

REPUBLIC OF MALDIVES

Repression of peaceful political opposition

1 INTRODUCTION

In the past decade, dozens of people - including politicians, journalists and others protesting government policies - have been detained arbitrarily in defiance of their fundamental right to freedom of expression and assembly. Several prisoners of conscience have been tried and convicted by the Criminal Court without having access to a lawyer, or to an independent and impartial appeal mechanism. They have been denied even the most basic facilities such as pen and paper to prepare written statements in their own defence. They are serving their sentences after grossly unfair trials. One prisoners of conscience is reportedly awaiting a similar trial.

Tight restrictions imposed on the right to freedom of expression by the Government of President Maumoon Abdul Gayoom makes the gathering of information on human rights violations in the Maldives difficult. However, Amnesty International has received compelling testimonies from former detainees and other sources showing systematic violations of the fundamental rights to freedom of conscience and expression, the right to a fair trial, and the rights to physical and mental integrity.

Amnesty International is encouraged by recent steps taken by the government to improve some aspects of the criminal justices system. A new law effective from 15 December 2002 allows for a restricted form of legal assistance to people accused of a criminal offence. While this is a step in the right direction, the new law does not go far enough to address the many problems regarding the provision of legal assistance.

This report provides information on arbitrary detention of government critics and their continued imprisonment before and after convictions in grossly unfair trials. It also highlights a pattern of torture and ill-treatment, and serious flaws in the criminal justice system. Detailed case studies provide examples of these human rights violations.

In the past, when Amnesty International has made such information public, the Government of Maldives has, on a number of occasions, refuted the reports urging Amnesty International to verify the facts with "respective authorities". However, when Amnesty International has sought information related to the prisoners referred to in this report, the government has failed to provide responses to questions regarding the circumstances of their arrests and the conduct of their trials, or provide credible assurances that the reported violations would be investigated by an impartial and competent authority independent of the government. In one case, the government has simply confirmed the arrest and imprisonment of the individual concerned, referring to the Constitution as a guarantor of fundamental rights. Amnesty International's communications in relation to other cases have remained unanswered.¹

The Government of Maldives has persistently failed to address the fundamental flaws in the administration of justice resulting in arbitrary detention, grossly unfair trials and long-term imprisonment of government critics. No one, at any level of the government

administration, is known to have been brought to justice for committing human rights violations.

Amnesty International is issuing this report in the hope that the Government of Maldives will take decisive measures, within the framework of Amnesty International's recommendations, to address these human rights violations.

2 GENERAL BACKGROUND

Available material about the early history of the Maldives suggests that Buddhism replaced the ancient religion of sun worship possibly as early as 500BC and was itself replaced by Islam in 1153AD. The country was ruled for about 400 years by three Muslim Sultanic dynasties which included female rulers. Portugal, the first country to establish formal trade links with the Maldives in 16th Century, eventually invaded the country in 1558 but the 15-year occupation ended when Portuguese forces were driven out in 1573 by an indigenous rebellion. Maldives has not been ruled by a foreign power since. The Maldivian language, *Dhivehi*, is closely related to the *Sinhala* language of Sri Lanka but contains many words of Tamil and Arabic origin.

First diplomatic ties with Western Europe, initially with the Netherlands but also with France and Britain, were established in the 17th Century. In late 19th Century, Maldives became a British crown protectorate. It achieved full independence on 26 July 1965 and became a member state of the United Nations (UN). It joined the International Monetary Fund (IMF) and the World Bank in 1987, and has been a full member of the Commonwealth since 1985. It is a founding member of the South Asian Association for Regional Cooperation (SAARC).

Maldives is a relatively prosperous country in South Asia with a high level of achievement 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 to date been severely 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 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. In November 1978, Maumoon Abdul Gayoom, the then Minister of Transport and former permanent representative of Maldives to the UN, assumed the presidency. He is currently serving his fifth consecutive term.

Coup attempts against President Gayoom were reported in 1980, 1983 and 1988. The latter coup attempt had reportedly been organized by a small group of Maldivians, using Sri Lankan mercenaries linked with the Tamil opposition group, the People's Liberation Organization of Tamil Eelam (PLOTE). President Gayoom reportedly appealed to the Government of India for help. A contingent of about 1,500 Indian troops was reportedly

dispatched. Nineteen people reportedly died during the few hours of fighting. The coup attempt triggered the arrest of over a dozen alleged suspects among whom were senior officials including the Minister of Transport and Shipping. Twelve Sri Lankans and four Maldivians who took part in the aborted coup were sentenced to death, but their sentences were later commuted to life imprisonment.

There were some indications of a policy of political reform in February 1990 when President Gayoom announced that he was planning to allocate powers - enjoyed by the president alone - among other official bodies. However, towards the end of the year, several politically outspoken magazines including *Sangu* (The Conch shell), publishing articles critical of the government, were banned. Further measures curtailing the right to freedom of expression included the arrest of a number of leading writers and publishers. Since late 1990, there has been a continued reversal of the promise to broaden the enjoyment, by the Maldivian citizens, of the right to freedom of expression.²

3 THE CONSTITUTION

In November 1997, a new Constitution was adopted which for the first time permits rival candidates to compete in the 50-member Citizen's *Majlis* (parliament) to obtain its nomination for the presidency. The process for these elections is as follows:

The Commissioner of Elections issues a public notification inviting nominations. Those wishing to become a candidate for presidency apply in person to the Commissioner with appropriate documents within the period specified in the notification. The Commissioner sends the applications of those considered eligible by a three-person Elections Committee to the Speaker of the People's *Majlis*. The *Majlis* selects one of the candidates and the sole candidate is then put to a public vote in a referendum.

Under the Constitution, women are not banned from taking active part in society and government administration, but there are legal provisions that discriminate against them on religious grounds. For example, a woman cannot become the President.³

No candidates are allowed to canvass or campaign before this selection process in the Parliament. After the process, only the chosen candidate is allowed to canvass. He "*may meet and speak with people, write letters, distribute photographs, stickers, documents and the like [sic] use symbols and advertise.*"⁴

In 1998, the Parliament chose Maumoon Abdul Gayoom as the sole candidate for presidency and in the referendum held in October that year, he was endorsed as President for the fifth term. The President's term of office comes to an end in 2003. There has been no announcement about the date of presidential elections or whether Maumoon Abdul Gayoom will stand as a presidential nominee again.

Under the Constitution, the President holds the dual post of the highest executive authority and highest authority in charge of administration of justice.⁵ The Constitution provides for some of the fundamental rights including equality of Maldivian citizens before the law, and presumption of innocence before 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, with similar status, issued by the government – are known to fall short of international human rights standards, they render constitutional guarantees of fundamental rights ineffective in practice.

4 THE PARLIAMENT

The People's *Majlis*, the Parliament, consists of 50 members of whom eight members are appointed by the President, two members are elected from the capital, Malé, and two members from each of the 20 Atoll constituencies. The speaker of the *Majlis* - who is not a member - is appointed by the President. A deputy speaker is also appointed by the President from among the members.

These appointments give the President considerable power to influence the conduct of the Parliament. In addition, he has the power to return bills to the *Majlis* for reconsideration or amendment before assenting to them.⁶

The latest parliamentary elections were held in November 1999. As political parties are not allowed to function, candidates put themselves forward as independent candidates. Several outspoken members of parliament have been detained or harassed. One of them has been expelled from the Parliament.

5 POLITICAL PARTIES NOT ALLOWED

The Constitution does not ban the formation and functioning of political parties. Article 27 states:

“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 maintenance of public order.”⁷

However, these vaguely formulated conditions have been used by the government of President Maumoon Abdul Gayoom to prevent political parties from being established in the Maldives.

On 28 February 2001, 42 people including academics, intellectuals, businessmen and several members of parliament, handed a petition to the Minister of Home Affairs requesting permission to set up the Maldivian Democratic Party (MDP), an independent party with a peaceful political program.

So far, the government has not allowed the formation of this party. In addition, some of its signatories have been subjected to arrest and harassment.

6 THE JUDICIAL SYSTEM

The courts apply a version of the Islamic *Shari'a* mixed with elements of the civil law of 1968 and its amendments. The modified *Shari'a* does not include amputation or stoning to death but sanctions floggings and the sentence of banishment to a remote island. The origin of banishment as a punishment in the Maldives reportedly dates back to previous centuries when rebellious slaves - brought back by some Maldivians from the *Hajj* pilgrimage to Mecca - were marooned in the island of Felidhu.

Under current regulations, the length of the banishment sentence may vary from eight months to one or two years but much longer sentences are reportedly also imposed. The prisoner is sent to live on an island with the local inhabitants. It is then left to the prisoner to earn money - usually through hard labour - to top up the meagre daily allowance given to him or her by prison authorities. This allowance is reportedly a very small amount of money hardly sufficient for one meal a day. Prisoners who cannot find work have to rely on the financial support of their relatives for subsistence. Women banished suffer most as they become easy targets for harassment and sexual abuse by the village men.

Banishment is imposed on the Maldivian citizens for a range of mainly religious offences such as drinking alcohol, extramarital sex, theft and eating in public during the fasting month of *Ramadan*. Detailed statistics on the number of cases are hard to obtain. According to a report, in 1988, the courts pronounced convictions in at least 1,224 cases. Of those involved, 806 people were banished. One third of those banished were reportedly women.⁸ Another report quoting the Department of Corrections (prison department) says 647 people were banished to outer islands in 2002. The report notes that the source had not provided information on the nature of the offence committed.⁹

The punishment of flogging is also imposed by the courts under the *Shari'a* law. In the majority of cases, it is carried out in public usually in front of the court building. In the case of people with fame or political influence, it is carried out symbolically in the court room and then announced that it has been carried out. The death penalty exists in law but in practice, all sentences of death since 1958 have been commuted to life imprisonment or banishment.

According to Amnesty International's information, in late September 1997, the government restructured the court system. It closed all existing courts and opened three types of new lower courts. These are *Madani* (Civil) Court, *Jinaae* (Criminal) Court, and *Aaelee* (Family/Juvenile) Court. Some of the former judges were reportedly transferred to governmental departments. Their replacements were appointed mainly from among prosecutors at the Attorney General's Office, some of whom were promoted to the position of a senior judge.

The judicial system provides for appeals against the judgement of a lower court (the Criminal Court) to be made to the Chief Justice at the High Court and from there to the President who may conduct a judicial review of the case. In all cases sent to the President, his decisions are reportedly final. Political prisoners are initially tried by the Criminal Court, but former prisoners interviewed by Amnesty International have testified that they have rarely been able to appeal to the High Court against their sentences (see section 9).

The independence of the judiciary, which is a fundamental prerequisite for a fair trial is jeopardised by the dual role of the President as both the highest judicial and executive authority.¹⁰ Furthermore, judges are appointed by the President, and under the Constitution "*The President may at his discretion remove a judge of any court from office*".¹¹

7 DENIAL OF THE RIGHT TO FREEDOM OF CONSCIENCE AND EXPRESSION

Intellectuals have continued to be subjected to severe retaliatory measures on suspicion of opposing, or for expressing views considered to be critical of the government of President

Maumoon Abdul Gayoom. Over a dozen prisoners of conscience have been detained in recent years. Some have been held for long periods without charge or trial and subjected to ill-treatment. Others have remained in detention after grossly unfair trials for seeking reform or for the peaceful expression of their opposition to government policies. Dozens more have been detained arbitrarily for varying periods without access to judicial safeguards. Case studies in section 10 below show details of the way people have continued to be deprived of their fundamental rights with impunity.

Not only have people's civil and political rights been violated, but also in most cases their arrest and imprisonment have had a devastating effect on the economic well-being of the detainees and their families. Valuable personal or office equipment confiscated from the prisoners during extensive and unwarranted searches of their homes and offices at the time of their arrests have rarely been returned to them. In addition, the seizure, by the security personnel, of important company documents such as records of transactions, have rendered their business effectively dysfunctional.

The businesses of Mohamed Zaki, Ibrahim Luthfee and Ahmed Didi have suffered great losses since their detention in early 2002 as has the business of another prisoner of conscience, Naushad Waheed, since his detention in December 2001. Mohamed Nasheed's income as an elected member of parliament has been stopped as he was expelled from parliament in March 2002 following his conviction on politically motivated grounds in a grossly unfair trial. He is not allowed to earn a living as a journalist or publish his work as a historian.

8 TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Torture or ill-treatment of prisoners at Malé police headquarters or at Dhoonidhoo detention centre or in prisons such as Maafushi, continues to be reported. Most prisoners have been held in solitary confinement without adequate food or access to medical facilities. Some of them have reportedly been put on chairs with their hands handcuffed to their feet and left for long periods. Some others have reportedly been forced to stand on a chair for hours with a coconut in each palm. Withholding of medication has been used as a form of pressure to force prisoners to admit to an alleged crime.

In 1997, 17 Turkish asylum-seekers were reportedly held in a space meant for 10 people, under a metal roof which caused very high temperatures in the cell. They had to drink brackish sea water, food was inadequate, and men and women had to share the same toilets, with no privacy. The 17, students of Kurdish ethnicity, had been detained on arrival in Malé, the capital, in mid-March, and were held in Gaamadhoo Prison without charge or trial. Fifteen of them were released in May. There was no news about the remaining two.

It was reported to Amnesty International in 1998 that women detainees were held in small, hot and overcrowded cells without adequate sleeping space. A former detainee at Gaamadhoo Prison said that she had seen male and female prisoners handcuffed to coconut palms in front of prison cells trying to sleep. During her five-day detention there, she saw girls aged between 13 and 18 almost permanently handcuffed in their cells. Male soldiers

jabbed the ribs of female prisoners with wooden batons to wake them for dawn prayers, pointing the batons in a humiliating way, especially at the girls' genitals. It was reported that a girl had died in Gaamadhoo Prison in 1994 after she was gang-raped by guard soldiers.

Information received by Amnesty International in 1999 indicated that many inmates in Gaamadhoo prison were subjected to various forms of ill-treatment after a fire burned down the prison. According to this information, security guards beat some prisoners who were tied to palm trees. In the same year, a former detainee at Dhoonidhoo stated that prison guards regularly beat prisoners, at times on orders from the senior warden.

Several parliamentary candidates detained in the run up to the November 1999 parliamentary elections were reportedly tortured or ill-treated in custody. Ibrahim Ahmed Maniku and Abdul Rasheed were held in Dhoonidhoo detention centre in early November 1999 where they were deprived of sleep for several days, forced to sit on stools in the rain, and beaten every time they fell asleep.

Following the publication of a report in *Maldivesculture* (an Internet magazine abroad publishing a wide range of reports on aspects of the Maldivian culture, society, economy and politics), Amnesty International wrote to President Gayoom on 21 January 2003 about the death of a 19-year-old man allegedly as a result of torture while in the custody of the National Security Service at Maafushi Prison.¹² The report named the man as Ali Shaahir. The exact date of his arrest was not specified but he was believed to have been kept in detention in Maafushi Prison for over three weeks in early 2003 during which time he was allegedly tortured and went into a coma. He was then transferred to the Indira Gandhi Memorial Hospital in Malé but he reportedly succumbed to his injuries before reaching the hospital. It is alleged that people who prepared the body for burial saw blood in the dead man's nostrils and ears. The report in the *Maldivesculture* indicated that President Gayoom had taken a personal interest in this case and had ordered an investigation. Amnesty International sought the government's account of this incident and information on the steps the government was taking to ensure the rights of the victims' family to remedy, truth and justice if torture had been the cause of the incident. The government did not reply.

Ibrahim Luthfee, a former prisoner of conscience, was severely ill-treated during his detention in Maafushi prison in September 2002 (see section 10). This included being handcuffed and chained to an H-shaped iron girder unable to move, sit or bend over properly for eleven days. He could not sleep, and the chains were only removed and replaced with handcuffs for three 10-15 minute meal breaks each day. He could use the toilet only during these brief periods, but was not allowed to take a shower. After the third day, his legs started to swell, and he experienced severe numbness over all his body. He developed an eye infection but did not receive any medication for months. It was not until his health was severely deteriorating that he was taken to the Indira Gandhi Memorial Hospital in Malé for eye



Ibrahim Luthfee
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surgery.¹³ However, his situation did not improve and the government eventually allowed him to receive medical attention in Colombo in May 2003. While in hospital, his friends facilitated his escape. He has since sought protection from the UN High Commissioner for Refugees.

Sentences of flogging, which amount to cruel, inhuman or degrading punishment have been imposed on people. A couple convicted of having an extramarital sexual relationship were sentenced to 15 lashes each. The sentence was carried out in public on 9 October 2002. According to a report in the *Haveeru* newspaper, five women imprisoned on drugs charges were convicted to flogging by the Criminal Court in Malé “for engaging in lesbian sex while in jail”. The report said they were each given 10 lashes on 1 July 2003. Their place of detention or where the sentence of flogging was carried out was not mentioned in the report.¹⁴

9 FUNDAMENTAL FLAWS IN THE CRIMINAL JUSTICE SYSTEM

Amnesty International has for long been concerned about trial procedures in the Maldives. For example, in a report in June 1993, the organization expressed its concern that the independence of the judiciary from the executive is not guaranteed; that the right to legal assistance is not adequately guaranteed; that there is a lack of clarity about appeals procedures; and that political trials may effectively be closed to the public.¹⁵

Despite the introduction of a new Constitution and a reform of the court system in 1997, the defendants continue to be deprived of the right to adequate legal assistance, adequate time and facilities to prepare their case and the right to communicate in confidence with a counsel of their choosing, and to be represented in court by a lawyer. Under current legislation, lawyers can be appointed in civil cases when the complainant and defendant are private individuals. Lawyers can also be appointed in cases that go before the High Court. Until recently, in cases involving offences against the state, such as in the cases of political prisoners, the decision as to whether the defendant would be allowed to appoint a lawyer was reportedly with the President. Testimonies from former prisoners received by Amnesty International and reports published by other sources all indicate that political prisoners have neither been allowed legal representation, nor have they ever been represented by a lawyer in trials before the Criminal Court.¹⁶

A new law – reportedly effective as of 15 December 2002 – provides for limited legal assistance to people accused of a criminal offence. Under this law, a detainee is allowed to ask someone to find a lawyer but is allowed to meet the lawyer only in the presence of a policeman who will monitor the conversation. The law gives discretionary power to the investigating authority and the police to be present during the meeting between the prisoner and the lawyer and limits their discussions to be only “*about matters concerning payment of fees for the lawyer, the type of alleged offence, what the law says with regard to that offence, and whether the lawyer will be able to defend the accused when the case goes to court.*”

A number of lawyers have reportedly been reluctant to provide legal assistance to prisoners for fear of being implicated in an alleged crime. They have been particularly concerned about Article 14 which states:

“14. If the lawyer or the accused act in breach of this law, it [will] be considered a separate offence, and subject to due process. The investigating authority has the discretion to reject a lawyer who has acted in such a way.”¹⁷

Some of the provisions of this law are distinctly in violation of international human rights standards. For example, Article 12 violates the right of the accused to confidential communication with their lawyers.¹⁸ It stipulates that:

“12. During such a meeting, if the accused admits to the lawyer that he has committed the offence, the policeman present is to note the admission in writing, and the lawyer will sign that document.”

To date, Amnesty International has not been able to ascertain how this provision is being used in practice. Amnesty International is concerned that, as suggested by the wording of Article 12, the content of any such communication can be used as evidence of the commission of a crime by the accused.

None of the political prisoners known to Amnesty International in the past ten years have been given the right to any form of legal assistance at any time during their interrogation or their trial by the Criminal Court. Usually, they have been informed of the charges against them during a brief court session after many months in detention. The announced charges are usually vague and unspecified and no documents detailing the charges are given to them. Since they are not allowed to have pen and paper while in detention, they can neither keep a written record of the charges against them nor can they prepare in writing a statement in defence. The date of the trial is not disclosed to the prisoner until the day it begins. During the trial, the time usually given to each prisoner to defend him/herself is reportedly less than an hour.

A former prisoner of conscience testified to Amnesty International that in late May 2002, he and three other prisoners of conscience were taken to a closed session of the Criminal Court in Malé. They were informed of the charges against them for the first time after several months in detention. The prisoners all refuted the allegations and the judge recorded that in a brief note. The session took about one hour.

During the second day of the trial in late June 2002, neither he nor his co-defendants were given adequate time to defend themselves. When his own turn came to defend himself, the judge adjourned the hearing after about 50-60 minutes. An hour later, the prisoners were called back into the court room to hear two specific announcements: the judge told them their earlier request for legal assistance could not be entertained due to regulations applicable to the Criminal Court; and he informed them that they should use the time given to them only to answer the questions and not to say anything else in their own defence. The judge then announced that the hearing was public. When those allowed to attend took their seats, the judge commenced the hearing with a series of brief questions and answers from the prisoners.

The third day of the trial began with the state prosecutor reading about five pages of a pre-written statement. When he finished, the hearings were adjourned. An hour later, the hearings were resumed, but the prisoners were not given the chance to defend themselves.

The judge announced the sentences. Three were sentenced to life imprisonment, and the fourth to 10 years' for publishing the Internet magazine, *Sandhaanu* (see section 10).

The prisoner of conscience knew that under the law he would have 90 days to appeal to the High Court. As he was not allowed to have a lawyer, he told his family to prepare an application for appeal. Once again, he had not been allowed pen and paper to do this himself. The application had to be signed by the prisoner. When the family brought the application to the prison, the officials told them the prisoner was not allowed to receive any documents from outside the jail. The family sought help from various authorities including the President, but permission to allow the prisoner to receive this document was not given and he could not sign his application for appeal within the 90-day period. In effect, he never got the chance to appeal against his sentence.

In this period, only one prisoner of conscience, Mohamed Nasheed, was allowed to appeal to the High Court and to have access to a lawyer, but even in his case, the lawyer was not allowed to represent him in court.

10 CASE STUDIES

* **Mohamed Nasheed**, writer, politician and member of parliament advocating reforms, was arrested on 8 October 2001 and held *incommunicado* for several weeks. On 8 November, following a trial lasting only two hours, he was sentenced to be banished for two and a half years to a remote atoll, on charges of "theft" of unspecified government property. During his trial at the Criminal Court, he was not permitted access to a lawyer or to speak in his own defence. After the trial, he was banished to a remote island. He sent an appeal against his sentence to the High Court. At this stage, he was allowed the services of a lawyer but his lawyer was not permitted to represent him in the High Court. The appeal on his case was heard in the High Court on 13 March 2002, but the Court upheld the sentence. He was "expelled" from the Parliament in March 2002 on grounds that he had been absent for more than six months – while he was in detention. On 23 June 2002, he was transferred from banishment to house arrest in Malé. He was released on 29 August 2002, but was denied his parliamentary seat.



Mohamed Nasheed (earlier photo)
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After his arrest, Mohamed Nasheed was held in solitary confinement until 14 October 2001 when he was taken under police escort to the hospital in Malé to visit his wife, who had just given birth. He was returned to Malé police station where he continued to be held *incommunicado* until 31 October 2001 when he was finally allowed to meet a relative for 45 minutes. He was reportedly kept in an underground cell without natural light.

On 8 November 2001 he was taken to court where he was charged with the “theft” of “government property”. The charge reportedly related to the purchase, apparently without payment, of several children’s copy books at an auction at the former residence of former President Amir Ibrahim Nasir in October 2001. Mohamed Nasheed was one of dozens of visitors to this auction. According to him, the official from whom Mohamed Nasheed inquired about the price told him the books were insignificant and he need not pay. Several other visitors who were buying other small items were also reportedly told they need not pay. However, Mohamed Nasheed was the only one who was charged with theft.

A political motive behind his arrest was obvious. Prior to his arrest, he was outspoken in the parliament, advocating reforms. In February 2001, he was among 42 signatories to a petition handed over to the Minister of Home Affairs requesting permission to set up an independent political party, the Maldivian Democratic Party (MDP). The signatories included other legislative assembly members, academics, intellectuals and businessmen. The government has not allowed the party to be formed, but some of the 42 signatories have been arrested and continue to be harassed. Abdulla Shakir, also member of the People’s *Majlis* for Malé and signatory to the petition, was arrested and held in unacknowledged detention for several days in July 2001 reportedly because of his leading role in the attempt to form the MDP. Naushad Waheed, another signatory to the petition is now serving a 15-year prison sentence (see below).

Furthermore, Mohamed Nasheed’s computer was taken away for scrutiny; other material confiscated by the police included documents relating to the MDP about which he was interrogated for hours. He was also questioned at length whether he was involved in the publications of the Internet magazine, *Sandhaanu*. His detailed interrogation about these specifically political matters - which were evidently unrelated to the charge of alleged “theft” under which he was being held - clearly countered the explanation by the Government of Maldives that the reason for his arrest was solely the criminal charge of theft.

In addition, there had been a pattern, over a number of years, of the politically motivated arrest and imprisonment of Mohamed Nasheed. He was arrested on 24 November 1990 after he had written an article on corruption in government which was published in *Sangu* newspaper in the Maldives, and in a newspaper abroad. He was held in solitary confinement for 18 months in Dhoonidhoo detention centre, which is on an island a short distance from Malé. He was finally sentenced on 8 April 1992 to over three years’ imprisonment for withholding information about an alleged conspiracy to explode a device at the SAARC conference - a charge he denied. In addition, he was sentenced to four months’ imprisonment for talking to unauthorised people while under house arrest; and six months for allegedly endangering the peace and stability of the country. It is believed that these latter two convictions related to interviews criticizing the government which he gave to foreign journalists. He appealed against his sentence but in May 1993 the High Court rejected his appeal. He was, however, released from the prison in Gaamadhoo Island in June that year.

Five months later, he was arrested again on 30 November 1994 on his return to the Maldives from Nepal, where he had attended an international conference of journalists. His arrest this time was apparently in connection with an article he had written for a foreign news

agency about the then forthcoming parliamentary elections. On 3 April 1996 he was sentenced to two years' imprisonment on charges of sedition and defaming the state. Amnesty International considered him a prisoner of conscience. After three months in detention, he was transferred to house arrest in Malé with no access to visitors or telephone calls. On appeal, the High Court reduced his sentence to six months' imprisonment - about nine days short of the period he had by then spent in prison and under house arrest. The government did not, however, take into account his period under house arrest and sent him to Gaamadhoo Prison for a further three months. He was released in December 1996 on completion of his sentence.

All of these considerations have led Amnesty International to believe that the real reason why Mohamed Nasheed has frequently been deprived of his liberty is that he has been an outspoken critic of the government. The organization has on more than one occasion declared him a prisoner of conscience. It urged the government for his release and for his return to Parliament.¹⁹

* **Mohamed Shaheeb**, a journalist writing for the newspaper *Haveeru*, was arrested in January 1997, reportedly in connection with a fictional short story he had written about the treatment of a young woman detained in solitary confinement in police custody. He was held as a prisoner of conscience until his release in March that year.

* **Ismail Saadiq**, a Maldivian businessman was held in detention or under house arrest between June 1996 and August 2000 on politically motivated grounds. His detention, for alleged business irregularities, appeared to have been prompted by his support for a candidate in the 1993 presidential elections who was defeated. While in detention, Ismail Saadiq suffered from deteriorating health and was denied adequate medical treatment. Following international concern about his detention and health he was allowed to go to Thailand in August 2000 to visit his daughter who was in hospital. He was accompanied by a Maldivian police officer instructed to stay with him at all times, and was not allowed to visit his wife, resident in Thailand, or to obtain medical treatment for himself. In Thailand, Ismail Saadiq applied to a third country for protection and was granted asylum.

* **Umar Jamal**, a Maldivian politician and a candidate during the November 1999 parliamentary elections was detained on 29 October 1999 by plainclothes police. He was held in various detention centres until April 2000 when he was put under house arrest. He was charged with attempting to discredit the government. A rival candidate closely linked to the government alleged that Umar Jamal had said that "although this is called a democracy it is a kingdom and there is no freedom". The court hearings against Umar Jamal were closed to the public and, in an apparent attempt to conceal the unfair nature of the trial, the court reportedly did not make a record of its own proceedings. Amnesty International has not been able to establish the exact outcome of this hearing.

Umar Jamal was detained again with three others, **Mohamed Latheef**, **Abdul Hannan** and **Abdul Aziz** by National Security Service personnel for several weeks in December 2000 and January 2001. Their detention was believed to have been related to their support for a bill before parliament on the protection of the rights of detainees. The bill was reportedly defeated. The four men were warned on their release against making public statements about their detention.

* **Mohamed Zaki, Ibrahim Moosa Luthfee, Ahmed Ibrahim Didi and Fathimath Nisreen**, were arrested between 30 January and 1 February 2002 by the National Security Service (NSS). They were accused of writing for *Sandhaanu*, an Internet e-mail magazine critical of the government which also was being circulated clandestinely in Malé. The four were held in solitary confinement with no family visits for several months. On 7 July 2002, Mohamed Zaki, Ibrahim Luthfee and Ahmad Didi were sentenced to life imprisonment for "insulting" the President, calling for the overthrow of the government, causing hatred against the government, spreading false news, and forwarding *Sandhaanu* to others via e-mail. Fathimath Nisreen was sentenced to 10 years' imprisonment for writing "false information" in *Sandhaanu*, criticizing government policies, calling for the overthrow of the government and assisting *Sandhaanu* originators.



Fathimath Nisreen

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Mohamed Zaki was arrested during a visit to his family home in Malé at 4.30pm on 30 January 2002. He normally resides in Kuala Lumpur, Malaysia and was visiting Malé on business. Ibrahim Moosa Luthfee, also a businessman who runs a computer business called "Viuga" with offices in Malé, was arrested at 2.30pm on 31 January 2002 from his residence in Malé. Ahmed Ibrahim Didi, also a businessman, was arrested on 31 January 2002 at the Bandaranaike International Airport in Colombo, Sri Lanka, by Sri Lankan Interpol officers and returned to Malé. He was about to board a plane to Bangkok where he was going for medical treatment for a heart problem. Fathimath Nisreen, an assistant to Ibrahim Luthfee, was arrested without warrant from the offices of "Viuga" in Malé (where she worked) at 10.45am on 1 February 2002, also by police from the NSS.



Mohamed Zaki

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They were taken to Malé Police Headquarters where they were held in solitary confinement for two weeks, and were then transferred to Dhoonidhoo detention centre. They were not permitted visits from relatives or friends while detained at Dhoonidhoo. The detainees were brought to the criminal court in Malé for the first time on 29 May 2002. They were reportedly formally charged with charges as specified above. A second hearing in court took place on 25 June 2002. The detainees requested the court to allow them the services of a lawyer but the judge refused.

During the trial, they were transferred to the island prison, Maafushi, 18 miles south of Malé. There were concerns about their conditions of imprisonment at Maafushi prison. They were kept in solitary confinement, in cells measuring 4x4 feet and had to sleep on the concrete floor on a piece of plywood. They were not permitted visits from family members. Food was reportedly not hygienic, prisoners were at times kept in handcuffs for days, and access to health care was severely limited.

According to Amnesty International's information, *Sandhaanu*, which reportedly has a wide circulation amongst the Maldivians, publishes articles critical of the Government of Maldives. Amnesty International has noted from the English version of the magazine on the internet that although the magazine uses strong critical language, it does not advocate violent political opposition to the government. It has also noted reports that there have been calls in some of the *Dhivehi* copies of *Sandhaanu* for a *Jihad* against the government, but the use of this word in itself does not necessarily imply a call to violence. While there are different interpretations of the meaning of the word *Jihad* (ranging from non-violent opposition to violent uprising), to Amnesty International's knowledge, there has not been any violent political activity in the Maldives arising from such a call in the magazine. In the light of all these factors, Amnesty International believes that involvement in the publication and distribution of the magazine amounts to no more than an exercise of the right to freedom of expression.

In addition, Amnesty International is concerned that their trial has fallen far short of international standards for fair trials. They were not allowed to have a lawyer. Detailed information received by Amnesty International about the trial of Mohamed Zaki, Ibrahim Luthfee, Ahmed Didi and Fathimath Nisreen indicate that the charges against them were read out in a court hearing and no documents detailing these charges were given to them. They were not allowed to use pen and paper to prepare a written defence. During the trial, they were told their answers should be brief. When one prisoner used the time to speak in his own defence the judge adjourned the court abruptly after about 50 minutes. The judge then summoned the prisoners after about an hour and told them they had used up the time allocated to their defence and were not given the chance to defend themselves again. After they were convicted, they were not given the service of a lawyer. As the prisoners were not allowed pen and paper, some of them asked their families to prepare applications addressed to the High Court for their appeal. However, such applications had to be signed by the prisoners. When families brought these for the prisoners' signature, officials told them the prisoners were not allowed to receive documents from outside. This meant they could not file an appeal against their sentences.

After sentencing, the four prisoners of conscience were returned to Maafushi island prison. Mohamed Zaki, Ahmad Didi and Ibrahim Luthfee were reported to be in Block C, each sharing a cell with between 80 and 150 prisoners. Each cell reportedly has a ventilator but these are not switched on. The walls of the cells are reportedly made out of metal sheets with sheets of steel covering the roofs, and the cells become extremely hot during the day. Fathimath Nisreen is also reported to be detained at Maafushi prison in a different block sharing a cell with other prisoners.

After they were sentenced, the prisoners were allowed visits from relatives once a month. There are particular concerns regarding the health of Ahmed Ibrahim Didi, who has a heart problem. It is not known whether he has been given access to medical treatment while in prison.

One of the prisoners, Ibrahim Moosa Luthfee, was severely ill-treated in custody in September 2002. He was found in possession of a watch that he kept – against prison rules –

in order to perform his prayers. His health deteriorated and he was eventually sent for medical treatment under police escort to Sri Lanka where he escaped from detention in May 2003 and sought protection from the UN High Commissioner for Refugees. Following his escape, Mohamed Zaki and Ahmed Ibrahim Didi were reportedly transferred in June from the prison island of Maafushi to Dhoonidhoo detention centre, on a small island north of the capital, Malé. At the time of writing, they were being held *incommunicado*. There were fears that Mohamed Zaki and Ahmed Ibrahim Didi might be tortured or ill-treated in an attempt to obtain information from them about the escape and whereabouts of Ibrahim Moosa Luthfee.

* **Naushad Waheed**, a businessman and artist, with a history of political imprisonment, was arrested on 9 December 2001 from his work place, "Naushad Arts School" (a private school of arts owned by Waheed and run by him and several other arts teachers) in Malé. He was first taken to his house. There, police searched the house thoroughly and confiscated some of his belongings. He was then taken back to the arts school. A lot of documents and all computers were taken away from the school. He was then held in Dhoonidhoo detention centre for about five months. After that, he was transferred to house arrest which lasted until October 2002. He was then charged with treason, reportedly because of his involvement in public debates deemed critical of the government.

Naushad Waheed had been an outspoken critic of the government and also one of the signatories of the application for the establishment of the MDP. On 14 October 2002, he was tried in the Criminal Court without access to a lawyer or the opportunity to defend himself. Some 10 days after his trial, he was told he had been sentenced to 15 years' imprisonment. He was transferred to Maafushi where he is now held in Block G, Cell 3 (there are 5 cells in this block). He shares this cell with about 20 other prisoners. He has family visits for one hour each month.

He has reportedly lost a lot of weight and has become mentally unstable. The authorities have reportedly not provided him with adequate medical treatment.

* **Ibrahim Fareed**, an Islamic scholar who studied in Dubai and who commands considerable respect in the Maldives, was detained in June 2002 after a speech in a mosque in which he raised the issue of corruption in the government administration and called for an opposition to the government. He is known as a Muslim with moderate religious views and, according to reports, there was no mention or implication in his speech of any violent confrontation with the government. He was first taken to Police Headquarters in Malé and from there to Dhoonidhoo. He was then transferred to house arrest in early 2003 but was taken back to Dhoonidhoo some time later. At this stage, his books and material relating to his work as a scholar were taken away. He was charged with attempts to create division amongst Muslims in the country. His trial in the Criminal Court was believed to have begun in May or June 2003.

As with other prisoners tried in this court, he has no right to a defence lawyer to represent him in court, or to pen and paper. He has family visits, but his friends are not allowed to visit him.

11 CONCLUSIONS AND RECOMMENDATIONS

Amnesty International is concerned that the above prisoners of conscience have been deprived of their liberty for the exercise of the rights or freedoms guaranteed by the Universal Declaration of Human Rights and by Articles 18, 19 and 22 of the International Covenant on Civil and Political Rights. These Articles guarantee the rights to freedom of thought and conscience, to hold an opinion without interference and the right to freedom of expression, and to freedom of association with others.

The situation of these prisoners of conscience portrays a lack of respect by the authorities for the peaceful exercise of these rights. It also highlights fundamental flaws in the criminal justice system.

Amnesty International has noted the introduction of a recent law allowing prisoners the right to legal assistance. It is, however, concerned that the law does not go far enough to guarantee adequate legal assistance to the accused.

Amnesty International is submitting the following recommendations to the Government of Maldives. It believes that the implementation of these recommendations by the authorities will increase the protection of fundamental human rights in the country.

A. Concerning the right to freedom of conscience and expression

A1. Release Mohamed Zaki, Ahmed Ibrahim Didi, Fathimath Nisreen, Naushad Waheed, Ibrahim Fareed and any other prisoner of conscience immediately and unconditionally.

A2. Ensure that no one is imprisoned in the Maldives for the peaceful expression of their political beliefs.

A3. Release any other political detainees unless they can be charged with a recognizably criminal offence in which case they should be tried in a court that provides full guarantees for a fair trial according to international standards.

B. Concerning the right to a fair trial

B1. Ensure that all prisoners are allowed to call upon the assistance of a lawyer of their own choice in confidence at all stages of criminal proceedings against them.

B2. Ensure that the charges against prisoners are promptly and clearly communicated to them.

B3. Ensure that prisoners are brought promptly before a judge competent to assess whether sufficient legal reason exists for the arrest, whether detention before trial is necessary, to safeguard the well-being of the detainee, and to prevent violations of the detainee's fundamental rights.

B3. Ensure that prisoners are allowed to defend themselves in person or through legal assistance and that they are given adequate time and facilities, including access to pen and paper.

B4. Ensure that prisoners have the right to call and examine defence witnesses, and to examine witnesses against them.

B5. Ensure that prisoners have the right to appeal against their sentences to a higher court which is able to provide an impartial review of the sentence.

C. Concerning the rights of the detainees

C1. Ensure that no one is tortured or ill-treated.

C2. Ensure that no one is held *incommunicado* as this increases the chance for the prisoners to be subjected to torture.

C3. Ensure further that prisoners are not held for long periods in the custody of their interrogators, as this, too, increases the risks for their torture or ill-treatment.

C4. Ensure that prisoners are given all reasonable facilities to communicate with their families and to receive visits from them.

C5. Ensure that all detained persons are entitled to have the assistance of a legal counsel and are provided with all reasonable facilities for exercising this right.

C6. Ensure that prisoners have prompt and regular access to adequate medical treatment.

C7. Declare unequivocally that the government will not tolerate torture and other human rights violations by the police or security forces.

C8. Address all allegations of torture or ill-treatment with serious concern; ensure investigation of these allegations by an impartial and competent body independent of the executive authority; ensure that those found responsible for torture or ill-treatment are brought to justice.

C9. Review and ameliorate prison conditions to ensure that prisoners are not held under conditions that may amount to cruel, inhuman or degrading treatment in custody.

D. Concerning a review of the criminal justice system

D.1 Undertake a thorough reform of the legal system in the Maldives to ensure a clear and transparent separation of the executive from the judiciary. The guiding principle here must be to ensure that the officials responsible for the administration of justice are completely autonomous from the executive and separate from those responsible for prosecutions.

D2. Ensure that the judges are fully trained, have security of tenure and are able to apply a fair and impartial judgement independently and without interference from the executive.

D3. Ratify international human rights instruments, in particular, the International Covenant on Civil and Political Rights and its Optional Protocol.

D4. Fully incorporate provisions of international human rights law in the domestic law of the country.

D5. Ensure that no one is sentenced to cruel, inhuman or degrading punishment, such as flogging.

ENDNOTES

¹ The following Amnesty International letters addressed to President Maumoon Abdul Gayoom and copied to the Maldives High Commissioner in London have remained unanswered: letter date 21 January 2003 regarding the reported death of a young man as a result of torture while in the custody of the NSS; letter dated 6 November 2002 on concerns about the charges, trial and conviction of Naushad Waheed; letter dated 15 October 2002 regarding concerns about the detention, trial and imprisonment of Mohamed Zaki, Ibrahim Luthfee, Ahmed Didi and Fathimath Nisreen; letter dated 12 June 2002 regarding concerns about the arrest and continued detention of Ibrahim Fareed; letter dated 17 April 2001 seeking assurances that the rights of those seeking to form an independent and peaceful political party [the Maldivian Democratic Party] would be respected. Since August 2001, the only response received by Amnesty International was a letter from the Ministry of Information, Arts and Culture regarding the arrest and trial of Mohamed Nasheed (see Endnote 19).

² See, for example, Amnesty International, *Republic of Maldives: Arrests of possible prisoners of conscience* (AI Index: ASA 29/01/91); Amnesty International, *Republic of Maldives: Prisoners of conscience and unfair trial concerns 1990-1993* (AI Index: ASA 29/01/93); Amnesty International, *Republic of Maldives: Freedom of expression under threat* (AI Index ASA 29/01/95); and Amnesty International, *Republic of Maldives: Continued detention of Prisoner of Conscience, Mohamed Nasheed* (AI Index: ASA 29/02/96).

³ Article 34 of the Constitution states: “A person shall be qualified to be elected as president if he - ... (c) is a male who has attained thirty-five years of age”.

⁴ Law on Presidential Elections [Law no: 1/98].

⁵ These powers are specified in Article 4 (2) of the Constitution which states: “In accordance with this Constitution the executive power shall be vested in the President and the Cabinet of Ministers, the legislative power shall be vested in the People’s Majlis and the People’s Special Majlis and the power of administering justice shall be vested in the President and the courts of the Maldives.”

⁶ See Article 79 of the Constitution.

⁷ See <http://www.presidencymaldives.gov.mv/v3/pages/body.phtml?ID=23&Table=Head2&PTID=7> (the official website of the Government of Maldives, visited 7 July 2003, 18:40gmt)

⁸ See: Kirsten Ellis, *Odyssey Illustrated Guide to the Maldives*, The Guidebook Company Ltd, Hong Kong, 1993, p.11

⁹ See “500 convicts sentenced to jail last year – Corrections”, Haveeru daily online, 5 July 2003.

¹⁰ See for instance the following excerpts in: ‘Maldives’, Country Reports on Human Rights Practices, Bureau of Democracy, Human Rights, and Labor, US Department of States, 31 March 2003. “The Constitution does not provide for an independent judiciary, and the judiciary is subject to executive influence. In addition to his authority to review High Court decisions, the President influences the judiciary through his power to appoint and dismiss judges, all of whom serve at his pleasure and are

not subject to confirmation by the Majlis. The President also may grant pardons and amnesties. ... The President also has authority to affirm judgments of the High Court, to order a second hearing, or to overturn the Court's decision."

¹¹ Article 123 of the Constitution.

¹² See 'NSS police beat 19 year old Malé man to death' Maldives Culture Special Report, January 2003, (http://www.maldivesculture.com/maldives_nss_murder01.html)

¹³ See also 'Escaped political prisoner weak from torture injuries', Maldives Culture Special Report, 16 June 2003 http://www.maldivesculture.com/maldives_escape_Luthfee02.html, (visited 9 July 2003, 18:45gmt).

¹⁴ See 'Maldivian film star Sajna convicted for lesbian sex' Haveeru Daily online, 2 July 2003 (<http://www.haveeru.com.mv/english>, visited 10 July 2003, 12:15 gmt)

¹⁵ See Amnesty International, *Republic of Maldives: Prisoners of conscience and unfair trial concerns 1990-1993*, June 1993 (AI index: ASA 29/01/93).

¹⁶ See also: 'Maldives 2002, The question of democracy, Political development – and its critics', InternationalReports.net / The Washington Times 1994-2002, (<http://www.state.gov/g/drl/rls/hrrpt/2002/18312.htm>, visited 08/07/2003, 15:00 gmt)

¹⁷ 'Maldives Law regarding the provision of a lawyer for an accused person requesting legal help', effective from 15 December 2002. Translation as published in Maldivesculture, 1 June 2003 (http://www.maldivesculture.com/maldives_nss_lawyers01.html).

¹⁸ As enshrined in Principles 22 and 8 of the UN Basic Principles on the Role of Lawyers, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 (*UN Document Series Symbol: ST/HR/ UN Issuing Body: Secretariat Centre for Human Rights © United Nations*)

¹⁹ On 12 February 2002, the government replied to an Amnesty International letter dated 14 January 2002 regarding the situation of Mohamed Nasheed. This reply failed to address with any substance serious concerns about his politically motivated arrest, his unfair trial and his conviction. It simply repeated what was by then common knowledge: that he had been arrested, tried and convicted under the penal code of the Maldives for the theft of government property. The letter further stated: "*The charge against Mr Nasheed and the trial of his case come under criminal jurisdiction, and were not motivated by any other reason except to enforce the penal laws of the country without discrimination as required by the Constitution. ... We regret and deplore attempts by Amnesty International to interfere in the enforcement of our penal laws and to undermine the rule of law in the Maldives.*" This letter is the only reply Amnesty International has received from the government since August 2001. In particular, it failed to respond to Amnesty International's serious concerns that Mohamed Nasheed's trial appeared to be in breach of international fair trial standards.