

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
AL MDV 2/2017

30 June 2017

Excellency,

We have the honour to address you in our capacities as Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 33/9, 26/7 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary detention of Mr. Ahmed Adeb and his deteriorating health condition due to poor detention conditions and denial of adequate and timely healthcare, which could amount to cruel, inhuman or degrading treatment or punishment.**

Mr. Ahmed Adeb, former Minister of Tourism, Arts and Culture and Vice-President of the Republic of Maldives, was convicted in June 2016 under two charges of terrorism (possessing a weapon, and conspiracy to murder the President) and one of graft (embezzlement of funds from the state-owned tourism promotion company), and sentenced to 10, 15 and 8 years of prison respectively under criminal court judgements 713/Cr-C/2015, 229/Cr-C/2016 and 84/Cr-C/2016. He has three other ongoing cases under charges of terrorism (smuggling weapons), murder conspiracy, and misuse of authority.

According to the information received:

Detention and the right to due process

Mr. Ahmed Adeb was arrested on 24 October 2015. He was deprived of the right to legal counsel prior to his first court hearing in December 2015, under charges of corruption. He was also barred from attending in person to his own trial hearing, which he followed remotely from the prison facility.

Mr. Adeb was reportedly not allowed adequate time to prepare his defence during the further proceedings. In addition, the incriminatory evidence heavily relied on anonymous testimonies and no defence witnesses were allowed to testify in the trials. Furthermore, it has been alleged that several of Mr. Adeb's lawyers were threatened and had to resign from his defence team in fear of retaliation.

Conditions of detention

Mr. Ahmed Adeeb was arrested on 24 October 2015 and placed in Maafushi prison. He was kept in solitary confinement and was not allowed family or conjugal visits for nearly a year after his detention. Prison authorities would have also refused to provide him with any book or newspaper. According to the information received, air-conditioning in his cell was removed without justification during periods of great heat and humidity, which negatively affected Mr. Adeeb's health.

On 8 March 2017, Mr. Adeeb was transferred to Dhoonidhoo detention center without prior notice to his family or lawyers. Since his transfer, Mr. Adeeb has been detained in an extremely small cell of five by eight feet. Moreover, the cell lacks of appropriate sanitary conditions, as Mr. Adeeb's toilet is not appropriately separated from the rest of the cell. The toilet also lacks of running water, forcing Mr. Adeeb to use a bucket for both flushing and showering purposes.

According to further allegations, Mr. Adeeb is currently not allowed regular family visits. He would also face discriminatory treatment as, unlike other inmates, he has to speak to his family over the phone behind a glass partition and has been denied house arrest during Ramadan.

Access to adequate and timely healthcare

Mr. Adeeb's health continues to rapidly deteriorate as he is reportedly not provided with appropriate treatment for his health ailments, namely glaucoma, kidney stones and internal cysts.

Since December 2015, various Government authorities and the Maldives Correctional Service have repeatedly denied Mr. Adeeb's grave health condition as well as his request of medical leave to seek treatment, which would reportedly only be available abroad.

In January 2016, doctors prescribed three different tests to be carried out in order to diagnose his eye condition. However, he was taken for eye examination in April and one test was completed only in May 2017, when he was diagnosed with glaucoma. Furthermore, lawyers have allegedly only been able to access his medical records under repeated requests after January 2017.

On May 2017, the Maldives Correctional Service would have once again denied Mr. Adeeb's request for medical leave on the grounds that only the Maldives Police Service is competent for this decision as he is currently detained in a detention center and not a penitentiary facility. However, the Maldives Police Service also alleged their lack of competence to authorise medical leaves to convicted prisoners.

It is reported that on 19 June 2017, the Human Rights Commission of the Maldives visited Mr. Adeeb in prison for the first time in relation to an investigation into allegations of ill-treatment and negligence in providing him with adequate health care while in detention.

Without prejudging the accuracy of these allegations, we would like to express our serious concern about the due process and fair trial violations Mr. Adeeb was reportedly subjected to, which may give to such deprivation of liberty an arbitrary character. We would further like to express our gravest concern at the allegations regarding the conditions under which Mr. Adeeb is currently being held at Dhoonidhoo detention center, which include lack of access to timely and adequate medical care, lack of adequate sanitation and ventilation of cells, and lack of regular family visits.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide more information on the legal basis and evidence presented prior to Mr. Adeeb convictions, including the issuance of an arrest warrant and the filing of charges against him. Please also provide more information on the status of any ongoing legal proceedings against Mr. Adeeb.
3. Please provide information on the measures adopted by your Excellency's Government to ensure the enjoyment of the right to the highest attainable standard of physical and mental health of Mr. Adeeb while in detention, including access to timely and adequate healthcare, including specialized medical treatment.
4. Please provide your comments regarding allegations about the conditions of detention of Mr. Adeeb, including inadequate sanitation and ventilation of his cell.
5. Please, kindly explain why requests to transfer Mr. Adeeb to a medical facility to receive specialized medical treatment have been repetitively denied.
6. Please, kindly explain why Mr. Adeeb lawyer's requests to access Mr. Adeeb's medical records have been repetitively denied.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures are taken to immediately provide the medical care Mr. Adeeb's health condition requires. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Elina Steinerte
Vice-Chair of the Working Group on Arbitrary Detention

Dainius Pūras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Diego García-Sayán
Special Rapporteur on the independence of judges and lawyers

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to take this opportunity to draw your attention to the relevant applicable international norms and standards.

We would like to refer to articles 9, 10 and 14 of the International Covenant on Civil and Political Rights (ICCPR), accessed by the Maldives the 19 September 2006. Article 9 establishes the rights to liberty and security of the person and to not be subject to arbitrary detention. Article 10 obliges states to treat all persons deprived of their liberty with humanity and with respect for the dignity of the human person. Furthermore, article 14 enshrines the right to fair proceedings before an independent and impartial tribunal, including: the right to be presumed innocent until proved guilty, the right to legal assistance since the initial stage of the detention, the right to be brought promptly before a judge and to challenge the legality of the arrest, the right to have adequate time and facilities for the preparation of the defence and to communicate with counsel of the own choosing, the right to be tried in presence, and the right to examine or to have examined the witnesses against and to obtain the attendance and examination of witnesses.

In this connection, we would also like to recall the standards set out in the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173. As they state that all forms of detention or imprisonment shall be ordered by a judicial authority or be subject to its effective control (Principle 4). Also, detainees shall be given an effective opportunity to be heard promptly by a judicial or other authority and shall have the right to defense and to be assisted by counsel (Principle 11). In addition, all detained or imprisoned individuals shall be entitled to communicate and consult with his legal counsel and to be allowed adequate time and facilities for such consultation (Principle 18).

Furthermore, we would like to invite the Government of your Excellency's to take in to account the standards set out in the Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of His or Her Liberty by Arrest or Detention to Bring Proceedings Before Court, which were adopted by the Working Group on Arbitrary Detention during its 72nd session, 29 April 2015, in Geneva and presented before the 30th session of the Human Rights Council in September 2015.

Regarding the right to the enjoyment of the highest attainable standard of physical and mental health and the conditions of detention, we would like to remind your Excellency's Government that article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), accessed by the Maldives the 19 September 2006, recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, which includes an obligation of States to respect, protect and fulfil the realization of this right. Furthermore, we wish to underline that the right to non-

discrimination of any kind, including on political grounds, is a critical component of the right to health under article 2.2 of the ICESCR.

In addition, the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, indicates on its Principle 9 that all prisoners should have access to the health services available in the country without discrimination on the grounds of their legal situation. Moreover, as outlined by the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (“Mandela Rules”), the provision of health care is the responsibility of the state authorities and prisoners should enjoy the same standards of health care that are available in the community (Rule 24(1)). Rule 27(1) furthermore provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to outside hospitals when such treatment is not available in prison.

According to Rule 10 of the Mandela Rules, all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

With regards to the use of solitary confinement, we would like to recall the report by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the General Assembly (A/66/268, 2011), which observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total or almost total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Moreover, the use of solitary confinement as a punishment should be abolished (Principle 7 of the referred Basic Principles for the Treatment of Prisoners and Rule 32 of the Mandala Rules).

Prisoners should be allowed to fully develop their personality and thus are entitled to participate in cultural activities and education (Principle 6 of the referred Basic Principles). Prisoners should also be allowed to regularly communicate with their families (Rule 37 of the Mandala Rules).