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New Delhi, India. London, UK. Accra, Ghana

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CHRI CONCERNED OVER ALLEGATIONS OF POLICE VIOLENCE & ARBITRARY ACTION IN MALE CITY, MALDIVES

Commonwealth Human Rights Initiative Press Statement, 7 May 2015

New Delhi: Commonwealth Human Rights Initiative expresses concern over the allegations of police violence, brutality and arbitrary action during and after the May Day protests held on 1st and 2nd May 2015. According to media reports, the police used stun grenades, pepper spray and tear gas to control crowds at various points during the rally which caused injury to several protestors/bystanders. As of writing, around 193 individuals, including opposition leaders, are reportedly arrested. Of these, around 175 people are being held in detention for 15 days at the Dhoonidhoo police custodial centre. Reports also allege use of abusive language, rough handling and assault of people while being arrested and while held in police custody.

"The reports once again point to serious concerns regarding police excesses. Freedom of assembly is a fundamental tenet of participatory democracy and it is the duty of the government as well as the police to take measures to ensure people are able to exercise their right in a peaceful and meaningful manner. Any action of the police in dealing with public gatherings must be strictly according to procedure established by law and must be held accountable. Allegations of excessive use of force must be investigated independently. Only then will Maldives move towards policing that is fair, non-discriminatory, lawful and efficient." Maja Daruwala, Director, Commonwealth Human Rights Initiative.

Freedom of assembly is a fundamental right guaranteed under the 2008 Constitution and protected through the Freedom of Peaceful Assembly Act 2013. The law specifically guarantees the right of protestors not to be detained or prosecuted merely for the act of taking part in a peaceful assembly (Section 20(g)). Against this, the large numbers of arrest and detention, reportedly highest from a single rally in a decade, raises serious doubts over the legality of these arrests particularly since the rally, going by media reports, was peaceful in large parts and became unruly only at places during late evening.

It is not clear whether the police followed mandated procedure once the rally reportedly became unruly, though only in patches. Considering the injuries caused to protestors, this is crucial to investigate. In the event a public gathering turns unruly or violent, and the police decide to disperse the assembly including through use of force, the law lays down procedural safeguards. The police are required to communicate their decision to disperse, including through use of force, to the organisers as well as give a warning at least three times to the public. (Section 49 and 50). The use of force must be legitimate, reasonable and proportional to the situation (Section 49).

CHRI strongly emphasises the importance of an independent investigation to determine the legality of police action during the May Day protests, whether these safeguards were followed or not. We take note of the fact that the Human Rights Commission of the Maldives is investigating cases of alleged police brutality.

Accordingly, we urge that

- These allegations be investigated by the Police Integrity Commission also as required under Section 51 (d) of the Freedom of Peaceful Assembly Act 2013. Investigation must include a review of the grounds on which such large numbers have been arrested and detained as well as allegations of excessive force used by the police.

- Along with junior officers in-charge of dispersing the public gathering, senior officers having responsibility of supervising such action also be held liable to civil or criminal charges in case of excessive force, as under Section 51 (b) and (c) of the Freedom of Peaceful Assembly Act 2013.
- Constitutional rights on arrest and detention – the right to be informed immediately of the reasons in writing within 24hours, to retain and instruct legal counsel without delay, to have access to legal counsel until the conclusion of the matter, to remain silent and to be informed of this right, and to be brought within 24 hours before a Judge – be guaranteed to all detainees as under Article 48 of the Constitution.
- Maldives Police Service adhere to the procedure laid down as per their own regulations on “Executing the Constitutional Authority and Discretion Accorded to the Police” which requires the name, rank and service number of the arresting officer to be informed to the person at time of arrest (Rule 18(a)).
- Any arrest found to be non-compliant with above mentioned safeguards be held as unlawful as inferred from Rule 18 (b) of the Regulations.

CHRI calls for an end to police impunity that once again lies at the heart of deepening public distrust and urges the Government to provide accountable and just policing befitting a constitutional democracy.

CHRI has used the unofficial translation of the Freedom of Peaceful Assembly Act 2013 and the MPS Regulations for this statement. For details, please contact Devyani Srivastava at devyani@humanrightsinitiative.org.