

Maldives Political Update and Analysis

21 January 2012

Democracy House is gravely concerned about the incidents that have occurred (and are continuing to occur daily) in the Maldives during the past week that is undermining the country's fledgling democracy and the Constitution. We would like to present the timeline and the facts to the concerned parties, individuals, the public and the international community, and the concerns of the organization in relation to these events.

Timeline of Events:

12 January 2012 (Thursday) – Dhivehi Qaumeey Party (DQP) leaders including Deputy Leader Dr. Mohamed Jameel and Council Member Sandhaanu Ahmed Didi were detained briefly by the Maldives Police Service. Dr. Jameel was released while Mr. Didi was kept in detention until the next morning at Dhoonidhoo Island;

15 January 2012 (Sunday) – Dr. Jameel was detained with Mr. Didi for the second time, which sparked protests from the party supporters near the Police Headquarters. The criminal court issued a ruling at mid-night that the arrests were unlawful;

16 January 2012 (Monday) – Dr. Jameel was arrested for a third time in a row. A demonstration was organized by the main opposition parties, where some demonstrators clashed with the ruling party MDP. It was also reported that Mr. Didi was later hospitalized for minor injuries allegedly inflicted by a few pro-Government supporters.

16 January 2012 – The Chief Judge of the Maldives Criminal Court, Abdulla Mohamed, was forcefully removed from his home at midnight and taken to an undisclosed location by the Maldives National Defence Force (MNDF – the Maldives army). The Maldives High Court and the Maldives Supreme Court issued rulings for the immediate release of the Chief Judge. Both courts ruled that the Chief Judge was taken in violation of the Maldives Constitution and applicable laws;

17 January 2012 (Tuesday) – Dr. Jameel was arrested for the fourth time during the week and a second ruling was issued by the Criminal Court that the arrest was unlawful;

18 January 2012 (Wednesday) – Mass demonstrations were held in Male' led by the supporters of the opposition calling for the immediate release of the Chief Judge;

19 January 2012 (Thursday) – The MNDF disclosed that the Chief Judge of the Maldives Criminal Court, Abdulla Mohamed, was held in Girifushi island, which is the army's training base. A demonstration near the Republican Square at night led by the opposition ended with pepper spray from the riot police.

20 January 2012 (Friday) – It was reported that the Human Rights Commission of the Maldives (HRCM) visited the Chief Judge, Abdulla Mohamed, at Girifushi Island. HRCM held a press conference afterwards, and reported that judge Abdulla was being treated well by MNDF. However, Judge Abdulla still remains under unlawful arrest. Further, on the same day, it was reported that one of the Supreme Court Justices Abdullah Saeed was attacked. Demonstrations continued after the Friday prayer during which key figures from the opposition were taken to Dhoonidhoo Island. Demonstrations continued during the night time.

Concerns – the threat to Democratic consolidation and human rights in the Maldives

Unconstitutional arrests and denial of fundamental rights:-

- 1- Dhivehi Gaume Party (DQP) Deputy Leader, Dr. Mohamed Jameel was arrested by the Maldives Police Service four times and Mr. Didi twice on the claims made by the Government that the DQP party leaders have made false accusations against the Government and the President on public TV. The Criminal Court issued two rulings declaring that these arrests were unconstitutional and a third ruling that the Police cannot detain a person summoned for questioning. Despite these court rulings, Dr. Jameel was detained repeatedly, which was also deemed unlawful.
- 2- Maldives National Defense Force (MNDF) arrested the Chief Judge of the Maldives Criminal Court, Abdullah Mohamed, for allegations of corruption, which was ruled unlawful by the Maldives Supreme Court and the High Court. He was kept incommunicado in an undisclosed location for over 72 hours. Numerous opposition politicians, large sections of the legal fraternity including some prominent lawyers, as well as the Prosecutor General publicly declared these actions as a flagrant violation of

the Constitution, and demanded that the Government comply with the orders issued by the High Court and the Supreme Court of the Maldives to release him. The general public largely sees the forceful arrest and unlawful detention of a Chief Judge by the army as a serious encroachment on the independence of the Judiciary. The Government has denied Chief Judge Abdullah Mohamed access to legal representation and the right to habeas corpus, which are violations of fundamental rights guaranteed by the Maldives Constitution and applicable international human rights treaties. Petitions of habeas corpus filed in the High Court and the Supreme Court on behalf of Chief Judge Abdullah Mohamed are yet to be heard due to the refusal of the Maldives National Defence Force (MNDF) to bring Chief Judge Abdullah Mohamed before the highest courts.

Freedom of Expression:-

It is noted that the Article 27 (Freedom of Expression) of the 2008 Maldives Constitution and the decriminalization of defamation in 2009 makes the previously categorized offences of lying or slander invalid (the reason given by the Police for Dr. Jameel's repeated arrests and detention). The unlawful arrest of DQP leaders in reaction to views expressed by them in the media therefore appears to be a serious threat to the freedom of expression and basic fundamental democratic rights guaranteed in the Constitution. As a result, these actions have the serious potential to suppress criticism and difference of opinion in our infant democracy. Furthermore, the Government (Minister of Transport and Communication) made a statement that private broadcasters relaying the incidents and unrest (street protests etc.) could potentially have their terrestrial licenses revoked. The Broadcasting Commission and Maldives Media Association (MMA) have condemned the government's statement and it is believed that this further undermines the development of a free and fair media in this new democracy.

Loss of confidence in Judicial independence, separation of powers, and the rule of law

The independence of the Judiciary and other institutions, as well as the principle of separation of powers enshrined in the 2008 Constitution are being severely threatened, encroached upon and violated by the actions of the Maldives Police Service, the Maldives National Defence Force, the Home Ministry, and the Government of Maldives in general, which includes the unlawful arrest and forceful detention of the Chief Judge of the Criminal Court despite orders for his immediate release by the High Court, the Supreme Court and the Prosecutor General, and the unlawful arrest and detention of DQP leaders despite court rulings declaring these arrests unconstitutional and unlawful. The actions also severely undermine the rule of law in the country.

The 2008 Constitution, a modern constitution founded on principles existing in most advanced democratic systems, empowers the judiciary to protect the fundamental rights and freedoms enshrined in the Maldives Constitution for all citizens, through the judicial process. Therefore, when the army forcefully and unlawfully arrests and detains a Chief Judge immediately after he rules on another unlawful arrest, the vast majority of the general public appears to be losing confidence in the whole system. This uncertainty and mistrust in these important public institutions is further exacerbated when the Government ignores the rulings from the Supreme Court and the High Court for their immediate release from detention, when these arrests were publicly declared unconstitutional. Finally, the political unrest in the country appears to escalate evidenced by daily street protests and Special Forces breaking down these demonstrations.

The Democracy House therefore expresses serious concerns with regard to the events that have unfolded in the past week and are continuing daily, and its implications for the protection and promotion of human rights, the breach of the Constitution, adherence to the international human rights treaties that the Maldives is signatory to, and to the overall functioning and stability of this country's infant democracy.