

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers

REFERENCE:
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8 August 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 34/18 and 26/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the retaliation against members of parliament who exercised their right to freedom of expression by signing a petition on 3 July 2017 calling for the impeachment of the Speaker of Parliament.**

According to the information received:

On 3 July 2017, the four-party opposition alliance submitted a non-confidence motion against the Speaker of Parliament. The motion had 45 signatures. Impeachment requires 43 votes. 14 Government Members of Parliament have since left the ruling party (the Progressive Party of Maldives, the PPM) after the Attorney General sought an anti-defection ruling from the Supreme Court. Following the defection of the ruling party MPs, the PPM has lost the majority in Parliament.

On 13 July 2017, the Supreme Court unanimously ruled that Members of Parliament who switch their political party will lose their seat at the Parliament.

Following the ruling, the four-party opposition alliance in a joint statement called the ruling "a deliberate and politically motivated attempt by President Yameen to thwart the no-confidence motion" and "an egregious example of the executive's continual manipulation of the judiciary to retain power and to obstruct the opposition's majority in parliament".

On 16 July 2017, authorities barred opposition Jumhooree Party leader, Mr. **Qasim Ibrahim**, from travelling abroad for medical care. As a result, Mr. Ibrahim is reportedly in critical condition and is hospitalized under intensive care. Mr. Ibrahim faces trial on bribery charges, following accusation of "attempted bribery of lawmakers" after a public speech inviting other MPs to join the opposition's effort to impeach the parliament speaker. The authorities have seized Mr. Ibrahim's passport and he has been blacklisted from travelling abroad. Mr.

Ibrahim was unaware of the travel ban until immigration officials stopped him at the airport. His requests to review his travel ban and be allowed to be medically treated abroad have been reportedly ignored.

On July 24, 2017, Criminal Court served summons to Mr. Ibrahim while he was at the hospital and prior to being discharged. A hearing was scheduled for July 25 morning. On July 25, 2017 during the hearing, Mr. Ibrahim was clearly unwell and unable to stand for trial. Mr. Ibrahim requested to lift the travel ban to travel abroad and also requested to postpone the hearing for 10 days since he was being prescribed strong medications. He was not in a state to make clear judgements or respond to the charges. Upon his request, the judge decided to postpone the hearing. The hearing was concluded without making any reference to the other requests made by Mr. Ibrahim.

On 18 July 2017, Mr. **Faris Maumoon**, an MP and son of the former President and nephew of President Yameen, was arrested and taken to Dhoonidhoo Detention Centre. The charges against him include bribery of parliamentarians and imposing undue influence to secure votes for the no-confidence motion against the Speaker of Parliament. A court order was also issued the same day to search Mr. Maumoon's apartment. The police spent three hours searching his home and took documents and pen drives from his residence. In addition, Mr. Maumoon has been charged with bribery and identity fraud under section 312 of the Penal Code, for allegations regarding bribes to members of parliament and for the alleged unauthorized use of the flag and logo of the ruling party, PPM. If found guilty, he would be sentenced to a minimum sentence of nine months and 18 days.

On 19 July 2017, the Criminal Court finished the remand hearing and sentenced to keep Mr. Maumoon in detention until the end of the trial. On 23 July, the second preliminary hearing of identity fraud case against Mr. Maumoon was held at the Criminal Court. At the brief hearing, the judge granted a request by the defense for more time to respond to the charges and adjourned proceedings. A third preliminary hearing was held on July 31 and the judge decided to proceed with the trial. According to the information received, the defense lawyers were not allowed to present the arguments against the decision to proceed with the trial.

Mr. Maumoon was first detained in the jail in Dhoonidhoo Island, then reportedly transferred to Maafushi jail and back again over the course of six days. None of these jails are reportedly designated remand jails and therefore violates the Court order that had ordered that he be placed in a remand jail. No reason has been given for his hasty transfers. Moreover, the custodial authorities did not allow the lawyers to show to Mr. Maumoon the exhibits submitted by the prosecution.

Mr Maumoon appealed against his arrest warrant – the hearing was held on 3 August 2017, as well as against his remand order. The first hearing on the remand order took place on 6 August and a second hearing will be held on 9 August 2017.

Following signing of the no-confidence motion, a third member of parliament Mr. **Ibrahim Mohamed Didi**, was charged on terror charges. In 2015, he was charged on the same grounds, but the Prosecutor General withdrew the charges against Mr. Didi. However, following his signing of the no-confidence motion, he has been charged a second time on the same terror charges.

On 19 July 2017, the Elections Commission (EC) declared that four members of parliament have lost their seats as a consequence of the Supreme Court's ruling. On 20 July 2017, two additional lawmakers lost their seats.

Following a call by the opposition calling people to express their concerns near the parliament house, the Maldives Police Service issued a press statement on 23 July stating that such a rally would be unlawful. The Maldives Broadcasting Commission has warned of legal action against live broadcasts of protests and rallies that violate the Freedom of Peaceful Assembly Act.

On 24 July 2017, the Maldivian army and police surrounded the parliament building and prevented opposition lawmakers from entering parliament to take part in the impeachment vote. Opposition MPs were reportedly pepper sprayed and tear gassed by the police. Police said access to the parliament building was restricted by the government because the scheduled parliament session was cancelled.

We express concern at the crackdown against political opposition and the retaliation against members of parliament for their legitimate exercise of freedom of expression through their voting in the no-confidence motion against the Speaker of the Parliament. In particular, we express concern at what appears to be politically motivated arrests and criminal charges, representing a criminalization of the right to freedom of expression of parliamentarians and a breach of their immunity. We express further concern at the interference of the judiciary with the independence of the parliament which places at risk the independence necessary for members of parliament to exercise their democratic functions effectively without fear of interference from the executive or judiciary.

While we do not wish to prejudice the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of expression in accordance with fundamental principles set forth in article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Maldives on 19 September 2006. We reiterate the principle enunciated in Human

Rights Council Resolution 12/16 which calls on States to refrain from imposing restrictions which are not consistent with article 19(3), including on discussion of government policies and political debate, engaging in election campaign, and expression of opinion and dissent.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

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 information about the legal basis for the Supreme Court's decision of 16 July 2017, and how this is compatible with the obligations of the Maldives under international law.
3. Please provide information about the legal basis for the travel ban against Mr. Qasim Ibrahim, and explain how this is compatible with international human rights law.
4. Please provide information about the legal basis for the arrest of Mr. Faris Maumoon and the evidence used to support the charges against him.
5. Please provide information about the legal basis for charging Mr. Ibrahim Mohamed Didi twice for the same charges, and explain how this is compatible with due process standards under international human rights law.
6. Please provide information about measures taken to ensure that members of parliament can exercise their right to freedom of expression without fear of reprisals.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

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.

David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Diego García-Sayán

Special Rapporteur on the independence of judges and lawyers