters to the Inspector of Correctional Service or to his representative, whilst he or his representative is doing prison visits.

16. If a complaint submitted by a prisoner or detainee to the Inspector of Correctional Service could not be resolved by mutual discussion, pursuant to section 91(b) of the Act, such a complaint may be submitted to the Commissioner of Prisons.

17. In addition to the above, under the Prisons and Parole Act, a person has the right to submit complaints to other state institutions. Under section 95(a) of the Act, a prisoner or detainee has the right to exchange letters or such correspondences with his or her lawyer, courts or state institutions. Under Regulation on Visiting Prisoners/Detainees, Exchange of Letters and Phone Calls, which is enacted pursuant to the Act, sealed letters or other written correspondences from prisoners or detainees are required to be deposited in a designated box. Such an administrative mechanism is set in place in order to ensure confidentiality of correspondences sent by prisoners or detainees to other institutions or to their lawyers.

18. Under the Prisons and Parole Act, there are limited circumstances under which, any letter or written correspondence from a prisoner or detainee may not be delivered. Pursuant to section 95(b) of the Act, the Director of Prison may, based on intelligence information received, decide not to deliver the correspondences exchanged if the Director believes the correspondence contains unlawful content or the content has information that may threaten the safety of the prison or the safety of the prisoners.

19. Pursuant to the rules enacted under the Act, a prisoner or a detainee also has the opportunity to directly submit a complaint to an official of the NPM or any other institution during their prison visits.

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

20. The current Constitution of the Maldives, enacted in 2008 incorporates the international obligation of the Maldives. Following the roadmap to legal and institutional building being launched in 2004, the country has enacted major legislations and created the necessary regulatory frameworks to ensure the protection against torture. In addition to the Constitution and the Anti- Torture Act, specific procedures and regulations are enforced by the Maldives Correctional Services. Standard Operating Procedures are also aligned with the UN SMR to guide the prison officers to execute their work effectively.

21. Detainees are provided with further avenues to lodge their complaints to HRCM, NIC, Ministry of Home Affairs and various NGOs.

22. In its report, the SPT Committee had requested the Government to confirm whether the new Penal Code legalizes corporal punishment as a form of disciplinary measure to be imposed on children. In this regard, the Government submits the following clarifications for the information of the SPT Committee.

23. Pursuant to section 44 of the newly enacted Law Number: 9/2014 (Maldives Penal Code) use of any force that creates a substantial risk of causing death, serious bodily injury, extreme or unnecessary pain or mental distress, or humiliation by a parent, legal guardian, teacher or other person similarly responsible for the care or supervision of a minor, or a person acting at the request of a person with such responsibility will amount to unjustified force.

24. Additionally, the new Child Rights Protection Bill submitted to the Parliament in 2017, explicitly prohibits use of corporal punishment as a form of disciplinary measure and inhumane and degrading treatment of children by parents and/or legal guardians and in school environment.

25. The Maldives continue to strengthen its normative framework to bring it into full compliance with the Constitution and international standards. In this regard, the Government notes that a modernized and harmonized Evidence Bill was submitted to the Parliament in 2017. The new Evidence Bill, which provides for rules for the collection, submission, acceptance and determination of evidence, when enacted into law will replace the existing archaic rules of evidence.

26. Furthermore, the Government notes the newly enacted Law Number: 12/2016 (Criminal Procedure Code), which provides a comprehensive set of rules of procedure with respect to investigation, prosecution, trial and sentencing processes.

27. At the time of compiling this response, the Government is working on the formulation of a comprehensive National Security Bill in coordination with the relevant stakeholders.

28. The Government notes the concerns of the SPT Committee group in its reports regarding the establishment of a juvenile justice system. In this regard, the Government notes that a bill on juvenile justice has been formulated, which is planned to be submitted to the Parliament in the first quarter of 2018.

29. The Government further notes that a comprehensive sentencing guideline is provided under Chapters 1000, 1100 and 1200 of the Penal Code and the formulation of a national mechanism on alternative punishments, as provided for by the Penal Code, is underway in consultation with relevant stakeholders.

30. In addition to the above, the Government submits it to the attention of the SPT Committee that a comprehensive nation-wide training and awareness on the newly enacted Penal Code and Criminal Procedure Code has been completed. With respect to the Criminal Procedure Code, in addition to nation-wide general trainings which were conducted to all law enforcement agencies and the Prosecutor General's Office, with the assistance of the United Nations Development Programme in the Maldives (UNDP), specialized trainings by an international consultant were conducted for all law enforcement agencies and the Prosecutor General's Office. At the time of submission of this response, a separate specialized training

programme is being conducted for the judiciary with the assistance of UNDP. As a part of the specialized trainings, respective domestic offices were provided with technical assistance to fully harmonize the practices of those offices with the Constitution, the Criminal Procedure Code and international standards.

Para. 21: The SPT recommends that the State party review the mandate of the Police Integrity Commission, to ensure that its independence from the Executive is guaranteed.

31. The first Police Integrity Commission (PIC) of the Maldives was established under the Police Act 2008, to investigate public complaints regarding police conduct. Amongst the more high profile cases, several cases of police misconduct pertaining to the events of 7th February 2012, were investigated by PIC. The Commission had also referred several cases, including cases against senior police officials, to PGO for prosecution.

32. With the introduction of the National Integrity Commission (NIC) in 2015, the office of the PIC and CIC (Customs Integrity Commission) was abolished, and the work and staff of PIC and CIC was transferred to NIC.

33. NIC is an independent institution established under the Law Number: 27/2015 (National Integrity Commission Act), to strengthen the integrity of law enforcement agencies in the Maldives. Members to the Commission are appointed by the President upon recommendation from the Parliament. The Commission has a duty to report to a committee of Members of Parliament, as and when requested, and has a further duty to annually report of its work to the President and Parliament.

General Responsibilities and Powers of the Commission as provided under chapter 3, section 7, as provided under section 2

34. The Commission shall have the power to do all things necessary in accordance with this Act and the regulations made thereunder, in order to achieve the objectives outlined in Section 2 of this Act, including the following:

- (a) To acquire, possess and use all equipment, devices and things necessary to carry out the responsibilities of the Commission;
- (b) To establish the procedures for enforcing this Act and carrying out the responsibilities of the Commission and to establish the standards for the investigations carried out by the Commission in various cases;
- (c) To submit a case to the Maldives Police Service or Prosecutor General's Office for them to investigate and proceed, if the Commission in its own investigation finds that criminal charges must be brought against the respondent;
- (d) To seek technical assistance in order to assist the Commission is carrying out its responsibilities and to set up task forces in relation to cases being investigated by the Commission;
- (e) To compel witnesses to appear before the Commission and to obtain witness testimony from witnesses;
- (f) To hold hearings, if the Commission deems that hearings should be held in relation to ongoing cases;
- (g) To determine whether or not the public should be given access to a hearing or part of a hearing held by the Commission.

Responsibilities of the Commission as provided under section 8

35. The responsibilities of the Commission are as described below:

- (a) Investigate unlawful acts of Law Enforcement Agencies and employees of Law Enforcement Agencies and to investigate if any party submits a complaint that an act that may be deemed unlawful has or is being committed;

(b) Investigate, under its own discretion, without any information or complaint being submitted by a third party, if the Commission becomes aware that a Law Enforcement Agency or an employee of such agency has committed an unlawful act or if the Commission believes or suspects that such an act has been committed;

(c) Investigate and take necessary action regarding complaints made against an officer of the Commission for acting in the commission of an unlawful act or being negligent in carrying out assigned responsibilities;

(d) Submit relevant reports to Law Enforcement Agencies of investigations that are carried out in regard to complaints made by the Minister in charge of the Law Enforcement Agencies and in investigations initiated by the Commission on its own accord;

(e) Refer cases to the Maldives Police Service or the Prosecutor General's Office where the Commission believes that criminal charges should be brought against the respondent;

(f) Obtain additional information from other state agencies, which are needed for investigations carried out by the Commission and to notify state agencies in matters of their interest;

(g) Make recommendations to regulations or policies of Law Enforcement Agencies to prevent issues, that are investigated by the Commission, from recurring;

(h) Visit police stations, jails and other institutions to assess and ascertain if work done by Law Enforcement Agencies are in accordance with the relevant laws and regulations and issue directives in instances where needed;

(i) To develop integrity of employees of Law Enforcement Agencies and to prevent them from criminal misconduct;

(j) Formulate and publish policies outlining duties, responsibilities, scope of work and on integrity and functioning of the Commission;

(k) Form relations, seek opportunities, aid and ways to attain assistance from other countries, regional and international organizations in the work done to strengthen the work of Law Enforcement Agencies and to find ways to secure the benefits from such relations, enter into agreements and carry out all necessary activities in relation to such matters;

(l) To formulate, amend and revise policies to strengthen the work of Law Enforcement Agencies, at a national level and to introduce and conduct plans, projects and policies designed to implement the national level policies at the state agencies and to advise and instruct state agencies on the steps, policies and standards to be introduced in those agencies, and to monitor the compliance and to evaluate their effectiveness;

(m) Conduct seminars, discussions and other programs to educate and create awareness among the employees of Law Enforcement Agencies and conduct and publish research on the methods used by the employees of the Law Enforcement Agencies in their conduct of unlawful activities and the reason for such activities;

(n) Publish, to the general public, an annual report comprising of the work done by the Commission, once a year.

36. The Act is applicable to the following law enforcement agencies and their employees as per section 6 of the Act:

(a) The Maldives Customs Services, established under Law Number: 8/2011 (Maldives Customs Act);

(b) The Maldives Police Service, established under Law Number: 5/2008 (Police Act);

(c) The Maldives Correction Service, established under Law Number: 14/2013 (Prisons and Parole Act); and

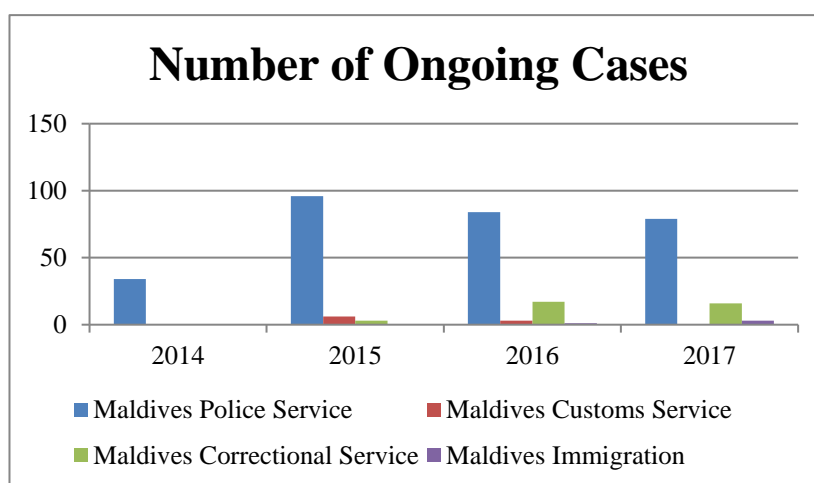
(d) Maldives Immigration.

37. Before the establishment of the NIC, two of the aforementioned law enforcement agencies; the Maldives Customs Service and the Maldives Police Service, were overseen by two independent institutions established and implemented by law, the Customs Integrity Commission and PIC.

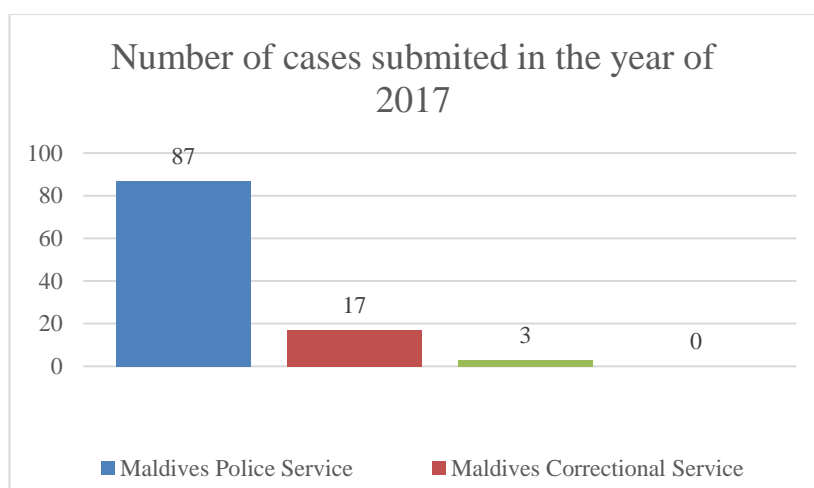
38. However, with the enforcement of the NIC Act, both institutions; the Customs Integrity Commission and PIC were merged together. Henceforth, the NIC subsequently oversees the Maldives Customs Service and Maldives Police Service, along with two other law enforcement agencies as provided under section 6 of the Act.

39. NIC has been vested with more powers compared to the two previous institutions, namely, the Customs Integrity Commission and PIC, by having the power to not only investigate the unlawful acts of the officers of the law enforcement agencies, but to investigate and take action with regard to the issues concerning the agencies in general.

40. The general powers vested in NIC are stated under section 7 of the Act. In the current system, NIC has the power to investigate and to submit cases to Maldives Police Service or to the Prosecutor General's Office (PGO) for further investigation and, prosecution respectively.



Statistics provided by NIC.



Para. 22: The SPT recommends that the State party provide adequate financial, human and technical resources to the PGO to effectively perform its mandate, in particular to oversee the legality of police investigations and police arrests.

41. PGO currently has over 80 prosecutors, amongst which most of whom are stationed in Male' and further stationed in the 8 regional offices in the atolls, including 2 offices which were opened in 2015 and 1 office which was opened in 2017. Prosecutors in the head and regional offices visit detention facilities throughout the year, without prior notice, to see how

detainees are treated by the police and along with the conditions of their detention. Where any ill treatment or misconduct on part of the police is suspected or observed, immediate rectification is sought.

42. Prosecutors are trained to critically examine investigations and see if due procedure was followed by investigators. State agencies also engage with Maldives' multilateral partners to induce human rights based approach in the trainings of its prosecutors and law enforcement agencies such as the police. The syllabuses taught at the Police Academy (ISLES) incorporates human rights based approaches and best practices to be maintained within the police.

43. In addition to evidential and legal requirements that lead to prosecution, procedural requirements including compliance with human rights standards play a fundamental role in the decision to prosecute. For instance, in 2015, out of 3191 cases submitted to PGO for prosecution, 851 cases were declined, whereby multiple cases were declined on account of failure to observe due procedure.

Para. 24: The SPT recommends the State party increase its efforts to establish a fully independent and well qualified judiciary, which is adequately resourced.

44. Independence of the judiciary is enshrined in the Constitution and forms a part of its basic structure as stipulated under Articles 141 (c) and 142. Courts are independent in carrying out judicial and administrative functions.

45. The Supreme Court Action Plan 2016–2017 launched by the Supreme Court recognizes the judiciary's continuous efforts to improve access to the effectiveness, and functioning of the system.

46. The Action Plan has provisions to enhance the capacity of judiciary to respond promptly to the public complaints, manage the Public Complaints System through developing and installing software at Courts to register, analyze, manage and report on complaints received and disposed, under the supervisory jurisdiction of the Supreme Court. Under the Action Plan, the Supreme Court will also be, advocating for fiscal independence and capacity of the judiciary through direct remittances of allocation of the budget at the country level in accordance with the constitutional provisions.

47. On 31 August 2015, a Judicial Academy was established, with a view to provide in-house training for the judges. In addition to that, efforts have also been made to incorporate international best practices and standards, and thus, the first sets of modules were developed with the assistance of the UN.

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

48. Following the enactment of the Constitution of 2008 and the Criminal Procedure Code, the Maldives has an effective legal framework that provides for effective non-custodial measures as alternatives to pre-trial detention, specific timelines and comprehensive procedures to ensure pre-trial detention is not unduly prolonged and that pre-trial detention is used as a last resort. Pursuant to the Constitution and the Criminal Procedure Code, all detentions are subject to independent judicial oversight.

49. A suspect is detained in custody prior to sentencing only in specific situations as stipulated under Article 49 of the Constitution. These situations are also reiterated in the Criminal Procedure Code. The Prosecution must prove to the court one of the following conditions:

- (a) A danger of the suspect absconding;
- (b) A danger of the suspect not appearing at trial;
- (c) A need to detain the suspect of the purpose of protection of the public;

- (d) A possibility of interference with witnesses; or
- (e) A possibility of interference with evidence.

50. As per Article 48(d) of the Constitution and section 58 of the Criminal Procedure Code, upon the arrest of a person, the authorities are required to bring him before a judge within 24 hours to decide on the legality of the arrest, and to determine the need for further detention. If the State is unable to prove the existence of one of the aforementioned conditions, suspects would immediately be released. This procedure ensures that personal liberty is only deprived through judicial custody, and prevents any form of detention by the executive for more than a period of 24 hours.

51. As per the Criminal Procedure Code, the Court may order a person to be detained until the end of the trial if there is sufficient evidence to believe the accused committed the crime and provided that the court finds one or more of the conditions stipulated in Article 49 of the Constitution.

52. Where there is evidence to only form a reasonable suspicion that the accused committed the crime and the release of the accused will result in any of the situations provided in Article 49, under the Criminal Procedure Code, such a person may only be detained in custody up to a maximum number of 15 days. Such a detention can only be extended, pursuant to section 60 of the Criminal Procedure Code, only where the accused is suspected of committing a serious criminal offence and provided that there is substantial evidence to link the accused to the crime.

53. Under the Criminal Procedure Code, in an event where a release of an accused will not result in any of the situations provided in Article 49 of the Constitution and if there is evidence to suspect the accused committed the crime, then the Court has the power to release such a person on bail or with conditions. The Criminal Procedure Code sets out both the framework and procedure for release of suspects on bail. Under the Code, a person who is arrested has the right to request the Court to be released on bail either by way or surety or by bail bond.

54. During remand hearings, a person in custody has the right to legal representation of his or her choosing and can challenge any claims made by the State. Furthermore, if an accused is not satisfied with the judge's decision at a lower court, such as person has the right to appeal to the High Court of the Maldives.

55. In order to ensure prompt investigation and prosecution as provided under Article 50 of the Constitution, the Criminal Procedure Code provides time limits to raise a charge and requires the courts to undertake continuous hearings. In this regard, the Code provides a period of 30 days to raise a charge for persons who are detained in custody until the end of the trial. If a person has been released under bail or with conditions, the Code requires a charge to be raised within 45 days from the day the person was first brought before a judge.

56. In addition to the aforementioned, there are mechanisms set in place to oversee the circumstances and conditions of persons detained prior to trial. The Prosecutor General is constitutionally mandated with the responsibility to monitor and review the circumstances and conditions in which persons are detained prior to trial. PGO undertake periodic visits to detention facilities in the capital as well as those in the islands, without prior notice. The purpose of the visits is to observe how persons under detention are treated by law enforcement officers, first-hand. Any mistreatment by law enforcement officers would be directed to rectify immediately and whereby the circumstances warrant a launching of an investigation, the respective investigating authority would be notified.

57. The newly enacted Criminal Procedure Code also introduces formal cautioning as a measure for diversion from criminal justice system. Under the Code, instead of raising a charge, the Prosecutor General has the power to give caution for persons accused of offences punishable less than 1 year imprisonment.

Para. 27: The SPT reiterates its previous recommendations and further recommends that the State party allocates sufficient technical and financial resources to the national system of legal aid in order to ensure that all persons deprived of their liberty can benefit from the assistance of a lawyer from the outset of their detention.

58. Article 53 (a) of the Constitution states that everyone has the right to retain and instruct legal counsel at any instance when legal assistance is required. As per Article 53 (b) of the Constitution, the state has an obligation to provide legal aid for financially incapable persons who are accused of serious criminal offences. Since the enactment of the 2008 Constitution, the Attorney General's Office is mandated with the task of providing legal aid services. Legal aid is provided for financially incapable persons accused of serious criminal offences in both investigation and trial stages. This includes, for persons accused of serious criminal offences, who are detained in custody pre-trial and until the end of the trial. Furthermore, state legal aid also extend to appellate processes, whereby a person who is financially incapable convicted of a serious criminal offence has the option to apply for state legal aid services.

59. The Attorney General's Office is currently working with UNDP on a draft legal aid bill. The bill envisages setting up a public defenders' office to provide legal aid for those persons accused of serious criminal offences. In addition to serious criminal offences, the bill will also pave way for the State in collaboration with private parties, to provide legal assistance in other areas of law, to anyone who needs such assistance but is unable to access it on their own, for reasons such as their financial status or geographical location. The bill will also introduce the concept of legal clinics to be run under auspices of universities and pro bono obligations for lawyers.

60. Furthermore, Attorney General's Office in partnership with UNDP, also conducted the first National Legal Aid Conference, which was concluded in July 2016. The objective of this conference was to share regional experiences of legal aid by technical experts and thus, to facilitate dialogue between the various participants to build consensus on a formal mechanism to provide pro bono legal service to vulnerable and marginalized groups of the population. The conference was attended by the following groups:

- The Judiciary: These include representatives from the courts as well as representatives from the Department of Judicial Administration;
- Employment Tribunal;
- Human Rights Commission: They have a legal mandate to provide legal aid to specified groups under particular circumstances;
- Family Protection Authority: Also mandated by law, to provide legal aid to particular vulnerable groups. They also co-organized the Conference;
- Maldives Police Service: Representatives from FCPD and other inspectors took part in the Conference;
- Private lawyers/law firms: A group that plays a vital role in the provision of legal aid. Also necessary to introduce and enhance pro bono culture in the Maldives;
- The President's Office;
- Ministry of Law and Gender: Deals with vulnerable groups on a daily basis;
- Ministry of Economic Development;
- NGOs: Including Hope for Women, and Transparency Maldives;
- UNDP: Co-organized the event;
- University students and officials: These include students and officials from Maldives National University, Villa College and Maldives Islamic University;
- International Experts;
- Attorney General's Office;
- Prosecutor General's Office.

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

61. Prior to incarceration, the Maldives Correctional Services informs all convicts of their right to file a confidential complaint against any of the prison staff. Requests for complaint forms are processed on the same day. Once a complaint is lodged, the Director of the prisons must take an action regarding the complaint, within 5 days of receiving a complaint. If the detainee has any dissatisfaction regarding the decision made by the Director of Prisons or the Prison Officer, the complaint may be submitted to Inspector of Correctional Service.

62. In cases of pre-trial detention by the police, suspects are informed of their right to lodge complaints against police officers at NIC. Furthermore, any mistreatment by the police can also be raised with the judge during the remand hearing, which takes place within 24 hours from the time of arrest.

B. Situation of persons deprived of their liberty

Para. 34: The SPT recommends that the authorities ensure that persons deprived of their liberty are consistently informed of their right to have access to a lawyer of their choice, are entitled to be provided with free legal aid services, and are able to freely exercise this right from the outset of the deprivation of their liberty, and throughout the entire criminal process. Furthermore, if a detainee does not have a lawyer of his/her own choice, he/she should be entitled to have one assigned to him/her, and benefit from free legal assistance by that lawyer if he/she does not have sufficient means to pay.

63. The Constitution and Criminal Procedure Code guarantees the rights of a person on arrest or detention and the rights of the accused charged with an offence.

64. Article 48 of the Constitution guarantees that everyone has the right on arrest or detention:

(a) To be informed immediately of the reasons therefore, and in writing within at least twenty four hours;

(b) To retain and instruct legal counsel without delay and to be informed of this right, and to have access to legal counsel facilitated until the conclusion of the matter for which he is under arrest or detention;

(c) To remain silent, except to establish identity and to be informed of this right;

(d) To be brought within twenty fours before a judge, who has the power to determine the validity of the detention, to release the person with or without conditions, or to order the continued detention of the accused.

65. Article 51 of the Constitution guarantees that everyone charged with an offence has the right:

(a) To be informed without delay of the specific offence in a language understood by the accused;

(b) To be tried within a reasonable time;

(c) Not to be compelled to testify;

(d) To an interpreter to be provided by the State where he does not speak the language in which the proceedings are conducted, or is deaf or mute;

(e) To have adequate time and facilities for the preparation of his defense and to communicate with and instruct legal counsels of his own choosing;

(f) To be tried in person, and to defend himself through legal counsel of his own choosing;

(g) To examine the witnesses against him and to obtain the attendance and examination of witnesses; and

(h) To be presumed innocent until proven guilty beyond a reasonable doubt.

66. Pursuant to section 44 of the Criminal Procedure Code, a police officer arresting a person is required to give a legal warning informing the person of the following:

(a) Right to be informed of the reason and to be informed of the law and offence for which the person is being arrested;

(b) Right to remain silent except to establish identity;

(c) Right to refuse to answer any questions but that it is advisable to answer;

(d) Any answers given may be used against the person at a court of law;

(e) Right to instruct legal counsel of his or her own choosing; and

(f) Right to state legal aid services if the person is financially incapable accused of a serious criminal offence.

67. Prior to questioning the person under arrest, police officers are required to ensure that the person understands his or her rights informed in the legal warning. Additionally, police officers are also required to record in writing that the legal warning has been informed.

68. A person in custody also has the right to inform his or her own family member, friend or lawyer of his detention. Under section 46 of the Criminal Procedure Code, prior to questioning a person under arrest, he or she must be given the opportunity to call and inform a third party of his own choosing of his or her arrest and the place of his detention.

69. Pursuant to the Criminal Procedure Code, a person under arrest, has the right to request a lawyer be present with him or her at the time of interrogation. In cases where a person deprived of liberty opts to instruct a lawyer of his own choosing, the Criminal Procedure Code ensures that such a person is guaranteed this right, even in the instance where the appointed lawyer fails to be present, by requiring the detainee be provided with a second opportunity to appoint a different lawyer.

70. The Criminal Procedure also safeguards the guarantees provided in Article 51 of the Constitution, by requiring the rights of the person charged with an offence be informed to him or her at the pre-trial hearing.

71. A person accused of a serious criminal offence, who is financially incapable to instruct the counsel of a lawyer, has the right to, and is given the opportunity to opt for state legal aid services during both investigation and trial stages. When a person accused of a serious criminal offence, who is detained in custody, elects his or her right to state legal aid, the authority under which the person is kept in custody has the obligation to make the necessary arrangements to provide legal aid.

72. Currently, a coordination mechanism is set in place between the Maldives Police Service, Prosecutor General's Office, courts and the Attorney General's Office to ensure efficient provision of legal aid.

Para. 38: SPT reiterates its previous recommendation that medical records of detainees should not be included in the general records of the database, in order to comply with the principle of medical confidentiality.

73. Medical records of detainees are not included in any electronic database, and medical confidentiality is strictly maintained at all times.

74. The medical condition of the detainees at the time of detention and their medical history are maintained by the Director of prisons as mandated under section 53 of the Prisons and Parole Act. Section 74 of the Act also requires the prisons to maintain the medical record of detainees and states the information which should be included in the said medical records. Hence, the medical records of all detainees are maintained in paper-form in both *Maafushi* and *Himmafushi* Prison. Furthermore, the Director of Prisons at every center, is obligated to maintain a registry of the prisoners, as per section 53 (a) of the Act. Section 53 (b) provides

that along with the registry, the Director of Prisons must maintain a file for every prisoner, which includes specified information under the section. The “master copy” of the files of the prisoners stipulated under subsection (b) shall be kept at the main headquarters of the Maldives Correctional Services, while the prisons shall only have a copy of the said files, as per section 53 (c) of the Act.

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

75. Chapter 6 of the Prison and Parole Act lays down the fundamental services which should be provided for the prisoners, along with the standards which should be maintained at the prisons. Under chapter 6 of the Act, the following rights and services for the prisoners are further ensured:

76. Section 61 lays down the basic standards which has to be maintained at the prisons, detention facilities and centers, and at any other place where the prisoners may work at. Section 61 (a) specifically states that a regulation made under the Act which to lay down the standards to be maintained at such facilities, must include the necessity of proper ventilation, and adequate availability of light. Section 61(b) states that the toilets should have the means to shower and clean themselves, along with the means for the male prisoners to shave/trim the hair and beard, while subsection (c) states that sleeping arrangements and facilities should also be provided.

77. Section 62 lays down the fundamental services which should be provided to prisoners:

- (a) Means to pray recite Qur'an and observe fasting;
- (b) Availability of food and drink service;
- (c) Medical treatments;
- (d) Means to work out and perform other exercises;
- (e) Means of rehabilitation to get back to the society;
- (f) Means to wash/change the uniforms and other clothing;
- (g) Means to meet and communicate with family members;
- (h) Access to writing and reading materials in accordance with the regulations made under the Act.

78. Section 63 states the standards or conditions which have to be maintained at the prisons and other detention facilities. Section 63 (a) obligates the authorities to determine guidelines on the standards to be maintained at the prisons by ensuring that it does not violate sections 61 and 62.

79. Section 63 (b) states that the following requirements shall be included in the regulation under the Act:

- (a) The standards on architecture of the prisons, availability of natural light and ventilation, electricity, water and washroom services;
- (b) The standards on overseeing the prisoners, and how they should be treated in prisons, along with the minimum fundamental and other services which should be made available for the prisoners;

(c) The standards on food and medical services available to the prisoners.

80. Every detainee or prisoner is entitled to two phone calls and one family visit every month. Married couples are entitled to one conjugal visit every month. There is no solitary confinement for pre-trial detainees. Every detainee / prisoner has the constitutional right to due process of the law, and the right to appeal to independent authorities regarding sanctions imposed on them.

81. Information of all detainees under MPS is systematically recorded. Detainees under MPS, Male' and in the atolls, are informed of their rights and privileges through established regulations and procedures at MPS. Furthermore, the Standard Operating Procedure (No.2 / Privileges / 01 November 2012) on Privileges to detainees requires that, such privileges be displayed to detainees and prison officers to minimize chances of discriminatory treatment between detainees and ensure transparency.

82. Therefore, all incidents, punishments and other disciplinary measures are systematically recorded, including the reasons for punishments, the type of punishment and its duration, and the name of the officer imposing the punishment. No punishments, other than those provided for by law or regulation are imposed.

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

83. If a detainee under MPS or MCS becomes a threat to himself or to other detainees, they are placed 'theoretically' in 'disciplinary isolation', but in practice, this is only a mere separation from their originally held cell. They would still be able to have contact with people, and can talk with detainees in the next cells.

84. Detainees, who are sanctioned or placed in 'disciplinary isolation' in this manner, are informed about the reasons why they are being isolated, and the duration of their isolation or punishment. They are also provided with information about the available complaint mechanisms they are entitled to. All isolations are recorded, and are monitored routinely.

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

85. Section 50 of the Prisons and Parole Act requires a medical assessment of the detainee to be performed before imprisonment. It also states that the assessment shall be conducted by a medical officer or a nurse appointed by the medical officer. The medical examination is independent and free of charge.

86. Maldives Correctional Service offers all detainees two medical examinations. The first medical examination is performed while they are in Male' Prison, soon after their initial detention, prior to imprisonment. If any medical issues are identified, detainees are then referred to a medical consultation and treatment. A second medical examination is performed when detainees are transferred to *Maafushi* jail and *Himmafushi* jail.

87. Chapter 6 of the Anti-Torture Act lays down the medical attention the detainees/convicts/prisoners are entitled to. Henceforth, section 19 of the Act provides that, a person who has been detained for more than 24 hours has the right to request for medical assessment at the detention center, to be medically examined by a doctor other than the in-house doctor at the center. It also requires the authorities to inform the detainee of his right to make this request. As per section 19 (b), the aforementioned medical assessment requests shall be granted by the detention facility or the prison.

88. Section 20 of the Act lays down the guidelines in relation to the medical report. Subsection (a) requires the medical report to be signed by the doctor who examined him. Subsection (b) requires the report to be maintained in the person's file regarding detention/imprisonment. This report shall be available to relevant institutions of the

Government like the Human Rights Commission with legal authority, should they require to see the reports.

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

89. Medical assistance is available in both *Himmafushi* and *Maafushi* jails 24 hours a day, seven days a week. Both of these prisons have a fully functioning OPD and emergency services established with an in-house doctor. If the doctor, for any reason, takes leave from work, detainees can seek medical assistance from the Island Health Centers in these two islands.

90. Doctors and nurses are also stationed at the Maldives Police Custodial, offering medical assistance to persons in custody. If the need arises, persons in custody are also offered care at hospitals and island health centers.

91. MCS salaries were raised in 2015 and all employees, including medical staff, now receive a higher salary in comparison to other government employees in the country. There is a continuing need to organize and establish staff-care programmes for all staff at MCS.

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

92. Apart from the specific provisions in the law that guarantee medical treatment and care for detainees, Unit Managers in *Himmafushi* and *Maafushi* jails conduct daily rounds around the prison facility to identify persons who are sickly or unwell. A list of detainees who need medical attention is then compiled, and the arrangement for visits to the doctor is arranged accordingly.

93. The Unit Managers are also in office from 8.00 am to 4.00 pm every day. Detainees in these two prisons are free to see him in his office directly and make requests to visit the doctor. Therefore, there is no room for requests being obstructed or filtered through guards or other detainees.

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

94. All persons in police custody go through systematic medical examinations. For purposes of translation, the case officers from the medical section are present with the person in custody during medical consultations. A security officer will wait outside the doctor's office during consultations, and additional security arrangements are available when necessary.

95. MPS is currently working to develop guidelines on the rest of the recommendations made by SPT in para 51 of the SPT report.

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

96. Although all medical records are systematically maintained, there is no form system established at the moment. In view of the above recommendation made by SPT, MPS is working on establishing a standardized medical form system to record the information listed in the recommendation.

97. Detainee's medical records are made available to the detainees or his/her lawyer upon request in both *Himmafushi* and *Maafushi* jails.

Para. 54: The SPT reiterates its previous recommendation regarding appropriate sleeping accommodation and access to sanitation and drinking water in police detention centers.

98. All detention facilities in the Maldives needs structural upgrading to cater to the increasing population of the detainees. Hence, the availability of appropriate sleeping accommodation and access to sanitation and drinking water to the detainees in police detention centers is a concern.

99. However, MPS is currently renovating their premises to rectify this issue, mostly on the aspect of ventilation and availability of space based on the SOPs and as obligated under the regulations prepared by PIC.

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

100. Detainees are provided with one hour daily exercise and are not handcuffed unless they pose a threat to a prison guard or other detainees.

101. Maldives Correctional Services recently established a Rehabilitation Framework, which is a comprehensive plan of action that entails occasional activities, accredited formal academic classes for the detainees and vocational trainings on activities such as woodwork. All these courses are accredited by the Maldives Qualifications Authority and will be recognized qualifications outside of the prison.

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

102. The Prison and Parole Act along with the procedures and conditions, are made according to the Standard Minimum Rules for Treatment of Detainees. However, Maldives Correctional Services is working on ways to address the overcrowded situation in the prisons by renovating prisons to increase ventilation and sleeping accommodation for the prisoners.

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

103. Renovations are taking place to rectify these issues.

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

104. All detainees are allowed, under appropriate supervision to communicate with their families and others. As such, every detainee is entitled to two phone calls plus one family visit every month. As noted earlier, married couples are entitled to one conjugal visit every month.

105. Stationery items are provided to all detainees upon request, to write letters. All detention facilities also assist and facilitate the delivery of these letters to their recipients by recording the details of letter received from detainees on a designated prison sheet.

C. Penitentiary Institutions

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

106. The female inmates serving sentences at *Maafushi* Prison have access to adequate nutritional food and clean drinking water. They are also provided with basic hygiene products. In addition to this, inmates can purchase toiletries and cosmetics of their choice, from the prison shop.

107. Although women had limited educational opportunities in prison in the past, at present, both men and women have equal opportunity for education and skills development. Detainees can take classes in Islam, Qur'an, English and Mathematics and are allowed to enroll in the Cambridge Ordinary Level.

Para. 63: The SPT reiterates its previous recommendations regarding the need for a greater and more frequent presence of female doctors at *Maafushi* prison and for better access to specialist medical care for women detainees, in particular, access to prompt prenatal and postnatal care and treatment. Moreover, authorities should introduce programmes for the treatment and rehabilitation of drug abusers and inform the SPT about the results of past programmes undertaken.

108. There are female nurses allocated especially for female inmates. If an inmate is in need of a consultation from a specialized doctor for a specific condition, the inmate is taken to Male' for a consultation from a doctor of the respective field. Currently there are no special programmes being conducted specially for drug offenders, though a classroom and a unit has been prepared to conduct such programmes.

Para. 66: The SPT recommends taking appropriate measures for improving the living conditions, in particular the ambient temperature, ventilation and sanitary facilities in cells. The SPT further recommends that the State provide detainees with beds or at least mattresses.

109. All the prison cells provides for, a shower and a toilet, while the cells also have adequate ventilation. Beds and/or mattresses, a pillow, a pillow case, and a bedsheet are also allocated to all cells and except for cells at high security zone area. Inmates housed at high security zone area cells are provided with a bedsheet, a pillow, a pillow case and a mat.

Para. 67: The SPT recommends that the State party give priority to developing satisfactory programmes of activities for all detainees. Detainees should have access to a wide range of purposeful work, including educational, sporting, recreational and social development. Young offenders should have a full programme of education, culture, sport, recreation and vocational training. The SPT recommends that the State party set up an educational programme in the prison that facilitates access to basic and higher education, vocational training and library facilities, in order to support and promote detainees' rehabilitation and future useful reintegration into the community.

110. All detainees except the inmates at high security units are allowed to play sports every day. In addition to this, they are allowed to work at agricultural and vocational fields. Several classes in various fields are also held daily to educate inmates, while Islam is taught as a subject to prepare inmates for Secondary School Certificate exam. Furthermore, O'Level classes, Qur'an classes and courses such as computer certificate courses, house wiring, wood carving, agriculture and sewing courses, which would benefit the inmate after being released from prison, are also conducted by MCS.

111. Ministry of Education, in collaboration with the Maldives Correctional Service has formulated individualized learning programmes for young offenders, and it is currently being implemented. Further discussions are underway to appoint teachers to teach the young offenders at the detention centers and prison facilities.

Para. 68: SPT requests information from the State party as to whether the procedure now provided for under the new Constitution has brought about any changes to the procedure governing pre-trial remand in custody and bail. If there have been changes, the SPT wishes to receive information on those changes. SPT further reminds the State party that the amount of any surety required should be in line with the financial means of the detainee concerned.

112. Prior to the Constitution of 2008, a person may be detained without a judicial process for 7 days, and for additional 15 days after a decision made by a committee established by the President. The judicial process regarding the detention follows, and the process of bail starts thereafter. However, with the Constitution of 2008, a person in detained must be brought before a judge within 24 hours, and the process of bail commences at this stage.

113. Furthermore, the Criminal Procedure Code (CrPC) that was ratified on 02 May 2016, and has been effective since 02 July 2017, allows for detainees to be released under surety bonds and bail bonds, except in cases of serious criminal offences. The Code further requires a regulation to be enacted to determine various procedures regarding bail, including the bail amount.

114. The enactment of regulations under the CrPC is currently in progress, and while the aforementioned regulation is yet to be enacted, the 2004 Regulation on Bail as well as Article 105 of the Criminal Procedure Regulation of 2008, gives directions on matters relating to bail. The latter states that the amount set as bail must be the least minimum amount that can guarantee the individual's appearance to court.

Para. 70: The SPT reiterates its previous recommendation that prison authorities ensure there is an effective, confidential and independent complaints and monitoring system in operation and that every request or complaint is dealt with promptly and replied to without undue delay.

115. Any complaints that an inmate has should be submitted through a complaint form. All complaints received should be attended to and replied within minimum 05 days, except for the complaints which requires a reply or information from an additional source. Complaints submitted will not be viewed by officers unrelated to the issue.

Para. 71: The SPT also reiterates its previous recommendation to introduce and maintain a specific register, where all incidents involving use of force would be systematically recorded. These records should include, at least, the date and nature of the incident, nature of restraint or force, duration, reasons, persons involved and authorization of the use of force.

116. All incidents that occur in the Prison facilities are fully documented and the records are systematically updated and maintained accordingly.

Para. 73: The SPT recalls its previous recommendation that all detainees, including those held in isolation, should be provided with appropriate bedding and mattresses, which, if necessary, are made of special indestructible material suitable for use in prisons. The SPT further recommends that proper sanitary facilities should be available for all persons in isolation.

117. All detainees are provided with appropriate bedding and mattresses, and proper sanitary products.

Para. 74: The SPT recommends that the State party release this juvenile (if she has not already been released by the date of transmission of this report) and re-assesses her case and any other similar case in line with the international standards applicable to juveniles in conflict with the law.

118. The said juvenile was released after completion of her sentence on 26 August 2015.

Para. 80: The SPT recommends that the authorities consider introducing a system whereby the prison health team is supervised by a doctor or other health professional. The doctor or other health professional should have responsibility and authority to ensure that prisoners' needs for adequate and appropriate medical care are met and that any official demands to participate in or condone the violation of patients' rights are resisted on ethical grounds. The health professional should report any situation in which he or she becomes aware of allegations or evidence that those in places of detention are being subjected to torture or cruel, inhuman or degrading treatment to the prison authorities and, where appropriate, to an independent mechanism. Furthermore, the health professionals should take into consideration any risk of reprisal or further punishment of prisoners when reporting on identified cases of torture.

119. A doctor and a nurse are present in the prisons at all times. These health professionals ensure that prisoners' needs for adequate and appropriate medical care are met. If any allegations are made or suspected, a case report will be submitted to the disciplinary board for necessary actions.

Para. 81: The SPT recommends that the State party provide training to all staff members, including medical staff, about the operating international standards and mechanisms, including human rights conventions relevant to persons deprived from their liberty with a special focus on the CAT, OPCAT, the United Nations Convention on the Rights of Persons with Disabilities, the Bangkok Rules 53 and Istanbul Protocol.

120. Prison Officers following recruitment, are subjected to a four-month training programme before they are allowed to be on active duty. The training programme includes classes on human rights law while Maldives Police Service conducts classes on narcotics and drugs.

Para. 82: Drug users and drug addicts are part of the prison population and do not receive the benefit of any specialized services in the Maldives. For the above reasons, specialised centers (or at least one) for the treatment of drug users should be established on a national level in order to provide rehabilitation services for drug abusers and focus on social reintegration activities.

121. The Drugs Act of the Maldives mandates the National Drug Agency to establish and commence operation of the following treatment centers:

- (a) A detoxification centre;
- (b) A drug treatment and rehabilitation centre;
- (c) A drug treatment and rehabilitation centre specialized for children;
- (d) A drug treatment and rehabilitation centre specialized for women;
- (e) A halfway house; and
- (f) A drug offender remand centre.

122. A rehabilitation center operated by National Drug Agency (NDA) is established in *Himmafushi* and a facility is currently being established in *Maafushi* jail as well.

123. At present, there are several non-governmental organizations (NGO's) involved in the rehabilitation and reintegration of drug users and drug addicts. NGOs such as 'Society for Health Education' (SHE), 'Journey' and 'Society for Women against Drugs' (SWAD) actively engage with individuals to provide them with additional assistance and support for rehabilitation.

Para. 84: The complexity of procedures for the provision of mental health services in addition to the complete absence of mental health professionals places detainees who are in need at a high level of risk.

124. All detainees receive the services of a full-time medical practitioner in the prison. Detainees who require special attention, including those who are in need of mental health services, are referred to Male' for specialized medical care. They are taken to Male', as soon as the specialist appointments are scheduled, and treatment is provided accordingly.

125. In case of a diagnosis of mental health issues, the cases are referred to the Ministry of Gender and Family, and these detainees are transferred to Home for People with Special Needs (HPSN) in *K. Guraidhoo*. These detainees are allowed to complete their full prison sentence in these premises, and will not be returning to prison facilities, unless their diagnosis changes.

D. Home for People with Special Needs (HPSN)

Para. 88: The SPT recommends that the State party set up community based or alternative services for persons with mental disabilities and elderly people, in order to provide less restrictive alternatives to institutionalization. The State party should also enact legislation and adopt regulations that provide for adequate substantive and procedural safeguards for persons subject to confinement in institutions such as HPSN. These should include the free and informed consent of the person affected.

126. Health Protection Units are established in all the hospitals, health posts, and health centers across the country, to provide medication for the patients with mental disabilities in order to assist them to continue living in their own communities / islands. Patients are only referred to HSPN, only after an extensive study of their case by the relevant authorities.

127. The patients referred to HPSN are provided with recreational activities and proper medication for their condition. Standard operating procedures to manage patients are strictly followed. Currently HSPN does not have a confinement room and restrain jackets are used to prevent violent behavior of patients after consultation and it is exercised only, if recommended by a psychiatrist.

128. If a patient is incapable of providing his or her own consent for treatment or for being institutionalized, the consent of the family is requested. And at any point through the rehabilitation process, if the patient regains the capacity to provide consent, the consent is then requested from the patient.

129. Community integration programmes for such persons are currently being drafted. It identifies 3 main authorities where Health Protection Agency (HPA) monitors medication for the patients, Family and Child Support Centers monitors living condition, health and well-being and the Island Council of each island monitors general well-being of the patients. This gives them the opportunity to be within the community whilst undertaking treatment.

130. A national mental health policy is also currently being drafted and is at the final stages of review.

Para. 90: The SPT recommends that the State party provide HPSN with the required financial, material and specialist resources required to ensure that psychiatric patients receive appropriate psychiatric treatment at a level comparable to that in the general community, to prevent or reverse mental deterioration.

131. Currently the renovation projects of the HPSN are in effect, which includes new wards, walls rebuilt to separate elderly persons, persons with mental disabilities, and children with mental disabilities. This is also inclusive of a new area for recreational activities, laundry, mess room, physiotherapy facility, and a special ward for children with a recreational area.

132. In addition to the on-going medical treatment programmes, HPSN has also received sponsors from private companies facilitated by the Government, which will allow HPSN to employ a psychiatric nurse, a professional care worker, psychologist, psychiatrist and an occupational therapist.

Para. 94: The SPT recommends that persons held in HPSN be provided with appropriate access to food and sanitation. Authorities should facilitate access to education for those willing to undertake it, also vocational training and library facilities, in order to assist rehabilitation and future reintegration of detainees back into the community. Children should be accommodated separately and provided with recreational and educational activities appropriate to their status and wellbeing.

133. The Home for People with Special Needs (HPSN) was established on 23 August 2015 and is operated under the Ministry of Health (MoH). HPSN strictly follows guidelines set out by World Health Organization, as well as standards followed by American and British psychiatric associations.

134. The Disability Act of 2010 enhanced the rights and protection afforded to persons with disabilities. The Act ensures that persons with disabilities have access to financial assistance, lays down regulations on minimum standards and identification of persons with disabilities, and allows for affirmative action including access to gainful employment.

135. HPSN falls under the mandate of the Ministry of Health. MoH refers cases to the Ministry of Gender and Family for assessment before taking patients in to HPSN. In doing so, Ministry of Gender and Family has a special assessment form that is filled to assess the cases to be referred to HPSN.

136. Currently children in conflict with the law are temporarily accommodated in *Kuda Kudhinge Hiya* in *Villigili*. These children are kept separate from children taken in for State care. This residential care facility was officially opened on 11th May 2006, with a capacity to accommodate 45 children where the main aim of the institution is to provide a safe, secure and enabling environment for vulnerable children who have no other means of primary care.

E. National Preventive Mechanism

Para. 105: The SPT reminds the State Party that the provision of adequate financial and human resources constitutes a legal obligation under Article 18, paragraph 3, of the Optional Protocol and wishes to be informed, as a matter of priority, about the steps the State Party intends to take to provide the NPM with adequate financial and human resources that will ensure it has complete financial and operational autonomy.

137. The Table below shows the budget details of the NPM from 2012 to 2016.

<i>Year</i>	<i>Budgeted by the HRCM (MVR)</i>	<i>Amount received from Ministry of Finance (MVR)</i>	<i>Expenditure (MVR)</i>
2012	18 1470	13 5681	23 9159.44
2013	24 2340	71 599.13	78 2333
2014	74 0680	275 889.52	15 7370
2015	32 0675	32 0675	14 4031
2016	40 8612	0	--

138. As the NPM functions as a separate department within the HRCM, the budget of the HRCM is inclusive of the proposed budget of the NPM as well. Henceforth, the proposed budget for the activities of the NPM is included as part of the HRCM budget which is then shared with the Ministry of Finance every year. Thus, HRCM needs to be adequately equipped with the necessary resources to ensure the recognition of the NPM mandate.

139. NPM developed a booklet stating its legal identity, mode of operation, its mission and vision and its obligations under the OPCAT. In 2015, the NPM reviewed the booklet and has it published on the website of the HRCM. Since 2009, the NPM has distributed these booklets to all the relevant institutions, and to persons deprived of their liberty.

140. Since 2014, the NPM on its initiation has started a programme to create awareness among the officers working at the various Police stations and custodial centers, along with the staff of atoll based facilities. Following each visit, the NPM conducts a session on the CAT, OPCAT, the obligations and mandate of the NPM under the OPCAT, the Anti-Torture Act 2013 and the Mandela Rules (Standard Minimum Rules for the treatment of prisoners).

141. In 2014, a special four day training programme was conducted for the staff representing all relevant institutions, of deprivation of liberty. This programme was funded under the OPCAT Special fund scheme.

Para. 106: The SPT further recommends that the budgets of the HRCM and the NPM be separated. The NPM, in cooperation with the HRCM, should create a clear mechanism of separation of their mandates and a scheme for sharing information that will avoid a duplication of their mandates. The NPM should undertake activities to increase the awareness of the general public, and especially persons deprived of their liberty, about its mission and its mandate.

142. NPM began functioning as a separate body in 2014 after the enactment of the Anti-torture Act. A booklet stating its legal identity has been developed, along with its mode of operation, and the obligations.

Para. 107: The SPT recommends that the State party publish and widely disseminate the annual reports of the NPM, including transmitting them to the SPT, in accordance with Article 23 of the Optional Protocol. The SPT urges the State party to introduce an institutional forum for the discussion and follow up to such reports.

143. As HRCM is designated as the NPM, the works of the NPM and information regarding all of its activities have been included in the Annual Report of the HRCM. After the enactment of the Anti-Torture Act 2013, in 2014 the NPM had started compiling a separate Annual Report.

Para. 108: The SPT furthermore recommends that the State party issue an annual report describing the effectiveness of the interaction of the Government with the NPM in assessing and eradicating torture and ill-treatment in places of deprivation of liberty in the Maldives. This report should be given wide publicity, and could be integrated into a more comprehensive analysis of the human rights situation in the State party, but should be distinct from other statements related to the Human Rights Commission or any other body.

144. The NPM has started an analysis of the recommendations made to state institutions from 2009 to 2014. The NPM Recommendation Audit has been planned to be carried out every two years, and the NPM Recommendation Audit Report 2014 has already been published on the website of HRCM, in 2015.
