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MALDIVES LEGAL AND POLITICAL HISTORY

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Abstract

The Republic of Maldives has an interesting history. The early history of the Maldives remains mostly a mystery. The little bits and pieces that historians have been able to uncover show that the people of the Maldives were strong seafarers who lived a simple life. The sea provided them with the riches they needed, and the land provided little sustenance. So, they opted for trading the riches the sea brought them. This led them to make long voyages to distant lands. On these voyages, they were exposed to international maritime laws. Being involved in international trade meant that laws that govern these trades were also a part of Maldivian history. Unfortunately, there are very few written documents that showcase this simple yet adventurous history of the Maldivians. It is from documents that are written by foreign travellers and kingdoms we find tales of the travels of the Maldivian people in far-off lands. This paper attempts to investigate the historical facts behind the involvement of Maldivians in Asia. How it has shaped the geo-political environment of the region as well as the socioeconomics of Maldives. It also investigates the legal history of the Maldives. This includes maritime laws and trade policies.

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INTRODUCTION

The republic of Maldives is a low-lying chain of islands in the middle of the Indian Ocean. Almost 900,000 sq. km is considered the territory of the nation. However, only 300 sq. km is usable land. The rest is water. With a population of approximately 350,000 people², Maldives is a small country. The nation stretches to only about 800km. due to the low-lying nature of the island nation, Maldives faces some unique challenges. The most significant of these challenges is the environmental impact due to climate change. The highest point on the island nation is approximately 2.4 meters³. The language spoken in the country is called Dhivehi, a unique language in this country. It has its roots in Sinhalese. The only place other than Maldives that uses this language is Minicoy⁴. There are several versions of the original settlers of Maldives. Sadly, there is very little research and very few written documents about the history of the Maldives. Some scholars believe that it was seafarers who came to these islands during their sea voyages, who either got shipwrecked or came for resupplies. Others believe that it was the Tamils and Sinhalese from India and Sri Lanka who settled in the Maldives⁵. Nevertheless, the people of Maldives have their own unique identities. Their ability to adapt to an environment that has so little to offer in terms of natural resources is quite interesting and unique. They can build boats using the very few varieties of wood that are available in the country and make long voyages, showcasing their talent in building these crafts. The history of Maldives is an interesting one; given that there have been many significant changes over the long history of Maldives. It is noteworthy to mention that the first settlers of Maldives were Buddhists. This has been proven by the many Buddhist artifacts and ruins discovered across the Maldivian islands⁶. Later, the Maldivian people embraced Islam as their religion and have been a Sunni Muslim country ever since⁷. This meant that the laws and regulations of the Maldivian people are heavily influenced and reliant on the Islamic Shariah.

² National bureau of statistics, Statistical Yearbook of Maldives 2021 (National Bureau of Statistics 2021)

³ Andrew Evans, 'Climbing the Highest Point in the Maldives' (<https://www.nationalgeographic.com/>, 5 November 2013) <https://www.nationalgeographic.com/travel/article/climbing-the-highest-point-in-the-maldives> accessed 10 November 2022

⁴ Yumna Maumoon, A General Overview of the Dhivehi Language (The National Centre for Linguistic and Historical Research 2002)

⁵ Encyclopaedia britannica, 'Maldives' (<https://www.britannica.com/>, 18 October 2022) <https://www.britannica.com/place/Maldives> accessed 10 November 2022

⁶ Raajemv, 'Buddhist relics found in Kalaidhoo island' (<https://raajje.mv/>, 16 March 2018) <https://raajje.mv/28739> accessed 10 November 2022

⁷ Ahmed Mohamed, 'Conversion of the Maldives to Islam' (<https://www.islamicity.org/>, 29 March 2017) <https://www.islamicity.org/11204/conversion-of-the-maldives-to-islam/> accessed 10 November 2022

EARLY POLITICAL ENVIRONMENT

The Maldives have been ruled by kings and Sultans for a very long time. The ruling power had been shifting between a few powerful families over the centuries. There were 7 notable dynasties in the Maldives⁸. These families applied Islamic law in their rule of the country. There had been minor interruptions in the ruling when invaders came to the country. These included the Portuguese who ruled over the country. Later, Maldives was under the British Empire as a protectorate. However, it gained its independence from the British in the year 1965⁹. This put an end to the long reign of sultans in the Maldives and paved the way for the republic which we know today. 1968 was a significant year in the history of Maldives, as the parliament of the Maldives voted in favour of a republic over a monarchy¹⁰. The first constitution of the Maldives was drafted in 1931 and ratified in the year 1932. There had been six more constitutions after this¹¹. The current constitution came into force in 2008. Since the constitution of the Maldives is the supreme law, it dictates all other rules and regulations of the country. With the current constitution, the three powers are separated. These three powers are the executive, the legislature, and the judiciary.

CURRENT POLITICAL SYSTEM

The current political system of the Maldives is very fragile. It is in the early stages of maturing into a full democracy. With the coming of the multiparty system in the Maldives, there have been demands by the public to separate the powers and have a free and fair election. This led to the first multiparty election which was transparent. This was in 2008. It is understandable that there will be turmoil in the country when the journey toward democracy is this young. Nevertheless, it is happening lessons are learned and improvements are being made. It is interesting to note that with the multiparty system, one single party has not been able to come to power in the Maldives. It is only through a coalition that parties

⁸ Dr Rajkumar Singh, 'Dynastic profile of Muslim rulers in Maldives' (<https://pakobserver.net/>, 19 August 2022) <https://pakobserver.net/dynastic-profile-of-muslim-rulers-in-maldives-by-dr-rajkumar-singh-bihar/> accessed 10 November 2022

⁹ Ibid

¹⁰ Office Of The Historian, "A Guide to the United States' History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: Maldives" (U.S. Department of State) <https://history.state.gov/countries/maldives> accessed November 11, 2022

¹¹ Editor, 'Legal History of Maldives' (<https://thelawexpress.com/>, 03 August 2020) <https://thelawexpress.com/legal-history-of-maldives> accessed 10 November 2022

have been able to come to power. The government which has come to power has been plagued by corruption and other issues. People lose faith in governments easily due to these issues.

EARLIEST RECORDS

The earliest written records found in the Maldives are copper plates that had inscriptions on them. These were known locally as "*Loamaafaanu*". Out of the several of these copper plates found so far, one was interesting, which was also the oldest of them all. This one was called "*Isdhoo Loamaafaanu*". These copper plates were written in the vernacular language of Maldives, called "*Eveylaa Akuru*" and "*Dhives Akuru*". Both these languages have evolved into the language that we now know as "Divehi". These copper plates describe the kingdom and the history of the country to a certain extent¹². Other records include archaeological findings as well as writings of famous travellers across the globe. One of the most well-known writers about Maldives and its history was H.C.P Bell. He did extensive research into the Maldivian history and its culture. He was residing in Sri Lanka and this made it easier for him to travel between Sri Lanka and Maldives. His research into the archaeological digs of the Maldives is a very detailed and helpful document that gives us an insight into the early Maldivian lifestyle. There were no academics in the Maldives at that time, hence a foreigner had to do that.

ENGAGEMENT IN INTERNATIONAL TRADE

Maldives does not have any valuable natural resources that its inhabitants can tap into. The very few resources that were available came from the sea. These include fish, cowrie shells, and other tradable goods like ambergris, and turtle shells. Since the sea was the main source of income, early Maldivians became naturally good in activities related to the sea. They became good seafarers. They learned how to navigate the high seas and made long trips to distant countries. During these visits, they traded their dried fish, cowrie shells, and ambergris for staple foods like rice, flour, sugar, and other consumables. Their travels are evident from archaeological evidence found throughout the country. Some of the most notable of these is the discovery of Chinese pottery¹³. This indicates that Maldivians travelled to China and traded with them. According to documents from the Tang Dynasty it was said

¹² Naseema Mohamed, 'Note on the early history of Maldives' [2005] 70(1) Archipel 7-14

¹³ Jaufar S, "An Archaeological Study of the Maldivian Islands: Investigating the Islamic Period Settlements" (thesis2019) 72

that Maldivian delegations visited the emperor Kao-Tsung in 658 AD.¹⁴ Maldives also maintained good trade relationships with India and Sri Lanka for centuries. This meant that there were constant sea voyages between these three countries. The cowry shells of Maldives were so highly sought after by international traders, that Maldives was aptly named “cowry islands” by the famous Iranian scholar *Al-Biruni*¹⁵. The seventeenth and eighteenth centuries saw rapid economic expansion due to the high demand for cowrie shells. Bengal used cowrie shells as a form of currency. Maldives was one of the biggest suppliers. These good times lasted till the late 19th century. Unfortunately, Bengal dropped the cowrie shell as a form of currency during the late 19th century. This was a huge economic blow to the Maldives¹⁶.

MALDIVES AND THE LAW OF THE SEA

The earliest maritime laws were known to global seafarers since the 1st millennium BC. These laws were needed because there was an ever increase in trade that was conducted via sea transportation methods. This meant that there should be rules and regulations that govern these travels. Human beings need laws, regulations, and guidance to function properly. Some scholars believe that the first maritime laws were created as early as 500-300 BC. These were known as the Rhodian sea laws¹⁷. The fall of Greece and the rise of the Roman Empire meant that the Rhodian sea laws were modified for the benefit of the Roman Empire. Interestingly not much was changed and with the rise of great port cities across the Mediterranean special tribunals was set up to settle disputes that arose at sea and among sailors¹⁸. The three main principles of maritime laws are the Laws of Wisby, the laws of Hansa Towns, and the laws of Oleron. These three laws are the backbone of modern maritime laws. Based on these three

¹⁴ Maldivesembassy, “China and Maldives Friendship History” (Maldives) <https://maldivesembassy.cn/china-and-maldives-friendship-history/> accessed November 12, 2022

¹⁵ Maniku HA (Maldives National University) rep <http://saruna.mnu.edu.mv/jspui/bitstream/123456789/9422/1/The%20Economic%20make-up%20of%20the%20Maldivian%20society.....%20%3A%20an%20historical%20over-view.pdf> accessed November 12, 2022

¹⁶ Mohamed N, “Maldivian Seafaring in the Pre-Portuguese Period”(http://qaumiyyath.gov.mv/2005) <http://qaumiyyath.gov.mv/docs/whitepapers/history/seafaring.pdf> accessed November 12, 2022

¹⁷ GEDECHO HAILEGABRIEL, “Historical Development of Maritime Law” (https://www.abysinialaw.com/October 11, 2022) <https://www.abysinialaw.com/study-on-line/402-maritime-law/7444-historical-development-of-maritime-law#:~:text=It%20is%20generally%20accepted%20that,a%20method%20of%20providing%20predictable> accessed November 12, 2022

¹⁸ Ibid

laws the British Empire created the Admiralty law¹⁹ and conquered great regions of Asia with its mammoth naval fleet. The Maldives was also under their protection for close to a century.

The Maldives sits in a unique position in the Indian Ocean. Most of the trade routes between the Mediterranean and the east passed through, either the Maldives or its exclusive economic zone. This meant that whoever controlled the Maldives and her economic zone, will influence the sea trade in the Asian region²⁰. This is one of the reasons why the Portuguese took an interest in the Maldives, even though there were not enough valuable natural resources in the country²¹. As Maldivians were seafarers themselves, the Maldivian sailors needed to be well-versed in the maritime laws of the globe. Unfortunately, there are no documents or research into the practice or adaptations of these maritime laws by the Maldivian seafarers. Though this might be the case, it is safe to assume that they must have practiced these laws to a certain degree as they were involved in international sea trade with neighboring countries as well as distant countries like China in the east and to the west of the country, to Rome²². Traveling to Rome meant that Maldivians must have had some exposure to Rhodian Sea Laws.

The unique position of Maldives in the Indian Ocean trade lanes makes Maldives an important partner for countries that have a stake in these routes. Namely India and China. The cooperation of Maldives with these two countries is important politically. During the regime of president Yameen relationship with China improved and the Maldives plays an important role in the belt and road initiative. This was a worrisome development for India, and it stepped up its involvement in the Maldives. With the transition of government the current government has sided with India and with its help is developing infrastructure in the Maldives, including the longest bridge that the Maldives has seen so far²³.

The Maldives established its first Maritime zones of Maldives act in the year 1996. This act defined the territorial seas, the contiguous zones, and the exclusive economic zones²⁴. This

¹⁹ Maritime & Jones Act Lawyers, "The Intriguing History of Maritime Law"

<https://maintenanceandcure.com/maritime-blog/the-intriguing-history-of-maritime-law/> accessed November 12, 2022

²⁰ Kapoor RV, "SIGNIFICANCE OF THE MALDIVES TO INDIA" (<https://maritimeindia.org/>April 9, 2020)

<https://maritimeindia.org/significance-of-the-maldives-to-india/> accessed November 12, 2022

²¹ Maniku HA (Maldives National University) rep

²² Mohamed N, "Maldivian Seafaring in the Pre-Portuguese Period"

²³ Kapoor RV, "SIGNIFICANCE OF THE MALDIVES TO INDIA" (<https://maritimeindia.org/>April 9, 2020)

²⁴ Maritime Zones of Maldives Act No. 6/96

act was based on the criteria that are outlined in article 47 of the LOS Convention. This was a Convention held in 1982 on the law of the Sea²⁵. With these laws in place, Maldives has outlined who can operate in these waters. Though some of these are protested by the US as they are not by the LOS Convention²⁶.

EARLY JUDICIARY OF MALDIVES

Before the introduction of the first constitution in 1932, the law was the word of the sultan. After the introduction of Islam to the Maldives, there was a mix of Islamic shariah law practiced in the country. There are arguments about which school of law was prevalent in the country during this period. The debate is that it was the Maliki school of law that was first present. This was backed by the fact that during this period Morocco had a dominant Maliki school of law. This is the country of origin of Abu al-Barakat Yusuf al-Barbari. He is the Islamic scholar who introduced Islam to the Maldives²⁷. Ibn Battuta was also a follower of Maliki jurisprudence, and he was appointed as a judge in the Maldives during his visit to the Maldives. The type of school of law the country follows is important as there are slight variations among the different school of law. When the first constitution was drawn up, it was predominantly based on the Egyptian constitution²⁸ and it was made sure that the constitution did not contradict the teachings of Islam or Islamic shariah. It is important to know that later, the constitution evolved to be based on Islamic shariah and the English Common Law. Even though, the constitution says that it should follow Islamic shariah, in the matters on which the constitution is silent on and are only referred to the Islamic shariah for interpretation.

MODERN JUDICIARY

The modern judiciary of the Maldives is based on the separation of three powers by modern democratic values. This meant that the judiciary is supposedly free from the influence of the government (the executive) and the legislature (Peoples Majlis or the parliament). The

²⁵ NOAA, "Law of the Sea Convention" (*National Oceanic and Atmospheric Administration*) <https://www.noaa.gov/law-of-sea-convention#:~:text=The%201982%20Law%20of%20the,both%20natural%20and%20cultural%20resources>. accessed November 12, 2022

²⁶ Smith RW and Morison S, "LIMITS IN THE SEAS" (<https://www.state.gov/>) <<https://www.state.gov/wp-content/uploads/2019/12/LIS-126.pdf>> accessed November 12, 2022

²⁷ Falaah S, "How the Law in the Maldives Paved the Way for a Sunni Legal Tradition" (Melbourne Asia Review June 16, 2022) <https://melbourneasiareview.edu.au/how-the-law-in-the-maldives-paved-the-way-for-a-sunni-legal-tradition/> accessed November 13, 2022

²⁸ Ibid

supreme court is the highest authority in the judiciary system with the chief justice being the highest authority in the supreme court which is stipulated in article 141 (b) of the Maldivian constitution.

CONCLUSION

The history of the Maldives needs more research and studying to understand the influence they had on the history of Asia. The role Maldivians played in shaping the modern world as we know it today. The involvement of Maldivians in the international trade arena meant that they were exposed to the earliest forms of maritime laws and trade policies across the globe. Early Maldivian seafarers made these journeys to distant lands for trade and to establish political relationships. When the British Empire came to the Asian region, Maldivians were exposed to the admiralty Laws. The international community has been improving on the fundamental maritime laws of the early civilizations. Maldivians have long since made their own laws and rules and have been adapting and evolving with an ever-changing world. The Republic of Maldives is very sensitive to even the slightest changes in world politics due its inability to produce the goods and services it needs. It is also sensitive in terms of environmental impact as it is one of the most threatened by rise in sea level and global warming. Its economy is also sensitive due to its dependency on one of the most sensitive markets in the world, tourism. All in all, Maldives is very fragile, yet significant to almost all the big players in the south Asian region.

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