



**PROTECTING HUMAN RIGHTS AND PROMOTING ACCESS TO JUSTICE  
IN THE MALDIVES  
Annual Work Plans 2008-2010**

*Country: Maldives*

UNDAF Outcome(s): By 2010, people enjoy greater rights and have increased capacity to fulfill their responsibilities, and to actively participate in national and local levels of governance

Expected CP Outcome(s): A culture of respect for human rights is recognized, fulfilled protected and fostered and the judicial system strengthened in line with international standards and best practices

Implementing partner: Ministry of Justice

Other Partners: Ministry of Legal Reform, Information and Arts  
Ministry of Home Affairs  
Attorney General's Office

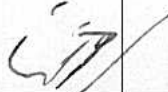
**Narrative**

The objective of this project is to increase individuals', particularly marginalized groups', ability to know and claim their rights and have access to a remedy for their grievances. It will also seek to strengthen institutional capacities to better address the needs of people notably the poor and disadvantaged. To ensure this, the project will contribute to the alignment of the national legal framework to the international obligations entered by the Government of Maldives (GOM); to the reforms currently being carried out under the Government's "Agenda for Human Rights, Democracy and Reform" and also the reforms that will be carried out under the new Constitution; will strengthen the capacity of justice sector service providers at all levels; will support the availability of legal counseling and legal aid through the creation of a professional bar association; and will provide avenues to support dialogue and consultations among stakeholders and the public on issues related to access to justice to increase citizens' and government's awareness of the issues and inform policy making.


Programme Period:	<u>2008-2010</u>
Programme Component:	Good Governance
Intervention Title:	Protecting Human Rights and Accessing Justice in the Maldives
Budget Code:	
Duration:	<u>1 January 2008 to 31 December 2010</u>

Estimated budget:	\$ 578, 000
Allocated resources:	
• Government	_____
• Regular(indicative)	\$160 000
• Other:	
○ DGTF	\$250 000
○ Donor	_____
○ Donor	_____
Unfunded budget:	\$ 168 000

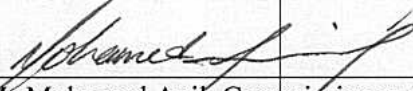
Agreed by Lead Agency:  
(Ministry of Justice)

  
\_\_\_\_\_  
Mr. Ahmed Mohamed; Deputy Minister


Agreed by other Responsible Party:  
(Ministry of Home Affairs)

  
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Dr Abdulla Waheed, Deputy Minister

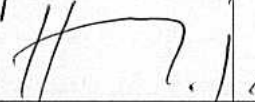
Agreed by other Responsible Party:  
(Ministry of Legal Reform,  
Information and Art)

  
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Mr Mohamed Anif, Commissioner, Legal Reform Commission  
COMMISSIONER OF LEGAL REFORM

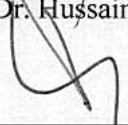
Agreed by other Responsible Party:  
(Attorney General's Office)

  
\_\_\_\_\_  
ABDULLA MUIZZU, ASST-DIRECTOR GENERAL

Agreed by Govt Coordinating Agency:  
(Department of External Resources)

  
\_\_\_\_\_  
Dr. Hussain Niyaz, Executive Director, DER

Agreed by UNDP:

  
\_\_\_\_\_  
7/7/2008  
Mr. Patrice Coeur-Bizot; UNDP Resident Representative

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## **Situational Analysis**

### **Human Rights and Access to Justice**

In 2004, the President of Maldives announced a series of initiatives aimed at strengthening democracy in the country. Later in 2006, the President presented a “Roadmap for the Reform Agenda” to serve as a blueprint for the reform plans. A key component of the reform agenda is the review of the constitution, separation of powers, and modernization of the justice system. Key achievements of the reform process include establishment of the Human Rights Commission of the Maldives, formation of political parties, the revision of the constitution through the People’s Special Majlis, the revision of the penal code and drafting of key pieces of legislation to facilitate the implementation of the constitution. An increasingly democratic system is beginning to emerge nonetheless this requires further strengthening.

Maldives has ratified or acceded to a number of international human rights treaties (*Annex 4*). In addition to having entered reservations when acceding or ratifying some of these treaties, Maldives has not yet completely incorporated many provisions contained in them in its domestic laws. These are observations that two special procedure visits to the Maldives have also noted. The visits were made on the open invitation of the Government and included Special Rapporteur on freedom of religion or belief in 2006 and the independence of judges and lawyers in February 2007. The latter particularly highlighted the lack of judicial independence, barriers to accessing justice especially on the outer islands and the lack of legal representation as key challenges to overcome. Other human rights issues identified by the recommendation of human rights treaty bodies and special procedures relate to violence against women, freedom of association and freedom of religion. The Human Rights Commission of Maldives conducted a survey of people’s perception of their rights in 2005 which also highlighted the lack of awareness of people of their rights.

#### **Objective**

The Objective of this project is to increase individual’s ability to know and claim their rights and have access to a remedy for their grievances. It will also seek to strengthen institutional capacities to better address the needs of people notably the marginalized and disadvantaged.

This project contributes to the achievement of the Agenda for Democracy, Human Rights and Reform. It also supports the achievements of the relevant goals specified in 7th National Development Plan (NDP). The United Nations contribution to these national priorities has been reflected in the jointly prepared United Nations Development Assistance Framework (UNDAF) 2008-2010 and UNDP’s Country Programme Document (CPD) and Country Programme Action Plan (CPAP) 2008-2010, to which the objectives and activities of this project directly link.

#### **Strategy**

Within the framework of the ongoing democratic reform process within the Maldives, this project seizes the opportunity to support the strengthening of the Justice Sector with key assistance provided for the production of baseline data needed to create the foundation for applying the human rights based approach to enhancing the Justice Sector. In this regard, the project will support strategic initiatives with a focus on building the capacity of both ‘*duty bearers*’ and ‘*rights holders*.’

The initiatives identified for 2008 will be supported by the Democratic Governance Thematic Trust Fund and are immediate priority areas identified by the national stakeholders and constitute innovate activities never before undertaken within the country. Key activities for 2008 include (*details in Annex 1*):-

1. Conduct of a public perception study to provide baseline information on the levels of public confidence in the justice system, levels of awareness and access to justice; incorporating legal awareness for justice personnel, the wider public and disadvantaged groups
2. Capacity Assessment of the Justice Sector including assessments of the Ministry of Justice, Attorney Generals Office and Ministry of Home Affairs and associated implementation plans

3. Drafting of key pieces of legislative within the Legislative Agenda 2008 that focus on strengthening the justice sector
4. Support for the reform of the penal system through design of a system for non-custodial sentencing
5. Strengthen the capacity of justice sector providers and support the availability of legal counseling and legal aid through:-
  - a. design of a legal aid scheme
  - b. support for the creation of a Bar Association

The details of the suggested activities for 2009 and 2010 can be found in *Annex 2B*. The project design allows for follow-up on the key findings and recommendations of the Justice Sector Survey and the Capacity Assessment of Key Justice Actors as well as building on the overall activities to be conducted in 2008 during the later years of the UNDP Maldives programming cycle. Moreover, it capitalizes on the momentum of the ongoing democratic reform process providing support for ground breaking initiatives currently being pursued by the country which aim to create an enabling environment in which human rights and justice can be maintained, protected, promoted, delivered, and claimed. In addition, this project is intended to provide critical input for leveraging donor interest and facilitating resource mobilization and donor coordination through the identification of targeted areas for development intervention for donor consideration and support.

The overall strategy of this project will aim at promoting a rights-based approach to the ongoing democratic reforms and will place great priority on national capacity development (institution and human), knowledge sharing encouraged through the establishment of strategic partnerships. As such this project will utilize UNDP capacity assessment tools<sup>1</sup> and envisions support from the UNDP Regional Centre in Bangkok and Bureau of Development Policy for the planned Capacity Assessments of Justice Actors. The involvement of the local Faculty of Management and Computing in the undertaking of the Capacity Assessments will allow for the transfer of knowledge and development of national capacity for conducting assessments. A similar approach will be adopted for all activities within this project including the Justice Sector Survey and the twinning of international consultants with local consultants to facilitate capacity building and transfer of relevant skills will be pursued.

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<sup>1</sup> UNDP Capacity Assessment Practice Note, September 2007

**Annual Work Plan- Year 2008**

EXPECTED CP OUTPUTS and indicators including annual targets	PLANNED ACTIVITIES List all activities including M&E to be undertaken during the year towards stated CP outputs	TIMEFRAME				RESPONSIBLE PARTY	PLANNED BUDGET		
		Q1	Q2	Q3	Q4		Source of Funds	Budget Description	Amount
<p><b>Output 1: Domestic legal framework harmonized with international human rights treaty obligations and mechanisms in place for the effective implementation of and compliance with relevant international human rights obligations</b></p> <p><b>INDICATORS</b> -Number of bills drafted</p> <p><b>Output 2: Mechanisms in place to foster the reorientation of the penal system in order to reduce the number of offenders and re-offenders; increase the number of offenders reintegrated into society;</b></p> <p><b>INDICATORS</b> - Review of options for non-custodial sentencing and design of system conducted</p>	<ul style="list-style-type: none"> <li>- legislative drafting of key bills related to the justice sector -TA</li> <li>- Design system for non-custodial sentencing – community service (TA)</li> </ul>	X	X			MoLRIA	DGTF	USD 40,000	
<p><b>Output 3: Strengthened capacity of the judiciary, civil society, social workers and the human rights commission to protect human rights especially of women, youth and children and increase citizen awareness of their rights in accordance with the national constitution and international standards</b></p> <p><b>INDICATORS:</b> - Completion of the justice study -Completion of the capacity Assessment of the MOJ AGO</p>	<ul style="list-style-type: none"> <li>- Access to justice study (int'l/local consultants, workshops with public and legal professionals, production of legal awareness material)</li> <li>- Capacity development assessment of the judiciary and development of organizational work plans</li> <li>- Creation of bar association (TA, workshops, travel)</li> </ul>	X	X	X	X	MOJ, AGO, MOHA, MoLRIA, MOAD, Police, DPRS, Law Society	DGTF	USD 103,500	
						MOJ, AGO, MOHA	DGTF	USD 30 000	
						MOJ with Law Society, IBA	DGTF	USD 20,000	

MOHA - Number of justice personnel trained on basic elements of HR & Access to Justice - legal awareness materials produced - Number of roundtables/workshops on roles/functions of bar assoc. - Legal aid scheme designed	- Design of scheme for legal aid (TA)		X	X	X	AGO	DGTTF	USD 25,000
Project Support Services	- Project Associate		X	X	X		DGTTF	USD 11,500
TOTAL								
								USD 250,000

**Annual Work Plan- Year 2009**

EXPECTED CP OUTPUTS and indicators including annual targets	PLANNED ACTIVITIES <i>List all activities including M&amp;E to be undertaken during the year towards stated CP outputs</i>	TIMEFRAME				RESPONSIBLE PARTY	PLANNED BUDGET		
		Q1	Q2	Q3	Q4		Source of Funds	Budget Description	Amount
<b>Output 1: Domestic legal framework harmonized with international human rights treaty obligations and mechanisms in place for the effective implementation of and compliance with relevant international human rights obligations;</b>	- legislative drafting	X				MoLRIA			USD 15,000
<b>INDICATORS</b> Number of bills drafted									
<b>Output 2: Mechanisms in place to foster the reorientation of the penal system in order to reduce the number of offenders and re-offenders; increase the number of offenders reintegrated into society;</b>	- Support to MOHA on reintegration-rehabilitation-TA	X	X			MOHA			USD 20,000
	- Pilots on Community service			X	X	MOHA with MOJ, AGO, MOAD, NGOs			USD 20,000
	- Support for prison staff training-TA	X	X			MOHA with Faculty of Law and Shari'ah, HRC			USD 20,000
<b>INDICATORS</b> Review of existing rehabilitation options conducted	- Streamlining record system-(TA local and international)	X				AGO with MOJ, MOHA, Police, Prison			USD 20,000
Number of community consultations and sensitization sessions held									
Number of Community pilots set up, guidelines prepared									
Number of prison staff trainings held; number of staff trained; training module developed									
Skills development for the Inspectorate of Prisons conducted									
Existence of an improved record system									
<b>Output 3. Strengthened capacity of the judiciary, civil society, social workers and the human rights commission to protect</b>	- Training for justice personnel (TA curricula development, workshops, travel)	X	X			MOJ AGO, HRC, MOHA, MoGender and Law Society and Faculty of Law and Shari'ah			USD 30,000



<p>human rights especially of women, youth and children and increase citizen awareness of their rights in accordance with the national constitution and international standards</p> <p><b>INDICATORS</b>  Number/Type of trainings held and nature/number of participants  Rules, codes of conduct, available for Bar Association  Bar association established  Trainings held for lawyers/judges/paralegals to support the set up of legal aid pilots  Number of pilots set up</p>	- Seminars on penal code and HR (workshops and promotion material)	X					Faculty of Law and Shariah with Law Society and HRC, MoJ, AGO		USD 5,000
	- Creation of bar association (TA, workshops, travel)	X	X				MOJ with Law Society, IBA		USD 20,000
	- Legal aid pilots ( grants for NGOs, training of paralegals and promotion material)			X	X	X	MoGender with NGOs, Law Society, MoE (TRCs)		USD20,000
<b>Project Support Services</b>	- Project Associate	X	X						USD 11,500
<b>TOTAL</b>									USD 181,500

**Annual Work Plan- Year 2010**

EXPECTED CP OUTPUTS and indicators including annual targets	PLANNED ACTIVITIES <i>List all activities including M&amp;E to be undertaken during the year towards stated CP outputs</i>	TIMEFRAME				RESPONSIBLE PARTY	PLANNED BUDGET		
		Q1	Q2	Q3	Q4		Source of Funds	Budget Description	Amount
<b>Output 1: Domestic legal framework harmonized with international human rights treaty obligations and mechanisms in place for the effective implementation of and compliance with relevant international human rights obligations;</b>  <b>INDICATORS</b> Number of sensitization workshops on HR and treaty reporting process for Gov't/CSO/HRCM	- Support to HR Committee MOFA -TA, workshop	X	X			MOFA		USD 15,000	
	- Support to HRC an NGOs for shadow report-TA, workshops	X	X			HRC		USD 15,000	
<b>Output 2: Mechanisms in place to foster the reorientation of the penal system in order to reduce the number of offenders and re-offenders; increase the number of offenders reintegrated into society;</b>  <b>INDICATORS</b> Number of community consultations held Number of Community pilots set up Community Pilot Evaluation conducted Number of prison staff trainings held and number of staff trained	- Pilots on Community service	X	X			MOHA with MOJ, AGO, MOAD, NGOs		USD 30,000	
	- Support for prison staff training-TA	X	X			MOHA with Faculty of Law and Shari'ah, HRC		USD 20,000	
<b>Output 3. Strengthened capacity of the judiciary, civil society, social workers and the human</b>	- Seminars on penal code and HR (workshops and promotion material)		X			Faculty of Law and Shari'ah with Law Society and HRC		USD 5,000	

<b>rights commission to protect human rights especially of women, youth and children and increase citizen awareness of their rights in accordance with the national constitution and international standards</b>  <b>INDICATORS</b> Trainings held for lawyers/judges/paralegals to support the set up of legal aid pilots Number of pilots set up	- Legal aid pilots ( grants for NGOs, training of paralegals and promotion material)	X	X		MoGender with NGOs, Law Society		USD30,000
	- Capacity building of HRC for self assessment-TA, workshop	X	X		HRC		USD 20,000
<b>Project Support Services</b>	- Project Associate	X	X	X			USD 11,500
<b>TOTAL</b>							<b>USD 146,500</b>

## Monitoring and Evaluation

In accordance with the programming policies and procedures outlined in the UNDP User Guide, the project will be monitored through the following:

### Within the annual cycle

- On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on quality criteria
- An Issue Log shall be activated in Atlas and updated by the Project Manager/Associate to facilitate tracking and resolution of potential problems or requests for change.
- Based on the initial risk analysis submitted (see annex 1), a risk log shall be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- Based on the above information recorded in Atlas, a Quarterly Progress Reports (QPR) shall be submitted by the Project Manager/Associate to the Project Management Team through UNDP copied to DER, using the standard report format.
- A project Lesson-learned log shall be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of the Lessons-learned Report at the end of the project
- a Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events

### Annually

- **Annual Review Report.** An Annual Review Report shall be prepared by the Project Manager/Associate and shared with the Project Management Team. As minimum requirement, the Annual Review Report shall consist of the Atlas standard format for the QPR covering the whole year with updated information for each above element of the QPR as well as a summary of results achieved against pre-defined annual targets at the output level.
- **Annual Project Review.** Based on the above report, an annual project review shall be conducted during the fourth quarter of the year or soon after, to assess the performance of the project and appraise the Annual Work Plan (AWP) for the following year. In the last year, this review will be a final assessment. This review is driven by the Project Management Team and may involve other stakeholders as required. It shall focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes.

## Legal Context

This document together with the CPAP signed by the Government and UNDP which is incorporated by reference constitute together a Project Document as referred to in the SBAA and all CPAP provisions apply to this document.

Consistent with the Article III of the Standard Basic Assistance Agreement, the responsibility for the safety and security of the implementing partner and its personnel and property, and of UNDP's property in the implementing partner's custody, rests with the implementing partner.

The implementing partner shall:

- a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried;
- b) assume all risks and liabilities related to the implementing partner's security, and the full implementation of the security plan.

UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this agreement.

The implementing partner agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999).

The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

## Annex 1

### Potential risks that could hamper project implementation:

Description of risk	Potential impact on the project	Mitigation measures
Extensive national democratic reform agenda in relationship to the timeframe for the implementation of project activities	The pace of the reform process notably the passing of key bills related to the project activities could impact on the output of some project activities	Monitoring of the reform process and pace and subsequent review of identified activities accordingly
Introduction of relatively new concepts in a transitioning society	Could result in resistance or slow the pace of the project	Awareness raising and advocacy initiatives on the human rights and access to justice

## Annex 2 A- Outputs and Activities description

### Activities for DGTTF Funding

**A. CPAP Output:** *Domestic legal framework harmonized with international human rights treaty obligations and mechanisms in place for the effective implementation of and compliance with relevant international human rights obligations*

The new constitution will require an alignment of the legislative framework with the provisions of international human rights standards and ensure domestic coherence. There is a Legislative Agenda for 2008 which consists of 87 bills and this is the minimum amount of bills that the Government has set for working on throughout 2008. These bills are at various stages of development and the drafting of several require urgent support. UNDP has previously provided support for legal drafting. The Government of Maldives (GOM) has ratified and acceded to a number of international human rights treaties to which it has started reporting.

The following activities have been foreseen under this output:

#### **DGTTF Output 1.1 – Review of Legislation and targeted technical assistance for drafting of key pieces of legislation**

*Implementing Partner: Ministry of Legal Reform, Information and Arts.*

##### **Description:**

- The review will take into account the impending Constitution and compliance with international human rights norms and standards.
- It will also take into account the unique mix of Shari'ah and common law of the Maldivian legal system.
- Technical assistance will be provided for the drafting of key priority legislation identified in the Legislative Agenda for 2008 with priority given to bills on the justice sector.

**B. CPAP Output 2:** *Mechanisms in place to foster the reorientation of the penal system in order to reduce the number of offenders and re-offenders; increase the number of offenders reintegrated into society*

The purpose of this output is to increase rehabilitation and reintegration of offenders and to decrease the number of offenders. New legislation contained in the penal code (including the sentencing act and the procedural code) include options for non-custodial sentences and graduation of sentences according to circumstances. However, what is needed is the implementation of this new legislation, sensitization of law enforcement and magistrates on and the public on non-custodial sentencing. The project will support the Ministry of Home Affairs (MOHA) in exploring options for non-custodial sentences that provide for reintegration into society (e.g. community services). This will entail public sensitization and consultation with the communities and agreement with other actors in the justice sector. Additionally, rehabilitation schemes have been set up by the Ministry of Home Affairs (MOHA) and by UNICEF through support to a NGO. The capacity of these schemes is very low compared to the population in need and options to scale it up will be explored. However, it is noted that the pervasiveness of the drug problem in the Maldives requires very strong efforts from the government and the international community to decrease permeability to drug trafficking.

**DGTTF Output 2.1 – Community Service/Alternative Sentencing and Reintegration:** Options for community service and reintegration in the communities will be explored especially for young prisoners (also above 18)

Implementing Partners: Ministry of Home Affairs (MOHA) and Ministry of Justice (MOJ)

## Description:

- The MOHA will set up a committee consisting of representatives from MOHA, Police, Ministry of Justice (MOJ), AGO (Prosecutor), Judiciary, Ministry of Atolls Development, NGOs, community-based organizations (CBOs) and other relevant stakeholders.
- In partnership with an internationally recognized group (e.g. Penal Reform International<sup>2</sup>) the committee will review options on feasibility of restorative justice mechanisms and community services in the Maldives. This will include review of the current rehabilitation options (government facilities and NGO-UNICEF project) and desk review of current and proposed legislation (penal code and by laws), identifying the legislative gaps.
  - Support will be provided for the design of a system for non-custodial sentencing
- As a follow-up in later years, as feasible a sensitization campaign on community services (public announcements, seminars on the new penal code including on community servicing etc) will be launched.
- consultations will be held with identified communities as pilot communities, responding to predetermined requirements defined by the committee.
- Local committees will be selected including community leaders, social workers, local NGOs, local government representatives, police, magistrates, prosecutor etc.
- Guidelines will be drawn for monitoring community services, creation of placement schemes and documentation of the results.
- The pilots will last 12-18 months at the end of which an evaluation will be made with possible recommendations for up-scaling with government funding or recommendation for other options.

**CPAP Output 3:** *Strengthened capacity of the judiciary, civil society, social workers and the Human Rights Commission of Maldives to protect human rights especially of women, youth and children and increase citizens' awareness of their rights in accordance with the national constitution and international standards*

Access to justice is increasingly recognised as a necessary condition for peace and development. 'Access to justice', refers to "the ability of people, particularly from poor and disadvantaged groups, to seek and obtain a remedy through formal and informal justice systems, in accordance with human rights principles and standards<sup>3</sup>". Access to justice also contributes to sustainable human development by defining the scope of legitimate development related claims as based on human rights (such as the right to education, the right to shelter and/or the right to work). It then identifies claim-holders (justice delivery system users) and duty-bearers (justice providers) in particular situations. Through the application of a human rights based approach, access to justice seeks to enhance justice users' ability to claim the realization of their rights, while holding justice providers accountable in protecting these rights. The purpose of this output is to strengthen mechanisms for accessing a remedy to a grievance especially for disadvantaged groups. It will focus on both the 'supply' and the "demand" sides of justice

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<sup>2</sup> Penal Reform International (commonly known as PRI) was founded in London in 1989, and has members in five continents and in over 80 countries. PRI is an international non-governmental organization working on penal and criminal justice reform worldwide. The organization's reform work is based on the development and implementation of international human rights instruments in relation to law enforcement and prison conditions; the elimination of unfair and unethical discrimination in all penal measures; the abolition of the death penalty; the reduction of the use of imprisonment throughout the world; the use of constructive non-custodial sanctions which support the social reintegration of offenders whilst taking into account the interests of victims. PRI works with other NGOs and with governments in regional programmes in sub-Saharan Africa, the Middle East, Central and Eastern Europe and Central Asia, South Asia, Latin America and the Caribbean. While the organization shares best practices and expertise across regions, PRI works to develop and promote culturally specific solutions to criminal justice and penal reform. [www.penalreform.org](http://www.penalreform.org)

<sup>3</sup> UNDP Practice note on access to justice; UNDP Asia-Pacific, Programming for Justice: Access for all- A Practitioner's guide to a human rights based approach to access to justice".



and will provide baseline data and an enabling environment for formulating justice reform policies aimed at increasing the realisation of rights by disadvantaged groups.

**DGTTF Output 3.1 – Baseline Information on Access to Justice:** Support will be provided for the conduct of a public perception study to measure levels of public confidence in the justice system, awareness and access to justice; incorporating in the conduct of the survey, legal awareness for justice personnel, the wider public and disadvantaged groups

Implementing Partner: Ministry of Justice (MOJ) – Other partners, Ministry of Home Affairs, Ministry of Legal Reform, Attorney General’s Office

Description:

The baseline information provided by the ‘Rights Side of Life’, the human rights survey carried out by the Human Rights Commission of Maldives, points out to a low level of awareness of citizens of their rights. The survey disaggregated population geographically and by gender, but did not attempt to identify further classes of individuals who are facing the most barriers in obtaining a remedy for their grievances.

- There is particularly little information on access to grievances on the islands and atolls.
- The Special Rapporteur on independence of the judiciary<sup>4</sup>, consistent with his mandate, looked only at the accessibility of island courts and the level of capacity of magistrates in his report of May 2007.
- Interviews with the Ministry of Justice (MOJ) revealed that the caseload on the islands is very modest, hinting to the fact that most disagreements or grievances especially those of a ‘civil’ nature might be dealt with inside the community, consistent with the realities of closed social environment where social harmony is important to maintain.
- This warrants for further analysis and possibly a set of specific interventions targeting communities and community leaders to ensure that grievances particularly of women, children or the most vulnerable are dealt with in a way that leads to the fulfillment and protection of their rights.
- Given this backdrop, UNDP will support the MOJ as lead agency together an established inter-agency/ministerial task force of the Justice sector in the design and carrying out a Justice Sector Survey so that access to both the formal and the informal system, especially for disadvantaged groups, are surveyed (the specifics of the access to justice assessment study are provided in Annex 3).

**DGTTF Output 3.2 – Justice Sector Capacity Development:** Key capacity development activities will be supported for the justice sector.

Implementing partner MOJ- with AGO, MOHA, Judicial Services Commission, Law Society and Faculty of Law and Shari’ah, HRCM

Description:

- Maldives is implementing substantial structural reforms of the justice system as a result of the Government reform agenda and the enactment of a new constitution which will require institutional capacity development support, including human resources capacity building, information systems, as well as infrastructure.
- Such needs vary greatly from one institution to another. Some institutions have been already surveyed and their capacity development needs spelled out. Others have not, particularly the Judiciary and the Attorney General’s Office.
- This renders a blanket capacity building ‘package’ impractical. This therefore warrants a more focused capacity needs assessment than the access to justice assessment is tasked to undertake, in order to ensure an accurate understanding of these needs.

<sup>4</sup> Report of the Special Rapporteur on the Independence of Judges and Lawyers Leandro Despouy to the Human Rights Council, A/HRC/4/25/add.2-2May 2007, Para. 9.

- The project will thus undertake a comprehensive capacity development needs assessment of justice providers, especially with a view to meet the reform agenda and comply with the requirements of a new constitution.
- Utilising the UNDP Capacity Assessment tools and methodology, the project will support the undertaking of a needs assessment to examine priority capacity requirements of the primary formal justice institutions not previously mapped. Capacity requirements will include: (i) human resources and their skills and knowledge; (ii) information management systems or processes; and, (iii) physical infrastructure.
- Following that, the project will support the development of a institutional capacity development action plan (in consultation with key stakeholders) for the respective agencies
- It is anticipated that this project will support specific key elements of the action plan in later years of the project.
- The consultant will also review the feasibility of the institutionalisation of continued skills development and training within the current and planned institutional framework (e.g. career development for judges etc.) and support the development of a participatory monitoring mechanism, which will track the activity completion rate, as well as skills development.
- Work plans for priority capacity development interventions will be developed for justice institutions to be implemented. Terms of Reference (ToRs) for those interventions within the scope of this project will be developed.

**DGTTF 3.3: Legal Aid:** The project will increase access of disadvantaged groups, to recourse through provision of legal services (legal awareness, legal counseling and legal aid).

Implementing Partners: Ministry of Justice, AGO, legal NGOs, Law Society, Human Rights Commission of Maldives, UNICEF

Description:

- There is no provision for legal aid in the current legal system.
- Additionally lawyers' fees are very high and the absence of a regulatory body does not make it compulsory for lawyers to provide pro bono services.
- Women are particularly affected as they often don't have an independent income.
- Outside Male, the need for legal services is even more acute as all the lawyers are located in Male.
- Some attempts by Law Society and, more recently, by human rights NGO, Hamajamyah, have been made to provide legal aid clinics. Both organizations have identified the location of their offices and space limitations as a possible barrier to those most in need particularly women.
- The project will support the institutionalization of mechanisms for legal aid through the provision of support for developing a legal aid scheme.
- In the later years support will be provided for piloting of legal aid to specific beneficiaries, particularly women.

**DGTTF Output 3.4: Creation of A Bar Association of Maldives** The project will support the creation of a bar association of Maldives as a professional association of practicing lawyers with certifying and regulatory functions.

Implementing Partner: Ministry of Justice (MOJ) and Law Society ; International Bar Association (IBA)

Description:

- The existence of an independent, efficient and professional bar association responsible for accreditation of lawyers to practice law and with regulatory mandate over the profession, is an accepted practice in many countries. Support for the creation of a Bar Association will lay the groundwork for much of the activities envisioned later in the project.

- As the Seventh National Development Plan mentions: “Currently the Ministry of Justice regulates practicing lawyers in the country under the “Regulations for Lawyers” including licensing, conduct, fees and disciplinary measures. Although there is a Law Society, it’s not required for lawyers to gain membership from the same. There is the need to codify the existing regulations for lawyers as an Act to ensure that a proficient body of legal professionals is established”.
- In the circumstances, the current Law Society could serve as the nucleus from which the bar association of Maldives might eventually emerge.
- The Ministry of Justice is revising the regulation regarding the legal profession. The support of the project for this goal will facilitate the process and provide the necessary international linkages that speed up the formation while ensuring that the qualities and standards are maintained.
- In this context, the support of the International Bar Association (IBA) will be sought through the project<sup>5</sup>.
- The project will support the preparation of a study on establishing a bar association based on comparative experience. It will support a roundtable on role and functions of bar association inviting representatives of Judiciary, of Law Society, other practicing lawyers, Attorney General, parliamentarians, civil society etc.
- The project will provide initial institutional support to the bar association including capacity development support for its administration and for members on the role of bar associations in upholding rights and ensuring access to justice and connection with regional or global professional networks.
- This support will be complemented by the UNDP Regional initiative on Bar Associations.

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<sup>5</sup> The International Bar Association (IBA), established in 1947, is the world’s leading organization of international legal practitioners, bar associations and law societies. The IBA influences the development of international law reform and shapes the future of the legal profession throughout the world. It has a membership of 30,000 individual lawyers and more than 195 bar associations and law societies spanning all continents. It has considerable expertise in providing assistance to the global legal community. The IBA’s Human Rights Institute (HRI) works to promote, protect and enforce human rights under a just rule of law, and to preserve the independence of the judiciary and the legal profession worldwide. [www.ibanet.org](http://www.ibanet.org)

## **Annex – 2B.**

### **Wider Activities – For Year 2 and 3**

**B. Output 1:** *Domestic legal framework harmonized with international human rights treaty obligations and mechanisms in place for the effective implementation of and compliance with relevant international human rights obligations*

**Activity 1.3 – Human Rights Reporting:** The project will support the GOM in fulfilling its reporting obligations to the United Nations Human Rights Treaty Monitoring Bodies and provide an avenue for consultation with civil society on specific issues relevant to this process.

**Implementing Partners:** Ministry of Foreign Affairs (MOFA) and the Human Rights Commission of Maldives (HRCM) in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR)

Description:

- This activity of the project will complement current efforts by the Office of the United Nations High Commissioner for Human Rights (OHCHR), UNICEF (reporting on the Convention on the Rights of the Child - CRC) and UNFPA (reporting on the Convention on the Elimination of All Forms Discrimination Against Women - CEDAW).
- The project in its latter stage will support the reporting to the Committee on Economic, Social and Cultural Rights (ESCR), monitoring rights such as the right to housing, to an adequate standard of living, to food, and others that are particularly close to UNDP mandate of alleviating poverty and promoting sustainable development.
- The project will assist the operations of the newly formed inter-ministerial mechanism on treaty reporting by supporting the secretariat functions if required, by providing sensitization of line ministries of their responsibilities and role during and after the reporting process.
- The project, through the assistance of the HRCM and/or international experts will provide training sessions to senior and working level staff of key ministries including general information on the reporting process and guidelines, experiences of other countries, expertise on the content of international human rights obligations and specific conventions (e.g. International Covenant on Economic, Social and Cultural Rights).
- The training will also focus on the potential synergies that can be built with other reporting obligations as well as follow-up to international conferences.
- Through the training workshops the project will also sensitize and consult with governmental staff on the roles civil society actors and national human rights institutions are playing during and after the reporting process with a view to agreeing on mechanisms of participation of non-governmental actors, in order to create dialogue and cooperation among all stakeholders throughout the reporting process.
- Additionally the project will build capacity of non-governmental stakeholders, in particular of the HRCM to enable their contribution throughout the process of human rights treaty reporting by sensitizing non-governmental stakeholders on the option of submitting an alternative (or 'shadow') report to the treaty body committees by supporting the HRCM in designing and facilitating training on United Nations human rights treaty reporting and specific conventions and covenants to government officials and selected NGOs; and by supporting the HRCM in facilitating meetings with civil society on issues relevant to the report. If funding allows, the project might provide financial support for civil society actors in developing the shadow report on ESCR.

**B. Output 2:** *Mechanisms in place to foster the reorientation of the penal system in order to reduce the number of offenders and re-offenders; increase the number of offenders reintegrated into society*

The purpose of this output is to increase rehabilitation and reintegration of offenders and to decrease the number of offenders. New legislation contained in the penal code (including the sentencing act and the procedural code) include options for non-custodial sentences and graduation of sentences according to circumstances. However, what is needed is the implementation of this new legislation, sensitization of law enforcement and magistrates on and the public on non-custodial sentencing. The project will support the Ministry of Home Affairs (MOHA) in exploring options for non-custodial sentences that provide for reintegration into society (e.g. community services). This will entail public sensitization and consultation with the communities and agreement with other actors in the justice sector. Additionally, rehabilitation schemes have been set up by the Ministry of Home Affairs (MOHA) and by UNICEF through support to a NGO. The capacity of these schemes is very low compared to the population in need and options to scale it up will be explored. However, it is noted that the pervasiveness of the drug problem in the Maldives requires very strong efforts from the government and the international community to decrease permeability to drug trafficking. The creation of an inspectorate of prisons as a monitoring body for prison conditions is encouraging and support will be given to this body to perform its tasks together with skills and human rights training for prison staff, linked to the implementation of the new penal code and in accordance with international minimum standards. Additional international support for the reform of the penal system and in support of efforts to decrease drug trafficking should be sought, for example through UNODC.

**Activity 2.1 – Community Service/Alternative Sentencing and Reintegration:** Options for community service and reintegration in the communities will be explored especially for young prisoners (also above 18)

Implementing Partners: Ministry of Home Affairs (MOHA) and Ministry of Justice (MOJ)

Description:

- The MOHA will set up a committee consisting of representatives from MOHA, Police, Ministry of Justice (MOJ), AGO (Prosecutor), Judiciary, Ministry of Atolls Development, NGOs, community-based organizations (CBOs) and other relevant stakeholders.
- In partnership with an internationally recognized group (e.g. Penal Reform International<sup>6</sup>) the committee will review options on feasibility of restorative justice mechanisms and community services in the Maldives. This will include review of the current rehabilitation options (government facilities and NGO-UNICEF project) and desk review of current and proposed legislation (penal code and by laws), identifying the legislative gaps.
- Following that, a sensitization campaign on community services (public announcements, seminars on the new penal code including on community servicing etc) will be launched.
- Consultations will be held with identified communities as pilot communities, responding to predetermined requirements defined by the committee.
- Local committees will be selected including community leaders, social workers, local NGOs, local government representatives, police, magistrates, prosecutor etc.
- Guidelines will be drawn for monitoring community services, creation of placement schemes and documentation of the results.

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<sup>6</sup> Penal Reform International (commonly known as PRI) was founded in London in 1989, and has members in five continents and in over 80 countries. PRI is an international non-governmental organization working on penal and criminal justice reform worldwide. The organization's reform work is based on the development and implementation of international human rights instruments in relation to law enforcement and prison conditions; the elimination of unfair and unethical discrimination in all penal measures; the abolition of the death penalty; the reduction of the use of imprisonment throughout the world; the use of constructive non-custodial sanctions which support the social reintegration of offenders whilst taking into account the interests of victims. PRI works with other NGOs and with governments in regional programmes in sub-Saharan Africa, the Middle East, Central and Eastern Europe and Central Asia, South Asia, Latin America and the Caribbean. While the organization shares best practices and expertise across regions, PRI works to develop and promote culturally specific solutions to criminal justice and penal reform. [www.penalreform.org](http://www.penalreform.org)

- The pilots will last 12-18 months at the end of which an evaluation will be made with possible recommendations for up-scaling with government funding or recommendation for other options.

**Activity 2.2 – Prison Reform:** Institutional support to the prison department and the newly established Inspectorate of Prisons will be provided.

Implementing Partner: MOHA with HRCM and the Faculty of Law and Shari’ah

Descriptions:

- MOHA has received the support of the government of Western Australia to prepare a comprehensive diagnostic study of the capacity development needs of prison staff. The study highlights the need for several interventions.
- This project will support strategic interventions that can be up-scaled with government or bilateral funding.
- Firstly, as recommended by the 2005 diagnostic study, MOHA should appoint a training manager.
- Secondly, the training manager will be paired with international expertise and they will finalize a training management system. The international expert will coach the training manager and support the delivery of initial training to current prison staff on their function and roles and on minimum standards.
- Capacity development will also be provided to the Inspectorate of Prisons in support to its establishment as needed (skills development, drafting of regulations, access to information etc).
- Finally, the training consultant will develop entry level training modules together with relevant institutions (MOHA, Faculty of Law and Shari’ah and others as required) and with the involvement of the Human Rights Commission of Maldives and will support costing of the creation of sustainable option for training for government support.
- Additionally key law enforcement staff will be included in other justice system-wide capacity development and training efforts (see below) to increase involvement, coordination and the perception that law enforcement is a key component of the justice sector.

**Activity 2.3 – Criminal Records Overhaul:** The system of management of criminal records will be streamlined in order to ensure full compliance with international standards and the principle of presumption of innocence, so that only convictions are registered and kept as criminal records.

Implementing Partner: AGO with MOJ and MOHA (and Police-Prison)

Description:

- The project will provide support to the AGO, with MOJ and MOHA to coordinate a technical working group to agree on changes to be made and responsibilities.
- If required, international best practices will be provided in the form of remote technical assistance.

**Output 3:** *Strengthened capacity of the judiciary, civil society, social workers and the Human Rights Commission of Maldives to protect human rights especially of women, youth and children and increase citizens’ awareness of their rights in accordance with the national constitution and international standards*

**Activity 3.4: Legal Aid:** The project will increase access of disadvantaged groups particularly women, to recourse through provision of legal services (legal awareness, legal counseling and legal aid).

Implementing Partners: Ministry of Gender, legal NGOs, Law Society, Human Rights Commission of Maldives, UNICEF

Description:

- There is no provision for legal aid in the current legal system.

- Additionally lawyers' fees are very high and the absence of a regulatory body does not make it compulsory for lawyers to provide pro bono services.
- Women are particularly affected as they often don't have an independent income.
- Outside Male, the need for legal services is even more acute as all the lawyers are located in Male.
- Some attempts by Law Society and, more recently, by a human rights NGO, Hamajamyah, have been made to provide legal aid clinics. Both organizations have identified the location of their offices and space limitations as a possible barrier to those most in need particularly women.
- The project will support the institutionalization of mechanisms for legal aid (for example through the bar association, see above) and direct provision of services on a pilot basis to specific beneficiaries, particularly women.
- The project through the HRCM and/or the Law Society will organize a series of workshops and seminars on 'Promoting a Culture of Legal Aid' for all partners supporting legal aid activities, as well as independent legal practitioners, justice institutions etc., to promote interest in legal aid and provide recommendations for finding an institutional solution.
- The project will support training and sensitization of lawyers and judges on the use of public interest litigation for the poor.
- In parallel the project will support a scheme in partnership with the Ministry of Gender and UNICEF by which paralegal assistance will be provided by placing a trained paralegal within the "Family and Children Service Centres" of the Ministry of Gender in selected atolls. The paralegals will serve a dual purpose: they will be able to give advice in loco and they will provide a referral system to a legal aid provider in Male for additional support should this be sought<sup>7</sup>. They will also distribute specifically prepared legal awareness material to the community through established support mechanisms (i.e. women development committees, schools etc.). The scheme will be financed by small grants through the small grants facility set up in the civil society component of UNDP-supported governance programme in the Maldives of which a proportion will be earmarked for legal counseling, legal advice and legal aid, especially for women.
- Alternatively, should the small grants facility not be viable, the scheme should be implemented through the Ministry of Gender. An evaluation of the pilots will be carried out to establish effectiveness and to make recommendations as to whether such a service could be implemented with government funds<sup>8</sup>.

**Activity 3.5 – Supporting the HRCM:** The project will support the Human Rights Commission of Maldives in developing tools for its own self assessment of effectiveness.

Implementing Partner: Human Rights Commission of Maldives (HRCM)

Description:

- Newly established national human rights institutions (NHRIs) face critical challenges including how to make them operational, effective, and supported by high level public authorities.
- A multi-faceted effort that has to do with human and financial resources, staff training, establishment of procedures and systems, proper administration, procurement of technical aids, educational and public relations functions is needed.
- Using recommendations of the toolkit "Assessing the Effectiveness of National Human Rights Institutions" (published by the International Council on Human Rights Policy and Office of the United Nations High Commissioner for Human Rights [OHCHR]) the project will support the HRCM in identifying barriers and obstacles for effective fulfillment of its rights and obligations and achievement of its objectives.
- Through the services of a technical advisor, the project will support the development of the capacity of the HRCM to conduct self assessments based on the methodology of the report.

<sup>7</sup> A similar referral scheme has been supported successfully for remote and conflict affected communities in Nepal by UNICEF through women development committees.

<sup>8</sup> A proposal for the creation of a system of community based paralegals as a systematic approach to overcome the lack of legal services outside of Male is outlined in the project document addenda:

- The expert will review existing documentation and work directly with the HRCM. Among others, the expert will prepare and conduct one day training about the methodology used for the assessment of the core staff of the institution. The expert will produce an internal report from the assessment, which will identify barriers for effective work and propose recommendations for the HRCM to improve its working procedures.

In addition to the above outputs and activities, there are additional possible areas of cooperation the project could consider for implementation during the programme cycle 2008-2010, as specified in Annex III.



### Annex 3: Access to Justice Assessment Study

The Access to Justice Assessment will be designed with the input and participation of an inter-disciplinary/inter-ministry working group. The information provided below comprises initial feedback received from the key stakeholders of this project and will be further developed by this inter-ministry working group.

The preparation of the access to justice assessment study, following a Human Rights Based Approach, will serve three purposes:

- It will provide much needed baseline information on
  - public confidence in the justice system, awareness of and access to justice
- It will directly provide legal awareness and rights awareness to the surveyed communities through workshops carried out by the survey teams
- It will provide avenues for policy discussions, sensitization and recommendations informing future policy making on access to justice and realization of human rights.
- The Justice Assessment will also be twinned with legal awareness for justice personnel

The study will focus both on people's perception of access to justice and objective observations of the situation at island level and capacity of providers. Under the leadership of the Ministry of Justice, an interdisciplinary working group on access to justice (with representatives of MOJ, AGO, Ministry of Home Affairs, law enforcement agencies, HRCM, Gender Ministry, local authorities, Minister of Atolls Development, social workers, service delivery NGOs, law and justice related NGOs, faculties, selected members of civil society and representatives) will be set up to provide advice, giving inputs and feedback to the study design.

The survey will be divided into five stages:-

1. **Stage one:-** Preliminary assessment by international expert on human rights and justice to design the scope of the survey (working under the guidance of the interdisciplinary working group on access to justice)
2. **Stage two:-** Conducting the Survey
3. **Stage three:-** Data coding, entering and cleaning
4. **Stage four:-** Analysis and report writing
5. **Stage five:-** Dissemination

An international expert on human rights and justice with ample experience in conducting surveys will be contracted as a team leader for the survey. The international consultant will work as required with 2 national consultants and a local company will be subcontracted to conduct the survey. UNDP Regional centre Bangkok and UNDP Maldives will also support the process.

A one day access to justice workshop will be organized for the working group to increase awareness on the concept of access to justice based on a human rights based approach. Comparative experience on access to justice studies and programmes can be provided by UNDP through its vast experience in the region (e.g. Indonesia, Sri Lanka, Cambodia, India etc). Criteria for selection of islands and atolls to be surveyed will be developed on the basis of vulnerability assessments and previous human rights assessment and finalized by the working group.

The survey teams selected will be representative and at least one member of the survey team should be from the community surveyed (e.g. one member per atoll surveyed). At least one member in each location needs to

be a woman. Human rights based approach (HRBA) and access to justice training of trainers modules will be developed. Training of trainers (TOT) workshops with the survey teams will be carried out. Together with the teams, study assessment tools and questionnaires will be designed and discussed with the members of the access to justice working group. Easily understandable information material (brochure, leaflets etc.) on access to justice and legal awareness will also be developed with inputs from the a2j working group to be distributed to the communities (including for example through Women Development Committees etc.).

The assessment will be carried out in selected location through:

- Focus group discussions [FDGs] (both in mixed groups and specific homogenous groups, for example of women or internally displaced persons [IDPs]). These FDGs will also serve the purpose of initial sensitization and awareness of access to justice;
- Individual interviews;
- Island/atoll level workshops on access to justice (these workshops will serve the purpose of providing a forum for discussion on issues of access to rights and services and will target community leaders and government officials as well as members of the community and to validate preliminary findings from interviews and FDGs);

The assessment should target particularly categories of individuals that are in a vulnerable position with regards to the ability to claim their rights (migrant workers, IDPs, women especially in remote communities, tsunami affected communities). The project will draft initial outcomes of the study and circulate to access to justice working group members for feedback and comments. Finally the project will support holding of a nationwide access to justice workshop in Male with the participation of government representatives from all relevant institutions, parliament, civil society, religious authorities and also representatives of communities taking part in the study. This workshop will serve two purposes: sensitization on issues regarding accessing and realization of human rights and provide inputs to recommendations for policy formulation on access to justice. Finally, the project will support the working group on access to justice in devising recommendations for inclusion of access to justice interventions as part of sectoral or nation wide reform plans;