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Maldives

Human rights violations in the context of political reforms

This report presents the findings of a visit by an Amnesty International delegation to the Maldives from 9 to 14 October 2004. A draft of this report was sent to the government in December 2004 for their comments. The government's comments reached Amnesty International on 1 February 2005 and the present report reflects those comments.

Amnesty International wishes to point out that this report contains information about the findings of the Amnesty International mission to the Maldives as was evident in October 2004. Since that time, some of the concerns expressed in the report have been addressed by the government.

These include the release of, and the withdrawal of charges against, all persons – with the exception of a detainee against whom there is a charge of knife assault on two policemen – arrested during mass scale demonstrations on 12 and 13 August 2004 in support of the opposition demand for speedier improvement in the political and human rights situation. The announcement for the withdrawal of the charges came after a tsunami which struck the Maldives and other countries around the Indian Ocean on 26 December.

Parliamentary elections scheduled for 31 December but postponed due to the tsunami were held on 22 January. At least six candidates allied to the opposition won seats in Parliament.

In February 2005, the government provided Amnesty International with a copy of a draft “National Criminal Justice Action Plan” for 2004-2008 which states its aim as establishing “a fair and effective criminal justice system which is based on the rule of law.” The plan appears to have the potential to address some of the fundamental flaws in the criminal justice system.

Amnesty International continues to monitor closely the human rights situation in the Maldives, and will continue to maintain its dialogue with the Government of Maldives on the reform process, including the development of a new constitution, criminal justice reform and the functioning of the Human Rights Commission of the Maldives.

Introduction

This report reflects the findings of a recent Amnesty International visit to the Maldives in October 2004. The organization is encouraged by a number of legal and institutional reforms initiated by the government aimed at improving the human rights situation in the country. It remains concerned about the country's weak legal and institutional framework to ensure human rights protection, and to guarantee freedom of expression and association, freedom from torture, and the right to fair trial.

The reforms undertaken by the time of the mission included the separation of the police force from the National Security Service, ratification of the United Nations Convention against Torture, formation of the Human Rights Commission of Maldives, the Family Act aiming to strengthen the rights of women, and the recognition in law of the right for detainees to have access to a lawyer at all stages of their detention and trial. Other reforms the authorities said were underway in relation to human rights included the drafting of a new constitution with a strengthened chapter on fundamental rights, a new penal code, police act, and code of conduct for the police force, a freedom of information act, a press act aiming to strengthen freedom of press and media, a code of criminal procedure which would include bail provisions, and a health act.

These reforms are part of a wider political reform process embarked upon by President Maumoon Abdul Gayoom in late 2003, and reiterated by him in a speech on 9 June 2004. The process is to lead to wide ranging political and judicial reforms. In the political sphere, it proposes a wider choice in electing a President; a limit on the number of times one person may be elected to the office of President; removing the gender bar on standing for the presidency; greater decentralisation of executive authority by separating the functions of the Head of State from those of the Head of Government, including by the creation of the office of Prime Minister; abolition of the category of appointed members to the People's Majlis (the parliament); proportionate representation in the Majlis; independence of the Majlis from the executive, with the Speaker and the Deputy Speaker becoming elected rather than appointed persons. In terms of judicial reforms, it provides for a supreme court to be created as the highest court of appeal; guarantees of the independence of the judiciary; the Chief Justice and Justices of the Supreme Court to be appointed and dismissed on the advice of the Majlis; and to allow the formation and functioning of political parties.¹ Subsequently, the People's Special Majlis (constitutional assembly) was convened to debate and approve a new constitution.

Pressure for reform has been increasing over the years and the government has responded by introducing some reforms. They included a revised constitution in 1997 and nationwide discussion on the country's development goals in 2000 and 2001. Mass scale public pressure for reforms followed the killing of an inmate in Maafushi prison in September 2003 and the death of several more inmates when police opened fire on the riotous prisoners. In August 2004, widespread public demand for change culminated in mass demonstrations in Malé. The subsequent imposition of a state of emergency and the arrest of about 200 people appeared to undermine the government's earlier promise of a greater space for freedom of expression and assembly. In any case, it highlighted the need for a speedier pace of reforms towards better protection of human rights in the country.

Those arrested were initially held at Police Headquarters in Malé and later at Girifushi Island. Fifteen detainees out of a total of 22 interviewed by Amnesty International said they had been subjected to torture or ill-treatment during the first few days of their arrest by the personnel of the National Security Service (NSS). There were also allegations of rape

¹ See the government's official website (visited 06/12/2004)
<http://www.presidencymaldives.gov.mv/v3/pages/News.php3?NewsID=2310&CurLoc=10>

and sexual assault against some of the detainees at Girifushi island while in the custody of the NSS. All the detainees interviewed by Amnesty International said they had not been subjected to any physical torture in Dhoonidhoo detention centre. However, their testimonies indicated they had been subjected to prison conditions which appeared to amount to cruel, inhuman or degrading treatment.

Government authorities told Amnesty International that they were aware of these allegations, with the exception of the allegation of rape, through the Human Rights Commission of Maldives (HRCM), which had been investigating the situation of the detainees. They said the government had implemented recommendations made by HRCM for an improvement in detention conditions. The detainees interviewed by Amnesty International confirmed that an improvement in terms of the level of noise, dust and the smell of paint coming to their cells had occurred after the visit of the HRCM team to Dhoonidhoo.

By early December 2004, the majority of detainees had been released from the Dhoonidhoo detention centre, with most of them initially transferred to house arrest. At least nine of them remained detained at Dhoonidhoo. In subsequent weeks, many detainees were released from house arrest but they were not allowed to leave Malé or the Maldives. Among eight persons who remained under house arrest in mid-December 2004 were five members of the Special Majlis. The government brought charges against at least 17 of the people arrested in August 2004. There were grave concerns that these people would be tried under draconian legislation that impose heavy penalties for what appeared to have been a largely peaceful exercise of their right to freedom of expression and association. Furthermore, given the remaining flaws in the criminal justice system, there were serious concerns that those charged would not receive a fair trial.

However, by the end of 2004, all of these detainees, with the exception of a detainee accused of assaulting two policemen, were released and the charges against them were withdrawn.

Background

Maldives is a relatively prosperous South Asian country of over 300,000 people with a high level of achievement in recent years in primary and secondary education. It is generally regarded as a fairly tolerant and peaceful society. However, the space for the expression of political dissent has been very limited.

The country's current political system was established in November 1968 when it was proclaimed The Republic of Maldives Islands. It was renamed The Republic of Maldives in April 1969. Maldives' first President, Amir Ibrahim Nasir, introduced a number of changes to the political system and under the Constitution - promulgated in 1968 - had considerable power vested in him. Most noticeably, he abolished the office of the Prime Minister in 1975. President Nasir remained in office until 1978 when he announced that he would not seek office at the end of his second five-year term.

President Maumoon Abdul Gayoom was elected to office in November 1978. Although a number of changes in the political system were implemented by President

Gayoom², at least until 2003, the country's civil and political outlook was marked by severe restrictions on the right to freedom of expression and a *de facto* ban on political parties.³ Sporadic protests throughout 1990s were small in scale and limited to individuals or small groups of intellectuals. Their demands for political reforms contributed to a revised constitution in 1997, as mentioned earlier.

After unprecedented civil protests in September 2003, President Gayoom announced an inquiry into the deaths of prisoners in Maafushi prison – which concluded in December that they happened as a result of abuse of power by the prison guards. Subsequently charges were brought against a number of NSS staff, the jail system was re-organized, and a prison oversight committee was established.

President Gayoom also announced the formation of the Human Rights Commission of the Maldives (HRCM). The announcements came after President Gayoom was elected to a sixth consecutive term in a referendum in October 2003. However, restrictions on freedom of expression remained in place and political parties continued to remain banned under the present constitution.

In February 2004, at least eight members and supporters of the newly-emerging Maldivian Democratic Party (MDP) were detained for up to several weeks ahead of a rally, which they had planned in Malé, to mark the formation of their party. The arrests were in apparent contrast to the government's promises of greater freedoms. However, all eight were released and no charges were brought against them.

In mid-August 2004, large scale rallies took place in Malé's main square for two days (12 and 13 August) in support of the opposition's demand for speedier improvement in the political and human rights situation. The exact number of people attending these rallies is not known. Estimates put the figure at around 8,000.⁴

President Gayoom declared a state of emergency on 13 August in the capital, Malé. He formally suspended the right of access to a lawyer. However, the detainees were denied other safeguards in the existing law, which had not been formally suspended during the state of emergency, including the right to seek judicial redress against arbitrary detention and to complain about their torture.

The state of emergency was lifted in October, when more than 50 detainees were still being held without charge.

² These, according to the authorities, included strengthening the decision making power of the cabinet, revision of the constitution, introduction of a higher court, ratification of a number of international human rights instruments, introduction of legal representation in court proceedings, and the separation of the police and the security forces, as well as a series of judicial and constitutional reforms currently underway.

³ The authorities say there is no ban on political parties but a problem with their registration under the present Constitution, which they say will be addressed as part of the overall process of reforms.

⁴ This would be equivalent, roughly, to 800,000 people in a city such as London.

According to the government, the gathering of an unprecedented number of people on 12 and 13 August in Malé, who it says refused to disperse and posed a serious threat to the country's national security, made the imposition of the state of emergency inevitable. The government also cites several instances of violence, including a knife assault on two policemen, as prompting the state of emergency. They say those arrested had been involved in an unlawful gathering threatening to deteriorate into "violence and arson" and maintain that their arrests were therefore not arbitrary.

According to the MDP, the vast majority of people attending these rallies were not engaged in any acts of violence. The MDP says that the attack on the policemen was an isolated and retaliatory incident carried out by a former prisoner who had been assaulted by them while he was in prison. The MDP leaders stress that there had been no calls to violence by them or their supporters during the rallies. They allege the imposition of the state of emergency was a move by the government to crackdown on the opposition.

Whatever the reason for the imposition of the state of emergency, it is undisputed that the vast majority of the detainees were active members or supporters of the MDP. As of late November 2004, they had been either transferred to house arrest or released, pending a decision by the Attorney General as to whether they should be charged. Criminal charges were brought against 17 of them, reportedly on accusation of attending an unlawful assembly or anti-government activity. As mentioned earlier, these charges were dropped by the end of 2004 and all of the detainees, with the exception of the man accused of assaulting two policemen, were released.

Amnesty International visit to the Maldives

Amnesty International undertook the research visit at the invitation of the Maldivian government. Amnesty International's visit to the Maldives took place against the background of persistent reports of torture and severe ill-treatment of the detainees and mounting international concern about the human rights situation in the country.

The Amnesty International delegation comprised of two staff members of the International Secretariat of Amnesty International, a researcher and a legal advisor. They visited the country from 9 to 14 October 2004. During their visit, they conducted interviews with female and male political detainees including detained members of parliament. The interviews took place in Dhoonidhoo island detention centre and at Indira Gandhi Memorial Hospital. The authorities arranged meetings between Amnesty International delegates and several detainees at a hotel facility in Malé. The government facilitated and organized all official meetings requested by the delegates. The delegates also met with the families of a number of detainees in Malé, members of the Human Rights Commission of Maldives, and members of the Jail Oversight Committee (a committee of judges and parliamentarians set up recently to inspect jails and detention centres).

Dhoonidhoo is a small island near Malé. It is used as an interrogation centre. Since 1 September 2004 when the police and the NSS were separated into two different forces, Dhoonidhoo has been under the authority of the Ministry of Home Affairs through the

Commissioner of Police. Before this date, it was under the authority of the NSS, which controlled the police force.

The delegates met with key government authorities including Dr Ahmed Shaheed, Chief Government Spokesperson; Dr Hassan Saeed, Attorney General; Umar Zahir, Minister of Home Affairs; Ismail Shafeeu, Minister of Defence and National Security Services; Zahiya Zareer, Minister of Gender, Family Development and Social Security; Adam Zahir, Commissioner of Police; Abdul Azeez Yoosuf, Deputy Minister of Home Affairs; and Aishath Azima Shakoor, Deputy Director Legal Affairs (Attorney General's Office).

Other government officials met by the delegates were Ahmed Rashid, Director, Department of Penitentiary and Rehabilitation Services (Maafushi prison); Mohamed Muizz, Assistant Director General, Public Complaints Bureau; Mohamed Isamil Fulhu, member of the Committee on the Extension of the Detention Period; and Mohamed Hafiz, Director General, Ministry of Defence and National Security.

President Maumoon Abdul Gayoom granted a brief and informal audience to Amnesty International delegates.

At Dhoonidhoo detention centre, Amnesty International delegates conducted in-depth interviews in private with the detainees to obtain information about the circumstances of their arrest, their treatment following their arrest, the manner of their interrogation, and the charges against them. The delegates interviewed 22 of a total of over 60 detainees including all of the seven female detainees, all of the detained members of the constitutional assembly, and a randomly selected number of other detainees.

At the end of their visit on 14 October 2004, Amnesty International delegates met with Dr Hassan Saeed, Attorney General, and Dr Ahmed Shaheed, Chief Government Spokesperson, to provide a summary of the human rights concerns arising from the findings of the visit, and to obtain responses to these from the authorities. Others present during this meeting were Abdul Azeez Yousuf, Deputy Minister of Home Affairs; Adam Zahir, Commissioner of Police; and Aishath Azima Shakoor, Deputy Director Legal Affairs, Attorney General's Office.

Amnesty International acknowledges with appreciation the full cooperation extended by Maldivian authorities to its delegates in having free and private access to the detainees and access to key government authorities for obtaining available information on the human rights situation.

Human rights and the process of reform

Amnesty International wishes to stress from the outset that it does not advocate any specific political system, and that the focus of its dialogue with governments is to obtain their commitments for the protection and promotion of human rights. This involves the adherence to human rights both in law and in practice, and the need to implement reforms to ensure such adherence.

Amnesty International delegates were briefed by the Attorney General about a wide range of legal reforms already underway. These included *inter alia* the preparation of a draft constitution, a new penal code, a police act and a code of criminal procedure. The delegates were specifically assured that the right to *habeas corpus* would be introduced into the legal system as part of this process of reforms.

However, the alleged treatment of the detainees following their arrest in August 2004 and the flaws in the criminal justice system, which prevent fair trials, remained in sharp contrast to the apparent vigour and determination expressed by the authorities towards constitutional and legal reforms.⁵

Ratification of international human rights instruments

The Republic of Maldives acceded to the UN Convention against Torture in April 2004. So far, existing laws do not appear to have been brought in conformity with the Convention, but the authorities say this will happen within the process of legal reforms. In particular, the alleged torture and ill-treatment of the detainees in August during the state of emergency is in violation of the provisions of the Convention. The authorities told Amnesty International delegates that they had asked the Human Rights Commission of Maldives to investigate the matter, and pledged to bring anyone found to have been responsible to justice. The government has also signed a memorandum of understanding with the International Committee of the Red Cross for the regular inspection of jails.

The government has on occasions voiced an interest in ratifying the International Covenant on Civil and Political Rights, but so far has not made any announcement in that direction.

The Constitution

Under the present Constitution, adopted in 1997, the President holds the dual post of the highest executive authority and highest authority in charge of administration of justice.⁶ The Constitution provides for some of the fundamental rights including freedom of expression, association and assembly, equality of Maldivian citizens before the law, and presumption of innocence unless proven guilty, but in almost all instances, these rights are subject to limitations imposed by the law. However, since aspects of the Maldivian law - which includes legislation passed by the parliament and regulations issued by the government - are known to fall short of international human rights standards, they render constitutional guarantees of fundamental rights ineffective in practice.

⁵ The authorities say the slow pace of reforms had been due to the slow development of the Maldivian legal system and its criminal justice system which, because of the seclusion of the islands and a low crime rate, had not presented themselves as a priority.

⁶ The authorities say the President is only the nominal head of the judiciary, and appeals are heard by a council of judges and lawyers who "review cases and form conclusions". They say the President does not have an active role in this process.

Although the current Constitution provides that “persons shall be free to form societies and associations, unless prohibited by law in the interest of the protection of sovereignty of the Maldives and the maintenance of public order” (Article 27), the authorities maintain that the powers, functions and the processes described in the Constitution preclude the operation of a multiparty system.⁷ This denial of the right to freedom of association has been a main cause of anti-government protests in the Maldives in 2004.⁸

The power to make and amend the Constitution is with the People’s Special Majlis (PSM), which consists of 50 members elected for the duration of the PSM, members of the cabinet of ministers, and members of the People’s Majlis (50). As a first step to amend the Constitution, PSM members were elected at the end of May 2004 and the PSM was convened in the following July. However, the first meeting of the assembly was suspended due to a walk-out by key opposition MPs because of their disagreement over the voting process. It was reconvened in mid-October 2004 but without the participation of key opposition members of the assembly, who were in detention.

During their visit, Amnesty International delegates expressed to the authorities the organization’s willingness to become closely involved in the process of legal reforms. They informed the authorities that Amnesty International would welcome receiving draft copies of legal texts particularly the section on fundamental rights in the draft constitution, for comments and recommendations.

The government welcomed this offer and Amnesty International delegates were assured that these texts would be given to the organization once they were at a more advanced stage.

The PSM is reportedly working to finalize the list of a committee of legal experts to draft the new Constitution. According to the authorities, the new draft will include proposals made by the president, as well as by members of the PSM who are entitled to propose changes to the draft constitution. The draft will then be debated by the PSM.

Human Rights Commission of the Maldives (HRCM)

The HRCM was established by President Gayoom in December 2003. Amnesty International welcomed the move. In January 2004, the government issued regulations for the HRCM which provided for the Commission to initiate investigations and prosecutions, and to publish an annual report of its activities.

⁷ According to the authorities, this is a professional legal opinion rendered by the former Attorney General and no legal opinion or professional lawyer has challenged this opinion.

⁸ The authorities have disputed this by saying “The assemblies in July and August 2004 were to debate a raft of reforms proposed by the President on 9 June 2004; they say the gathering on 12-13 August was to secure the release of persons taken by the police for question in connection with the disruption of the court hearing of [Ibrahim] Fareed on 11 August 2004.”

Amnesty International was encouraged to note that the Commission had been able to independently investigate, and publicly raise its concern about, the situation of the detainees in Dhoonidhoo detention centre following their arrest in August 2004.

The authorities told Amnesty International delegates that a bill had been placed before parliament to provide a legal basis to HRCM, and that the bill was based on the provisions of the Paris Principles.⁹ At the time of the mission, the bill had not completed its procedural readings.

Law reform

Amnesty International has for years been concerned about the lack of provisions to safeguard fundamental rights in the criminal justice system of the Maldives. The government acknowledged the shortcomings in late 2003 and promised to implement reforms.

In early 2004, the government addressed one of the most serious flaws in the criminal justice system by allowing detainees to have access to a lawyer at all stages of their detention and trial. The move, nonetheless, stopped short of introducing provisions for legal aid which would guarantee access to lawyers for people with no financial means to pay for it. This flaw, which is partly exacerbated by an inevitable shortage of lawyers in the country, is, according to the authorities, being addressed in the text of the draft Code of Criminal Procedure. Other promised reforms include drafting of a new penal code and the introduction of *habeas corpus* into the legal system.

Reform of the criminal justice system

A “Maldives Criminal Justice Action Plan” was made public in February 2005. The plan, a copy of which has been given to Amnesty International, addresses specific areas such as criminal procedure, police powers, use of evidence in court and a “reduction on the reliance of confession”, juvenile justice, strengthening of the penal system, jail management and the judicial system.

Amnesty International is encouraged by assurances from the authorities that a comprehensive reform of the criminal justice system is underway to ensure protection of human rights, and that a multitude of legal texts, including a reformed Penal Code, Code of Criminal Procedure and Police Act, were being drafted.

Amnesty International delegates noted during their visit that a number of developments have already provided substance to some of the government promises for reforms. These include the formation of the HRCM, accession to the Convention against

⁹ The "Principles relating to the status of national institutions"(adopted in the UN Commission on Human Rights Resolution 1992/54, known as "the Paris Principles") are tools both to assess the effectiveness of existing national human rights institutions, and to ensure that new ones are set up with the requisite ingredients for effective and independent functioning. See *National human rights institutions: Amnesty International's recommendations for effective protection and promotion of human rights* (AI Index: IOR 40/007/2001, 1 October 2001).
<http://web.amnesty.org/library/index/ENGIOR400072001>

Torture, the separation of the police from the National Security Service, the establishment of the Jail Oversight Committee, and the establishment of the Public Complaints Bureau.

However, existing flaws in the criminal justice system – pending the reforms – continue to cause serious human rights concerns. These include the lack of an authoritative penal code to clearly identify what constitutes a recognizably criminal offence; the apparent admission of confessional statement obtained under duress as evidence in court even though such admissions are, according to the authorities, banned under existing law; an apparent lack of clarity with regard to the right of appeal in some instances, particularly with regard to trials before 2003; denial of facilities, such as pen and paper, to the detainees which effectively renders them unable to seek judicial redress; the lack of the provision of legal aid; and a general shortage of trained lawyers and judges.

Human rights violations

Amnesty International is encouraged by the promises of reform, and acknowledges the developments already underway to put in place better safeguards for the protection of human rights. Amnesty International has, nonetheless, a number of concerns arising from arrests following the imposition of the state of emergency in August 2004. These relate to arbitrary detention of people for weeks and months as well as torture and ill-treatment of the detainees.

Arbitrary arrest and detention

In Amnesty International's view, the denial of access to justice and of the right to seek judicial redress against arbitrary arrest during the state of emergency severely undermined the government's claims that the arrests were not arbitrary.¹⁰

Whilst there is no express provision under the Constitution for *habeas corpus*, Article 15 of the Constitution provides that Maldivian citizens have a right to appeal against "oppressive treatment" to the concerned authorities and to the President. This right was not suspended under the state of emergency but appears to have been effectively denied, as persons detained were not given the means to make appeals, such as access to lawyers or writing materials, contrary to the Constitution.

The authorities on several occasions told Amnesty International delegates that they had evidence that the demonstrators had been involved in unlawful activity, but did not disclose the nature of such



**Human rights defender
Aminath Najeab arrested
on 14 August 2004 and
detained in Dhoonidhoo
for 74 days**
© Private

¹⁰ The authorities' explanation that since access to family visits had been allowed, and since the families could have filed a petition against arbitrary arrest, access to justice had effectively been open to the detainees, does not adequately respond to the right of a detainee to challenge the lawfulness of their detention as enshrined in international legal standards.

evidence saying it would jeopardise the investigation. Amnesty International's own investigations concluded that in the majority of cases, the arrests were arbitrary, and most likely carried out in order to crackdown on the opposition.¹¹

Torture, including rape and ill-treatment

In Amnesty International's view, the denial of access to a lawyer and the prolonged periods in detention have facilitated torture against the detainees during the early days following their arrest, and various forms of cruel, inhuman or degrading treatment or punishment, thereafter.¹²

Article 145 of the Constitution of Maldives enables rights to be suspended in order to maintain "national security and public order". Amnesty International is concerned that the rights suspended as a result of the state of emergency may have directly facilitated a derogation from the right not to be subjected to torture or other forms of ill-treatment under any circumstances.

In particular, the suspension of the right to obtain legal assistance (Article 16 (2) of the Constitution), and the suspension of the provisions for the review of detention periods (Article 15), has led to people being detained incommunicado for long periods (between 30 and 60 days). The delegates observed during their interviews with the detainees that in many instances this has had an adverse effect on their psychological state, amounting to torture or to cruel, inhuman or degrading treatment.

Between 12 August and 1 September 2004, political activists and parliamentarians detained in the context of anti-government activity were in the custody of the NSS. The detainees were initially taken to Police Headquarters in Malé and from there, the majority of them were transferred to Girifushi Island for several days before being taken to Dhoonidhoo detention centre. Some of the detainees were transferred from the Police Headquarters directly to Dhoonidhoo. Several were transferred from Police Headquarters to Maafushi prison island and later transferred to Dhoonidhoo.

Most of the alleged abuses reportedly took place on the small island of Girifushi – a police training centre – after the detainees had been transferred there following their arrest in Malé on 12 or 13 August 2004.

The detainees interviewed by Amnesty International reported that once they had been transferred to the Dhoonidhoo detention centre physical torture had stopped.

¹¹ The authorities maintain that the arrests were based on video and photo evidence, and other prima facie evidence of [the demonstrators] having broken the law ranging from public disorder and violence, and in some cases, conspiracy to overthrow the government. However, they did not make such evidence available to Amnesty International.

¹² Prior to the state of emergency, the detainees were allowed to engage the service of a lawyer, initially for legal advice only, and since early 2004, also for representation in court. This regulation was suspended during the state of emergency.

Most of the detainees, both male and female, said they were abused verbally, kicked or otherwise physically assaulted while they were blindfolded. Some of the abuses took place at the Police Headquarters in Malé, and the rest during their transfer on boats to Girifushi island, or while detained in Girifushi island. Several of the detainees said they had suffered severe back or abdomen injuries as a result of the kicking and beatings.

The delegates received serious allegations of sexual violence on both men and women. One woman reported that she had been kicked on her genitals causing her severe injuries. Another woman reported that she had been sexually assaulted while blindfolded, and yet another woman reported that she had been raped while blindfolded.

Interviews with the detainees revealed a pattern of abuse by personnel of the NSS in the first few days of arrest. Detailed and consistent testimonies showed the detainees had been held blindfolded and handcuffed for up to 19 hours, and made to sit still on a chair or in one spot for several hours at a time during this period. They were hit while blindfolded each time they moved.

Most of the detainees interviewed said their handcuffs and blindfolds were not removed for the duration of their detention at Police Headquarters, during their trip on boats to the Girifushi island and for more than a day while detained in Girifushi. From time to time, the guards would tighten their blindfolds in a cruel manner, hurting their eyes and causing them severe headaches. The detainees who had been transferred to Girifushi island independently described how the guards at some point pushed thick balls of cotton wool under their blindfolds and tightened the blindfold. This caused the blindfold to press hard on the eyeballs giving severe, continuous pain to the detainees.

One detainee said the guards shoved the cotton wool so forcefully under her blindfold that she could not close her eyelids for the entire duration she was blindfolded, causing her severe pain at the time. Her vision had been impaired for several weeks. Another detainee said one of his eyeballs was so badly squashed by the force of the cotton wool under the tightened blindfold that he could not move his eyeball for several hours when the blindfold had been taken off. The detainees said they were deprived of food for some 14 hours.

Female detainees reported they had to use toilets while handcuffed and blindfolded (between 14 and 19 hours) and in what they felt was the full view of prison guards who made sexually explicit comments about them. Many of the detainees reported they refrained from using the toilet for extended periods so as not to be subjected to this humiliation.

Testimonies given by the detainees and a brief inspection of some of the cells by Amnesty International delegates appeared to confirm Amnesty International's earlier concerns that the detainees in Dhoonidhoo were being held under conditions which amounted to cruel, inhuman or degrading treatment or punishment. They were held in cells with a measurement of approximately 4 metres long, 2 metres wide, and 2 metres high, isolated from the outside world with no access to reading (with the exception of the Holy Quran) or writing material, no access to lawyers, and with severely limited access to family visits. The cells are of rectangular shape, with a door made out of iron bars. The walls are made out of thick concrete blocks with several narrow holes on one or two side walls. There is a toilet and a tap

in each cell. The detainees said the holes were too narrow to allow ventilation. As a result, the temperature inside the cells would rise much higher than the outside temperature with no way of escaping it. In addition, the detainees were not allowed to leave their cells save for several minutes a day to hang their washing on the line, or when taken for interrogation or when, after several weeks, they were allowed to see a doctor and have limited family visits.

The detainees reported that while locked in their cells, noise and dust from building work on the prison site entered their cells day and night during the first few weeks of their detention, depriving them of sleep. Several detainees reported having permanent and severe headaches from the smell of fresh paint. Some reported having severe respiratory problems due to thick clouds of dust from the building works entering their cells.

Most detainees said severe deprivation of physical movement and exercise, lack of reading and writing material and isolation from the outside world had caused them deep depression and mental problems.

While these conditions affected most of the detainees, several detainees including some members of parliament said they had been allowed the use of a fan cooler in their rooms (and senior MPs said they had the use of air conditioners) in Dhoonidhoo and were allowed to have their doors kept open and pace up and down on a small raised platform outside their cell.

The authorities told Amnesty International delegates that they were aware of the allegations that the detainees had been subjected to physical assault during the early stages of their detention; that they had taken these allegations seriously; and that they had requested the HRCM to investigate these and make recommendations. Amnesty International delegates were told that the final report of the HRCM would inform charges to be brought against perpetrators, should the report prompt this.

The authorities told Amnesty International delegates that one reason for the lack of the provision of exercise to the detainees had been to prevent them from talking to each other as this would undermine investigations. This explanation did not respond to the obligation on the authorities to ensure the provision of exercise to the detainees.



Members of the People's Special Majlis (PSM) arrested in mid-August 2004 during mass demonstrations in Malé in support of the opposition demand for speedier reforms, and detained (see details below) before being transferred to house arrest. They were all released from house arrest by the end of the year. © Private

Top row from left: **Ilyas Hussain Ibrahim**, detained for 87 days; **Ali Faiz**, detained for 44 days; **Dr. Hussein Rasheed**, detained for 80 days; **Gasim Ibrahim**, detained for 68 days; **Ibrahim Ismail**, detained for 76 days;

Middle row from left: **Ahmed Athif**, detained for 50 days; **Ahmed Adil**, detained for 76 days; **Ahmed Shafeeq**, detained for 86 days; **Dr. Munavvar Mohamed**, detained for 68 days; **Ibrahim Hussein Zaki**, detained for 68 days;

Bottom row: **Mohamed Naseem Ibrahim**, detained for 56 days.

Fear of unfair trial

At the time of the mission in October 2004, the authorities informed the delegates that in most cases, the detainees would be charged on the basis of their own statement and the evidence the government had of their involvement in “unlawful activity”. Further details about such evidence or the charges were not made available to the delegates during their visit.

Amnesty International was of the view that because of the treatment of persons detained and their conditions of detention, the statements and evidence obtained could be challenged as resulting from torture and other forms of cruel, inhuman or degrading treatment. According to international law, in particular Article 15 of the UN Convention against Torture to which the Maldives is a party, any evidence gained through these methods must be inadmissible as evidence in any proceedings, except against a person accused of torture.

The detainees told Amnesty International delegates that at some stage during their interrogation, (which was conducted by police initially under the authority of the NSS) they had been asked to sign a statement as a record of their confessions which would then be used as evidence in court. Most detainees said they signed their statements in desperation and without objecting to inaccuracies in the hope that their detention in Dhoonidhoo would end. Several detainees said they refused to sign the statement given to them at the end of the interrogation period because its content was not consistent with what they had said during the interrogation. The right for the detainees to have access to a lawyer, which had been suspended in August 2004, was reinstated through an announcement by President Gayoom on 7 October 2004. However, the authorities did not communicate this news to the detainees for several days and the detainees had no other means of knowing about the announcement since their access with the outside world was severely restricted. Some of the detainees who had been asked to sign their statement after 7 October said they were first asked to sign their statement and were then told that they could have access to a lawyer. The detainees said they would have wanted to consult with a lawyer before signing the statement and that by not informing them of their restored rights, the interrogators had effectively denied them that right.

The authorities told Amnesty International delegates that the statements the detainees were asked to sign were transcripts of the video recording of their verbal answers during the interrogation; and that access to reading and writing material had been authorised by the Attorney General. When the delegates explained that reading and writing material other than a translated copy of the Quran had not been given to the detainees because the interrogating authority had not authorised it, the authorities said they would investigate to see why this directive had not been implemented.

On the concern of prolonged detention under the above conditions after the detainees had signed their statement, the authorities said the signing of a statement did not automatically lead to release as a detainee may be the subject of an interrogation in another case. This, however, did not explain the reason why a number of detainees had been released weeks after signing their statement without being questioned in any other cases.

At the end of 2004 and the aftermath of the tsunami disaster which affected countries around the Indian Ocean including the Maldives, President Maumoon Abdul Gayoom announced the withdrawal of all charges against those accused of involvement in the events of 12 and 13 August 2004.

Amnesty International recommendations

Ratification of international human rights instruments

- While Amnesty International welcomes Maldives' accession to the UN Convention against Torture in April 2004, it urges the government to ensure that provisions of the Convention are fully incorporated into domestic law.
- The organization urges the government to ratify other human rights instruments including the International Covenant on Civil and Political Rights and its optional protocol, without undue delay.

New Constitution

- Amnesty International recommends that provisions in key international human rights treaties particularly on freedom of conscience, and the right to physical and mental integrity, and the right to life is incorporated in the new Constitution.
- It is of particular importance that there be a provision in the Constitution that all new and existing laws or regulations should be in accordance with the new Constitution and international treaties to which Maldives is a party.

Human Rights Commission of Maldives

- While the organization notes assurances that a bill, which is to be placed before the current session of Parliament, was based on the provisions of the Paris Principles, it recommends that the Paris Principles are incorporated in the bill in full and without any reservations.
- The organization recommends that the government ensures the provision of adequate resources and the necessary facilities to the Commission to enable it to carry out impartial, independent and effective investigations and to report publicly.

Reform of the criminal justice system

- Amnesty International recommends that the government undertakes the full spectrum of institutional reforms that enable the effective functioning of the criminal justice system. Key recommendations here are guarantees of the independence of the judiciary, establishment of a supreme court, the provision of sufficient number of qualified judges and trained lawyers, and guarantees of speedy access to judicial redress.

- The organization recommends that the guiding principle in drafting new legal texts should be safeguards for the protection of human rights as provided in international human rights treaties.

Torture and sexual abuse

- Amnesty International urges the government to bring those found responsible to justice, and to provide adequate compensation to all victims of torture or cruel, inhuman or degrading treatment or punishment.

Charges

- Amnesty International acknowledges that the withdrawal of charges against those accused of involvement in the events of 12 and 13 August have removed concerns about their unfair trial.
- Amnesty International recommends that in all cases, the government refrains from using statements given by detainees after long periods of detention and under detention conditions that may amount to torture, or to cruel, inhuman or degrading treatment, as evidence against the accused.

Appendix 1: List of detainees met by Amnesty International delegates

Female detainees

Mariyam Manike	met in Dhoonidhoo on 10/10/ 2004 and in Malé after her release
Jennifer Latheef	met in Dhoonidhoo on 10/10/2004
Aminath Najeeb	met in Dhoonidhoo on 10/10/2004
Zuhaira Umar	met in Dhoonidhoo on 10/10/2004
Marnie Latheef	met in Dhoonidhoo on 10/10/2004
Fathimath Nasreen	met in Dhoonidhoo on 10/10/2004
Susan Ibrahim Fulhu	met in Dhoonidhoo on 11/10/2004

Members of Special Majlis

Ibrahim Ismail	met in IGMH on 12/10/2004
Qasim Ibrahim	met in Dhoonidhoo on 12/10/2004
Dr. Mohamed Munavvar	met in Dhoonidhoo on 12/10/2004
Dr. Hussain Rasheed	met in Dhoonidhoo on 12/10/2004

Ilyas Hussain Ibrahim	met in Dhoonidhoo on 12/10/2004
Ahmed Shafeeq	met in Dhoonidhoo on 12/10/2004
Ibrahim Hussain Zaki	met in IGMH on 12/10/2004

Other detainees

Ahmed Ibrahim Didi	met in Dhoonidhoo on 11/10/2004
Mohammed Mahir	met in Dhoonidhoo on 11/10/2004
Moosa Rameez	met in Dhoonidhoo on 11/10/2004
Imran Zahir	met in Dhoonidhoo on 11/10/2004
Hussain Rasheed	met in Dhoonidhoo on 12/10/2004
Husnu-Al-Suood	met in Dhoonidhoo on 12/10/2004
Mohamed Zaki	met in KAM Hotel on 13/10/2004
Naushad Waheed	met in KAM Hotel on 14/10/2004