

## **Combining Sharia with Human Rights Obligations: Defending New Forms in the Constitutional and Penal Reforms in the Maldives**

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### Abstract:

The Maldives embarked in 2004 on a major overhaul of its laws with the objective of complying with international human rights law, while retaining the country's commitment to Islamic sharia. What followed was a new constitution with a bill of rights, and a major reformulation of its criminal justice system. The capstone of these reforms was the new penal code, based upon the codification of sharia law while respecting the country's human rights obligations.

Attacked by liberals and conservatives alike, those who defended the project argued that codification in the Maldives provided an opportunity to combine reformist readings of sharia law with modern human rights standards, and further that, because there had been no previous codification in the country, there was a higher degree of freedom to invent new forms of resolving tensions between sharia and human rights law; and advance the protection of human rights.

Ten years after the start of this project, a number of restrictions previously imposed arguably on the basis of Islamic sharia have been repealed, and a new penal code makes further adjustments, including the virtual abandonment of the death penalty; and various elements of the principle of legality have been firmly entrenched. The challenge now is to sustain and advance these reforms.

The paper will examine the extent to which the effort to combine sharia and human rights law succeeded, and the manner in which tensions between the two were resolved. In particular, it will examine the potential to sustain the new legal formations in the specific political, legal, and cultural context of the Maldives and locate the Maldives experience within the wider debates on the compatibility of sharia and international human rights law.