



OHCHR REGISTRY

/ 6 AUG 2012

Permanent Mission of the Republic of Maldives
to the United Nations Office at Geneva

Recipients : **SPD**
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MOST URGENT

Note No. GE/PM/14/OHCHR/2012

The Permanent Mission of the Republic of Maldives presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to refer to the Office's Communication dated 3 February 2012 forwarding a Joint Urgent Appeal addressed to the Government of Maldives from the Chair-Rapporteur of the Working Group on Arbitrary Detention and Special Rapporteur on the independence of judges and lawyers and to Mission's Note No. GE/PM/10/OHCHR/2012 dated 5 July 2012.

The Permanent Mission of the Republic of Maldives is pleased to attach herewith the original of the response from the Government of Maldives on the aforementioned Joint Urgent Appeal. The Permanent Mission of the Republic of Maldives would also highly appreciate if the attached response could be brought to the urgent attention of aforementioned Special-Procedure mandate-holders.

The Permanent Mission of the Republic of Maldives avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Office of the United Nations High Commissioner for Human Rights
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MINISTER OF STATE FOR FOREIGN AFFAIRS
REPUBLIC OF MALDIVES
OHCHR REGISTRY

16 AUG 2012

21 June 2012

Recipients :.....SPD.....
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Dear Excellencies,

I have the honour to reply to your letter of 29th February 2012, regarding the alleged excessive use of force by law enforcement authorities and the detention of protesters belonging to the Maldivian Democratic Party (MDP).

The Government of the Republic of Maldives is pleased to have this opportunity to respond to the allegations made in the letter. The Maldives is a democratic nation with an exemplary Constitution that protects and promotes human rights in accordance with the Universal Declaration of Human Rights. We have ratified nearly all the major international human rights conventions including the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT) and are working to bring our laws and practices fully in line with those conventions. The Maldives also enjoys an excellent cooperative relationship with UN Special Procedures, maintaining a Standing Invitation, having received five mandate-holders in recent years, and having a strong record of responding to Urgent Appeals.

At the outset, let me assure you that the Government takes the allegations contained in the Urgent Appeal extremely serious and is committed to ensuring that the Maldives complies with its international legal obligations. The Government has consistently made clear its staunch opposition to all acts of violence, including acts of violence perpetrated by the police and security services. We have also repeatedly re-emphasized our determination to uphold the very highest standards of human rights including with regard to freedom of assembly, freedom of expression and security of person. These rights are fully protected under the Maldives Constitution and through our obligations under international law. Any human rights violations committed in the Maldives, including serious violations such as those included in the allegations contained in the Urgent Appeal, if proven, must and will be dealt with according to domestic law and according to the Maldives' international human rights obligations. Accountability and justice must be secured, and the victims must receive fair and adequate redress.

I would like to begin by responding to the allegations contained in the summary of the case contained in the letter of 29th February. In order to do so, it is important to describe the political situation in the Maldives as it has evolved since the start of 2012. I do so to provide a sense of context for the alleged violations contained in the Urgent Appeal and to clarify the facts mentioned in the summary of events.



In mid-January this year, the former President, Mohamed Nasheed (leader of Maldivian Democratic Party, MDP) ordered the country's armed forces to arrest and abduct the Chief Judge of the Criminal Court, Mr. Abdulla Mohamed, in the middle of the night while he was at his residence. His arrest was not conducted by the police, there was no warrant, it was unclear on what grounds or under which law he was being arrested, he was not brought before a court, and his detention was arbitrary. A Supreme Court order to immediately release him was ignored. His arrest and detention were, in short, unlawful and unconstitutional, and represented a serious violation of the Judge's human rights. The arrest of the Judge brought a national outcry by all the opposition parties as well as NGOs and the public.

When President Nasheed refused to release the Judge, a series of nightly protests began against his Government. Eventually, on the night of 6th February, elements of the police who disagreed with the unlawful and unconstitutional orders they were being given (they had been ordered by the Government not to intervene in a violent confrontation between opposition and government supporters) started gathering in the Republic Square. These police officers asked for assurances from the Government that they would not be issued with further unlawful orders.

While the police officers were awaiting a response, a group of MDP supporters charged into the Republic Square to disperse the protesting police regiment from the Republic Square. This incident occurred early in the morning of 7th February - before the resignation of former President Nasheed. This is the event mentioned in the first paragraph of your summary. Both the police and MDP activists sustained injuries in this confrontation. Such violence is currently being investigated by relevant authorities (see below). However, the summary contained in the Urgent Appeal is incorrect in asserting that this violence took place following the resignation of President Nasheed. It in fact occurred early in the morning - prior to his resignation.

At this point, President Nasheed went to the main army barracks on the corner of Republic Square to order the army to arrest the protesting police officers. In the ensuing stand-off, President Nasheed became agitated, fearing he was losing control of the situation, and said he would resign. President Nasheed then proceeded to the President's Office, held a cabinet meeting, wrote and signed his own resignation letter and delivered a statement on live television. As per the Constitution, he was succeeded by the-then Vice President Mohamed Waheed Hassan who swore in, in front of the Speaker of Parliament and the Chief Justice that afternoon.

The next day on February 8th, 2012, Maldivian Democratic Party (MDP) led demonstrations started spontaneously following an MDP National Council meeting during which former President Nasheed informed his supporters that he had been forced to resign. The ensuing demonstration by MDP supporters, during which they marched towards Republic Square, was not pre-planned nor was it informed to any government authority.



During the march, MDP supporters violently attacked police substations and government offices (specifically the Galolhu Police Station and the Family and Child Protection Department). At the same time, calls went out to MDP supporters in other parts of the country to also attack police stations and court houses. Subsequently a number of court houses and police stations were burnt down following arson attacks by MDP activists. Hence, according to the Maldives Police Service (MPS), there existed clear grounds not to consider the assembly as a peaceful and lawful protest.

When the police tried to block the march in Male' and issued warnings for protesters to disperse, MDP supporters threw objects and charged the police security line. Arrests were made on legal grounds that those involved were inciting violent disorder and breaching the peace. It was during this time that the alleged human rights violations contained in paragraphs 2 and 4 of the summary of events took place.

All this took place at a time of political crisis in the country. There was no Commissioner of Police, no Minister of Home Affairs and no Minister of Defence. The People's Majilis (parliament) was in recess.

I offer this summary in order to provide the Chair Rapporteurs with a sense of the chaos, fear and uncertainty which gripped the Maldives and the Maldivian people at that time. It was in this climate that the alleged 'violations' of human rights contained in the letter took place.

The Government of the Maldives does not dispute that acts of violence occurred on 8th February, that force was used by the police, nor that some MDP supporters, including Mr. Moosa Manik MP, were unfortunately slightly injured. Numerous Police officers and members of the general public were also injured on this occasion.

While the Government would like to make clear that it opposes all acts of violence, it is clear that the precise nature of events on February 8th, including the allegations made in the summary provided by the mandate-holders, remains to be ascertained by the relevant domestic mechanisms (see below). This includes an assessment of whether the police were justified in using force and whether in doing so they exercised necessary restraint, the exact number of people injured and the nature of the injuries, and the exact number of arrests and whether those arrests were undertaken in full accordance with the law. It also includes an assessment of the treatment of journalists, and whether the constitutionally-protected rights to freedom of expression and freedom of assembly were respected.

Turning to those domestic mechanisms, the Government can confirm that the independent Human Rights Commission of the Maldives (HRCM) is investigating the allegations of the disproportionate use of force by the police on 7th February and 8th February. This is part of a wider investigation into all alleged human rights abuses which took place from 14th January 2012 (when Chief Judge Abdulla Mohamed was arrested) to 8th February 2012. The Government is not aware when the HRCM expects to complete its work.



The Government can also confirm that on 23rd February 2012 the independent Police Integrity Commission announced that it had launched an investigation into accusations levelled against the police relating to the events summarized in the Urgent Appeal. Announcing the investigation, the President of the Police Integrity Commission, Ms. Shahinda Ismail, said that “every accusation against the police will be investigated. The Commission has diverted all its attention to carrying out this investigation”.

A third track to establish accountability for the alleged human rights violations committed against individuals in the context of events summarized in the Urgent Appeal is the independent Commission of National Inquiry (CoNI) established by President Waheed to look into events leading up to, and following the resignation of President Nasheed on 7th February 2012. The establishment of an independent investigative mechanism was a key commitment of the new Government immediately following the assumption of office by President Waheed. The Commission is currently undertaking its work. The Government had reached an agreement with the Commonwealth to better focus the scope of the inquiry, strengthen the powers of the commission and broaden its composition with the participation of an international co-chair plus a nominee of the former President Nasheed.

Where these investigations find that the allegations contained in the Urgent Appeal are correct, that information will be forwarded to the Attorney-General and the Prosecutor-General for necessary legal action to secure accountability, remedy and redress, and to help guarantee non-recurrence.

In response to the mandate-holder’s question about whether any complaints have been lodged, the Maldives Police Service has confirmed that it has not received any complaints in relation to the events covered by the Urgent Appeal. However, complaints may have been lodged with the independent Human Rights Commission of the Maldives or with the independent Police Integrity Commission.

In response to the request to provide information on the results of any investigations into events summarized in the Urgent Appeal, the Government can confirm that none of the three mechanisms mentioned above have yet finished their work nor released their findings. When they do so, the Government will forward copies to the mandate-holders.

In response to the question of whether any prosecutions have been undertaken, the Government can confirm that seven cases have been forwarded for prosecution covering, in total, 141 individuals for their role in the violence against police stations, police property and police officers on 8th February. These cases are yet to be heard. No cases against police officers have been lodged pending the outcomes of the three investigations mentioned above.



That brings me to my final point: that the Government is fully aware that in order for the Maldives to move forward, and to further strengthen our young democracy, it is imperative that we effectively deal with what has happened in the past and provide justice for any wrongdoing.

We are therefore committed to ensuring that any violations of human rights are fully and robustly dealt with according to the law and according to our international human rights obligations, including under the International Covenant on Civil and Political Rights.

In that regard, we are committed to moving forward in close cooperation and in full transparency with the international community including Special Procedures and other international human rights mechanisms.

Please accept, Excellencies, the assurances of my highest consideration.

Dunya Maumoon

Chair-Rapporteur of the Working Group on Arbitrary Detention
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Special Rapporteur on the promotion and protection of the right to freedom of assembly and of association
Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
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