



ASIAN HUMAN RIGHTS COMMISSION

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MALDIVES: The Human Rights Situation in 2006

Introduction[♦]

Pro-democracy protests in the Maldives and consequent government oppression of dissenters¹ have been intense in recent years. Particular incidents stand out by reason of their importance in the reform process. In September 2003, protests occurred as a consequence to the killing of four prisoners; it was here that Jennifer Latheef² was arrested and detained. She was later charged with treason and has since then, become a spokesperson for urging committed reform of the Maldivian political and legal system.

Similar demonstrations during August 2004, called for the release of four reformists who had been arrested previously and led to the proclamation of a state of emergency by President Maumoon Abdul Gayoom on 13 August 2004. As a consequence of this a number of arrests were made and many persons were detained without charge.

A clear pattern during these arrests and detentions was the bypassing of basic guarantees of due process, such as the right to be told of the reasons for the arrest, the right to have charges served upon the arrestee and the right to trial without undue delay. A striking feature of this is that while some detainees are released following international and domestic protests, others who are charged are imprisoned and then released without formal notification of the charges being dropped against them. The manner in which

[♦] This report follows from a preliminary fact finding mission to the Maldives by public interest lawyer/writer/legal consultant Kishali Pinto-Jayawardena, President's Counsel/senior law academic Dr J. de Almeida Guneratne on behalf of the Hong Kong based Asian Human Rights Commission and the Colombo based Law and Society Trust in November 2006. Attorneys-at-law Preethi Fernando and Sasanka Alwis provided resource support during the mission. The visit was on invitation of Minivan Daily, a newspaper publishing house and NOOR (Native Operators on Rights) a Maldivian based non-governmental organisation, both of which requested an objective and rigorous scrutiny of the Maldivian legal system, its laws and procedures as well as prevalent practices in respect of the protection of the rule of law.

¹ The Maldives comprise some two hundred inhabited islands out of 1, 190 islands altogether. The population numbers approximately 285, 066 people out of which 75,000 Maldivians reside in the capital Male. The current President, Maumoon Abdul Gayoom, has ruled the Maldivian islands since 1979

² The daughter of spokesman of the Maldivian Democratic Party, Mohammed Latheef, she was charged with terrorism and was sentenced to ten years imprisonment, becoming therein an Amnesty International 'prisoner of conscience.' She was recently pardoned by President Gayoom in what is widely believed to be a concession to international pressure.

charges are left pending will be discussed in this report as evidencing a common tactic of harassment and intimidation.

Consequent to the oppression and intimidation of political opposition as well as any form of dissent, increased pressure by domestic pressure groups, political parties, as well as the international community resulted in the Government announcing a range of proposals towards constitutional reform³ and proclaiming its intention of holding multi party elections in 2008. These reform proposals include a draft Constitution, the redrawing of electoral boundaries and the introduction of a voter education programme.

However, though the promised reforms appear to be generally praiseworthy, the current continuation of practices of extreme oppression towards political activists and journalists in particular, does not bode well for the commitment of the government towards actual implementation of these reforms, as will be discussed further in this report.

In early November 2006, there were a number of opposition politicians as well as political activists arrested. Some cases are dealt with in detail in the annexure to this report.

An Omnipotent Presidency

The omnipotent presence of the office of the Presidency⁴ governs every aspect of Maldivian political life. The President is elected not by the people but by a majority of the People's Majlis (Parliament).

Article 4(2) of the current (1997) Constitution of the Maldives, (hereinafter, the Constitution), states that the executive power shall be vested in the President and the legislative power vested in the People's Majlis (Parliament) as well as the People's Special Majlis, (the Constituent Assembly called into existence by the President at any point that amendments are called for to the Constitution).

However, this perfunctory separation between the legislative and executive sphere is undercut by other constitutional provisions that effectively vests all powers in the office of the presidency. The President is not answerable to Parliament in any manner whatsoever. On the contrary, the power of intervention which the President is

³ On November 11, 2003, President Gayoom proclaimed that he would spearhead a process towards improvements in the protection of human rights. Thirty one proposals were presented in that respect on June 9, 2004 with a Roadmap for the Reform Agenda being released to the public on March 27, 2006. These include the creation of the post of Prime Minister, clear separation of the positions of Head of State and Head of Government, the separation of powers between the executive, legislature and the judiciary and the limitation of the number of presidential terms.

⁴ Among the qualifications prescribed by Article 34 of the Constitution for election as president, it is a foremost condition that only males can qualify for election. There has been some dissatisfaction expressed regarding this condition, which is seen to be gender discriminatory by Maldivian activists. In contrast, women can contest parliamentary seats and there are, in fact, highly vocal and articulate women members in parliament.

constitutionally vested with, in the affairs of Parliament, is contrary to all modern norms of constitutionalism and separation of power.

Firstly, the manner in which the legislative bodies are constituted is basically problematic. The Majlis comprises forty two elected members and eight members appointed by the President.⁵ Its Speaker as well as its Deputy Speaker are appointed if they are found 'in the opinion of the President' to have the requisite competence to discharge the duties of the offices. Equally problematically, these officials can be removed from office by the President without reason assigned.⁶

The People's Special Majlis (Constituent Assembly) comprise the fifty members of the Majlis as well as a further duplicate forty two seats from each of the elected constituencies together with a further duplicate eight members appointed by the President. In addition, the Constituent Assembly also comprises members of the Cabinet, who are not necessarily from the Parliament but are appointed by the President. The Constitution does not prescribe any limitation on the number of Ministers.⁷ The Constituent Assembly itself is without any limitation on the number of its members.

Effectively therefore, the possibilities of the Assembly predominating or 'being packed' with those who have political affiliations to the office of the Presidency, deprives the body of any substantial independence.

Further, all bills passed by the Parliament and the Constituent Assembly need to be assented to by the President before they are passed into law. Article 79 (1) and (2) of the Constitution state that upon a Bill being referred back by the President to the Parliament for reconsideration, it shall be passed only by two thirds of the members of the Parliament. Given the political composition of the Parliament in which, the government members predominate, the likelihood of achieving such a two thirds majority is remote.

The President also has extensive powers in regard to the declaration of a state of emergency which powers have been used effectively to stifle pro-democracy protests.⁸ The President has the overriding power to issue pardons. Practice has demonstrated that on many occasions, these powers are used without conformity to basic norms of fairness. Thus as activists put it, "we are arrested, the cases are kept pending against us and then some of us are pardoned while others are not."⁹ Generally, Presidential control over the

⁵ The elected forty two seats comprise two members elected from Male and two members elected from each atoll of the Maldives. The members hold office for five years.

⁶ Articles 68 and 70 of the Constitution. The Speaker is not a member of the Parliament though somewhat inexplicably, the Deputy Speaker is stipulated to be a member (Articles 68(3) and 70(3) of the Constitution).

⁷ Articles 54 and 5 of the Constitution state only that there shall be a Cabinet of Ministers appointed by the President and that the Cabinet shall be presided over by the President. It shall consist the Vice President, if any, Ministers charged with responsibility for Ministries and the Attorney General.

⁸ Article 144 of the Constitution. See the Introduction to the Report for one occasion where these powers were used against pro-democracy protests.

⁹ For example, due to tremendous international pressure, the government has been forced to back down as demonstrated in the recent presidential 'pardon' of Jennifer Latheef, an Amnesty International Prisoner of

legislature, the judiciary and indeed, all processes of governance in the Maldives as would be discussed further, has been likened by some critics as the foremost obstacle to genuine constitutional reform in the Maldives.¹⁰

The Laws, Legal System and Judicial Structures

The frightening omnipresence of the office of the Presidency reinforces the equally frightening ad hoc nature of laws, practices and regulations. Consequently, there is an almost complete lack of legal accountability. The current laws and existing legal structures applicable to both the civil and criminal aspects of the law are deficient. The primary focus of this report however will be on the laws and systems applicable to the protection of the rights of life and liberty.

No Justiciable Constitutional Safeguards

The Constitution has a generally impressive chapter on rights, all of which are not justiciable and the courts have declined constitutional jurisdiction in that respect. This chapter, to all intents and purposes, is a dead letter.

Deficient Criminal Laws and Lack of Due Process

As a former Attorney General of the islands put it, the current Penal Code, which was put together in a haphazard manner from extracts of the Sri Lankan Penal Code, is long since outmoded.¹¹ Systematic laws of criminal procedure and evidence are non-existent.¹²

Though the Government has been developing an agenda of reforms of the penal laws, one complaint of activists is that this reform process has been ongoing for several years with no perceptible improvements in the patterns of arbitrary arrests and detentions, as well as the impunity which surrounds government officers when they violate rights.¹³

Conscience. Here, other prisoners who were charged along with her for similar offences were not pardoned resulting in Latheef insisting that they be treated in the same manner.

¹⁰Interviews with Mariya Ahmed Didi, (former Director of Public Prosecutions, currently member of Parliament for the Maldivian Democratic Party and Shadow Minister of Law and Justice) and independent member of Parliament for Dhall Atoll, Mr Ahmed Nashid

¹¹ Interview with Dr M Munawwer former Attorney General of the Maldives.

¹² Astonishingly, in 2002-2003 for example, 97% of cases were confession based and involved instances where the defendant was able to see his or her own confession according to a Report by the United Kingdom Conservative Party Human Rights Committee which was consequent to a fact finding mission to the Maldives in June 2006. Though the government insists that the numbers of confession based cases have reduced considerably now, this still remains a significant problem.

¹³ A draft Penal Code and Criminal Procedure Code has been pending for some years. In December 2004, a National Criminal Justice Plan was announced which took into account lacunae in the criminal justice system and expressed commitment to rectify such lacunae by 2008.

The issuance of Presidential decrees¹⁴ in areas of criminal justice and the law has further restricted basic rights in this regard. Act No 5/78 (11/3/1978) stipulates that all those arrested can be held after a period of seven days after obtaining approval from a three member committee appointed by the President. Further extension of the detention period can extend up to 15 days. At the end of the fifteen days, the detainee should be brought before a judge who has discretion to extend detention to a further period of thirty days. Then again, the detainee can be kept in detention till the end of the case depending on the discretion of the judge in the circumstances of the case.

This law which confers powers on such an unidentified three-member committee appointed by the President to decide whether detention should be extended beyond the legal limit of seven days has been heavily criticised. Activists monitoring the functioning of this Committee do not know its composition and fear that the very government officials responsible for arbitrary arrests and detentions serve on this body. Moreover, in a situation where the judiciary itself is not independent from the executive as discussed below, the safeguard of further detention being contingent upon the discretion of a judge is inadequate protection against abuse.

Lawyers representing many of those who had been arrested complain that they are not allowed ready access to their clients to advise them on their rights. There is no right and hence no practice of habeas corpus applications. Even where cases are lodged in court, many drag on for interminable lengths of time. The applicable burden of proof in criminal trials is not proof beyond reasonable doubt but rather as the court seems satisfied. Defence lawyers are sometimes not allowed to cross-examine witnesses. All these provisions and practices violate the cardinal international law principle of a right to a fair trial.

The above law also has a peculiar provision, whereby, if the Ministry of Defence and national Security regards that a person may be arrested in the context of a case relating to private debts and finance, the Ministry has the discretion of detaining and arresting such a person and the detention of whom shall be in accordance with permission granted by the aforesaid unidentified committee of three persons. The possibility of abuse implicit in such a provision is horrendous.

Further, it infringes the international human rights principle that no one shall be imprisoned merely on the grounds of inability to fulfil a contractual obligation.

A non-independent Judiciary

The basic lack of an independent judiciary is one of the most disturbing factors in the current functioning of the legal system. The courts system is rudimentary with no Supreme Court but a High Court exercising appellate power which comes under the

¹⁴ In terms of Article 42(e) of the Constitution, the President has the power to promulgate decrees, directives and regulations 'as may be required from time to time for the purposes of ensuring propriety of the affairs of the government and compliance with the provisions of the Constitution and law.'

President's office and from which appeals lie thereon to the President. In addition, there are any number of courts at such places 'as may be determined by the President'.¹⁵ The Chief Justice and all judges of the High Court as well as judges of the other courts are appointed by the President and do not have the basic security of tenure. There is no separation between the executive and the judiciary both in substance and in form. Practically, lawyers state that judges tend to be openly partial towards the Government

The lack of independence of a body titled the Judicial Services Commission is conspicuous. This body was created on November 11, 2005¹⁶ and consists of the Minister of Justice, the Attorney General, four members of the judiciary appointed by the President, two members from the legal profession and two members of the general public.

The Attorney General is wholly a political position and does not even claim to possess independence of office. He is appointed by the President and can be removed from office at the discretion of the President. Retribution is swift if the holder of the post is seen to be acting against the office of the President or departing from government policy. Interference of the President's Office in his functioning is not uncommon.¹⁷ The previous Attorney General, Dr Mohammed Munawwer was detained without charge some months after he was dismissed from office. The detention was after the declaration of a state of emergency on 13th August 2004.

In addition, there appears to be an incongruous situation where most of the judges possess Middle Eastern legal training and a Sharia law background while many practicing lawyers come from the common law traditions of the Commonwealth, thus resulting in fundamental discrepancies in the manner in which the purpose and the nature of the law is viewed. Use of formal legal precedent is not evidenced as a matter of common practice and there does not appear to be any system of law reporting.

Police Structures

The Maldivian police earlier came under the National Security Service but were later constituted as a separate force. Activists detained in police cells and stations state that while many police officers are decent and attempt to help detainees, they too are constrained by systematic practices of ill treatment of detainees since they fear that they would lose their jobs if they protest.

¹⁵ Article 118 of the Constitution

¹⁶ apparently by Presidential decree

¹⁷ In interviews, former Attorney General of the Maldives Dr Munawwer outlined instances where the office of the Presidency had intervened in instances where he had attempted to use his authority as Attorney General to implement the law. One direct instance where the President had countermanded his order was in relation to his asking the Commissioner of Elections to inquire into allegations of political tampering with votes at an election where the President himself was one of the candidates.

However, the Maldivian Riot Police, known as Star Force, are infamous throughout the islands for their abuses of human rights and inhuman treatment of detainees. They are usually helmeted and uniformed, armed with batons, shields and pepper gas. Documented instances of their attacks on peaceful demonstrators and in peoples' homes whilst arresting people have been recorded

Repression of Activists and Journalists

As deficient as the laws are, the manner in which they are used to intimidate and harass the people is correspondingly worse.

One current case involves Ahmed Abbas, a well-known artist and political cartoonist who had critiqued the dreaded Maldivian secret police for using excessive force, observing that they would understand the negative consequences of such force only if they were given a dose of the same treatment. Abbas was then asked to give a statement to the police, taking responsibility for this assertion.

On 1st November 2006, a pro-government website published a court order claiming that Abbas has been sentenced in absentia to 6 months in jail for 'disobedience to order'.

This loosely framed charge under Section 88 of the archaic Maldivian Penal Code is made punishable by imprisonment ranging up to six months or up to one/two years in aggravated contexts. Activists complain that this is a clause frequently used by the government to intimidate and threaten persons who exercise the right to criticize. While the charge itself was highly debatable in terms of its legal applicability, the complete absence of procedural justice thereafter was even worse.

Upon being informed of this 'sentencing' in absentia, Abbas had questioned from the Attorney General's office over the telephone as to whether this was, in fact, true and had been answered in the positive. Two days later, after his frantic requests for political asylum were unsuccessful, he was detained by riot police and is currently being held in the infamous Maafushi Prisons in Male.

Meanwhile, the editor and the sub editor of 'Minivan Daily', in which his statement was published, were also charged for 'disobedience to order.' These charges have been left pending against them, demonstrating the arbitrariness of the procedures. Indeed, persons similarly arrested and detained (whose cases are painstakingly documented by activists), point out that cases are intentionally left pending in order to use the charges as easy weapons of intimidation.

Shahindha Ismail, head of one well known non-governmental organisation (NGO) working with detainees called the Detainee Network stated categorically that they had documented numerous reports of beatings and torture of detainees. In certain cases, mass arrests are made after pro democracy protests during which even bystanders are arrested and kept in custody without formal charges being filed. They are not allowed access to

the detainees and their letters to the police go unanswered. In some instances, activists monitoring cases are not allowed access to courts hearing cases of detainees

Freedom of Assembly/Association and Labour Rights

The same restraints apply in other areas. Labour rights are minimal and freedoms of association and assembly, not much better. Registration of non-governmental organisations is denied on the flimsiest of excuses. Aminath Najeeb, the editor of “Minivan Daily” had been persevering for some years to get a non-governmental organisation (NGO) registered under her name along with another activist. The involvement of the latter had been objected to on the basis that he had a criminal record as he had been found driving a motor cycle without a license. While no specific objection had apparently been raised to Najeeb herself, her application for the registration of her NGO, remains pending.

Registration of the Detainee Network had been delayed for over a year following amendments being repeatedly called for in regard to the Articles of Association. However, when after repeated attempts this NGO was, in fact, registered, it was the initial version of the Articles that were accepted for registration (excepting amendment of one clause only) rather than the much revised version.¹⁸ These incidents fuel the suspicion of activists that the delays on the registration process imposed by government authorities amount to deliberate attempts to harass them.

Repression of Opposition Political Parties

Political rallies are routinely attended by mass arrests and detentions, sometimes of mere bystanders who were watching the processions go by. Political repression practiced against members of the opposition Maldivian Democratic Party (of which some eighty five members are currently detained) is predictably severe.

Charges of treason and high treason currently served on MDP leaders such as Mohamed Nasheed and Ibrahim Hussein Zaki are rife with procedural irregularities. The former (who was a previous Minister of Tourism in the Maldives) had been charged after exhorting the islanders of one atoll to practice “peaceful revolution.” Their high profile trials are being closely monitored by international observers.

Some cases of political activists who have been currently charged are found in annex one to this report.

Democratic Checks on Abuse of Power – the National Human Rights Commission

¹⁸ interview with Shahindha Ismail, head of the Detainees Network

Other checks on abuses are also deficient. Though the Maldives has had a National Human Rights Commission, (NHRC) its lack of institutional independence has resulted in it being denied entry into regional bodies such as the accredited Asia Pacific Forum (APF) of National Human Rights Institutions. While a fairly good revised law on the NHRC was recently passed by the legislative members, the quality and commitment of its members, (chosen by the President), appear to preclude the body functioning independently.

Freedom of Expression and the Media

The media had been largely government controlled and the space for independent media had been opened up only very recently. Journalists of independent newspapers such as the Minivan News work under constant threat of being arrested, charged or detained as demonstrated in the cases of Ahmed Abbas discussed in this report previously. A Maldives Bill on Freedom of the Press has been heavily critiqued as allowing for abuse and repression of the media.¹⁹

Conclusion

The activism of the Maldivian people in response to patterns of extreme repression as detailed in this Report has been both spontaneous and courageous. The Government's recent accession to international human rights treaties such as the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention Against Torture signifies that the Government is taking note of stern criticism of its human rights record.

Practical implementation of these standards needs to take place through sustained domestic, regional and international activism and advocacy

Annex One – Cases of Some Political Detainees

(based on details supplied by the Maldivian Democratic Party)

A) Arbitrary Arrest and Detention of Imran Zahir

Name: Imran Zahir (Alias: Bakuri)

Sex: Male

Age: 25 years old,

¹⁹ See Report by the international non-governmental organisation Article XIX dated May 2006 which commented on the fact that the Press Bill created 'new media crimes.' Its prohibitions on publications were also termed vague and open ended which meant that they could be abused for political purposes.

Address: H.Aman, Male', Maldives

Profession: Press Secretary of Male' Constituency for the Maldivian Democratic Party.

Member of Human Rights Committee of the Maldivian Democratic Party

Freelance photographer and journalist for Minivan Daily newspaper

In early 2004, Imran Zahir, along with Aminath Najeeb requested a human rights NGO called Human Rights Association Maldives to be registered in the Maldives. The Ministry of Home Affairs denied registration on the basis that Imran Zahir had committed a traffic offence (riding a motorcycle without a license) as a minor, giving him a criminal record that prevents him from registering an NGO.

Imran Zahir had always been a vocal human rights activist. Before NGO's and the Maldivian Democratic Party came into existence, Imran Zahir was working as an individual promoting and raising awareness on the human rights violations that were committed in the Maldives. He has been an active influence in the youth as he has an extensive youth connections.

Imran Zahir has been involved in doing activities such as organizing and getting signatures for petitions requesting human rights violations to be stopped. He has also been involved in producing awareness raising t-shirts, especially on International Human Rights Day (10 Dec).

He was an active freelance photojournalist and journalist for Minivan Daily. On 6th September 2005, he was arrested while he was taking pictures for Minivan Daily. He was beaten up during arrest and released without charge after being detained for over two months.

Believing that he can serve his nation better in the human rights area, he joined the Maldivian Democratic Party. In this capacity, Imran Zahir was involved in successfully organizing a non-violent Women's March on 30 March 2006.

As a member of the Human Rights Committee of the Maldivian Democratic Party, Imran Zahir has worked extensively with families of people who have been detained unfairly and actively participates in petitioning for their release.

On 30th October 2006 – Plain clothed policeman came to Imran Zahir's house and asked his mother where he was. When Imran's mother replied that he wasn't home, the plain clothed policemen left. They came twice to his house asking after him

On 31 October – Plain clothed policemen came to Imran's house asking for him. No police summons was issued.

On 1 November – Plain clothed policemen came to Imran's house asking after him. No police summons was issued.

ON 3 November 2006 – The State-owned TV (Television Maldives) started announcing alongside with pictures that Imran Zahir was someone who has been sought and currently not found by the police. Note that Imran was never given a summons to the police station.

Members of the Maldivian Democratic Party (MDP) and a number of political and human rights activists have been arrested because of the gathering planned to take place on 10th of November in Male' (The gathering has been cancelled by the Maldivian Democratic Party stating that they did not wish more harm to come to their supporters).

Imran has been arrested before severely beaten, tortured and held in detention for long periods of time and released without charge. Imran is currently in fear that the riot force may barge into his home and attack him and his family. Imran also fears being beaten up severely during arrest.

History of arrests

1) 14th August 2004 – 21st October 2004 (INFORMATION FROM DETAINEE NETWORK)

Imran Zahir was arrested after a spontaneous pro-reform demonstration that took place on the 12-13 of August 2004 in the Independence Square in Male', Maldives.

Imran was blindfolded and his hands and feet were cuffed for over 15 hours. He was detained in Girifushi (island used for training police) for 8 days on a mat with his hands cuffed after which he was transferred to Dhoonidhoo Detention Center.

Imran was released to Male' arrest on the 21st October 2004 (meaning he was not allowed to leave the capital Male') On the 6th November 2004, state owned TV announced Imran's case was sent to the courts but he was not informed of his charges. On the 7th November 2004 it was reported in a state run newspaper that Imran was being charged for participating in an unlawful assembly.

On the 31st December 2004, President Gayoom announced on state owned TV that all those people charged for various crimes committed on 12-13th of August were given a Presidential pardon and that all cases were now dropped. Imran was never informed of this in writing.

2) 2nd August 2005 - (INFORMATION FROM DETAINEE NETWORK)

Imran Zahir was apprehended and detained by the police for several hours after accompanying members of the Maldivian Democratic Party to the Police Headquarters to enquire after people who were detained on the 1st of August 2005. Imran Zahir was taking photographs of the incident.

4th September 2005- 12th October 2005

On 4th September 2005, Imran attended a rally by the Maldivian Democratic Party which was held after the arrest of their Chairperson, Mohamed Nasheed. He was

there to photograph the event. After the police removed the public address system, Imran photographed them leaving the rally.

Imran was then abducted by 6 policemen outside on the road and dragged into the police vehicle where he was severely beaten and verbally abused. Imran sustained injuries to his head and arms. He was detained for allegedly obstructing the police from their duty and for engaging in violent activities. On 26th September 2005 Imran was brought to court and his detention was extended for a further 21 days under house arrest because the police claimed the investigations were still unfinished even though they required no further information from him. Imran was accused of violent behaviour after the unprovoked violence the police had inflicted on him. Imran was released from house arrest on 12th October 2005 without charges.

3) 3rd April 2006 – 4th April 2006 - (INFORMATION FROM DETAINEE NETWORK)

On 3rd April 2006 Imran was arrested while standing outside a café' in Male' whilst the police had blocked a street surrounding a public gathering. Imran was handcuffed, dragged to a police vehicle and then sent to Dhoonidhoo Island detention Center. Imran was not informed of the reason for his arrest.

Imran was then released the following day on the 4th April 2006 without charge.

4) 16th April 2006- 25 July 2006 (INFORMATION FROM DETAINEE NETWORK)

Imran was arrested again on the 16th April 2006 during a peaceful demonstration in front of the United Nations building in Male' housing the UNICEF, UNDP and UNFPA in Male'. Imran was calling for the release of people detained on 14th of April 2006 after the demonstration for fishermen's rights and the elimination of the 29 unelected parliament members appointed by the President. While in detention he was denied his right to a lawyer for a long period of time. Imran was able to meet his lawyer more than a month after detention. On 7th May 2006 a judge extended his detention period for a further 30 days. Imran did not have access to his family for over a month. Imran was questioned on his involvement with the Maldivian Democratic party as Press Secretary and on his communication with foreign media organisations. Imran was kept in solitary in a small cell and informed that he could not be released from the detention centre due to the nature of his case. Imran was transferred to house arrest in July 2006 and was subsequently released without charge.

B) Arbitrary Arrest and Detention of Mohamed Saleem Ali

1. Personal Details

Name of Victim: Mohamed Saleem Ali

Address: Narugis Vila, Thinadhoo, Maldives.

Profession: President of Gaaf Dhaal Atoll Constituency,
Maldivian Democratic Party.

Contact details: (Thinadhoo hospital, in police custody)

2. Status of the victim as a human rights defender: Mohamed Saleem Ali has been promoting awareness of human rights in his constituency through meetings, workshops and pushing for human rights orientated reforms in his political role. He has been working with his constituents to establish a network for reporting of human rights abuses and human rights education throughout the Atoll. Mohamed Saleem Ali is a vocal opponent of human rights abuses perpetrated by the government of Maldives against his constituents. He has been extremely successful in that due to his network, human rights abuses in the atoll are now promptly reported about both in newspapers and magazines in the Maldives, and on news websites based in other countries. This would have been unimaginable for people in the atoll a year ago.

3. Alleged violations committed against the victim: Mohamed Saleem Ali was arrested at his home in Thinadhoo by the police on November 1st 2006. He has since been arbitrarily detained. He has also been physically abused and tortured. His family was not told of his whereabouts for two days. During detention he was tortured by the police resulting in his arm being broken at the elbow joint. He was not allowed medical attention for two days, but is now at the hospital in Thinadhoo receiving treatment. However he is still in custody and has still not been charged with any offense. He has not been offered any legal representation.

4. Perpetrators: Maldivian Police Force- Riot Police known as Star Force

Witnesses:

Mohamed Saleem Ali was detained on the same night as:

Yamin Mohamed (Abhareege, Thinadhoo),
Mohamed Waheed (Skooner, Thinadhoo),
Mohamed Niyaz (Blue Fish, Thinadhoo).

They were transported together and kept in the same detention center.

Mohamed Saleem Ali and Yamin Mohamed were held in the same cell measuring 5 ft. by 5.ft. where they were tear-gassed for being too loud and asking for medical attention.

5. **Action by authorities:** The Maldivian government/police have denied the physical abuse and torture.

6. **Link between violation and human rights work:** Mohamed Saleem Ali is a target for government attacks because of his promotion of freedom of expression, association and assembly among his constituency. His detention is part of a government crackdown and campaign of intimidation against coordinators and would be participants of a nationwide rally for human rights and democratic reforms. The rally was to be held on the 10th of November 2006.

7. **Previous incidents:** Mohamed Saleem Ali was arrested in 2005 for participating in a demonstration against human rights abuse in Male. He has never been charged with any offense.

C) Arbitrary Arrest and Detention of Shehenaz Abdulla

1) Personal Details

Name: Shehenaz Abdulla

Sex: Female

Age: 32

Nationality: Maldivian

Profession: Independent Consultant currently under contract with Asian Development Bank (ADB) stationed at the Ministry of Finance and Treasury. Shehenaz has previously worked for the Ministry of Education, World Bank and the United Nations.

2) In October 2005, Shehenaz Abdulla became openly and actively involved in the 'Free Jenny' campaign to bring justice to a person she believed was unfairly sentenced to ten years for terrorism. She openly started a petition stating that she was present on the roads in the 20th September 2003 riots in Male' after the murder and subsequent shootings of prisoners in Maafushi Prison took place. And that if being present during the riots means an act of terrorism, she too is a terrorist. Over 300 people signed this petition. (Attached is a brief statement written by Shehenaz Abdulla and sent to Native Operators On Rights – NOOR as of yet unregistered NGO in the Maldives. It explains her reasons and background as to why she got involved in her current action in human rights field)

In October 2006, when the MDP decided to hold a peaceful gathering to urge for faster constitutional reform on 10 November 2006, Shehenaz was contacted by the MDP to coordinate the gathering. On 6 November 2006 Shehenaz was arrested while she was in a gathering that was observed by international monitors and media.

3) Date of Arrest – 6th November 2006

Place of Arrest – Male’, Maldives

Shehenaz was in a peaceful gathering on 6th November urging for faster constitutional reform. She was in the crowd with the opposition party Maldivian Democratic Party although she is not a member of any political party. While she was at the gathering, she was handcuffed and carried by all four limbs into an awaiting police vehicle. Shehenaz Abdulla is currently in Dhoonidhoo Detention Centre. Reason of arrest is not yet known.

While Shehenaz Abdulla was working for the Ministry of Education, she was asked to show support to the government by writing a letter to the President and to publicly disassociate herself with Jennifer Latheef (a key human rights activist in the Maldives). She was told that she would in return get a promotion. Shehenaz Abdulla resigned from her post, as she did not believe in political motivation in her work place. However, Shehenaz stayed on for three more months on the request of the government to train some employees before she left. (More details in Shehenaz’s attached statement).

4) **The Riot police that were sent to disperse the crowd:** No names or ranks of the riot police are known or visible in their uniforms. There was a crowd gathered near where Shehenaz was arrested. Detailed names of the witnesses can be obtained.

5) **The family has contacted the authorities:** The Maldivian Democratic Party has released a press statement. International NGO’s and other foreign bodies have been notified.

6) Shehenaz Abdulla was arrested prior to the 10 November 2006 peaceful gathering that was called by the Maldivian Democratic Party as she was helping to coordinate the gathering. Shehenaz Abdulla was also arrested because of the pro-human rights work she has been doing such as the petition. She is also a vocal critic of the human rights violations that takes place in the Maldives. She anticipated being arrested because she was helping in coordinating a peaceful gathering to exercise and ask for the fundamental human rights.

D) Incident at Gaaf Dhaal Thinadhoo Island, Maldives – 1 November 2006

At approximately 12:00 hrs on 1 Nov 2006, about 70 riot force police arrived by speedboats to Thinadhoo Island in the Southern Atoll of Gaaf Dhaal, Maldives. The police were in full riot gear. Upon arrival, the riot police proceeded straight to the office building of the Maldivian Democratic Party (MDP). On their way to MDP office, they saw Mohamed Gasam (Deputy President of the Gaaf Dhaal Constituency). He was apprehended by the riot police and forced to accompany them to the MDP office. The riot police then invaded the MDP office building, where six members of MDP were working. The riot police threatened these individuals by telling them that if they did not leave the office immediately, they would be arrested. The riot force then proceeded to

ransack the office and confiscated banners, posters and other material. MDP office is occupied by the riot police without any members of the Maldivian Democratic Party being allowed to enter or be near the vicinity. When they arrived at the office, they did not show a search warrant or an arrest warrant. Mohamed Gasam was taken to a holding cell in Thinadhoo Island straight from MDP office. Gasam, while being detained in the holding cell, was pepper sprayed in the face.

A group of riot police approached Mohamed Nazim (Maldivian Democratic Party's Gaaf Dhaal Constituency Deputy Secretary) while he was working in his shop. He was asked to accompany the riot police to the Police station. Nazim is currently being held in a cell in Thinadhoo. Nazim was also pepper sprayed while he was inside the cell. The information about both Gasam and Nazim being pepper sprayed while inside the holding cell comes from a source within the police station.

Unofficial curfew has been declared. People are not allowed to leave their homes, and no boats are allowed to leave or enter the Thinadhoo Island. People who are seen out on the road have had extreme force used on them. One man was arrested and later released because he told the police that he had a right to walk on the roads in Thinadhoo Island. People who are in their homes are being threatened and verbally abused by the riot force.

Island officials (government workers) are going around repeating a list of 5 people asking them to come to Thinadhoo Island Office. The officials are driving around the island announcing that if any protection is given to these five people, it would be considered as an offense.

The five people being sought out are:

- 1) Mohamed Saleem Ali (Narugis Villa, Thinadhoo)
- 2) Sheik Ibrahim Fareed Ahmed
- 3) Yamin Mohamed (Abhareege, Thinadhoo)
- 4) Mohamed Waheed (Skooner, Thinadhoo)
- 5) Mohamed Niyaz (Blue Fish, Thinadhoo)

Mohamed Saleem Ali, Mohamed Waheed and Yamin Mohamed have been arrested. About 50 riot police entered Mohamed Saleem Ali and Mohamed Waheed's homes and arrested them. Yamin Mohamed handed himself over to the riot police knowing that they were looking for him. Mohamed Niyaz has been arrested, but no further details on his arrest are known.

During the arrest, Waheed was brutally hit on the face causing his face to swell up.

Saleem's main joint on his arm near the elbow was broken during arrest. Confirmed reports at 02:10hrs (2nd November 2006) that Saleem has been asking for medical attention constantly and has been denied access to a doctor. Saleem is in extreme pain.

Confirmed reports that 'due to excessive noise' made by the detainees, tear gas has been used inside the holding cell (measuring 5ft by 5ft).

Confirmed reports that Mohamed Waheed and Mohamed Niyaz are being held in one cell, Mohamed Saleem Ali and Yamin Mohamed in one cell, and Mohamed Gasam, Mohamed Nazim are held in solitary cells. Note that each cell's dimensions are 5 feet by 5 feet.

Confirmed reports that at around 02:00hrs, Yamin Mohamed was taken out of his cell, handcuffed and dragged outside by the neck. Confirmed reports that Yamin Mohamed has been severely beaten by the riot police.

2nd November 2006

10:20hrs - Mohamed Yooshau (Abhareege, Thinadhoo) arrested while he was with an acquaintance on a speedboat ready to leave to nearby Kaadhedhoo Island (airport island) to receive journalists. More than 15 riot police came to detain Mohamed Yooshau.

12:15 – Mohamed Yooshau has been released from detention.

Reports from riot police in Thinadhoo indicate that Mohamed Saleem Ali is in critical condition and has been taken to Gaaf Alif atoll Villingili Island for medical treatment for his arm.

Names of those Detained currently in Gaaf Dhaal Thinadhoo

- 1) Mohamed Gasam (Sunnydale, Thinadhoo)
- 2) Yamin Mohamed (Abhareege, Thinadhoo)
- 3) Mohamed Waheed (Skooner, Thinadhoo)
- 4) Mohamed Nazim (Thinadhoo)
- 5) Mohamed Saleem Ali (Narugis Villa, Thinadhoo)
- 6) Mohamed Niyaz

4th November 2006

00:30 - Approximately 150 people went to the Island Office in Thinadhoo to ask them to talk to the police to give the people of the island a few hours of peace to sleep.

Mr. Nizar opened the door, looked at the people and telephoned the riot police, who immediately came and dispersed the crowd with brute force.

Detained and released a few hours later

- Phillip Wellman - American working in Maldives for Minivan News.
- Graham Quick – English photo-journalist under contract with a leading newspaper in the UK.

Phillip Wellman was harassed and asked to delete some of his recordings. Both Phillip Wellman and Graham Quick were informed that they were traveling in the islands without proper permit by the government. Phillip Wellman however, has a work permit as a journalist in the Maldives. Phillip Wellman and Graham Quick were asked to leave the country. Phillip Wellman was unofficially informed that it was a 15-day ban from the Maldives.

Points of importance:

- The money in the fund box for 10 November demonstration containing approximately \$4000 has been taken. The box has been left in the office without any money. (1 Nov 2006)
- Children who were sitting the IGCSE O'Level exams left their exams due to extreme fear after hearing the police threatening and abusing people out on the roads. This is an exam that they have been working for the past three years and will not be allowed to sit again for another six months. (1 Nov 2006)

Ahmed Shameem's pre-school (Raulaa pre school) and home has been ransacked and searched by the police. Two of his children, a 15 year old boy and 20 year old girl were present when the riot police arrived and asked them to co-operate and to show the pre-school and their home. The police then proceeded to check the two buildings. When Ahmed Shameem arrived home from his prayers at the mosque, the riot police were leaving. When asked the reason for ransacking his home and pre-school they said that it was in relation to a report they had received saying that Sheik Ibrahim Fareed Ahmed was hiding there. (1 Nov 2006)

December 21, 2006