

NATIONS UNIES
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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE: UA G/SO 218/2 Assembly & Association (2010-1) G/SO 214 (53-24)
MDV 3/2012

22 March 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 15/18, 15/21, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **alleged continuous excessive use of force by law enforcement authorities against, and the arrest and detention of, protestors belonging to the Maldivian Democratic Party (MDP)**.

The above mentioned allegations have been the subject of a previous communication dated 29 February 2012 sent to your Excellency's Government by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We regret that to date no reply has been transmitted by your Excellency's Government to the latter communication.

In addition to the information already submitted in the above mentioned communication we would like to draw your Excellency's Government's attention to new information received predicating that:

On 29 February 2012, Maldives Security Forces reportedly assaulted women protesters who wanted to peacefully mark their opposition to the Maldives' new President. The twenty women were ahead of a crowd of about seventy protesters when the police stopped them, allegedly stating that they have been ordered not to

allow Maldivian Democratic Party (MDP) supporters in. The women were then violently attacked by an army contingent who has allegedly been deployed alongside the police in recent weeks.

On 7 March 2012, the Maldives Security Forces reportedly attacked around 300 MDP protesters in the Lonuziyaarai Kolhu area of the capital Malé. The protesters were reportedly beaten on the head with batons, kicked and sprayed with pepper spray from short distance. At least six protesters were reportedly injured, some seriously. One of the injured was a 16-year-old boy. This incident was allegedly in retaliation for earlier clashes in the city, when the windows in a police station were smashed by stones. The police accused MDP protesters of this attack, while the MDP denied the charges. Reportedly more than a dozen people were arrested during the incident. Some more people were reportedly arrested in the hospital later on after they had gone to receive medical treatment for their injuries.

On 19 March 2012, hundreds of protesters blocked the roads and shouted slogans calling for the resignation of President Waheed Hassan outside the Maldives Parliament. The police used tear gas against the demonstrators. 40 protesters and eight policemen were reportedly injured. The police spokesperson Mr. Ahmed Shiyam stated that “police used force as demonstrators were throwing stones, broken pieces of glass and were also damaging private and public property.” According to the information received the Maldives Security Forces repeatedly used tear gas against protesters from a very close distance.

According to reports, since 7 February 2012, when MDP supporters started their protests against President Waheed Hassan, 376 persons have been reportedly detained. Many of those allegedly do not have access to family nor lawyers. In addition they reportedly do not receive adequate medical treatment. As of today, the Government did not release the names and number of people it had arrested.

Serious concerns are expressed at the alleged on-going excessive use of force against protesters. In view of the incommunicado detention of protesters, further concerns are expressed for their physical and psychological integrity.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

We should also like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We would further like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

With regard to the alleged excessive use of force, we would like to draw the attention of your Excellency's Government to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, Principle 5 provides that, "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment." (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

We would also like to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the ICCPR, which provides that "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully... including persons espousing minority or dissenting views or beliefs... and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

In light of these allegations, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of all persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be

ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the alleged excessive use of force by police officers against protestors. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the police officers who used force excessively.
5. Please indicate the legal basis of the arrest and detention of the protestors. Please indicate how these measures are compatible with international human rights norms as contained in the International Covenant on Civil and Political Rights.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of
association

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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