



April 2016

COMMONWEALTH HUMAN RIGHTS INITIATIVE (CHRI) SUBMISSION TO THE COMMONWEALTH MINISTERIAL ACTION GROUP (CMAG) ON:

THE REPUBLIC OF MALDIVES

CHRI welcomed both the wording and spirit of the Concluding Statement of CMAG's Extraordinary Meeting held on 24<sup>th</sup> February 2016. However, monitoring has shown that human rights, democracy and the rule of law remain under grave threat in the Maldives. **The situation has further deteriorated in recent weeks with continued attacks on the political opposition, a rollback of constitutional rights, additional restrictions on press freedom, and arbitrary and excessive judicial action.**

CHRI applauds the steps taken by CMAG members and the Commonwealth Secretariat to develop a first-hand understanding of the situation, including the meeting with both government and opposition leaders by Secretary-General Baroness Scotland in recent weeks, and the visit of Deputy Secretary-General Dr. Josephine Ojiambo to the Maldives.

CHRI supports the approach adopted by the Commonwealth to engage with the Maldives in a "positive, forward-looking and consultative spirit". However, the lack of substantive progress in priority areas identified by CMAG in its statement of 24<sup>th</sup> February, outlined below, is overwhelming. In light of this lack of progress and noting the tone of statements by the Maldivian Government, the situation calls for CMAG to reorient its engagement towards resolute action.

LACK OF PROGRESS

**1. CMAG's call for inclusive political dialogue and the release of political prisoners**

CMAG's Concluding Statement called particular attention to the need for inclusive political dialogue which is intrinsically linked to the release of political prisoners. Prior to the 24<sup>th</sup> February meeting, both the Maldivian Democratic Party (MDP) and the Adaalath Party made this a precondition to entering into negotiations. While the government did announce the initiation of All Party Talks on 12<sup>th</sup> February 2016, it did not take any steps to enable the release of jailed political prisoners triggering the inevitable absence of the Opposition and meaningful discourse. Furthermore, two days before the first All Party talks on 2<sup>nd</sup> March Vice President Mohammed Shifaz of the MDP was arrested. The talks, which were meant to include all political parties were attended only by members of the ruling coalition. CMAG's call for dialogue and the end to arbitrary and politically motivated detention has not been answered.

**2. CMAG's request to prevent the use of Anti-Terror and other legislation to stifle political debate**

CMAG called for steps to be taken to prevent the on-going use of anti-terrorism (or other) legislation to stifle national political debate. However, on 7<sup>th</sup> March 2016 the Anti-Terrorism Act 2015 was amended to be more stringent, less transparent, and has continued to be arbitrarily used against political leaders and state officials, both past and present.

√ On 7<sup>th</sup> March 2016, the Maldivian Parliament passed an amendment to the Anti-Terrorism Act 2015 empowering the state to declare a list of organisations as "terrorist", maintain a secret list of these organisations and to empower the Ministry of Defence with sweeping authority to track and

monitor these organisations. Previously, the law required the President to publicise the compiled list of “terrorist” organisations within 15 days through publication in the government gazette. Even this minimal safeguard of transparency has been dismissed. This also restricts the space for constructive political dialogue and leaves the government free to target and harass anyone who challenges authority and do so with impunity. This threatens the very tenets of democracy.

- √ Legislation continues to be used arbitrarily and against individuals who have raised objections to government actions. Fresh charges of terrorism have been filed against at least three people since CMAG met on the 24<sup>th</sup> February 2016: former Prosecutor General Muhtaz Muhsin and Judge Ahmed Nihan on 8<sup>th</sup> March 2016, and against former Vice President Ahmed Adeb on 17<sup>th</sup> March 2016. Lawyers for the accused learnt of the arrests through the media rather than from authorities or their clients, highlighting current restrictions<sup>1</sup> on the accused person’s constitutional right to effective legal representation.

### 3. CMAG’s hope that space for civil society and non-state actors would be promoted

Systematic obstruction of opposition parties, media freedom and freedom of expression has continued unabated following CMAG’s meeting.

- √ On 7<sup>th</sup> March 2016, in violation of Article 32 of the Maldivian Constitution, which guarantees the right to freedom of peaceful assembly, the Ministry of Home Affairs published guidelines that further restrict the Opposition’s use of public grounds for political activities. This effectively leaves the Opposition with no access to any public space to hold rallies.
- √ On 23<sup>rd</sup> March 2016, the Defamation and Freedom of Expression Bill was introduced in the Parliament that, if passed, will criminalise defamation and expressions contrary to national interest, tenets of Islam, or societal norms. A group of Maldivian journalists have expressed concern that the bill will “prevent journalists and citizens from speaking out over serious accusations of corruption and the integrity of state officials.”<sup>2</sup> The International Federation of Journalists has urged the government to withdraw the bill because it is against international standards, a threat to freedom of expression and a free press.<sup>3</sup>
- √ On 3<sup>rd</sup> April 2016, 16 journalists protesting peacefully outside the President’s Office were arrested and kept in detention for up to ten hours.<sup>4</sup> The protest was against a series of government measures aimed at curbing media freedom including a court-ordered closure of *Haveeru* newspaper and the proposed law for criminalising defamation. The incident highlights the continuing threat to the freedom of expression and legitimate protest.

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<sup>1</sup> According to sources on the ground, the Maldives Police Force has issued regulations that grossly restrict the number of times a lawyer can meet with his client. This did not exist before when lawyers were granted the right to meet with their clients on a daily basis. It is of grave concern that a fundamental freedom protected by the Maldivian constitution has been amended to the serious detriment of the accused and has been done with no explanation.

<sup>2</sup> “Journalists ally against defamation bill,” *Maldives Independent*, 28 March 2016, <http://maldivesindependent.com/politics/journalists-rally-against-defamation-bill-123072>.

<sup>3</sup> “Maldives government proposes law to criminalise defamation”, International Federation of Journalists, 30 March 2016, <http://www.ifj.org/nc/news-single-view/backpid/1/article/maldives-government-proposes-law-to-criminalise-defamation/>.

<sup>4</sup> “16 journalists arrested in police crackdown on sit-in protests,” *Maldives Independent*, 3 April 2016: <http://bit.ly/1RwUXmk>.

## RECOMMENDATIONS

CMAG's 24<sup>th</sup> February 2016 Statement "underlined that progress should be achieved" in *all* the priority areas identified. It has been achieved in none. Further action is required to uphold Commonwealth values and to support the people of the Maldives.

CHRI, taking note of the further deterioration of human rights, democracy and the rule of law in the Maldives, strongly urges CMAG to:

1. Recognise publically the Maldivian government's failure to properly address the priority areas identified by CMAG in their 24<sup>th</sup> February 2016 Statement.
2. Highlight the grave and persistent threats to democracy, human rights, and rule of law in the Maldives and the call for immediate and constructive action by all parties.
3. Establish an action plan with the government of the Maldives which contains measurable outcomes and agreed timelines to move towards Commonwealth values laid out in the Commonwealth Charter, the Latimer House Principles, and the Aberdeen Agenda.
4. Call on the Government of the Maldives to ensure adequate space and protection for civil society and
5. Make it clear that if there is no measurable progress made, CMAG will consider using its authority to suspend the Maldives.