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Committee on the Human Rights of Parliamentarians

Report on the mission to the Maldives 19-21 March 2018

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List of abbreviations

AP:	Adhaalath Party
The Committee:	IPU Committee on the Human Rights of Parliamentarians
HRC:	Human Rights Commission
MDP:	Maldivian Democratic Party
JP:	Jumhooree Party
PPM:	Progressive Party of Maldives
UN:	United Nations
UNDP:	United Nations Development Programme



© Munshid Mohamed, 24 July 2017 – Police prevent Members of Parliament from entering the People's Majlis through the east gate

Executive summary

A Committee delegation conducted a mission to the Maldives from 19 to 21 March 2018. Its purpose was to address long-standing and more recent reports of widespread allegations of human rights violations against opposition MPs and to assess the prospects for these allegations being examined and clarified in the current political situation in the Maldives.

The most serious recent allegations relate to: politically motivated legal proceedings against several opposition parliamentarians; the unlawful revocation of the mandate of 12 parliamentarians; the use of excessive force by law enforcement officers against parliamentarians without accountability; reduced space for the opposition to contribute to the work of parliament; arbitrary arrests and undue restrictions on freedom of assembly.

The mission took place during a state of emergency in the Maldives, proclaimed after the Supreme Court, on 1 February 2018, ordered the release of nine high-profile politicians and the reinstatement of the 12 members of parliament, which ruling President Yameen refused to implement.

Based on the information gathered during its mission, the delegation expresses deep concern about the continued political instability in the Maldives. The delegation underscores that the next 12 months, with a presidential election in September 2018 and parliamentary elections in March 2019, are bound to see further tension if the underlying causes and the perceived absence of a level playing field for presidential candidates are not seriously addressed.

The delegation considers that the decision to revoke parliamentary mandates has to be seen in the light of unstable political conditions but also notes clear indications that the revocation was arbitrary. The delegation therefore calls on the Maldivian authorities to reinstate the 12 parliamentarians as soon as possible.

The delegation is concerned about attempts to thwart a no-confidence motion against the Speaker in 2017, and in particular the forcible removal on 24 July of several members from the People's Majlis. The delegation calls on the Maldivian authorities to withdraw forthwith the charges brought against those MPs.

The delegation is deeply concerned about the wave of arrests launched against members of parliament under the state of emergency, the charges of terrorism brought against six of those members and the detention of five for the duration of their trials. The delegation calls on the authorities to fully ensure their right to a fair trial and suggests that the IPU send a trial observer. The delegation trusts that the authorities are keeping the detained members in proper conditions and

allowing them access to their families, lawyers and a doctor; it wishes to receive detailed information and documentation on this point.

With the opposition boycotting parliament, the delegation is concerned that legislation subject to Article 87(b) of the Constitution is being passed without half the members being present, as required. The delegation calls on the parliamentary authorities to ensure full compliance with the Constitution in conducting its work and calls on all sides to engage in constructive political dialogue. The delegation encourages all sides to avail themselves of the expertise and the platform the IPU can offer to promote such dialogue. ■

A. Origin and conduct of the mission

1. The original cases before the Committee on the Human Rights of Parliamentarians (hereinafter “the Committee”) concerned the arrest and brief detention of several members of the People’s Majlis and the use of excessive police force during demonstrations held in February 2012. The cases have since evolved to include other allegations of arbitrary arrest and detention, frivolous legal proceedings and threats and acts of violence, including the murder in 2012 of Mr. Afrasheem Ali, a former member of the governing Progressive Party of Maldives (PPM), and the stabbing in 2014 of Mr. Alhan Fahmy, a serving MP for the Maldivian Democratic Party (MDP).

2. Since the 2014 parliamentary elections, the opposition has repeatedly claimed that the PPM, with the Speaker’s support, has systematically limited the space for the opposition to contribute meaningfully to the work of parliament and that parliament has adopted laws that seriously diminish human rights, including freedom of expression and assembly. The parliamentary authorities have denied these allegations. Tension and violence erupted again in March, July and August 2017, after an opposition alliance, with defections from the PPM, brought a no-confidence motion against the Speaker.

3. In October 2017, after meeting with the Maldivian delegation to the 137th IPU Assembly, the Committee dispatched an on-site mission because of concerns about the complexity and seriousness of the cases at hand, and because many of the facts were disputed. The aim of the mission was to meet with parliamentary, executive and judicial authorities, the parliamentarians concerned and any relevant third parties to gather first-hand information on the allegations and assess whether they can be examined and clarified in the current political context. The Committee was pleased that Maldivian parliamentary authorities immediately welcomed such a mission.

4. It was decided in consultation with those authorities that the on-site mission would take place from 19 to 21 March 2018. The mission delegation comprised Committee member Ms. Aleksandra Jerkov and Mr. David Carter, former Speaker and current member of the House of Representatives of New Zealand. Mr. Rogier Huizenga, Secretary of the Committee, accompanied the delegation.

The mission met with 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 and Mr. Abdulla Rifau
- (b) Political parties
 - Members of the People’s Majlis belonging to the PPM, including Mr. Ahmed Nihan Hussain Manik, Mr. Jameel Usman, Mr. Abdulla Khaleel, Mr. Abdulla Rifau and Mr. Ahmed Shiyam
 - Members of the People’s Majlis belonging to the MDP, including Ms. Eva Abulla, Ms. Mariya Didi, Mr. Imthiyaz Fahmy and Ms. Rozeina Adam
 - Members of the People’s Majlis belonging to the Jumhoree Party, including Mr. Hussain Mohamed, Mr. Ali Hussain, Mr. Moosa Nizar Ibrahim and Mr. Faisal Naseem
- (c) Government
 - Minister of Youth and Sports, Ms. Iruthisham Adam
 - Minister of Education, Ms. Aishath Shiham
 - Minister of Housing and Infrastructure, Mr. Mohamed Muizzu
 - Deputy Permanent Representative of the Maldives to the United Nations Office and other International Organisations at Geneva, Mr. Jeffrey Salim Waheed
- (d) Police
 - Superintendent of Police, Mr. Ahmed Shifan
 - Head of Central Operations Command, Mr. Hamdhoon Rasheed

- (e) Human Rights Commission
 - Ms. Aminath Eenas, President
 - Mr. Mohamed Zahid, Vice President
 - Mr. Moosa Ali Kaleyfaan, Commissioner
 - Ms. Naiween Abdulla, Commissioner
 - Ms. Aishath Afreen Mohamed, Commissioner
- (f) Elections Commission, including:
 - Mr. Ahmed Shareef, Chairman
 - Mr. Amjad Musthafa, Vice Chairman
 - Mr. Ismail Habeeb Abdul Raheem, Commissioner
 - Mr. Mohamed Shakeel, Commissioner
- (g) Expelled MDP MPs (victims), including:
 - Mr. Mohamed Ameeth Ahmed Manik
 - Mr. Ali Shaah
 - Mr. Saudulla Hilmy
- (h) Family members of MPs in detention
- (i) United Nations
 - UN Resident Coordinator and UNDP Resident Representative, Ms. Shoko Noda
 - Peace and Development Adviser, Ms. Diloru Kadirova
- (j) NGO
 - Executive Director of the Maldivian Democracy Network, Ms. Shahindha Ismail

5 The delegation wishes to thank the Speaker of the People's Majlis for facilitating the organization of the mission, but also regrets that it was not possible, despite repeated requests, to meet with the Attorney General, the Prosecutor General or the detained opposition members of parliament.

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

6. The original cases must be seen in the political context that has prevailed in the Maldives since a contested transfer of power in February 2012. Since then, the Committee has carried out three missions to the Maldives, in 2012, 2013 and 2016, which have focused on the following concerns:
- Allegations of politically motivated legal proceedings against numerous opposition parliamentarians;
 - The use of excessive force by law enforcement officers against parliamentarians, without accountability;
 - The killing in 2012 of Mr. Afrasheem Ali, a member of the People's Majlis representing the PPM, for which an individual has been convicted and sentenced, and the stabbing in 2014 of Mr. Alhan Fahmy, a parliamentarian for the MDP;
 - A long history of death threats and other forms of intimidation against parliamentarians;
 - Heightened political polarisation in and outside parliament, reduced space for the opposition to contribute to the work of parliament and the absence of meaningful dialogue between majority and opposition;
 - Lack of respect for parliamentary ethics and the proper use of parliamentary procedure;
 - Undue restrictions on freedom of expression and assembly imposed by two laws: the Protection of Reputation and Good Name and Freedom of Expression Act and the amended Peaceful Assembly Act;

- Allegations of lack of independence of the judiciary and strong ties between the government and members of independent oversight institutions, such as the Elections Commission, the Judicial Service Commission and Human Rights Commission, and the improper dismissal of such institutions.
- 7. Since the last mission, in 2016, concerns have specifically focused on the following:
 - **Thwarted attempts to bring no-confidence motions and allegedly arbitrary charges against opposition MPs**
 - On 24 March 2017, the leaders of four Maldivian political parties, namely the MDP, the PPM, the Jumhooree Party (JP) and the Adhaalath Party (AP), agreed to form an opposition coalition. Headed by the MDP, that coalition went on to win 53 per cent of the seats in the local council elections of May 2017; President Yameen's ruling party won 27 per cent.
 - According to the complainant, the opposition attempted to bring a motion of no-confidence against the Speaker on three occasions, with the support of 45 parliamentarians, hence a majority, on the grounds that he was not acting impartially. The first was submitted on 24 March 2017 but no vote took place; reportedly, members of the military forcibly removed 13 opposition parliamentarians from the premises at that time. The Speaker narrowly maintained his position and, according to the complainant, the ruling party then stepped up its intimidation campaign against opposition members. The second attempt, the opposition affirms, was scheduled to take place on 24 July 2017 but was blocked when security forces prevented the MPs from entering parliament, some of them scaling the walls around the parliamentary premises and then being forcibly removed. Most if not all of these MPs have since been charged with failure to obey police duties, assault of an officer or criminal trespassing. According to the authorities there was no parliamentary sitting scheduled that day due to a visit from a foreign dignitary and the celebration of Maldives Independence Day, and there was heightened security in the area. The complainant affirms that the third attempt to bring a no-confidence vote against the Speaker, on 22 August 2017, was thwarted when the Maldives military locked down the nation's parliament. The authorities affirm that the allegation of "military intervention" is both erroneous and unwarranted and that there was no intervention or lockdown. According to the authorities, a no-confidence motion was never duly submitted, since some of those who originally signed the motion withdrew their support and others were found to have been bribed.
 - **Allegedly abusive revocation of parliamentary mandate**
 - According to the complainant, the Attorney General, in a bid to thwart the no-confidence vote, submitted a case to the Supreme Court on 11 July 2017 seeking a ruling that would strip several members of the People's Majlis of their parliamentary mandate, on the grounds that they no longer belonged to the party on whose ticket they had been elected. The request to the Supreme Court came in the context of increased political tension, as 12 government MPs who had signed the impeachment motion against the Speaker left or were expelled by the ruling PPM party.
 - On 13 July 2017, the Supreme Court issued a ruling stating that lawmakers who resign or are expelled from the political party they represent at the time of their election, or who switch to another party (floor-crossing), must lose their parliamentary mandate. The ruling further stated that MPs lose their mandate once the Elections Commission informs the parliament of their change of status and ordered State institutions to enforce the new rule with effect from 13 July 2017. According to the complainant, the above-mentioned ruling is unconstitutional and defies a number of laws.
 - As a result of the Supreme Court's ruling, 12 parliamentarians have lost their seats since 13 July 2017, the Elections Commission having removed their names from the membership of the Progressive Party of Maldives, at the party's request.

- **Parliamentarians who have been detained, charged or convicted, allegedly in response to their parliamentary and political work**

The situation of MP Faris Maumoon

- MP Faris Maumoon was arrested on 18 July 2017 under a warrant issued by the Criminal Court authorizing a search of his residence and accusing him of involvement in the bribery of MPs ahead of the no-confidence vote, an allegation he strongly denied. He was later taken to the Dhoonidhoo detention centre. On 19 July 2017, the Criminal Court issued an indefinite remand for Mr. Maumoon until the conclusion of his trial. On 20 July 2017, he was moved to the Maafushi detention centre, which is designated for convicts. On 16 September 2017, it was reported that the Prosecutor General's office had revised the charge from accepting bribes to offering to bribe fellow parliamentarians for their support in attempting to remove the Speaker. He was transferred to house arrest in October 2017.

The situation of Mr. Qasim Ibrahim

- Mr. Qasim Ibrahim, the leader of the Jumhooree Party (JP), was first charged on 13 April 2017 for offering a bribe, attempting to communicate with a public official for the purpose of influencing the exercise of that person's official authority, and attempting to influence a voter by offering a benefit not authorized by law. On 24 August 2017, the Criminal Court of Malé sentenced Mr. Ibrahim in absentia to a prison term of three years, two months and twelve days. The complainant affirms that his right to fair trial was not respected. Mr. Ibrahim is out of the country, the Court having allowed him temporary leave abroad to seek medical treatment. The authorities consider that Mr. Ibrahim has not respected the terms of his authorised leave abroad and should return to the Maldives to serve his sentence.

The situation of Mr. Ibrahim Didi

- Mr. Ibrahim Didi, member of the MDP and a retired brigadier general, is on trial for renewed terrorism charges. In 2015, the Prosecutor General withdrew the terrorism-related charges against Mr. Didi. However, following the no-confidence motion, Mr. Didi was charged for a second time on the same grounds. Mr. Didi's trial started on 20 July 2017 and is ongoing.

C. Information gathered during the mission

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

1.1 Challenges for democracy in the Maldives and the forthcoming presidential elections

8. Many interlocutors stressed that the Maldives is a young democracy and that many political stakeholders and ordinary Maldivians are still grappling with the notions of a full-fledged democracy, which has only been installed with the adoption of the Constitution in 2008 – although political parties were allowed some years before. People are therefore still coming to terms with the powers of each institution, the separation of powers and checks and balances. The Speaker stated that the focus has been too much on getting and exercising power, with avid competition for public office. Many interlocutors stressed the peculiarities of the Maldives, a small island State where everyone knows each other. The delegation was told about extreme rhetoric in the Maldives from whomever was in the opposition and about everyone seeming to claim their democratic rights without acknowledging their responsibilities. Others pointed to the growing rivalry between China and India to protect their interests in the Maldives, each working with opposite sides of the political spectrum, as an additional challenge.

9. Presidential elections are scheduled to take place in September, as will probably be announced in July. The new president will be inaugurated on 11 November 2018. It now appears that several opposition leaders will not be eligible to run because they have been sentenced. Others are facing charges and may be disqualified if found guilty before the elections. It was pointed out to the delegation that even if the President were to pardon them the convicted leaders would still not be eligible to run, under the Constitution, for three years thereafter.

10. The opposition has repeatedly spoken to the delegation about the absence of a level electoral playing field, with most of its leaders either in prison or in exile. This was said to be weakening the opposition, forcing it to choose between uniting behind their current leaders, who would probably be disqualified, or finding candidates more likely to be eligible. The delegation was also repeatedly told about the close relationship between the main ruling party and the civil service, as well as workers at government-related enterprises, who, according to the opposition and other interlocutors, had to be formally or nominally members of the main ruling party. Persons seen at rallies or public protests were tracked and given negative references.

11. Several ministers and senior members of the ruling parties emphasized how the Maldives has been socially and economically transformed during President's Yameen's administration. They pointed among other things to important infrastructure projects, social housing and free universal education and health coverage. They described Maldivians as being on the whole very pleased with the government's achievements, in contrast with the failures of previous administrations. The opposition strongly contested this portrayal, alleging that much of the government's development work has been aimed at enriching the politicians in power and their international and national economic partners.

1.2 Supreme Court ruling of 1 February 2018 and the state of emergency

12. The political crisis in the Maldives took a turn for the worse after the Supreme Court, on 1 February 2018, ordered the release and retrial of nine high-profile politicians and the reinstatement of 12 members of parliament, thereby giving the opposition a majority in parliament. President Yameen refused to implement the ruling, claiming it to be unlawful, and on 6 February 2018 declared a state of emergency, which was extended by 30 days on 20 February 2018. The opposition and its supporters protested the refusal to respect the Supreme Court's ruling, contested the validity of the state of emergency and began a boycott of parliament.

13. More than a dozen members of parliament were arrested under the state of emergency, which expired on 22 March 2018 and was not extended. Most were released shortly after their arrest, although it is not clear whether they are still under investigation. Shortly before the state of emergency expired, the Prosecutor General's Office announced charges of terrorism - concerning an alleged plot to overthrow the government - against 11 high-profile individuals, including four members of parliament, namely Mr. Faris Maumoon, Mr. Abdulla Riyaz, Mr. Abdulla Sinan and Mr. Ilham Ahmed. They were ordered to be kept in detention until the end of the trial. Three other members, namely Mr. Ahmed Mahloof, Mr. Ibrahim Mohamed Solih and Mr. Ali Azim, were in detention at the time of the mission. Ten other members of parliament are at liberty, but face charges, most dating back to 2017. The opposition claims that all of this was part of a pattern of intimidation and repression by the authorities.

1.3 Corruption

14. All interlocutors highlighted corruption as being widespread in the Maldives. Many of the MPs said they had been offered bribes at one point or another to switch sides. A civil society representative stated that corruption affected a very large majority of the MPs and was a real problem. Some interlocutors described the corruption as sometimes blatant, including ostentatious displays of wealth by certain MPs, inexplicable in terms of their parliamentary salaries. Although MPs had to present a statement of assets, the information was not made available to the public. During their meeting with the delegation the police said they had been acting on numerous complaints of corruption, which could be made anonymously. The delegation was also told that the Anti-Corruption Commission was doing good work but that more resources were needed and that it was often very difficult to prove corruption cases.

15. The prevalence of corruption was often mentioned to explain repeated instances of floor-crossing in the current and previous legislature as well as certain court decisions, including the Supreme Court's judgment of 1 February 2018, which caught many by surprise. With regard to that particular judgment, one government spokesperson pointed out that strong accusations of corruption against Chief Justice Abdulla Saeed and Supreme Court Justice Ali Hameed had gained momentum just before the judgment. Interlocutors outside the government considered it obvious, or at least very

likely, that both Justices were bribed to issue that judgment. Shortly before the judgment was announced, according to interlocutors from the ruling party, supporters of those who stood to benefit from it seemed to be already aware of its content. Others emphasized the sweeping character of the judgment, combining very different issues in a single text, considering it overtly vague and on some points unconstitutional, including an attempt to limit the role of the Judicial Service Commission.

16. Apart from the Supreme Court's judgment of 1 February, which was particularly singled out in the course of the delegation's meetings, several interlocutors referred repeatedly to other major Supreme Court as well as lower court decisions in recent years, in cases where strong political and economic interests were at stake, as continuously subject to influence peddling, intimidation and/or bribery.

1.4 Wave of MP arrests: freedom of assembly threatened; excessive police force alleged

17. A wave of arrests took place during the state of emergency, and in particular on the night of Friday, 16 March 2018, when some 140 opposition supporters as well as MPs were arrested. Most were released but several remained in detention.

18. The opposition and others considered that their right to freedom of assembly continued to be severely limited, in that only one area, well outside the city centre, had been designated for protests, which defeated their purpose of drawing public attention to perceived government abuses. According to the police and the government the arrangement was more than reasonable for a tiny and very congested island like Malé, where protests have been quite disruptive, with protestors venturing into the main thoroughfares and bringing daily life to a halt. The green zone, where most of the State institutions are located, was repeatedly mentioned as being off limits. The aim of opposition supporters, it was also mentioned, was to violate the law and sometimes even to hurt themselves intentionally, to go down as martyrs.

19. Most of the interlocutors described daily protests in Malé, with protesters possibly numbering in the thousands on several occasions. Such was the case in early February, when protesters demanded implementation of the 1 February 2018 Supreme Court ruling. Another big protest took place on 16 March 2018. According to the authorities, many of the protestors were not from Malé but from surrounding islands, and their involvement was sponsored by the opposition. The opposition and others claimed that on several occasions the police had used excessive force, including pepper spray at close range, to disperse and arrest protestors, as they had done in arresting Mr. Solih on 16 March 2018. The police claimed to have strictly complied with the guidelines on use of force. They said that when protests lasted later than 10:30 p.m., or otherwise contravened the rules, the protestors were given fair warning to disperse. Only when they refused did the police intervene, using proportionate means.

20. According to the government, opposition MPs had been quick to complain to IPU, to other international organizations and to the media in order to gain political mileage, but without bothering to follow domestic procedures for presenting their grievances. Not only the police but also the Human Rights Commission (HRC) said that very few opposition parliamentarians had filed official complaints about harassment or intimidation. The opposition MPs, for their part, said they did not consider domestic remedies to be effective and therefore often dispensed with them. Ruling party MPs also claimed to have suffered harassment and intimidation but chosen not to complain, to get along, accepting what they considered an unfortunate fact of political life.

1.5 Charges against MPs and their conditions of detention

21. The delegation was told about frequent brief arrests of opposition MPs in recent months, in particular during the state of emergency. Where relevant, the cases of MPs who were still in detention at the time of the mission, on 19 and 20 March 2018, were suddenly brought under the ordinary criminal procedure and their remand in detention was extended given that the state of emergency would be expiring on 22 March. The delegation received contradictory information about the MPs' conditions of detention and was not able to verify those conditions itself.

22. The families of the detainees along with the opposition parties and other interlocutors alleged that the detainees were not given clean drinking water, had to drink tap water from the toilet, were kept in isolation in hot cells without fans and directly exposed to the sun, were not given their medication or clean clothes, were allowed only limited visits by family and lawyers and had to sleep on mats. Members of the HRC told the delegation that they had paid recent visits to the detention centre and raised the issues of clean drinking water, fans, medication and mattresses. They told the delegation that, in coordination with penitentiary officials and police, the authorities were working on extending the water pipe system so that detainees could be supplied from the tank of potable water. They said that the Ministry of Finance should authorise the installation of electrical outlets for a fan in each cell and that they had raised allegations of ill-treatment with the police and made recommendations to address it. In their meeting with the delegation, however, the police said they were unaware of such recommendations.

- *Mr. Faris Maumoon*

23. Mr. Maumoon was arrested on 18 July 2017 and subsequently charged with bribery and identity fraud. He was conditionally released on 25 January 2018, after six months in custody, but rearrested on 26 or 27 January 2018, on charges of bribing parliamentarians and attempting to overthrow the government with the help of several politicians. After a brief transfer to house arrest, he was taken back to the remand centre inside Maafushi Prison on 8 February 2018. On 20 March 2018, he was charged with terrorism. Family members told the delegation that during his nine months in detention not a single serious shred of evidence had been presented against him, and an anonymous State witness had denied having ever been offered a bribe by Mr. Maumoon.

24. Family members and members of the opposition also claimed that Mr. Maumoon had been mistreated by the police in mid-March 2018, when he refused to be interrogated in the absence of his lawyer. Police authorities told the delegation that his lawyer was in fact present but that Mr. Maumoon, seemingly oblivious to the fact, caused a stir by rolling over the floor in protest. The police said they had to respond to this situation using proportionate force. A family member also mentioned the water quality problem, the absence of a fan and Mr. Maumoon's urgent need of dental treatment.

- *Mr. Ahmed Mahloof*

25. Mr. Mahloof was arrested on 22 February 2018 while leading a protest in Malé. The opposition party and his family told the delegation that he had been kept in solitary confinement, in a cell without ventilation or fan, and had been forced to sleep on the floor. The members of the Privileges Committee belonging to the ruling parties stated that Mr. Mahloof had been seen celebrating the Supreme Court's ruling of 1 February 2018 and had clearly called for the government to be toppled. It appears that Mr. Mahloof was first accused of obstructing police duty for distributing masks during the rally. The delegation was informed after its mission that on 1 April 2018 the Criminal Court reportedly extended his remand until the end of his trial on terrorism charges and that on 4 April 2018 the Court transformed the remand into house arrest for the duration of his trial.

- *Mr. Abdullah Riyaz*

26. The delegation was told that Mr. Riyaz had been arrested at a protest on 2 March 2018 and was being held in a remand centre inside Maafushi Prison, the facility for sentenced criminals. The family has reported problems in his obtaining full representation by a lawyer and in receiving family visits as well as adequate medical treatment. On 18 March 2018, the Criminal Court decided to extend his remand until the end of his trial. On 20 March 2018, Mr. Riyaz was charged with terrorism in addition to earlier charges that he had unlawfully entered the parliament in 2016 and refused to disclose his mobile phone PIN number to the police.

- *Mr. Abdulla Sinan and Mr. Ilham Ahmed*

27. Mr. Sinan and Mr. Ahmed were arrested on 9 and 12 February 2018, having gone to police headquarters in response to a public announcement that the police were looking for them. The police have since transferred Mr. Ahmed from Dhoonidhoo Island Detention to a remand centre inside Maafushi Prison. They were both charged on 20 March 2018 with terrorism. The delegation was

informed after its mission that on 1 April 2018 the Criminal Court reportedly extended Mr. Sinan's remand until the end of his trial on terrorism charges.

- *Mr. Ibrahim Solih*

28. Mr. Solih was arrested during a protest on 16 March 2018 for entering a green zone that had been placed off limits for demonstrations, and was immediately taken to the Dhoonidhoo Detention Centre. Family members told the delegation that he had been kept in solitary confinement in a cell without ventilation or fan, that he had been forced to sleep on the floor, that his drinking water in detention was of poor quality, that there were undue restrictions on phone calls with family members and that he was not being given his medication. The HRC told the delegation that there had been a problem with Mr. Solih's prescription, which was very old. A new medical exam had since been carried out and he had subsequently been given the proper medication. Mr. Solih and others had also been given a mattress rather than a mat. The delegation was informed after its mission that Mr. Solih was released from preventive detention on 28 March 2018.

- *Mr. Ali Azim*

29. Mr. Azim was arrested during a protest on 16 March 2018. The delegation was informed after its mission that Mr. Azim was released from preventive detention on 28 March 2018.

- *Mr. Ibrahim Mohamed Didi*

30. Although he is not in detention, Mr. Didi provided documentation to the delegation showing that the Prosecutor General dropped the charges of terrorism against him on 30 June 2015, after two other suspects in the same incident had been found not guilty. On 25 May 2017, however, against the backdrop of the opposition's attempts to file a motion of no confidence against the Speaker, the Prosecutor General filed charges against Mr. Didi in connection with the same incident. The case is at the preliminary stage.

1.6 Revocation of the parliamentary mandates of 12 MPs

31. The delegation was told that three of the 12 MPs, namely Mr. Mohamed Ameeth, Mr. Mohamed Waheed and Mr. Saud Hussain, were removed from the PPM, letters from the party having been sent to that effect on 28 and 29 March and 19 April 2017, after the MPs had expressed support for the no-confidence motion against the Speaker. The MPs concerned affirm that, according to the relevant regulations, if they do not appeal the decision within 15 days they automatically lose their party membership.

32. Nine other MPs who signed the no-confidence motion against the Speaker resigned from the PPM *en masse* in early July 2017: Mr. Abdul Latheef Mohamed, Mr. Ilham Ahmed, Mr. Hussain Shahudhy, Mr. Mohamed Abdulla, Mr. Abdulla Sinan, Mr. Saudhulla Hilmy, Mr. Abdulla Ahmed, Mr. Ali Shah and Mr. Mohamed Musthafa. These individuals provided extensive documentation to the delegation showing letters and completed forms transmitted to the PPM office and/or Elections Commission indicating their decision to leave the party before the Supreme Court's ruling of 13 July 2017.

33. According to the law, by-elections should be held within two months after a seat is declared vacant. This did not happen, however, because the 12 MPs affected were still challenging the revocation in court.

1.7. The situation in parliament

1.7.1 *Treatment of the opposition*

34. The delegation was told different versions about what transpired in parliament. According to the parliamentary authorities and the ruling parties, all political parties were given a fair opportunity, relative to their strength in parliament, to contribute to its work. The opposition claimed otherwise: the Speaker had not been impartial, favouring the ruling parties and not allowing discussion of any of the opposition's proposals. The Speaker told the delegation that he was

carrying out his duties as fairly as possible and therefore did not participate in the decision-making bodies of his party (PPM). The opposition complained that parliamentary sittings had sometimes been announced or cancelled at the very last minute and that important documentation had not been made available on a timely basis.

1.7.2 *Floor-crossing*

35. Many interlocutors described extensive and repeated floor-crossing and infiltration of money as serious challenges to the parliament's effectiveness. Floor-crossing was described as a recurring phenomenon during the current and immediately preceding legislatures, the only to have been directly elected by the people. All parties had been affected. Floor-crossing had immediately followed the election of both legislatures and recurred at significant political moments, such as after rifts within the parties. The delegation was told that after the 2014 elections, for instance, 18 opposition MPs had crossed over to the PPM and its coalition, to enjoy a share in the power gained. Conversely, division within the ruling PPM, in June 2016, led to a power struggle for the party's leadership, between President Yameen and former President Gayoom, won in the courts by the former but ultimately leading to the defection of 12 PPM MPs to the latter's camp.

36. According to the parliamentary authorities, such floor-crossings had led to serious disenfranchisement of the electorate. The current government had made numerous attempts at enacting legislation to end this practice but had been blocked by opposition MPs. Requested by the government to rule on the practice, the Supreme Court issued a judgment barring floor-crossing pending the enactment of legislation to that effect. On 13 March 2018, however, the parliament adopted an Anti-Defection Bill applicable to any floor-crossing after 13 July 2017. The opposition has challenged the legality of the bill's adoption on the grounds that, with only 39 of parliament's 85 members present, the quorum required by Article 87(b) of the Constitution had not been achieved. This article requires more than half of the membership to be present to vote on "any matter requiring compliance by citizens". According to the opposition, moreover, the Anti-Defection Bill's retroactive provision is illegal (although this point is irrelevant since all 12 MPs had left the PPM by 11 July 2017).

1.7.3 *Attempts to pass a no-confidence motion against the Speaker*

37. The delegation was repeatedly told about the events that transpired on 24 July 2017 in and around parliament. According to the parliamentary authorities, there was no sitting scheduled for the day, as it was an official holiday (Independence Day) and a foreign head of state was visiting the Maldives; tight security measures were therefore in place. According to the authorities, the opposition MPs, including several whose mandates had been revoked by the court, forcefully and unlawfully thrust themselves into the premises of the People's Majlis to stage a sitting and bring the motion of no-confidence to a vote. The opposition, on the other hand, say they were not attempting to hold a parliamentary sitting; they say that they lacked any authority to do so and that the doors of the plenary were normally closed when no sitting was scheduled. What they wanted to do, as a political statement, was to meet in the office of one of the parliamentary group's leaders in the People's Majlis building to discuss next steps. They say the police and the Maldives National Defence Force let them in. It was only after the MPs had entered the aforesaid office that special police operation officers stormed in and forcibly removed the MPs from the premises.

38. As for the declaration of the state of emergency, the opposition considers it unlawful on the grounds that it should have been approved by the parliament at its 5 February sitting. The opposition claims that the extension of the state of emergency, approved on 20 February 2018, runs counter to the Constitution, under Article 87(b) of which it should be adopted in the presence of at least half of the membership. According to the opposition, which boycotted that sitting, the decision was adopted with only 39 of the parliament's 85 members voting. The opposition has boycotted other sittings since then as well, suggesting that legislation adopted by the People's Majlis during their absence may fail the constitutional quorum requirement. Article 38 of the Standing Orders requires a quorum of 25 per cent in order for the People's Majlis to meet, but the quorum is different when adopting legislation that requires compliance by citizens, as most laws do.

1.7.4 *Situation of the Maldivian IPU group*

39. In the past, the opposition has claimed that the Maldivian IPU Group was dysfunctional, that no meetings were being organized and that the delegations to IPU were handpicked by the authorities. According to the Speaker and others, however, the opposition has without exception sat on all recent Maldivian delegations to IPU. The Speaker says that members of the IPU Group from the opposition have been invited to meet with visiting delegations, together with ruling party members, but have not shown up. The opposition members deny having been invited.

1.7.5 *The work of the Privileges Committee*

40. In the case of the Privileges Committee, as well, only ruling party members were present to meet with the delegation. The ruling party claims opposition members were invited; the latter deny being invited.

41. The Privileges Committee is entrusted with looking into alleged violations of MP privileges. When MPs are arrested, the Speaker must be informed within 24 hours and provided by the police with details on their arrests. It appears that the Privileges Committee has not been looking into brief arrests. For other arrests, it examines the matter (within 48 hours), normally asks the police for more information, formulates its findings and recommendations and presents them for adoption to the plenary. It appears that when MPs are arrested the Privileges Committee asks the HRC to visit the detainees, although Privileges Committee members clearly stated that they can also carry out such visits. They said that the conditions under which the parliamentarians were being detained were good and that the Privileges Committee had looked into the situations of Mr. Maumoon, Mr. Solih, Mr. Sinan and Mr. Ahmed. Members also told the delegation that the Speaker had the authority to ask for the release of detained parliamentarians and that the law did not explicitly allow detained MPs to attend parliamentary proceedings, although the security services could be requested to bring a detained MP to the parliament if the charges were not serious. When asked for copies of the reports recently adopted by the Privileges Committee and presented to the plenary, the members were evasive.

D. Findings and recommendations

42. 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.

43. 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 concerned to engage in meaningful political dialogue and show genuine resolve in promoting 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.

44. The delegation is deeply concerned about the continued political instability in the Maldives, attributable to a variety of factors: a "winner-takes-all" political mentality, the lack of a culture of political dialogue, reports of widespread corruption, systematic floor-crossing in parliament and the absence of a fully independent judiciary and independent oversight institutions. The delegation underscores that the next 12 months, with a presidential election in September 2018 and parliamentary elections in March 2019, are bound to see further tension if the underlying causes for the continued political instability and the perceived absence of a level playing field for the participation of presidential candidates are not seriously addressed.

- *The delegation therefore calls on all political stakeholders in the Maldives to work together decisively and effectively to address the causes of continued political instability. The delegation also calls on the authorities to do everything in their power to ensure that the planned presidential and parliamentary elections will be free and fair and perceived as such.*

45. The delegation considers that the revocation of the mandates of the 12 members of parliament has to be seen in the light of the aforesaid causes of continued political instability. That said, the delegation sees clear indications that the revocation of their mandates was arbitrary, including the following: (i) despite widespread floor-crossing since 2014, the 12 members who defected from the main ruling party were the only ones to lose their seats; (ii) the Supreme Court ruling of 13 July 2017 was adopted less than three days after the matter was brought before it, at a time when a no-confidence vote against the Speaker was imminent and likely to pass with the 12 members' support; (iii) as attested by documentation provided to the delegation several of the nine members of parliament, including Mr. Abdul Latheef and Mr. Mohamed Abdulla, took all the necessary steps to renounce their PPM party membership before 13 July 2017, which the Supreme Court considered to be the date from which floor-crossing would be banned; (iv) three other MPs had long before been expelled from the PPM; and (v) the recently adopted Anti-Defection Act retroactively approved the revocation of the 12 members of parliament, instead of applying to future cases only.

- *The delegation therefore calls on the Maldivian authorities to allow the 12 members of parliament to take their seats in the People's Majlis as soon as possible.*

46. The delegation is concerned about the attempts to thwart the no-confidence motion against the Speaker in 2017, in particular the events that occurred on 24 July 2017, including the forcible removal of several members of parliament from the People's Majlis. The delegation considers that parliament should be accessible to its members at all times and is therefore deeply concerned that several parliamentarians are still facing legal proceedings for attempting to access the parliament that day.

- *The delegation therefore calls on the Maldivian authorities to withdraw these charges forthwith.*

47. The delegation is deeply concerned about the wave of arrests of members of parliament under the state of emergency, the recent charges of terrorism against five parliamentarians and their continued detention until the end of their trial and the renewed charges of terrorism against Mr. Didi based on the same facts for which the earlier charges were dropped.

- *The delegation calls on the authorities to fully ensure that all members of parliament enjoy the right to a fair trial and that any cases against them are brought diligently and swiftly before the courts, but only when clear evidence is available. The delegation wishes to receive a copy of the charge sheet and detailed information on the facts supporting the charges against each of the MPs. The delegation believes that it would be very useful to send a trial observer to the court proceedings in one or more of these cases.*

48. In light of the repeated reports about inadequate conditions of detention, the delegation regrets that it was not allowed to meet the detained members of parliament to assess their situation.

- *The delegation trusts that the authorities are taking all the necessary steps to ensure that the detained members of parliament are being kept in proper conditions and have access to their family, lawyers and a doctor. The delegation calls on the authorities to provide detailed written information and documentation on each of the allegations raised during the mission.*

49. The delegation is concerned that with the opposition boycotting parliament, legislation subject to Article 87(b) of the Constitution is being passed without half the members being present, as required. The delegation is also concerned that the ruling and opposition parties appear unable to use parliament as a platform to discuss their differences and find common solutions.

- *The delegation calls on the parliamentary authorities to ensure that parliament fully abides by the Constitution when conducting its work; it calls on all sides to engage in constructive political dialogue. The delegation also encourages all sides to make use of the expertise and the platform IPU can offer to promote such dialogue.*

50. The delegation is concerned about continued restrictions on freedom of assembly under the amended Peaceful Assembly Act. While the delegation agrees that freedom of assembly is not absolute it considers that some of this law's key provisions and the hefty fine it imposes are forms of punishment. Similarly, the delegation understands that Malé is a small island prone to congestion. It believes, however, that legislation on 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 freedom by the very limited areas designated for demonstrations and the requirement of prior police authorization.

- *The delegation calls on the authorities to review the current Peaceful Assembly Act with a view to ensuring that its content and implementation are fully in line with applicable human rights norms*

51. The delegation is concerned about what appears to be inaction by the Privileges Committee on the repeated arrests of opposition members of parliament. In the absence of any indications to the contrary, the delegation must conclude that the Privileges Committee has not adopted any reports since the ones it presented in 2012, concerning police ill-treatment of certain MPs and alleged violations of their human rights.

- *The delegation calls on the Privileges Committee to offer effective protection and redress for MPs facing potential human rights violations by swiftly seeking, whenever such alleged violations come to its attention, information from all parties concerned and others who may be able to assist, by making a full and public assessment of the allegations and, should the allegations appear to be accurate, by making concrete recommendations for action to the attention of the Speaker and the plenary of the parliament.*

52. The delegation is also concerned about continuing differences of opinion on the functioning of the Maldivian IPU Group. While the opposition has clearly taken part in most of the recent Maldivian delegations to IPU Assemblies, it is not clear to what extent the Group meets regularly to discuss IPU matters and give the opposition parties the choice of designating their own representatives for those delegations.

- *The delegation calls on both sides to provide further information in this respect.*

Geneva, 1 May 2018