

# Asian Centre for Human Rights

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15 May 2005

H.E. Ms Mehr Khan Williams  
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Excellency,

We are writing pertaining to the meeting between Your Excellency and President of Maldives, Maumoon Abdul Gayoom on 17 March 2005.

In our report, *Maldives: The Dark Side of Life*, of 30 March 2005, Asian Centre for Human Rights recommended to the government of Maldives to “Sign a Memorandum of Understanding with the Office of the United Nations High Commissioner for Human Rights to provide technical cooperation assistance for the drafting of the new constitution”. The same was reiterated in our communication to Dr Ahmed Shaheed, Chief Spokesperson of the government of Maldives on 13 April 2005. You might recall that we had a mark a copy of our letter to Dr Shaheed to Your Excellency.

Kindly allow us to draw Your Excellency’s attention to some of the critical human rights issues in Maldives that OHCHR might find of relevance in the discussion with President Gayoom.

## 1. Drafting of the constitution of Maldives

On 14 February 2005, President Gayoom unveiled his proposals for drafting of a new constitution for Maldives. While the process of Drafting the Constitution of Maldives is far from satisfactory given the denial of freedom of association and assembly and nomination process of the members of Peoples Special Majlis, the Office of the High Commissioner for Human Rights should extend technical cooperation for drafting of the constitution. In our view, the presence of the OHCHR could help to create necessary ambience for effective contribution by the opposition and independent members of the Peoples Special Majlis.

## 2. The need to ensuring compliance with international human rights standards

Asian Centre for Human Rights remains seriously concerned about the attempt to further restrict the right to freedom of association. In his proposal 1.6, President proposes, “While providing guarantees of freedom of expression, the Constitution should also stipulate that the following does not constitute as freedom of expression.

- a. Inciting or promoting war;
- b. Calling for or supporting murder, violence, vandalism, and other similar militant acts;
- c. Inciting or promoting hatred and enmity among the people on the basis of gender, race, residency or on other basis.”

The United Nations Human Rights Committee in its General Comment No 10 on Article 19 of the International Covenant on Civil and Political Rights stated that “when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself. Paragraph 3 lays down conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be “provided by law”; they may only be imposed for one of the purposes set out in subparagraphs (a) and (b) of paragraph 3; and they must be justified as being “necessary” for that State party for one of those purposes.”

Given the lack of definition as to what constitutes “vandalism, and other similar militant acts”, it can be misused to silence any form of dissent. The current proposal even erodes the existing right to freedom of expression recognized under 1998 Constitution of Maldives. Article 25 of the present constitution provides that “Every citizen shall have the freedom to express his conscience and thoughts orally or in writing or by other means, unless prohibited by law in the interest of protecting the sovereignty of the Maldives, of maintaining public order and of protecting the basic tenets of Islam”.

## 3. Denial of freedom of association - political parties

Article 27 of the Constitution of Maldives provides that “Persons shall be free to form societies and associations, unless prohibited by law in the interest of the protection of sovereignty of the Maldives and the maintenance of public order”. But no political party can be registered in Maldives. President Gayoom has failed to make any commitment on establishing multi-party democracy.

There is repression on those who seek to exercise the right to freedom of association. Many members of the Maldivian Democratic Party have been arrested and put under detention.

## 4. Denial of freedom of association - NGOs

“The Reporting Network for the Relatives of the Persons in Judicial Care” was established in September 2004 to provide legal advice and realization of the rights guaranteed under the constitution of Maldives. It submitted its application to the Home Ministry. Until now, the Maldivian authorities refused to register the organisation.

## 5. National Human Rights Commission

The Human Rights Commission of Maldives does not meet the Paris Principles on National Human Rights Institutions. It has therefore been denied membership to the Asia-Pacific Forum of National Human Rights Institutions.

## 6. Political detainees and prisoners of conscience

The grant of amnesty to Fatimath Nisreen on 9 May 2005 is welcome. She was arrested along with Ibrahim Moosa Luthfee, Mohamed Zaki and Ahmed Ibrahim Didi arrested in 2001 for circulating an Internet e-mail magazine, *Sandhaanu*, critical of the Government. They were sentenced to rigorous imprisonment. While Luther managed to flee, Mohamed Zaki and Ahmed Didi were given life imprisonment, which was later reduced to 15 years. They continue to remain under house arrest.

On 31 December 2004, President of Maldives in a press statement declared that he had ordered the withdrawal of charges of high treason and charges of public disorder offences against those who participated in the demonstrations on 12-13 August 2004. However, none of the detainees have so far received individual notices to inform that charges have been withdrawn. It is feared that the charges have been actually 'suspended' with the option to re-activate them at a later date if they oppose the government.

## 7. Systematic human rights violations

Asian Centre for Human Rights documented serious human rights violations in its report, *Maldives: The Dark Side of Life*, of 30 March 2005. The latest weekly ACHR REVIEW titled "Maldives: Still Dark" also documented many cases of arbitrary arrest, detention and torture.

The consistent reports of arrest without warrant and torture in a country of 300,000 homogenous populations indicate the systematic pattern of human rights violations. Mohamed Maaish, 19 years, was admitted to Indira Gandhi Memorial Hospital (IGMH) in Male' on 21 April 2005 after being allegedly severely beaten by police. Maaish was reportedly at 1.30 am on 14 April 2005 by four policemen on suspicion of drug abuse. He was handcuffed behind his back and kept in a solitary cell in Male' police station where he was severely tortured. The police allegedly stripped him naked in his cell, asked him to kneel down and kicked his back with their boots. The detainee has tell-tale signs of torture like bruises and cut marks on his back. Police claimed these wounds were self-inflicted when the detainee suffered seizures while being held in his cell.

Given the serious deficit of democracy in Maldives, Asian Centre for Human Rights would like to make following recommendations to urge President Gayoom to:

- Consider taking technical assistance while drafting the new constitution of Maldives;
- Ensure that all proposals for drafting of the constitution including on the freedom of expression comply with international human right standards;

- Allow exercise of Article 27 of the Constitution of Maldives on freedom of association by registering political parties;
- Allow registration of NGOs in particular, “The Reporting Network for the Relatives of the Persons in Judicial Care”;
- Take measures to ensure that Human Rights Commission of Maldives complies with the Paris Principles on National Human Rights Instruments and consider taking technical cooperation assistance from the OHCHR;
- Extend standing invitations to the Special Procedures of the Commission on Human Rights, in particular Special Rapportuer on Torture, Working Group on Arbitrary Detention and Special Rapporteur on freedom of expression to visit Maldives in 2005; and
- Release all political prisoners including Mohamed Zaki and Ahmed Didi and issue the notices on the withdrawal of charges of high treason and charges of public disorder offences against those who participated in the demonstrations on 12-13 August 2004.

Should you require any further information or clarifications, please do let us know.

Looking forward to the kind interventions with President Geom.

With kind regards,

Yours sincerely

Suhas Chakma  
Director