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Committee on the Human Rights of Parliamentarians

Report on the mission to the Maldives

10 - 12 October 2016

MLD/16 - Mariya Didi*	MLD/45 - Ahmed Sameer
MLD/28 - Ahmed Easa	MLD/46 - Afrasheem Ali
MLD/29 - Eva Abdulla*	MLD/48 - Ali Azim*
MLD/30 - Moosa Manik*	MLD/49 - Alhan Fahmy
MLD/31 - Ibrahim Rasheed	MLD/50 - Abdulla Shahid*
MLD/32 - Mohamed Shifaz	MLD/51 - Rozeina Adam*
MLD/33 - Imthiyaz Fahmy*	MLD/52 - Ibrahim Mohamed Solih
MLD/34 - Mohamed Gasam	MLD/53 - Mohamed Nashiz
MLD/35 - Ahmed Rasheed	MLD/54 - Ibrahim Shareef*
MLD/36 - Mohamed Rasheed	MLD/55 - Ahmed Mahloof*
MLD/37 - Ali Riza	MLD/56 - Fayyaz Ismail*
MLD/39 - Ilyas Labeeb	MLD/57 - Mohamed Rasheed Hussain*
MLD/40 - Rugiyya Mohamed	MLD/58 - Ali Nizar*
MLD/41 - Mohamed Thoriq	MLD/59 - Mohamed Falah*
MLD/42 - Mohamed Aslam*	MLD/60 - Abdulla Riyaz*
MLD/43 - Mohammed Rasheed*	MLD/61 - Ali Hussain*
MLD/44 - Ali Waheed	

Executive summary

The case before the Committee on the Human Rights of Parliamentarians was initiated after the arrest and brief detention of several members of the People's Majlis in February 2012. They were detained during demonstrations in the course of which the police used excessive force. However, the case has since evolved to include: other instances of alleged arbitrary arrest and detention; alleged frivolous legal proceedings against parliamentarians; and threats and acts of violence against parliamentarians, including the murder of Mr. Afrasheem Ali and the stabbing of Mr. Alhan Fahmi.

* (Re-)elected to Parliament in the elections of March 2014.

The Committee felt it necessary to dispatch an on-site mission because of concerns about the complexity and seriousness of the cases, and because many of the facts were disputed. A Committee delegation therefore travelled to the Maldives from 10 to 12 October 2016. The delegation was made up of the Committee President, Mr. A.B.M. Fazle Karim Chowdhury, and Committee member, Ms. Fawzia Koofi. The mission had two purposes. The first was to meet and gather first-hand information on the allegations from: the parliamentary, government and judicial authorities; the parliamentarians concerned; and any relevant third party. The second purpose was to assess the prospects for the allegations being examined and clarified in the current political situation of the Maldives.

On the basis of its findings, the delegation is concerned about: death threats made against several opposition members of parliament; the lack of accountability for the ill-treatment of members of parliament by law enforcement officers; the reduced space for freedom of expression and assembly and for the opposition to meaningfully contribute to the work of parliament. The delegation calls on the relevant authorities to address these concerns. It looks forward to receiving the information, which the authorities have undertaken to provide on several of the delegation's concerns.

The delegation is also concerned about the severity of and justification for the sentence against Mr. Mahloof. The delegation calls on the relevant authorities to address his appeal swiftly and with full respect for fair-trial standards. The delegation recommends that a trial observer be sent to follow the appeal proceedings. Until then, it calls on the authorities to allow Mr. Mahloof to serve his sentence in the form of house arrest.

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A. Origin and conduct of the mission

1. The case before the Committee on the Human Rights of Parliamentarians (hereafter “the Committee”) was initiated following the arrest and brief detention of several members of the People’s Majlis. The arrests were made in February 2012 during demonstrations, in the course of which the police used excessive force. However, the case has since evolved to include: other instances of alleged arbitrary arrest and detention; alleged frivolous legal proceedings; and threats and acts of violence, including murder in the case of Mr. Afrasheem Ali, a former member of the governing Progressive Party of Maldives (PPM) in 2012.

2. Violent threats intensified shortly before and after the March 2014 parliamentary elections.¹ The fear of intimidation was exacerbated in February 2014 after the then member of parliament, Mr. Alhan Fahmi, was stabbed. Since then, the complainant affirms that several parliamentarians from the opposition Maldivian Democratic Party (MDP) have been the subject of physical attacks, death threats, and unlawful arrests and ill-treatment by the police. Moreover, several MPs were said to be facing criminal charges, allegedly for conducting peaceful protest.

3. The Committee felt it necessary to dispatch an on-site mission because of concerns about the complexity and seriousness of the cases, and because many of the facts were disputed. The aim of the mission was to meet parliamentary, executive and judicial authorities, the parliamentarians concerned and any relevant third party so as to gather first-hand information on the allegations and assess the prospects for those allegations being examined and clarified in the current political situation in the Maldives. The Committee was pleased that the Maldivian parliamentary authorities immediately welcomed the dispatch of a mission for this purpose.

4. In consultation with the parliamentary authorities, it was decided that the on-site mission would take place from Monday 10 to Wednesday 12 October 2016. The mission delegation comprised Committee President Mr. A.B.M. Fazle Karim Chowdhury and Committee member Ms. Fawzia Koofi. Mr. Rogier Huizenga, Secretary of the Committee, accompanied the delegation.

The mission met the following persons:

- (a) Parliamentary authorities
 - Speaker of the People’s Majlis, Mr. Abdulla Maseeh Mohamed
 - Members of the Committee on Privileges of the People’s Majlis, including Mr. Mohamed Nazim, Mr. Ahmed Mubeen, Mr. Abdulla Khaleel, Mr. Ahmed Rasheed, Mr. Hussain Shahudhee, Mr. Abdulla Rifau and Mr. Abdulla Yameen.
- (b) Political parties
 - Members of the People’s Majlis belonging to the PPM, including Mr. Abdulla Khaleel, Mr. Muaz Mohamed Rasheed, Mr. Mohamed Ameeth Ahmed Manik, Mr. Hussain Shahudee and Mr. Ahmed Shiyam
 - Members of the People’s Majlis belonging to the MDP, including Ms. Eva Abulla, Mr. Ali Azim, Mr. Imthiyaz Fahmy, Ms. Rozeina Adam and Mr. Ali Nizar
 - Members of the People’s Majlis belonging to the Jumhoree Party, including Mr. Abdulla Riyaz, Mr. Hussain Mohamed, Mr. Ali Hussain, Mr. Moosa Nizar Ibrahim and Mr. Faisal Naseem
 - Members of the People’s Majlis belonging to the Maldives Development Alliance, including Mr. Ali Mauroof and Mr. Umar Hussain
 - Member of the People’s Majlis belonging to the Adaalath Party, Ms. Anaaraa Naeem
- (c) Government authorities
 - The Attorney General, Mr. Mohamed Anil
 - The Minister of Home Affairs, Mr. Azleen Ahmed
- (d) Judicial authorities
 - The Chief Justice, Mr. Abdulla Saeed
 - The Prosecutor General, Ms. Aishath Bisham

¹ Seventeen of the MPs in the case at hand were (re-)elected in the parliamentary elections of March 2014.

- (e) Police
 - Head of Central Operations Command, Mr. Hamdhoon Rasheed
 - Deputy Head of Crime Investigation Command and Chief Superintendent of Police, Mr. Mohamed Riyaz
- (f) Former MDP MPs (victims)
 - Mr. Mohamed Gasam
 - Mr. Mohamed Rasheed
 - Mr. Ibrahim Rasheed
- (g) Family member of MP (victim)
 - Mr. Ahmed Mahloof's wife, Ms. Nasu Naseem
- (h) United Nations
 - UN Resident Coordinator and UNDP Resident Representative, Ms. Shoko Noda
 - Peace and Development Adviser, Mr. Jomart Ormonbekov
- (i) Diplomatic representative
 - High Commissioner of India, Mr. Akhilesh Mishra
- (j) NGO
 - Executive Director of Transparency Maldives, Ms. Mariyam Shiuna
 - Programme Manager, Transparency Maldives, Mr. Mohamed Thoriq Hamid

5 The mission wishes to thank the host authorities for their welcome and cooperation. Special thanks go to the parliamentary authorities for facilitating the organization of the mission.

B. Outline of the case and previous concerns of the Committee

6. The original cases must be seen in the context of the transfer of power on 7 and 8 February 2012. At the time, Vice-President Mohammed Waheed assumed the office of president following the disputed resignation of President Mohamed Nasheed. Immediately thereafter, MDP supporters took to the streets in protest where the police used excessive force, including against members of parliament. Among others, the Police Integrity Commission and the Maldivian National Commission of Inquiry corroborated these events in their reports of October and August 2012 respectively. The authorities have repeatedly stated that any police officers found to have acted unlawfully would be properly sanctioned.

7. The complainant insisted that, since the March 2014 parliamentary elections, MDP parliamentarians had received increasing numbers of death threats. This had not only caused them to fear for their lives, but also prevented them from carrying out their parliamentary mandate. The complainant reported that measures taken to counter such threats had been insufficient, even though MDP parliamentarians and the MDP itself had appealed to the police, the Maldives National Defence Force and the Government to investigate and provide additional protection. However, the parliamentary authorities have repeatedly committed to investigate the threats and intimidation, which they claim have been sent to members of all parties. They reported that all threats received were forwarded to the appropriate authorities. Despite that, no suspects have as yet been named. The authorities have also claimed that they have acted to ensure that parliamentarians receive sufficient protection by the Maldives National Defence Force.

8. On 2 October 2012, Mr. Afrasheem Ali, a member of the People's Majlis representing the PPM, was killed. One person was convicted and sentenced. A letter from the parliamentary authorities, dated 24 March 2015, indicated that a second individual, Mr. Azlif, had been acquitted. The complainant affirmed that Mr. Azlif was a member of the Maldives National Defence Force, that he had been released, and that it had been alleged that he had gone to Syria to train with the self-styled Islamic State. It is unclear why he was allowed to leave the country. The complainant noted that there had been an alarming growth in links between the self-styled Islamic State and gangs in the Maldives.

9. On 1 February 2014, Mr. Alhan Fahmy was stabbed in a coffee shop. On 22 January 2015, the complainant stated that there had been no investigation into the stabbing. A letter from the parliamentary authorities of 24 March 2015 indicated that the crime had been investigated and that the suspects were being prosecuted in the Criminal Court in Male.

10. Since 2012, criminal action has been taken, often in connection with ongoing protests, against several MDP members of parliament. According to the complainant, there were no legal grounds for this action. According to the information provided by the complainant in March 2015, the case of Mr. Mohamed Rasheed (who had been charged with terrorism) was pending in court. According to information in a communication from the People's Majlis of 24 March 2015, the case against Mr. Ibrahim Rasheed for obstructing police duties was still pending; the case against Mr. Mohamed Shifaz for producing pornographic cards was still with the Prosecutor General's Office.

11. In its latest update of 25 September 2016, the complainant referred to seven current MPs who had been receiving death threats in recent years. Mr. Abdulla Shahid had received ten different threats between August and December 2014. Mr. Mohamed Aslam had received nine threats between October 2014 and February 2015, and one in January 2016. The complainant affirmed that Ms. Didi, Ms. Abdulla, Mr. Imthiyaz Fahmy, Ms. Adam and Mr. Azim had all received death threats on many occasions. According to the complainant, all the threats had been reported to parliament, but no action had been taken.

C. Information gathered during the mission

1. Political and human rights situation at the time of the visit

1.1. General comments

12. The mission took place against the backdrop of continued polarization and a volatile political situation with continuously changing political allegiances. In March 2015, former President Mohamed Nasheed was convicted under the Anti-Terrorism Act to a 13-year prison term. In February 2016, Mr. Sheikh Imram was similarly convicted to 12 years' imprisonment. The effect of those convictions has been to eliminate critical opposition voices from the political arena. In the view of several interlocutors and others, it was a policy that had been deliberately pursued to achieve that effect. Similarly, some expressed concerns about political motives and lack of due process in the trial against former Minister of Defence Mohamed Nazim, who was sentenced to 11 years' imprisonment on charges of weapons smuggling. New allegations of large-scale corruption and political score-settling gained ground in connection with steps taken against Vice President Ahmed Adeeab. He was sentenced to a total of 25 years in prison in a closed-door trial. Tensions rose within the ruling PPM because of increased internal division. One side favoured current President Yameen and the other former President Gayoom. The delegation was also informed of allegations about executive overreach. In particular there were strong ties between the Government and members of independent oversight institutions such as the Elections Commission and the National Human Rights Commission. Effective oversight had also been unduly limited, such as through the reportedly improper dismissal of the Auditor General. Furthermore, the delegation was repeatedly told about allegations of press restriction, such as the forced closure of the newspaper *Haveeru*, arrests, investigation and intimidation of journalists.

13. On 23 September 2016 the Commonwealth Ministerial Action Group placed the Maldives on the Commonwealth's formal agenda. It warned that the Maldives could be suspended from the Councils of the Commonwealth by March 2017 "in the absence of substantive progress across the priority areas". This decision came against a background of the situation described above, as well as the absence of an effective political dialogue and continued concerns about a clear separation of powers and an independent judiciary.

1.2. Concerns about new legislation encroaching on the rights to freedom of expression and assembly

14. Recently, the People's Majlis adopted important human rights legislation. This includes the Protection of Reputation and Good Name and Freedom of Expression Act (publicly referred to as the "Defamation Act") and amendments to the Peaceful Assembly Act.

15. The authorities emphasized to the delegation that: the Defamation Act protected freedom of expression; freedom of expression was not absolute, as recognized under international law; and the Act therefore aimed to strike the right balance between the liberty and responsibility that comes with the right to freedom of expression. They also stated that: the formulation of the Act was neither unusual nor more restrictive than legislation in other countries where defamation was also a criminal offence; and the Act responded to the need to protect the Maldives as a Muslim society.

16. Several interlocutors pointed out to the delegation that the Act imposed severe restrictions on legitimate and peaceful political activity by criminalizing speech on vague and broad grounds. The Act criminalizes speech deemed to (i) be defamatory, (ii) comment against "any tenet of Islam", (iii) "threaten national security" or (iv) "contradict general social norms".

17. The authorities stated that changes to the Peaceful Assembly Act had made it necessary to obtain police authorization for protests in Male, which could only take place in designated areas. The rationale for these changes was that Male was a very small island and that they were needed to prevent daily life from coming to a standstill, as had been the case during previous protests. According to opposition MPs, these changes were totally disproportionate and made it virtually impossible for them to organize further demonstrations.

2. Situation in parliament

2.1. The role of the opposition in the work of parliament

18. Several opposition MPs emphasized that the People's Majlis was increasingly acting to merely strengthen the powers of the Executive, including by adopting legislation that: (i) unduly restricted the freedoms of expression and assembly of opposition voices (see previous paragraphs); (ii) targeted a potential future presidential candidate on the basis of age; and (iii) obliged political parties to ask their members to provide fingerprints, something which the PPM had already done.

19. Several opposition MPs and others stated that important legislation, including constitutional amendments, had been fast-tracked and adopted without any changes, proper discussion or consultation with stakeholders outside parliament. Similarly, concerns were expressed about reports that parliament, drawing on the majority of its members belonging to the ruling coalition parties, had not carried out any serious oversight, even in the face of serious issues warranting public scrutiny. In response, the Speaker told the delegation that it was not always necessary to have lengthy discussions about everything because, ultimately, you were either in favour or against a particular proposal.

20. The Speaker underscored that he had presided over an ambitious legislative agenda. He also stated that the opposition was given a fair chance to contribute to the parliamentary process, but that it chose to abstain or obstruct once it realised that it was not getting its way. Likewise, several of the interlocutors belonging to the PPM and MDA affirmed that the opposition was not contributing constructively to the work of parliament, and did everything to disrupt it. The Speaker stated that the majority had the numbers and that ultimately it acted on behalf of the Maldivian people as a whole.

21. PPM MPs underscored that the parliamentary committees were inclusive and included opposition MPs. However opposition members told the delegation that they were unable to review, question or hold the government ministries to account because the government controlled the majority in these committees.

22. Opposition MPs also told the delegation that the Speaker refused to allow any questions submitted by the opposition during question time. They had therefore been unable to enquire about and verify the way in which ministers exercised their mandate. They further stated that the Parliament had

stopped conducting any real oversight, as shown by the budget being passed entirely unamended and the fact that opposition MPs were not able to discuss and include issues of concern to their constituencies.

23. Opposition MPs also mentioned that the amendments made to the Standing Orders limited debating time for the MDP to just 14 minutes. The limitation was brought by shortening the debate time for each bill from three hours to one hour. The Speaker responded to the delegation that this measure did not just affect the opposition, but all political parties. The Speaker responded in a similar vein to claims by opposition parties that they had not received the state funding to which their parties were entitled.

2.2. Incidents within the parliamentary precincts

24. Opposition MPs affirmed that MPs from the majority parties had insulted and intimidated them on several occasions and that no sanctions had followed. In a meeting with MPs from the PPM, the delegation was told that such incidents sometimes occurred in a democracy. A particular incident in parliament was mentioned several times. On 24 February 2016, the majority leader Mr. Ahmed Nihan spat on Ms. Rozaina Adam during a floor debate. According to Ms. Adam, the Speaker did not intervene while the majority leader reportedly continued to attack her verbally. The Speaker regretted the incident, but stated that Ms. Adam had not been innocent either: she had provoked the majority leader by interrupting him and standing in front of him when he was speaking. The Speaker stated that in situations like these, everyone first had to calm down. That is why he had decided to suspend the sitting immediately after the incident.

3. **The situation of individual parliamentarians**

3.1. The arrest, prosecution and conviction of Mr. Ahmed Mahloof

25. The specific situation of Mr. Mahloof, who is the only MP serving a prison sentence, was repeatedly referred to in the course of the mission. Mr. Mahloof was arrested on 25 March 2015 because, according to the police, he "disturbed road barricades installed by the police and entered forcefully a cordoned area". According to the police, they had installed barricades as a security measure in response to demonstrations held in various areas of Male from 9.30 p.m. onwards on 25 March 2015. The opposition had been holding the demonstrations after former President Nasheed had been convicted of terrorism charges on 13 March 2015 and because of the ongoing trial of former Minister of Defence Mohamed Nazim. The police formally charged Mr. Mahloof with "obstruction of police duty under Section 75 of Law Number 5/2008 (Police Act) with reference to Section 72 of the same act."

26. On 26 March 2015, the Criminal Court extended Mr. Mahloof's remand to five days. Mr. Mahloof was detained in Dhoonidhoo Detention Centre. On 31 March 2015, Mr. Mahloof was again brought before the Criminal Court and his remand was extended for a further five days. This time the Court ordered his transfer to house arrest.

27. On 3 April 2015, Mr. Mahloof appeared once again at the Criminal Court before Judge Abdul Baree Yusuf, who had convicted former President Nasheed of terrorism the previous month. According to the MDP MPs, the judge offered to release Mr. Mahloof on condition that he did not take part in any public assembly exceeding four people for the next 30 days. When Mr. Mahloof refused, his remand in prison was extended for 15 days. After the remand hearing, the police accused Mr. Mahloof of refusing to get into the police vehicle which was going to return him to Dhoonidhoo Detention Centre. They also accused him of attempting to flee from the police. On 12 April 2015, the High Court set him free pending a possible trial, and held that the extension of his remand as a penalty for refusing to avoid gatherings of more than four people was unlawful.

28. On 11 January 2016, more than eight months after the High Court ruling, the Prosecutor General formally charged Mr. Mahloof with obstruction of police duty for refusing to get into the police car and attempting to flee the police on 3 April 2015 (second case). Five police officers testified in court that he had tried to run away from the police and refused to enter the police car. According to MDP MPs, two defence witnesses nevertheless testified that Mr. Mahloof was not trying to flee but only to hug his wife.

29. On 5 April 2016, the Prosecutor General formally charged Mr. Mahloof with obstruction of police duty for crossing police barricades in the demonstration of 25 March 2015 (first case). On 18 May 2016, three police officers testified against Mr. Mahloof regarding the incident. One officer said he had seen Mr. Mahloof going over road barricades and entering the cordoned-off area. The other two officers testified that they had only heard about the misdemeanour from a police walkie-talkie and only reached the scene afterwards to arrest Mr. Mahloof.

30. According to MDP MPs, on 19 June 2016, a police officer was allowed to testify against Mr. Mahloof in the second case after all the prosecution and defence testimonies had already been concluded on 18 May 2016. This is a breach of normal criminal procedure. The police officer testified that on 3 April 2015, he was working at the detainee court escort section of Male Custodial. After Mr. Mahloof was brought out from his remand hearing, he ran out through the main gate of the Criminal Court. The officer was the first to apprehend Mr. Mahloof as he went onto the street. When Mr. Mahloof came through the door, the police vehicle was parked just outside. According to the officer, Mr. Mahloof ran away when requested to enter the vehicle. The officer suspected that he was attempting to escape from the police.

31. On 10 July 2016, concluding statements were heard from the prosecution and defence with regard to Mr. Mahloof's alleged attempt to escape. MDP MPs told the delegation that on 18 July 2016, Mr. Mahloof was unexpectedly summoned to a closed hearing about the incident, summarily convicted of obstruction of police duty and sentenced to four months' and 24 days' imprisonment. In the afternoon of the same day, the Judge decided not to allow the defence to testify despite objections from the defence. According to the Judge, he made this decision because "it is known under Shari'a and legal principles that the prosecution is required to prove any charges and that generally the defence does not need to prove that the offence did not take place."

32. According to MDP MPs, on 21 July 2016, Mr. Mahloof's defence lawyers appeared on television to denounce the legal proceedings. After their press conference, on 25 July 2016, the Criminal Court reportedly announced that Mr. Ahmed Nazim Sattar, a lawyer representing Mr. Mahloof in the first case, would be barred from representing him. This was because in his media interview "he attempted to create a bad apparition among the public regarding the case thereby attempting to impose undue influence on the case using public media."

33. On the same day that the lawyer was barred from the case, Mr. Mahloof was convicted again for obstruction of police duty. In this case, he was sentenced to a prison term of six months. The delegation was told that an appeal had been immediately filed to the High Court. Since then, no action on the appeal had been taken.

34. An official complaint has been submitted to the United Nations Working Group on Arbitrary Detention. The complaint sets out that the legal action against Mr. Mahloof has been arbitrary because:

- He should have received a "lesser punishment" in light of the entry into force of the Penal Code. The Code grades the offence as a Class 1 misdemeanour with a baseline sentence of imprisonment of 4 months and 24 days. Given the mitigating circumstances, his maximum sentence should have been 2 months and 12 days or 12,000 rufiyaa. The Court therefore failed to observe Article 59 of the Constitution and section (d) of the Penal Code;
- The prosecution was solely motivated by political reasons. It had been conducted in response to the legitimate exercise of Mr. Mahloof's right to freedom of expression and assembly. The prosecution had also gone ahead because Mr. Mahloof had been a vocal and prominent critic of the current president, Mr. Abdulla Yameen, including of the President's alleged involvement in a major corruption scandal. On 7 and 12 February 2016, Mr. Mahloof was summoned for questioning by the police over his statements on this matter. He was also arrested on 11 March 2016 during an anti-corruption rally (and released on 17 March). He was re-arrested on 16 July 2016 while trying to promote the first rally of the Maldives United Opposition. According to the police detention document, he was arrested in the public interest "for using a megaphone on a parked pick-up" and therefore for disrupting public peace. He was released the same day;

- There was a lack of due process, particularly regarding the refusal to let Mr. Mahloof present any defence witnesses in the first case against him;
- An independent and impartial tribunal could not be provided owing to the politically motivated timing of the proceedings and their unjustifiable haste;
- There was no adequate evidence that Mr. Mahloof had crossed police barricades;
- The Court interfered with the right to access defence counsel.

35. Mr. Mahloof has been incarcerated in Maafushi Prison. His wife stated to the delegation that he was kept in solitary confinement for the first two months and that he suffers from skin allergies and eye-problems. He has reportedly been permitted limited visiting rights with his family and legal team. She considered that the trial and conviction of her husband had been the result of his vocal criticism of the government. She pushed for him to be allowed to serve his sentence "under house arrest", as did the MDP MPs whom the delegation met.

36. The Committee on Privileges told the delegation that it had looked at five different complaints about the legal action taken against Mr. Mahloof. The Committee had concluded that a proper trial had been conducted and had dismissed the complaints.

3.2. Accountability for allegations of arbitrary arrest and ill-treatment by police

37. MDP MPs told the delegation that there had been no accountability for law enforcement officers' ill-treatment of parliamentarians on 8 February 2012. Those affected had included Ms. Mariya Didi, Ms. Eva Abdulla, Mr. Imthiyaz Fahmy and Mr. Ibrahim Rasheed. The authorities stated to the delegation that they had done everything possible to hold those responsible to account, but that it had proved very difficult to identify the culprits. The authorities undertook to provide the delegation with further information on this issue. MDP MPs and victims affirmed that the authorities had not made any serious efforts. They pointed out that the authorities had not held those responsible to account, even when clear footage of an incident existed, as in the case of the beatings of Mr. Ibrahim Rasheed and Mr. Mohamed Gasam. More specifically, two policemen charged with assaulting Mr. Gasam had been acquitted on 23 May 2016 on grounds of insufficient evidence.

38. The delegation was also told about arbitrary arrests of opposition MPs in the last two years. For instance, it received information that Mr. Ali Azim had been arrested in Male on 22 February 2015 for peacefully protesting against the arrest of former President Nasheed. He was detained in police custody for 10 days for further investigation. According to MDP MPs, the arrest was politically driven and aimed to curb ongoing protests at the time. Mr. Ali Azim was reportedly questioned twice by the investigating officers. The case was then lodged by the Prosecutor General's Office at the Criminal Court for prosecution on 22 May 2015. After four court hearings which spanned 9 months, Mr. Ali Azim was found guilty on 24 February 2016 of obstruction of policy duty. He was sentenced to pay a fine of 3,000 rufiyaa. During the court proceedings, the judge reportedly allowed only one out of the three defence witnesses to give evidence. However, the judge accepted witness statements from three law enforcement officers. Mr. Ali Azim was arrested for a second time on 23 August 2015. He was inside the residence of former President Nasheed when police arrived to enforce a court warrant for Mr. Nasheed's arrest. A minor scuffle reportedly ensued during which Mr. Ali Azim was arrested. He was reportedly thrown into the back of a police vehicle, where he and his family were allegedly subjected to vulgar and offensive language. He was allegedly also threatened with further harassment and injustice should he remain with the opposition. He was kept in police custody for two hours and then released. No investigation was undertaken and the case was not sent to the Prosecutor's Office. The delegation was informed of another incident concerning the alleged arbitrary arrest on 28 March 2016 of Mr. Imthiyaz Fahmy. He was held overnight on suspicion of having assaulted a police officer, but the matter was not taken to the Prosecutor's Office.

39. The delegation was also told about reports of continued police intimidation and harassment of opposition members of parliament. This included the practice of the police summoning MPs for questioning in connection with the legitimate exercise of their freedom of expression. The delegation was told that on 3 August 2016, the police summoned MP Ali Nizar for questioning over a tweet he had sent the night before. Mr. Nizar was questioned over his reply to a tweet by MP Ali Hussain, who had said that everyone had the right to defend themselves against the unfair use of force by police

officers. Their phones were confiscated but later returned. In another incident, Mr. Abdulla Riyaz was summoned to appear before the police in May 2015 after speaking about the police on television. Opposition MPs also complained to the delegation that the police were using pepper spray at close range during demonstrations. Two senior police officers told the delegation that pepper spray was now used instead of batons, and that it was used proportionately.

40. In response to concerns about a lack of accountability, the Attorney General stated that the criminal justice system in the Maldives faced real challenges. However, he mentioned that important progress had recently been made. For example, the Penal Code had entered into force in 2015. The Criminal Procedure Act had also recently been adopted. It established specific time limits for each of the stages in an investigation and trial.

41. The delegation had a fruitful meeting with the Committee on Privileges. Its members who belong to the majority party, stated that the Committee always looked carefully into any complaints made by parliamentarians. However, opposition MPs told the delegation that the Committee's disregard for the five complaints in the case of Mr. Mahloof showed that it was ineffective and fully controlled by the Government. Moreover, they stated that the Committee had failed to enquire about the condition of Mr. Ali Azim's detention on the two occasions that he had been arrested. They said that the Committee had refused to allow him to attend its meeting and refute the information provided by the police and other government institutions when he had been arrested. They also stated that the Committee had deliberately delayed convening. It had also delayed its examination of his arrest to give time to the police and government to harass him in detention.

3.3. Death threats and other intimidation against MPs

42. The delegation was told about repeated death threats targeting prominent parliamentarians from the MDP. No one had apparently been held to account for making these threats. MDP MPs stated that, whenever they had received threats, they had brought them to the attention of the police and parliament, in particular the Speaker. As there had never been any follow-up action. They had largely stopped doing this, particularly their reports to the Speaker. MDP MPs stated that the official response – that it was not possible to trace those responsible for making the mobile phone threats – was not credible. That was because the police had been shown to be very effective when needed in similar situations. MDP MPs said that, despite the threats, security arrangements had not been put in place. They also told the delegation that the special security arrangement for former Speaker Abdulla Shahid had been withdrawn, despite his entitlement to such protection as a former Speaker and the multiple threats that he faced.

43. The authorities told the delegation that they were doing everything possible to protect members of parliament who were at risk and to look into the threats. However, they said that it was often difficult to identify the culprits and that the victims sometimes failed to cooperate. The Committee on Privileges told the delegation that it had systematically drawn the authorities' attention to the threats. Several Committee members told the delegation that MPs from the PPM also received threats, but that they did not necessarily choose to report on them. They felt that the opposition reported such threats primarily to get national and international publicity. Two senior police officers told the delegation that the police always examined complaints about any threats received and assessed the situation. It was then the responsibility of the Maldives National Defence Force to provide security. The officers said that four MPs were currently benefitting from security measures.

44. In addition to death threats, opposition MPs also mentioned a particular incident to the delegation. On 14 December 2014, in the run-up to a vote in Parliament on the Supreme Court, crude oil was thrown at two opposition members, Mr. Abdulla Riyaz (Jumhooree party) and Mr. Imthiyaz Fahmy (MDP). The Maldives National Defence Force had not been present, even though they had been requested under the usual procedure to accompany Mr. Fahmy to Parliament. The MPs stated that although video evidence of the incident was available, the authorities had not taken any action against the culprits.

3.4. Progress in the investigations into the assassination and stabbing of two MPs

3.4.1. *Murder of Mr. Afrasheem Ali*

45. The delegation was told that the conviction of Mr. Humaam had been upheld by the Supreme Court on 24 June 2016. His conviction had been based on his confession and other evidence, including forensic reports. A second suspect, Mr. Ali Shan, had been acquitted in September 2015 on grounds of insufficient evidence. The Prosecutor General told the delegation that the authorities were still investigating the identity of those behind the murder.

3.4.2. *The stabbing of Mr. Alhan Fahmy*

46. The Prosecutor General told the delegation that charges had been pressed in March 2014 against one suspect, who was serving a sentence for a drug-related crime until March 2017. The trial was about to be completed.

3.5. Criminal cases against opposition MPs

47. The Prosecutor General told the delegation that in September 2015, the legal case against Mr. Ibrahim Rasheed for allegedly obstructing police officers in the execution of their duties had been withdrawn. She also said that the police investigation against Mr. Mohamed Shifaz for allegedly producing pornographic cards had not been forwarded for action to her Office. The delegation was also told that the legal case against Mr. Mohamed Rasheed was still ongoing. Mr. Rasheed had been charged with terrorism in connection with acts of arson in February 2012, during which public buildings were burnt down or damaged.

D. Findings and recommendations

1. About the democratic process in the Maldives

48. The adoption of the Constitution in 2008 was a milestone in the Maldives' transition to democracy. To succeed, this transition needs continuous nurturing and the commitment and involvement of all Maldivians. Democracy is not easy. It can be messy and give rise to tensions: giving everyone an opportunity to express their opinion is bound to lead to conflict when those opinions differ. There is nothing wrong with that. On the contrary, a healthy democracy is inevitably "noisy". But when it works well, democracy offers the best option to channel existing tensions so that the outcome serves the common good. All nations have their share of political conflict. What separates successful from less successful democracies is their ability to manage such conflict within the confines of the rule of law.

49. That said, the delegation is concerned over what continues to be an extremely polarized political climate in the Maldives. The delegation considers that the only way forward is for all those concerned to engage in meaningful political dialogue. They should show genuine resolve to promote effective institutions, the separation of powers, a strong and free press and civil society, and financial probity and transparency. The delegation considers that the Maldives can benefit immensely from international engagement when taking these next steps. The delegation is therefore deeply concerned by the Maldivian authorities' recent decision to withdraw from the Commonwealth and sincerely hopes that they will re-consider this decision.

2. Undue restrictions on freedom of expression and assembly

50. The delegation is concerned about human rights developments that have a direct impact on the cases at hand. This concerns the recent adoption of the Protection of Reputation and Good Name and Freedom of Expression Act and amendment to the Peaceful Assembly Act. The delegation agrees that freedom of expression is not absolute. However, it considers that the new legislation overly restricts the exercise of this right due to its scope, the vagueness of some of its key provisions and the hefty fine imposed as punishment. Similarly, it understands that Male is a small island prone to congestion. However, it also believes that legislation on the right to freedom of assembly should at all times have real practical meaning. The delegation considers that undue restrictions have been

imposed on the exercise of this right through the very limited designated areas for demonstrations and the requirement for prior police authorization.

3. Limited space for the opposition to contribute meaningfully to the work of parliament

51. The delegation appreciates that the current People's Majlis has adopted an impressive number of Bills. However, it feels that this output should not come at the expense of substantive and meaningful discussion on each piece of legislation. The delegation is therefore concerned about reports that the adoption of important legislation has been fast-tracked and adopted without any changes, proper discussion or consultation with stakeholders outside parliament. Likewise, the delegation is concerned about reports that parliament, with its members belonging to the ruling coalition parties being uncritical of the Government, has not carried out any serious oversight, even on important issues that warrant public scrutiny. The delegation is also concerned about other issues that hamper effective oversight. This includes the allegation of strong ties between the Government and members of independent oversight institutions, such as the Elections Commission and the National Human Rights Commission, and the improper dismissal of such institutions, as occurred with the Auditor General.

4. Unacceptable behaviour in parliament and the handling of such incidents

52. The delegation notes that the parliamentary authorities and the opposition acknowledge that there has been unruly behaviour in parliament on both sides. The delegation believes that the Speaker fulfils a crucial role in making sure that unacceptable behaviour, such as the spitting incident in February 2016, is immediately condemned, and that all sides in parliament respect one another. It is absolutely crucial that the Speaker treats all sides impartially and is perceived as being above party politics. It is also important that the Speaker allows the opposition to make a meaningful contribution to the work of parliament and that the opposition respects his authority.

5. The conviction of Mr. Ahmed Mahloof in July 2016

53. The delegation notes the contradictions presented by the authorities, Mr. Mahloof's wife and others about the facts and legal basis underpinning Mr. Mahloof's conviction and sentencing. He was sentenced to 10 months and 24 days of imprisonment, on two charges of obstructing police officers in the execution of their duties. The first charge was that he allegedly crossed a protest barricade. The second was that he tried to escape when leaving the court house after a hearing to extend his detention. The delegation is concerned about the severity of the sentence and about reports that basic fair-trial standards were not respected. The delegation fails to understand how it can be argued that Mr. Mahloof would have tried to flee from the police in the presence of a sizeable police force at the court building. The delegation would greatly appreciate receiving a copy of the lower-court verdict in order to clarify this and other matters related to his prosecution. The delegation hopes that appeal proceedings, to which it proposes to send an observer, will take place smoothly and with respect for the right to a fair trial. In the meantime, it hopes that the authorities will allow Mr. Mahloof to serve his sentence as house arrest due to reports about Mr. Mahloof's poor health.

6. Accountability for ill-treatment and other forms of alleged intimidation of members of parliament at the hands of police officers

54. The delegation expresses concern that, more than four years after the events of 8 February 2012, no law-enforcement officer has been held accountable for the ill-treatment of parliamentarians, including Ms. Mariya Didi, Ms. Eva Abdulla, Mr. Imthiyaz Fahmy and Mr. Ibrahim Rasheed. The delegation considers that, although it might not be easy to identify the officers involved, the authorities should redouble their efforts to take decisive measures against those responsible. That is particularly the case where concrete video evidence is available, as in the case of Mr. Ibrahim Rasheed and Mr. Mohamed Gasam. The delegation is therefore pleased that the authorities have undertaken to provide further information in this regard.

55. The delegation is also concerned about repeated reports of continued police intimidation and harassment of opposition members of parliament. Actions of concern include summoning MPs for questioning about the legitimate right to exercise their freedom of expression, and the use of pepper spray at close range during police interventions.

7. Death threats against members of parliament

56. The delegation is concerned about death threats against several prominent MDP parliamentarians and that no one seems to have been held to account for these threats. The delegation is also concerned about reports that the special security arrangement in place for Mr. Abdulla Shahid has been withdrawn, despite both his entitlement to such protection as a former Speaker and the multiple threats he faces. The delegation notes that the authorities maintain that they are doing everything possible to protect at-risk members of parliament and to look into the threats that have been made. The delegation is keen to receive details from the authorities on the precise steps that they have taken to investigate the threats brought to their attention. It is also interested in receiving more details on the work carried out by the Committee on Privileges with regard to the threats. It is also keen to know the precise protection measures in place for each MP under threat and to receive clarification on the alleged withdrawal of former Speaker Shahid's security detail.

8. Progress in the investigations into the assassination and stabbing of two MPs

- Murder of Mr. Afrasheem Ali (2 October 2012)

57. The delegation notes that on 24 June 2016, the Supreme Court upheld the conviction of Mr. Humaam on grounds of his own confession and other evidence including forensic reports. A second suspect, Mr. Ali Shan, was acquitted in September 2015 because there was insufficient evidence to secure a conviction. The delegation was told that the authorities were still investigating the identity of the mastermind(s) of the murder. The delegation trusts that the authorities will continue their efforts with the necessary resolve, so as to shed full light on this murder and bring those responsible to justice.

- The stabbing of former member of parliament Mr. Alhan Fahmy

58. The delegation is pleased that the Prosecutor General said that charges were pressed in March 2014 against a suspect currently serving a sentence for a drug-related crime until March 2017. The delegation trusts that the suspect's trial will soon be completed as the Prosecutor General had indicated. The delegation is eager to receive further information on progress made in establishing the motive(s) for the stabbing.

9. Legal status of specific criminal cases initiated against three (former) members of parliament

59. The delegation notes that, in September 2015, the Prosecutor General withdrew the legal case against Mr. Ibrahim Rasheed for obstructing police officers in the execution of their duties. It also notes that the police investigation against Mr. Mohamed Shifaz for producing pornographic cards has not been forwarded for the Prosecutor General's action. The delegation trusts that the authorities will inform those concerned that they are no longer subject to any legal action. The delegation notes that the legal case against Mr. Mohamed Rasheed is still ongoing. That case relates to charges of terrorism in connection with acts of arson in February 2012 during which public buildings were burnt down or damaged. The delegation welcomes the Prosecutor General's initiative to ask the court to speed up consideration of this case. The delegation hopes that this will happen with full respect for due process.

Geneva, 25 November 2016