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Maldives: Put human rights at the heart of the political reform process

As the Maldivian Constitutional Assembly prepares to debate a new constitution, Amnesty International is urging it to place respect for human rights at the centre of its deliberation and the government's proposed reforms. Among the documents before the Constitutional Assembly is a proposal by President Maumoon Abdul Gayoom to amend parts of the current constitution including the section on fundamental rights.

In a report published today, Amnesty International recommends that all human rights set out in key international human rights treaties, including the rights to freedom of conscience and freedom of assembly, physical and mental integrity, and the right to life, are incorporated in the new Constitution. It is particularly important to include 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.

The drafting of a new constitution is part of a wider reform process initiated by President Gayoom under public pressure. Steps towards reform already taken by the government and welcomed by Amnesty International include the Maldives' accession to the UN Convention against Torture. Amnesty International is urging the government to ensure that its provisions are fully incorporated into the new Constitution and all relevant domestic laws. Other human rights instruments such as the International Covenant on Civil and Political Rights need to also be ratified without undue delay.

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

Amnesty International is calling for the independence of the Human Rights Commission of Maldives to be fully guaranteed in the new Constitution. In addition it is urging that the provisions of the Paris Principles – the UN guidelines guaranteeing the independence and effective functioning of national human rights institutions – are incorporated in a bill on the Human Rights Commission of Maldives, in full and without any reservations.

Amnesty International is encouraged by a government initiative to develop a “National Criminal Justice Action Plan”, which seeks to “ensure the effectiveness of law enforcement mechanisms; enhance transparency and accountability; introduce evidence-based investigation, prosecution and trials; enhance rehabilitation and re-integration opportunities; minimise re-offending; promote alternatives to pre-trial detention; promote alternative sentencing mechanisms, and prescribe punishments reflective of crime and criminal culpability” in the period between 2004 and 2008. The plan appears potentially to address some of the basic shortcomings in the criminal justice system, such as the right to challenge the lawfulness of one's detention. Amnesty International is urging the government to ensure that the provisions of international human rights treaties are fully incorporated into any legislative, policy and administrative initiatives so that existing fundamental flaws in the criminal justice system, including the apparent use of confession obtained under duress as evidence in court, are removed.

Amnesty International welcomes the release of the 200 people arrested in mid-August 2004 during mass demonstrations in Malé in support of the opposition demand for a speedier pace of reforms. It also acknowledges the withdrawal, in late December 2004, of all charges the government had brought against 17 of those arrested.

The organization urges the government to bring to justice the personnel of the National Security Service who were involved in committing human rights abuses against the detainees in the first few days after their arrest. These abuses included torture, ill-treatment and sexual violence.

Background

Amnesty International undertook a research mission to the Maldives on invitation of the Maldivian government, after the organization had expressed grave concerns about the arrest of about 200 political detainees during demonstrations in August 2004 and the subsequent imposition of a state of emergency. The mission took place between 9 and 14 October 2004.

The delegates noted that a number of developments had already provided substance to some of the government's promises for reforms. These include the formation of the Human Rights Commission of Maldives, accession of the Republic of Maldives to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 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.

During the mission, interviews with 22 detainees revealed a pattern of abuse by the personnel of the National Security Service in the first few days after their arrest. Detailed and consistent testimonies gathered by the Amnesty International delegates showed detainees had been held blindfolded and handcuffed for up to 19 hours, made to sit still on a chair or in one spot for several hours at a time during this period, and subjected to physical assault, food deprivation, and in some cases, to sexual violence. No one has been brought to justice for these abuses.

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