

# Asian Centre for Human Rights

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Dear President,

I am writing on behalf of Asian Centre for Human Rights (ACHR) pertaining to the Your Excellency's meeting with United Nations Deputy High Commissioner for Human Rights, Ms Mehr Khan Williams on 17 March 2005.

Asian Centre for Human Rights believes that the proposed meeting provides an opportunity to reiterate the reforms process will be undertaken consistent with Maldives' obligation as a member of the United Nations. Kindly allow ACHR to reiterate that there are no cultural, political, social or religious specificities, which justify deprivation of rights and freedom recognized under international law.

Kindly allow us to reiterate some of our critical issues of concerns to improve the situation of human rights in Maldives:

## **1. Technical cooperation assistance for drafting of the constitution of Maldives**

Asian Centre for Human Rights remains concerned about the process of drafting the Constitution of Maldives given the denial of freedom of association and assembly and nomination process of the members of Peoples Special Majlis. If the process of drafting constitution were to be accepted as credible, the government of Maldives should invite the Office of the High Commissioner for Human Rights (OHCHR) to extend technical cooperation for drafting of the constitution. The OHCHR has the expertise and it has been engaged in drafting constitutions of a number of countries. Maldives is a member of the United Nations and there is no reason to have reservations against any UN body which has expertise in a particular field and is willing to share its expertise.

## **2. The indispensability of consistency with international human rights standards**

Asian Centre for Human Rights remains seriously concerned about the proposal 1.6 which states, “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.”

The lack of definition as to what constitutes “vandalism, and other similar militant acts” can increase its misuse. In our view, the proposal 1.6 even erodes the existing right to freedom of expression recognized under Article 25 of the 1998 constitution.

### 3. Freedom of association - political parties

As Your Excellency is aware, 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”.

Yet, until today not a single political party has been registered. Obviously, the 1998 Constitution is not being implemented by the government in letter and spirit. Otherwise, there is no reason as to why no political party would be registered in Maldives. If the fear of people of Maldives and international community about the future constitution and its implementation were to be dispelled, the government of Maldives must take measures to implement the 1998 Constitution in letter and spirit.

### 4. Freedom of association - NGOs

Asian Centre for Human Rights also remains extremely concerned about the denial of registration of “The Reporting Network for the Relatives of the Persons in Judicial Care”, a non-governmental organisation. The application has been pending quite some time before the Home Ministry. It is unfortunate that an organization which is a basically network of relatives in judicial care cannot be registered.

Unless, the government of Maldives allows the registration of such NGOs, the accusation that only those who are close to the government i.e. government organized NGOs (GONGOs) can be registered in Maldives, will get credence.

## 5. Lack of compliance with the Paris Principles on National Human Rights Institutions

As Your Excellency might be aware, The Human Rights Commission of Maldives has been denied membership to the Asia-Pacific Forum of National Human Rights Institutions as it does not comply with the Paris Principles on National Human Rights Institutions.

## 6. Release of political detainees and prisoners of conscience

Asian Centre for Human Rights welcomes the grant of amnesty to Fatimath Nisreen on 9 May 2005. If the amnesty is to be taken seriously and not a part of convincing the High Commissioner, Mohamed Zaki and Ahmed Didi must also be given general amnesty.

Asian Centre for Human Rights also welcomes Your Excellency's statement of 31 December 2004 about 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.

## 7. Addressing systematic human rights violations

Asian Centre for Human Rights has documented serious human rights violations in its report, "Maldives: The Dark Side of Life", of 30 March 2005. The latest 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.

Asian Centre for Human Rights appeals to Your Excellency to make the following commitment to the Deputy High Commissioner for Human Rights that the government of Maldives will:

- Welcome technical assistance from the Office of the High Commissioner for Human Rights for drafting the constitution of Maldives;
- Ensure that all proposals for drafting of the constitution including on the freedom of expression will comply with international human right standards;

- Allow registration of political parties in exercise of Article 27 of the Constitution of Maldives relating to the right to freedom of association;
- Promptly instruct the Home Ministry to register “The Reporting Network for the Relatives of the Persons in Judicial Care” and other NGOs;
- Take necessary legislative measures to ensure Human Rights Commission of Maldives complies with the Paris Principles on National Human Rights Instruments and will welcome technical cooperation assistance from the OHCHR;
- Extend standing invitations to the Special Procedures of the Commission on Human Rights, in particular Special Rapporteur on Torture, Working Group on Arbitrary Detention and Special Rapporteur on freedom of expression to visit Maldives in 2005 to make appropriate recommendations for improving human rights record of the country; and
- Release all political prisoners including Mohamed Zaki and Ahmed Didi and 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 will either be issued individually or an advertisement be given in all the newspapers of Maldives with the name of all individuals who have been charged.

In our view, these measures would be indicative of the seriousness of the government of Maldives to undertake reforms for democracy and human rights.

With kind regards,

Yours sincerely

Suhas Chakma  
Director

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