



OHCHR REGISTRY

17 AUG 2012

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

Recipients : S.P.O.,
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MOST URGENT

Note No. GE/PM/13/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 29 February 2012 forwarding a Joint Urgent Appeal addressed to the Government of Maldives from the Chair-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the promotion and protection of right to freedom of opinion and expression, Special Rapporteur on the rights of freedom of peaceful assembly and of association and Special Rapporteur on torture and other cruel, inhumane or degrading treatment of punishment and to Mission's Note No. GE/PM/8/OHCHR/2012 dated 2 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

5 July 2012

Dear Excellencies,

I have the honour to reply to your letter of 3rd February 2012, regarding the arrest and detention of Chief Judge of the Criminal Court, Abdulla Mohamed.

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 has also ratified the Optional Protocol to the Convention against Torture (OPCAT) and has established a National Preventative Mechanism (NPM). 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 of President Mohamed Waheed, after assumption of office in February 7th, has consistently made clear that primary importance of the Constitution and of the rule of law, and its staunch opposition to all acts taken outside of the laws of the country. This includes a strong commitment to fair proceedings before an independent and impartial tribunal and a firm rejection of all cases of arbitrary or unlawful detention, in accordance with our obligations under articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR). 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. The Urgent Appeal dated 3rd February contains an accurate summary of events.

On 16th January this year, Chief Judge Abdulla Mohamed was arrested and abducted by the country's armed forces, 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.

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Following his unlawful arrest, the Judge was not provided with access to his family or to his lawyer. For four days he was in an "enforced disappearance", his whereabouts and well-being unknown. It was under growing public anger and pressure that the-then Government disclosed his whereabouts, stating that he was detained in an army base away from the capital Malé, and allowed limited access by the Human Rights Commission of the Maldives and the National Preventive Mechanism. Judge Abdulla's 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 also brought a national outcry by all the opposition parties as well as NGO's and the public.

Following the arrest of the Judge a series of nightly protest began against the Government of President Nasheed. Eventually, on the night of 6th February, elements of the police who disagreed with the unlawful 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. Both the police and MDP activists sustained injuries in this confrontation.

In the morning of 7th February, President Nasheed went to the main army barracks on the corner of the 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 the Parliament and the Chief Justice that afternoon. Judge Abdulla was also released the same day.

The Government can thus confirm to the mandate-holders that Judge Abdulla Mohamed is no longer in detention and has had his full liberties and rights restored.

The exact nature of these events -- including the exact chain of command which led to the Judge's arbitrary arrest and detention, the subsequent protests and the transfer of executive power are currently subject to an independent Commission of National Inquiry. The findings of the Commission will be forwarded to the Attorney-General and Prosecutor-General for appropriate legal proceedings where laws have been broken or human rights violated.

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The Human Rights Commission of the Maldives has concluded its investigation into the arrest of Judge Abdulla, and has already questioned former President Nasheed regarding his role in the arrest of the Judge.

The Government is committed to ensuring that all these processes lead to accountability for any violations found to have taken place, as well as remedy and redress for the victims.

The Urgent Appeal also makes enquiries regarding perceived failings vis-à-vis the constitutional check-and-balances designed to ensure judicial independence, impartiality, integrity and accountability.

In reply to this, the Government wishes to note that on 16th February, shortly after assuming the Presidency, President Waheed published a "Roadmap on a Possible Way Forward". Under subsection IV – Priority tasks of the Government of National Unity – the Roadmap states:

"The Government of National Unity will continue the process of strengthening constitutional governance, including the Judiciary and other independent commission and the judiciary through ensuring the effective functioning of the Judicial Service Commission. The Government of National Unity will establish a national round table to discuss steps that may be taken in support of that work. The UN High Commissioner of Human Rights in cooperation with other UN agencies and the Commonwealth Secretariat are invited to provide support".

The Government is making preparations to hold a Justice Sector Roundtable in the near future. The Roundtable will bring together key stakeholders in the justice sector for the first comprehensive and coordinated discussion of current challenges in the sector and, through this process, seek to identify the means to overcome these challenges, harmonise justice sector development with the constitution, and advance the rule of law.

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

Dunya Maumoon

Chair-Rapporteur of the Working Group on Arbitrary Detention
Special Rapporteur on the independence of judges and lawyers
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