



## Friends of Maldives Human Rights Brief



April 2015

*Photo: Demonstration in Malé, capital of Maldives. © Mauroof Khaleel*



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In recent months, the Government of Maldives has been responsible for numerous incidents that threaten to return the country to autocratic rule, and compromise hard-won democratic gains following the 2008 election. Friends of Maldives has recorded and researched these events in order to highlight the deterioration of fair governance and the subsequent risk this poses to human rights.

### 1. Lack of independence of the judiciary

The separation of powers guaranteed by the 2008 constitution has been severely challenged by the interference of the executive in all branches of power, independent institutions and watchdogs. The judiciary has been a cause of concern for years. Judges, and particularly members of the Supreme Court, as guardians of the Constitution have over the years, abused their powers and acted in favour of the current ruling party.

Following her visit in 2013, Gabriela Knaul, UN Special Rapporteur on the Independence of Judges and Lawyers expressed concerns that: *"The concept of independence of the judiciary has been misconstrued and misinterpreted in the Maldives, including among judicial actors [...] It seems that judges, and other actors of the State, do not want to fully acknowledge and understand this concept, leading to the dangerous perception from the public that the justice system is politicized and even corrupted. She was further shocked to hear that many members of the judiciary, including in the Supreme Court, hold memberships in political parties."*<sup>1</sup>

The highly politicised judiciary has enabled the executive to interfere in other democratic exercises such as the tenure of free and fair elections and stifle any form of opposition.

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<sup>1</sup> Source: Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, [Addendum Mission to Maldives](#), 21 May 2013.



## 2. Tampering with the election process

The last presidential election that took place in September-November 2013, was narrowly 'won' by Mr. Yameen Abdul Gayoom, half-brother of Maumoon Abdul Gayoom, the country's former autocratic leader in power for 30 years.

The entire process was marred by irregularities, delays, judicial interference in the timing of the rounds and the conduct of the election, policy raids on the independent Elections Commission, and political intimidation.

The Elections Commission had to organise 6 polls despite the fact that under the constitution, the president of the Maldives is elected by universal suffrage with two rounds of polls if no candidate secures over 50% in the first round of elections.

The process began with a first round of election on 7 September 2013. The vote was annulled following complaints of irregularities to the Supreme Court by one of the candidates, despite the process deemed free and fair by international observers.

The second round scheduled for 28 September was put on hold with an indefinite injunction from the Supreme Court, which proceeded to annul the first round.

The second attempt to hold the first round of elections was obstructed by the police, after candidates from the ruling coalition refused to sign the voters' registry, a new requirement decided by the Supreme Court, consequently giving candidates power to veto the polls. The rescheduling was cancelled 3 times less than 24 hours before polls.

Former President Nasheed conceded his defeat to Yameen Abdul Gayoom, thereby allowing the democratic process to resume.

In 2014, shortly before the parliamentary elections, the four members of the Elections Commission were sentenced to six months in jail and were suspended for three years for "disobeying orders" and accused of "disrespecting the court by not following election guidelines", after new rules were enacted allowing the Supreme Court to initiate proceedings, prosecute and pass judgement.

Prior to this, the President of the Elections Commission Fuwad Thaafiq had criticised the interference of the Supreme Court in the electoral process. The sentencing and removal of the Elections Commission members and its President sparked a wave of protest and outrage in the country and internationally.

The U.S. Department of State called this action: "*an unprecedented expansion of judicial powers which undermines an independent democratic institution that has made laudable efforts to hold multiple successful elections despite previous judicial interference. The Supreme Court's insistence on holding parliamentary elections on March 22 while imprisoning the very official responsible for holding those elections calls into serious question the government's commitment to democracy.*"<sup>2</sup>

FOM fears that with the complicity of the judiciary, the executive power gained control of the Elections Commission by appointing members of their choice.

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<sup>2</sup> Source: [U.S. Concerns on Dismissal of Maldivian Elections Commissioners](#), 10 March 2014



### 3. Intimidation of the opposition and critics

Opposition politicians continue to be routinely intimidated. A recent report by the Inter-Parliamentary Union's Committee on the Human Rights of Parliamentarians identified the Maldives as one of the worst countries<sup>3</sup> in the world for attacks against, and the torture and intimidation of opposition MPs.

In recent years, a number of assaults have been recorded against members of parliament:

- Reeko Moosa, opposition MP for the MDP was severely beaten when taking part in a demonstration shortly after 7 February 2012 events bringing down former President Nasheed from power. He had to be flown in emergency to neighbouring Colombo (Sri Lanka) for intensive care.
- Dr Afrashim Ali, moderate religious scholar and Member of Parliament for the ruling party PPM, was stabbed to death on 1 October 2013. He had received death threats in the past from religious extremists for his moderate sermons. The investigation has taken a political turn with all sides accusing each other of being complicit, and thus hampering investigation. A journalist looking into the murder disappeared (see case of Ahmed Rilwan), and the man accused of the murder was sentenced to death penalty in a rushed trial.
- Opposition MPs regularly receive threats and insults by sms.

On 13 March, **Leader of the Opposition and Former President Mohamed Nasheed** was sentenced to 13 years in prison under politically motivated charges of terrorism, following a controversial trial that failed to meet national and international standards of justice. Mr Nasheed was accused of arresting a judge when he was in office.

Within the process, Mr Nasheed was dragged to court, manhandled outside the courtroom in full view of the press and was brought before a specially selected set of 'judges'. These judges, who are politically linked to the ruling party of the Maldives have no recognised legal qualification.

The move to sentence him sparked international outrage from the UN Special Rapporteur on the Independence of Judges and Lawyers<sup>4</sup>, India, the United States, the European Union and the Commonwealth. Amnesty International called it "a travesty of justice"<sup>5</sup>.

The criminal court is now refusing to release the case report to the defence team, necessary for them to lodge the appeal. Former President Nasheed is now seeking the help of an international team of lawyers. The Maldives Police are currently refusing Nasheed access to his international legal team, which is composed of:

- **Jared Genser**, founder of Freedom Now and an expert at freeing prisoners of conscience who has represented such clients as Nobel Peace Prize Laureates Aung San Suu Kyi and Liu Xiaobo;
- **Ben Emmerson** QC, a barrister at Matrix Chambers and expert in international human rights law who is currently the British judge on the Residual Mechanism of

<sup>3</sup> Source: [IPU Missions to push for solutions on abuses of MPs human rights](#), 1 April 2015.

<sup>4</sup> Source: [Maldives: "No democracy is possible without fair and independent justice," UN rights expert](#), 19 March 2015

<sup>5</sup> Source: [13 year sentence for former President a travesty of justice](#), 13 March 2015.



the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia;

- **Amal Clooney**, a barrister at Doughty Street Chambers and expert in international human rights law who has served as a senior advisor to Kofi Annan when he was the UN Envoy on Syria, as counsel to the UN Inquiry on the use of armed drones and as counsel to political prisoners Yulia Tymoshenko, former Prime Minister of Ukraine, and Al Jazeera journalist Mohamed Fahmy.

*"I am extremely concerned about the lack of respect for the most basic principles of fair trial and due process during Mr. Nasheed's criminal proceedings [...] I urge the authorities to seriously consider the recommendations I put forward in my 2013 report, and provide guarantees that his appeal process will respect the most stringent fair trial and due process guarantees."* **Gabriela Knaul, the UN Special Rapporteur on the Independence of Judges and Lawyers**

With the help of the politicised judiciary Yameen Abdul Gayoom's Government is also working to stifle dissent and sideline rivals within his own Party and governing coalition.

The police raided the home of the then Defense Minister, Mr. Mohamed Nazim, again based on the accusation that he is involved in a terrorist plot. In the same manner as for Mr Nasheed's case, the careful manipulation of the judiciary has ensured that Mr. Nazim was found guilty and sentenced to 11 years.

#### 4. Freedom of expression at risk

Press freedom has also been severely inhibited recent years, dropping in rank from 108 to 112 in Reporters Without Borders Press Freedom Index 2015<sup>6</sup>. As press freedom in Maldives had scored 52 in 2010, a notable regression. Journalists are often subjected to attacks and intimidation from gangs and extremist religious groups.

- In 2012, blogger and journalist **Hilath Rasheed** narrowly survived after an attacker cut his throat. He has since left the Maldives and is unable to return, fearing for his life.
- Rajje TV, a news channel aligned to the opposition party MDP were subjected to several attacks in 2013. In February that year, the news director, **Ibrahim Asward Waheed**, was attacked by men on a motorcycle with steel bars and left for dead. He had to be flown to Sri Lanka for surgery to correct a maxillary fracture. In October the same year, masked men set fire to the TV station headquarters.<sup>7</sup> Despite CCTV footage of the scene, none of the perpetrators were brought to justice.
- In August 2014, a journalist critical of the Government, **Ahmed Rilwan**, 'disappeared.' Since then no attempt has been made by either police or other responsible agencies of the State to find him or bring the perpetrators to justice. Today he is still missing and feared dead. As a journalist for the independent website Minivan News, Rilwan was investigating the murder of MP Dr. Afrashim. His colleagues at Minivan News are regularly subjected to intimidation in the form

<sup>6</sup> Source: [Reporters Without Borders Press Freedom Index Maldives](#)

<sup>7</sup> CCTV footage of Rajjet TV fire can be found [here](#).



of threatening phone calls. In September last year, shortly after the disappearance of Ahmed Rilwan, a machete was buried in front of the Minivan News office by a gang leader after he destroyed the surveillance camera. On September 2014, the Malé-based human rights NGO Maldivian Democracy Network released a report<sup>8</sup> following a private investigation into his disappearance.

In all cases of attacks and threats against journalists, the authorities have failed to properly investigate, bring the perpetrators to justice or protect the journalists.

## 5. Intimidation of civil society and independent institutions

Gangs and religious groups often attack institutions, organisations and individuals critical of the government's actions. Amnesty International<sup>9</sup> has also expressed concern about the growing fear and intimidation of civil society, especially those critical of religious extremist groups.

In June 2014, members of the group **Colourless**, a discussion platform for religion and politics, were abducted and assaulted by a gang, who accused them of "atheism".

In March 2015, a gang attacked the offices of the **Human Rights Commission of the Maldives**, after the Commission criticized the Government and the police for the treatment of President Nasheed.

As well as threats of gang violence and assault, the Human Rights Commission of the Maldives are subjected to criminal charges. In October 2014, the Supreme Court initiated prosecution against five members of the Commission for submitting a report to the UN Human Rights Council Universal Periodic Review<sup>10</sup>. In its report, the Commission had been critical of the Supreme Court.

## 6. Freedom of assembly challenged

Peaceful protests critical of the coup that removed Nasheed from Government have been aggressively repressed. Among others, Member of Parliament Reeko Moosa was severely beaten by the police forces (see section above). Amnesty International recorded numerous instances of violence and sexual violence against protesters, particularly women.

Members of the coalition **Alliance against Brutality** and supporters of Mohamed Nasheed have gathered regularly since his arrest and subsequent sentencing in March 2015.

A group of 14 women and 1 man protesting for the release of former President Nasheed at the airport were arrested and will soon face charges.

Member of Parliament, Ahmed Malhous was arrested on 26 March and held without charges for 15 days. His detention was re-conducted as he refused to be released under the condition that he would not be allowed to protest. Mr Malhous was expelled from the ruling party PPM after he publicly criticized President Yameen.

Other protestors face similar arrests and conditional release to prevent them from

<sup>8</sup> Source: [Findings of the Report on the Disappearance of Maldivian Journalist Ahmed Rilwan](#), 23 September 2013.

<sup>9</sup> Source: [Maldives: Bring to justice those behind abductions, death threats and violence](#), AI, 17 October, 2014

<sup>10</sup> Source: United Nations Human Rights, [Press Briefing on Maldives](#), 17 October 2014



protesting. To this day, over 90 cases of protestors have been sent by the police for prosecution.

### **7. End to the moratorium on death penalty**

In 2014, the Parliament voted to end the moratorium on the death penalty in place since 1954. It allows for the condemnation of minors as young as seven, who can be held responsible and executed as soon as they reach 18. They are left to languish in jail until then.

The end to the moratorium is not only a deplorable regression, it also goes against Maldives international human rights obligations, as a State party to the Convention on the Rights of the Child.

With the current lack of independence of the judiciary, innocent defendants are at risk of being executed and the death penalty could be used against critics of the Government.

### **8. Recommendations**

FOM reminds the Government of Maldives and the International Community that Maldives is a State party, and in breach of to the following human rights conventions:

- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment.
- Optional Protocol of the Convention against Torture.
- International Covenant on Civil and Political Rights.
- Convention on the Rights of the Child.

#### **Friends of Maldives calls on the Government of Maldives to:**

- Immediately and unconditionally release former President Nasheed and former Defense Minister Nazim, and clear them of all charges.
- Re-establish the moratorium on the death penalty.
- Allow for a proper investigation into the disappearance of Ahmed Rilwan, and the attacks and threats against journalists, members of civil society, and independent institutions.
- Reform the judiciary.

#### **Friends of Maldives (FOM) call upon the International community to:**

- Pressure the Government of Maldives to release former President Nasheed and former Defense Minister Nazim. The charges of terrorism and the 13 year-sentence are not only disproportionate to the alleged offence, they are clearly politically motivated.
- Freeze the assets abroad of members of the Maldives Government and their leading supporters in the Maldivian business community.
- Impose a travel ban on members of the Government of Maldives and leading supporters in the Maldivian business community - Impose an immediate arms embargo on the Maldives.
- Immediate suspension from the Commonwealth.



## About Friends of Maldives

In December 2003, Friends of Maldives (FOM) was established in the UK, focusing on bringing human rights abuse and poor governance in the Maldives to the attention of the international community. FOM also provided assistance to the pro-democracy movement and helped strengthen Maldives civil society and independent media.

Since the first free and fair presidential elections in the Maldives in October 2008, FOM has worked on [Health Development](#), [Education Development](#) and [Sports Development](#) with the International Volunteer Programme (IVP), the Maldives Volunteer Corps (MVC) and the Maldives High Commission (London). This activity has ended due to the violent removal of the democratically-elected Government on 7th February 2012. FOM's focus has been forced to revert to protecting human rights and promoting social justice until safety and democracy is restored to the Maldivian people.



## APPENDIX



Opposition Leader and Former President Mohammed Nasheed is dragged to court, resulting in an injury to his arm.



Ahmed Rilwan, Minivan News journalist disappeared since August 2014. © Minivan News



Ibrahim Asward Waheed, Rajje TV journalist assaulted in the streets of Malé and left for dead. © Haveeru