

# REPUBLIC OF MALDIVES

## Continued detention of prisoner of conscience, Mohammed Nasheed

### Introduction

Mohammed Nasheed, a freelance journalist was sentenced to two years' imprisonment by a court in Malé on 3 April 1996, apparently for comments he made about the 1994 general elections and the 1993 presidential elections in an article published in a magazine in the Philippines. Amnesty International has obtained the text of this article and is deeply concerned that a peaceful expression of opinion by Mohammad Nasheed has been used as a basis for his conviction. There is no reference to incitement to violence in the article and, judging by its content, the article is a straightforward expression of Mohammed Nasheed's professional opinion as a journalist. His detention for writing the article contravenes his fundamental right to freedom of expression which is guaranteed under international human rights law.

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Prisoner of conscience Mohammed Nasheed

Amnesty International wrote to President Gayoom at the time of Mohammed Nasheed's arrest in November 1994 and again on 16 April 1996 to seek further information about the charges and the trial. In response to this communication, the government stated that there are provisions in the trial proceedings for Mohammed Nasheed to obtain the counsel of his choice. However, Amnesty International learnt from other sources that Mohammed Nasheed was denied his request to be represented in court by legal council. So far, the government has not responded to the communication of 16 April.

The organization conducted an investigation into the case to establish the basis on which Mohammed Nasheed was given a two-year prison sentence. Detailed information from sources in Asia and Europe confirmed Amnesty International's concerns that Mohammed Nasheed is a prisoner of conscience detained solely for the exercise of his right to freedom of expression.

Amnesty International is urging the Government of Maldives to nullify his sentence and release him immediately and unconditionally.

### Political background

Maldives became a British crown protectorate in late 19th century. It achieved full independence on 26 July 1965 and became a member state of the United Nations. It joined the International Monetary

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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) whose summit meeting was convened in the Maldivian capital, Malé, in November 1990.

The country's current political system was established in November 1968 when it was proclaimed The Republic of Maldives. 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 new 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.

The new government announced that it would carry out investigations into the activities of former government officials accused of misuse of power. In November 1980, the government announced that former President Nasir, who was alleged to have amassed a substantial fortune while in office, would be tried *in absentia* for misuse of government funds.

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 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 were 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 distribute powers - enjoyed by the president alone - among other official bodies. A President's Consultative Council held discussions in early 1990 concerning freedom of speech. However, towards the end of the year, several politically outspoken magazines including *Sangu* (The Conch shell) publishing articles critical of the government were banned and all publications were required to obtain official permission. 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.<sup>1</sup>

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<sup>1</sup> See *Republic of Maldives: Arrests of possible prisoners of conscience* (AI Index: ASA 29/01/91) and *Republic of Maldives: Prisoners of conscience and unfair trial concerns 1990-1993* (AI Index: ASA 29/01/93), and *Republic of Maldives: Freedom of expression under threat* (AI Index ASA 29/01/95).

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The authorities do not allow members of the party-less Citizens Majlis (parliament) to criticize the government. The government has also refused to allow political parties to function on the basis that the Constitution does not provide for the establishment of political parties.<sup>2</sup>

Repressive measures have also been used against those seeking to contest presidential elections through parliamentary procedures. In August 1993, Ilyas Ibrahim - President Gayoom's brother-in-law - who sought to run as a presidential candidate was reportedly charged with unconstitutional behaviour for attempting "to influence the members of the Majlis". He had sought to obtain the majority of votes in the Majlis which chooses by secret ballot a single candidate; the candidate is then presented to the country in a referendum. Ilyas Ibrahim obtained 18 votes while President Gayoom who was seeking another term of office obtained 28. Ilyas Ibrahim fled the country but was tried *in absentia* and sentenced to 15 years' imprisonment. He returned to the country in March 1996 and was reported to be held under house arrest.

### **Mohammed Nasheed**

Mohammed Nasheed, a freelance journalist, and an assistant editor of the newspaper, *Sangu* - which is now banned - was sentenced to two years' imprisonment by a court in Malé on 3 April 1996. He was reportedly tried under section 38-B of the country's penal code for comments he made about the 1994 general elections and the 1993 presidential elections in an article entitled: "*Maldives Elections: Country faces most closely-fought polls ever*" published in a magazine in the Philippines.

He was arrested on 30 November 1994 on his return to the country from Nepal where he had attended a conference and was detained for eight days. He was then formally charged and released. Hearings in his case stopped in May 1995. The authorities imposed restrictions on his movement but the court sentence was not announced. His passport was confiscated by the authorities and he was not allowed to leave Maldives. He was arrested again on 27 February 1995, apparently on charges of contempt of court after he had refused to leave the court premises unless the judge issued him with a passport to leave the country for a short trip abroad. He was reportedly sent to Dhoonidhoo detention centre for a short while. On 3 April 1996, he was summoned to the court and was informed of his sentence. He was taken into custody and then to Gaamadhoo Prison where he is currently held.

Mohammed Nasheed has been arrested several times before. He was arrested on 24 November 1990 after he had written an article on corruption in government which was published in *Sangu* and a Sri Lankan newspaper. He was taken to Dhoonidhoo detention centre, which is on an island a short distance from Malé. He was held in solitary confinement for 18 months there, and 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 for talking to unauthorised people while under house arrest; and six months for endangering the peace and stability of the country. It is believed that these latter two convictions related to interviews he gave to foreign journalists during which he criticized the

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<sup>2</sup> The Constitution does not refer specifically to political parties. There are regulations governing clubs, societies, parties and associations.

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government. He appealed against his sentence but in May 1993 the High Court rejected his appeal. He was, however, released from the prison in Gamadhoo Island in June that year.

After his release, he continued to report on press freedom and political developments in the Maldives. In October 1994, he and another man, Mohammed Latheef, applied to the Home Ministry for authorisation to form a political party. The government turned down their application reportedly stating that because the Constitution does not allow for political parties, permission cannot be granted.

Mohammed Nasheed's recent trial did not conform to the international standards for a fair trial. Although he had access to a lawyer, he was reportedly denied the right to be represented by him in the court. The court reportedly issued a notice to him in December 1994 stating that "because of the nature of the case, use of a lawyer in court was not to be granted yet".

### **Other journalists**

Other journalists have also been arrested in Maldives for writing articles critical of the Government of President Maumoon Abdul Gayoom. Mohammed Saeed Moosa Wajdee was taken into police custody on 19 October 1994 and held at Dhoonidhoo detention centre until after the elections. The precise reason for his arrest was not known but Amnesty International believed it might have been in connection with an article he wrote for a local newspaper, *Haveeru*, which reportedly referred to the possibility that candidates running for the December 1994 parliamentary elections may have a record of corruption and that government officials running as candidates were using their positions to gain votes. Another journalist, Ibrahim Shareef, was reportedly arrested in April 1996 and held in Dhoonidhoo detention centre for several weeks for writing an article in a local daily newspaper.

### **Recommendations**

The right to freedom of expression and opinion is guaranteed under international human rights law and standards. Article 19 of The Universal Declaration of Human Rights states:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

The arrest and continued detention of Mohammed Nasheed on grounds of the peaceful expression of his opinion violate the provisions of this international standard for freedom of expression.

Amnesty International is appealing to the government of the Republic of Maldives to ensure that all citizens of the country, including Mohammed Nasheed enjoy their right to freedom of expression under these standards. The organization is urging the Government of Maldives:

1. To release Mohammed Nasheed immediately and unconditionally.
2. To nullify the sentence passed on him by the court.
3. To ratify international human rights treaties.