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Amnesty International concludes visit to the Republic of the Maldives

An Amnesty International delegation has concluded its 16-24 April visit to the Republic of the Maldives. South Asia Director Polly Truscott, and South Asia Researcher Abbas Faiz, met with Maldivian authorities and civil society to review the human rights situation in particular with regard to freedom of expression, the criminal justice system, and accountability for human rights violations.

During the visit, Amnesty International found that, while the country has made considerable progress over several years in promoting and protecting human rights, there remain significant human rights challenges that urgently need to be addressed.

Amnesty International is deeply concerned that the Government of the Maldives has so far failed to ensure that attacks on human rights defenders and journalists are effectively investigated and the perpetrators brought to justice. Such attacks include those on Ismail "Hilath" Rasheed who survived a knife attack on 5 June 2012 and had previously been assaulted in December 2011 for advocating religious freedom, and on Member of Parliament Afrasheem Ali, who was knifed to death on 2 October 2012. Afrasheem Ali was a widely respected Muslim scholar who advocated for the right to hold diverse religious views within Islam. Others attacked more recently include television news journalist Asward Ibrahim Waheed who was severely beaten with a metal rod on 22 February 2013.

As political rallies by opposing groups continue through the streets of Male' and begin to intensify in the run-up to Presidential elections on 7 September 2013, Amnesty International urges the Government of the Maldives to end impunity for the arbitrary and abusive use of force by security forces against demonstrators,¹ in particular in Male' and Addu from 7 to 9 February 2012 following the disputed resignation of the former President. In August 2012, the current President's own Commission of National Inquiry noted the "allegations of police brutality and acts of intimidation" and called for "investigations to proceed and to be brought to public knowledge with perpetrators held to account." This recommendation has not yet been met. Moreover Amnesty International has received reports that at least one police officer implicated in the violence used by police against demonstrators has in fact been promoted.

On a positive note, Amnesty International welcomes the efforts now made by Maldivian authorities, in particular the President of the Maldives, to strengthen measures to ensure that any child who has been sexually abused receives protection, not punishment. These include a review of all cases of children who have been investigated for "fornication," that is, sex outside marriage.

Under international human rights law no one who either engages in consensual sexual activity or who is a victim of sexual assault, should be criminalised or punished, regardless of their age. All victims of sexual abuse must benefit from measures of protection, support, and redress, responsive in the case of children (those under 18) to their age and other circumstances. Further, the use of flogging as a punishment in any event violates the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment and should be abolished.

The recent sentencing by a juvenile court to house arrest and flogging of a 15-year old girl rape survivor for "fornication" has understandably prompted widespread national and international concern.² It is clear that all authorities involved in her case had over several years failed in their duty to provide her with appropriate protective and support services. Amnesty International is therefore encouraged to hear that the girl's conviction will shortly be appealed in the High Court and looks forward to her best interests being given priority consideration, and the conviction being quashed.

The case described above highlights the urgent need for criminal justice reform including a new Penal Code, Criminal Procedure Code and Evidence Act. As noted by the UN Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, during her recent visit to the country³ “A major challenge for the fair, impartial and consistent delivery of justice is the lack of some basic pieces of legislation [...] This lack of legislation creates ambiguity and represents a real challenge for enforcing the rule of law and respecting the principle of legality.”

Amnesty International therefore welcomes efforts by the Government of the Maldives and Members of Parliament towards finalising and adopting such legislation. The organization urges the Government of the Maldives and Members of Parliament to ensure however, that this new legislation is consistent with Maldives’ obligations under international law. Amnesty International continues to receive credible reports of political bias within the justice system, and in this regard is concerned about a newly proposed draft provision which gives greater discretion to judges to implement provisions of Shari’a law – a discretion which could be used in a way that would undermine the fair, impartial and consistent delivery of justice.

Furthermore, any proposed provisions allowing for cruel and degrading punishments, such as flogging or amputations, must be dropped in order to meet Maldives’ obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture. Similarly any provisions in the Penal Code which would facilitate the resumption of executions after nearly six decades would be a major setback for the country and inconsistent with Maldives’ international human rights law obligations and should also be revised. Article 6(6) of the ICCPR states that “Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.” There is no convincing evidence that the death penalty works as a special deterrent against crime. Moreover the UN General Assembly has repeatedly called on all states to establish a moratorium on executions, with a view to abolishing the death penalty, most recently in December 2012.

In conclusion, Amnesty International thanks the Government of the Maldives for facilitating its latest visit to the county, and urges the Maldivian authorities to continue progress towards full implementation of human rights law and standards, including strengthening measures to ensure greater accountability for human rights violations.

During the visit, Amnesty International delegates met with the President, His Excellency Dr Mohamed Waheed, and the Minister of Gender, Family and Human Rights, Her Excellency Ms Aishath Azmina Shakoor. The delegation also met with the officials from the Ministry of Home Affairs, the Ministry of Foreign Affairs, as well as the Chief Justice, the Prosecutor General, the Speaker of Parliament, members of the People’s Majlis, as well as members of the National Human Rights Commission, representatives from various political parties, lawyers and journalists. Amnesty International also visited Dhoonidhoo Detention Centre and Maafushi Jail. The delegation regrets that it was not possible to meet with the Police Commissioner, the Minister of Home Affairs, the Attorney General and members of the Police Integrity Commission and looks forward to future opportunities to do so. Amnesty International last visited the country in February-March 2012.

Amnesty International public documents on the situation in the Maldives are available at:
<http://www.amnesty.org/en/region/maldives>

¹ Amnesty International, *The other side of paradise: A human rights crisis in the Maldives* (Index: ASA 29/005/2012)

<https://www.amnesty.org/en/library/asset/ASA29/005/2012/en/6d93c0bb-67f0-4688-b22a-b8c115e83f52/asa290052012en.pdf>

² Amnesty International, *Maldives: Rape survivor found guilty of “fornication”* (Index: ASA 29/005/2012) ASA 29/001/2013)

<https://www.amnesty.org/en/library/asset/ASA29/001/2013/en/6c2332f1-943d-4b05-b0a7-1316e381f71c/asa290012013en.pdf>

³ Knaul, Gabriela, Preliminary observations of the UN Special Rapporteur on the independence of judges and lawyers on her official visit to the Republic of Maldives (17-24 February 2013), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13037&LangID=E>