

TRANSPARENCY REVIEW

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Transparency Maldives, national contact for Transparency International, is a non-partisan organization that promotes collaboration, awareness and undertakes other initiatives to improve governance and eliminate corruption from the daily lives of people. Transparency Maldives views corruption as a systemic issue and advocates for institutional changes that will punish and prevent corruption.

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Executive Director's Note

It is not an easy feat for any organization, let alone for an NGO such as TM that started out with a few staff in 2007, to keep abreast of the ever dynamic and worrying political crises of the Maldives over the past 9 years. Over the years we have experimented with various mediums such as TV, radio, reports, press events, newsletters and more recently on social media to engage with the public and generate civic engagement. Today it is fair to say that TM has come a long way in carving out a space as an opinion leader on a host of governance, corruption and democracy related issues in the Maldives. This quarterly digest was conceived with the hope that TM is able to continue its analysis of such issues and keep both the local and international community informed of political developments and governance issues in the Maldives.

Through our quarterly digests we hope to bring you analysis of legislation particularly in relation to human rights, our positions on key governance issues, coverage on corruption trends and developments, and more importantly stories of people we meet through our outreach. At a time when the country is going through democratic decline, we hope that this digest represents the voice of the people and reengages the country in democratic discourse.

I am grateful for the generous funding TM receives for its work in the Maldives and would like to say a massive thank you to all the TM staff who worked so hard on this digest. It is with great pride I welcome you to our first digest.

Executive Director

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LEST WE FORGET, FREEDOM OF ASSEMBLY



“Everyone has the right to freedom of peaceful assembly without prior permission of the State” – Maldives Constitution, Article 32

Photo by @dyingregime

Peaceful assembly is a human right. Universal Declaration of Human Rights stipulates that “everyone has the right to freedom of peaceful assembly and association”. Freedom of assembly has been central to multiple social movements in human history. Women’s suffrage in the nineteenth and twentieth centuries, and the Civil Rights movement are some of the examples. In the years surrounding the First World War, freedom of assembly stood against the ideologies of tyranny.

Abraham Lincoln portrayed the right to peaceful assembly as a “Constitutional substitute for revolution”. Even in the 1970s, John Rawls characterised freedom of assembly as one of the basic liberties.

Over the last decade, Maldives has undergone major political change and continues to go through a politically turbulent time. The 2008 Constitution and the transition to democracy are noteworthy. Instrumental to these

changes was the vocal voicing out of the handful of people despite the challenges to peaceful assembly. The inclusion of assembly as a freedom and a human right in the Constitution of the Maldives is a reflection of the demands for human rights by the people of Maldives.

Ever since, on multiple occasions, the use of freedom of assembly has been instrumental in demanding for, including but not limited to, rights pertaining to teachers, women, labourers, children etc.

For instance, two years ago, when three-year-old Ibthihal was brutally murdered, approximately 15 young people protested in the then Ministry of Law and Gender. Their demand was for the State, who had remained silent for 24 hours after the murder, to break the silence on this case. As a result of this protest, the ministry convened a press conference to make the details clear to the public. This case, of course, is one of the many examples where freedom of assembly has been crucial in making demands and making the state accountable.

However, in the past few years, the Freedom of Assembly Act has been amended to limit people's ability to assemble. On 23rd August 2016, the Act was amended making it mandatory to seek prior permission from the Maldives Police Service to assemble in Male'

in areas otherwise pre-defined by the Ministry of Home Affairs. Even prior to this amendment, green zones were defined limiting the public space available for peaceful assembly.

It is an important question whether a right guaranteed by the Constitution can be limited to such extents. Can prior permission be conditioned, while the Constitution guarantees freedom of assembly without prior permission? While these are important questions to reflect on, what is certain is that limiting people's rights in turn limits the space for human rights and good governance. Limiting people's rights discredits people's power which is the essence of a democratic society – power of the people, by the people, for the people. Such limitations clearly and precisely contravene the Maldivian Constitution and international human rights laws that the Maldives is party to. Civil society organisations should voice their concerns and work against such limitations to ensure the freedoms guaranteed by international human rights laws and the Maldivian Constitution.

LOST IN TRANSLATION: FROM PLEDGES TO REALITY



While the pledges can boost the international credibility of Maldives, the indifference to their realisation can diminish that credibility.

The international human rights mechanisms are not merely ornamental processes that countries can circumvent by promising political rhetoric. They cannot be overtly fallible practices whose platforms are used by governments to hoodwink the international community into believing that what is promised on paper reflects actual realisation of human rights on the ground. Ideally, the international human rights mechanism is meant to improve the human rights situation of its State Parties and the State responses are just an indicator of the progress. But is that how it really works?

Let us take the Maldivian example. The Maldives is a member of the UN Human Rights Council (UNHRC), a fact the country vociferously publicises both locally and internationally. In order to be part of the UNHRC, countries need to demonstrate a proactive willingness towards the realisation of all human rights. Countries have to show their commitment to furthering the progress of the Universal Declaration of Human Rights (UDHR) and the International Covenants to successfully acquire membership of the Human Rights Council. There is a certain international standing that comes with that position

and Maldives has always relished that eminence. Given the gradual derogation of Maldives from its international human rights obligations, one wonders as to how the country is still able to hold onto a seat at the UNHRC until the end of 2016. It begs the question as to how the progress of Maldives was evaluated and how much of that evaluation is actually based on the de facto changes as opposed to symbolic manoeuvres on paper. In order to understand this critical issue let us delve into *note verbale dated the 28th of August 2013 from the Permanent Mission of the Maldives to the United Nations to the President of the General Assembly*.

The purpose of this communication was to present Maldives' candidature to the UN Human Rights Council from 2014-2016 and to highlight the human rights commitments and pledges that the country was making to demonstrate the eligibility for the position. This is a very interesting communiqué from the Maldives because it reads like a what's what of Maldives inaction towards the realisation of its human rights obligations. And yet as this article is written in 2016, Maldives candidature had obviously been successful and sits proudly as a member of UNHRC. Let us quickly go through and see what the UN General Assembly misread or misunderstood or failed to verify in what the country had so diligently pledged.

According to the 2nd point in the *Annex to the Note Verbale*, it proudly states that Maldives "*has also been a leading voice in advocating for human rights and fundamental freedoms*".

Although Maldives may have advocated vehemently for human rights and fundamental freedoms in other countries, it is clear that the situation at home is far from encouraging. Fundamental freedoms have gradually been abrogated while the impunity for state officials who have flagrantly violated the rights of people are jarringly obvious. Human rights concepts have been deliberately belittled as western concepts incompatible in an Islamic country. A long-standing moratorium against the death penalty has been revoked and despite questionable investigation and evidence, more than three people have been issued capital punishment in 2016 alone. Before we go further with the situation in the country let us take a look at some of the other pledges made by the State in the Annex.

Consider 9(d) of the Annex.

(a) "With like-minded countries, Maldives established the mandate of Special Rapporteur on the rights to freedom of peaceful assembly and of association;"

Since 2013, Maldives has openly curtailed the right to freedom of peaceful assembly and despite international condemnation, continues to limit and revoke this fundamental right. And yet the current position of Maldives at the UNHRC is on the basis and impression that the country is a champion of the very rights it continues to trample over.

Let us recap 10 of the Annex.

(b) Improve the functioning and effectiveness of its independent national institutions;

There is widespread criticism for the politicisation of independent national institutions and with good reason. There is a sense of impunity in the work of many of these institutions that seem to vividly favour the interest of the government. Till date the actions of the government that appear to curtail the fundamental rights of the people have been unchecked by the Human Rights Commission of the Maldives (HRCM) and there is little reaction to the curtailing of the Freedom of Expression using the Anti-Defamation and Freedom of Expression Act.

(d) Upgrade the status of the Human Rights Commission of Maldives to ensure its full compliance with the Paris Principles;

The Human Rights Commission continues to be considered a 'B' status Institution (an Institution that has not fully complied with the Paris Principles despite constant promises by the State that the legislation will be made compatible with the Paris Principles, a set of minimum requirements for National Human Rights Institutions). Given the prominent inaction and silence of HRCM, it remains highly unlikely that there will be any progressive attempts to ensure the adherence of the Commission to the vital guiding document for National Human Rights Institutions.

(e) Secure and fully deliver the rights enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);

CEDAW continues to be cited as an important guide to gender equality in the Maldives and yet the reservations about marriage equality in Article 17 of the Convention continues to this day. In addition, the core principle of Affirmative Action continues to be unrealised in the Maldivian implementation of CEDAW in Maldives.

(f) Enact enabling legislation on international human rights instruments so that they are observed and integrated into all aspects of the Maldivian society;

While international human rights law remains disparate in relation to domestic legislations, the openly hostile challenges to international human rights mechanisms seem to create a vivid juxtaposition between what the government pledges on official documents and what is presented to the general public. There is a deliberate attempt to downplay the importance of international human rights standards in favour of local concepts that are in stark contrast to international human rights law.

(g) Follow up on the recommendation of the universal periodic review (UPR) and the concluding observations of treaty bodies.



Photo by Nash'ath Mohamed

Although the UPR process is supposed to include avid public consultations at all stages of the review, the Standing UPR Committee of the Maldives have not had any real public engagement to allow the public to participate in the actual reporting process. On the other hand, engaging with the UPR process and providing the necessary information has had led to unprecedented repercussions to the Human Rights Commission of the Maldives in 2015. This has both downplayed the importance of the UPR while imposing a chilling effect on the NGOs and state institutions that might want a more active role in the process. Most Maldivians are unaware of either the UPR cycle or the concluding observations and their progress. And this allows for the State to remain

unresponsive and non-conforming to the recommendations made during the cycle. As a member of the UNHRC, it is an unfortunate reality that the Maldives continues to regress in its human rights obligations accepted during the UPR process.

While the local front looks to be filled with stark contradictions, the international pledges also does not seem to have progressed as much.

(a) Accede to the International Convention on the Protection of the Rights of All Migrant Workers (ICRMW) and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED);

While the ICRMW is still a long way from being ratified, the situation for migrant workers in Maldives is alarming. The US Trafficking in Persons Report in 2015 places Maldives as a tier 2 country and despite the enactment of The Anti Human Trafficking Act in 2013 addressing the issue, its implementation is still very questionable. Apart from not progressively acceding to the Migrant Worker Convention, there are proactive impediments placed by the government as challenges for migrant workers in the full realisation of their rights. These include the introduction of a Remittance Tax, introduced in October 2016, that aimed to begin an income tax system by taxing one of the most vulnerable

groups in the country. The new system forces migrant workers to pay 3% from the money they send home, creating more propensity for the violation of their rights by their employers or agents. In addition, the recent de-subsidisation of basic goods also created more problems for migrant workers since the policy was advocated as a move to stop migrant workers benefitting from state subsidies. Constant discriminatory rhetoric by the State together with ad hoc changes in policy and practice that adversely affects migrant workers add to the vulnerability of migrant workers in the Maldives.

(d) Work with like-minded countries to create a culture of respect, in particular in emerging democracies.

While all the pledges seem ironic given their limited practical realisation, this particularly seems ironic given that there has been a conspicuous effort to destabilise the culture of democracy in the country. It is also important to note that this pledge seems particularly

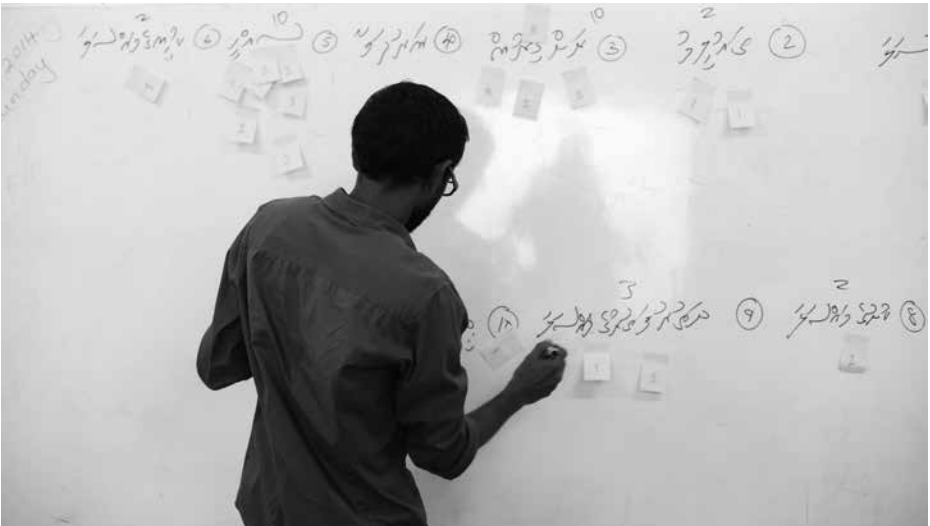
ironic now that Maldives has decided to withdraw from The Commonwealth thereby alienating itself from other like-minded countries who could have contributed to the strengthening of democracy in the Maldives.

What is important here is for people to realise that apart from the political promises that remain unfulfilled, it is imperative that we understand the international pledges the government has promised in return for their place within the UN. And as ironic and disheartening it is to see promises on paper translate to empty pledges on the ground, this is also an opportunity to understand these pledges and question the State both nationally and internationally. After all, international standing cuts both ways. While the pledges can boost the international credibility of Maldives, the indifference to their realisation can diminish that credibility. And we as citizens of this country, as voters and decision makers about the performance of the State, are strategically placed to create meaningful change through promises made and pledges declared.



Photo by Nash'ath Mohamed

MALDIVIAN CIVIL SOCIETY IN LIMBO



“Everyone has the freedom to form associations and societies, including the following:

- 1. the right to establish and participate in any association or society for economic, social, educational or cultural purposes;*
- 2. the right to form trade unions, to participate or not participate in their activities.”*

Article 30 (b) Maldives Constitution

The worrying trend of shrinking civic and democratic space is observed in an increasing number of countries across regions and political regimes. According to a report published by CIVICUS, an international organisation working on protecting civic space throughout the world, freedoms of expression, association and peaceful assembly were seriously restricted in 109 countries

around the world in 2015.¹

If you are wondering, yes, we are among these 109 countries. The report finds that the Maldives had violated freedoms of expression, association and peaceful assembly: “Human rights lawyers faced threats, and one was stabbed after giving

¹ http://www.civicus.org/images/CSW_Report.pdf

a speech criticising the government. Hundreds of opposition supporters were arrested during a mass protest. A prominent human rights journalist has been missing since August 2014 and no progress was made in the investigation during 2015.”²

In 2015, civil society rights were also significantly violated in the Maldives in a way the report fails to mention. On 1 October 2015, the Ministry of Home Affairs (MoHA) introduced a Regulation on Association that stifles, constrains and restricts civil society organisations (CSOs) and our activities.

This restrictive regulation came out of the blue without any prior consultation with CSOs. It was also introduced while we were already calling on MoHA and the Attorney General’s Office (AGO) to reform the current Associations Act in accordance with international standards and best practices. The Associations Act (law number 1/2003) reflects the constitutional philosophy of 1997 and fails to provide freedom of association in the democratic spirit of the 2008 Constitution. It also violates core freedoms enshrined in international treaties the Maldives has ratified.

Since 2014, we at Transparency Maldives has been working to reform the current legal framework governing CSOs. We have drafted an Associations Bill after consultations with local CSOs and with the technical input of international experts from the International Centre for Not-for-Profit Law (ICNL). After

incorporating comments from CSOs, ICNL, UNDP Maldives, and International Foundation for Electoral Systems (IFES), we shared our draft bill with both MoHA and AGO. It should be noted that MoHA also produced a draft bill in 2013, which the AGO keeps sending back for further review each time it is submitted to AGO, as it does not meet international standards.

But despite our calls for reform and instead of working towards a best practice legislation, MoHA introduced a new regulation that is burdensome, requires extensive resources to administer and places significant restrictions on CSOs. Some of the key issues with this Regulation and the Associations Act, along with key reforms we suggest should be undertaken to reduce restrictions on civic space through regulatory means, are as follows:

1. LIMITATIONS ON FOUNDERS OF CSOs

The requirements on the founding members of associations, as set forth in the Act and the subsequent Regulation, contradict the freedom of association granted in Article 30 of the Constitution. Article 6(b) of the Act and Article 4(c) of the Regulation prevent individuals under the age of 18 from forming associations. In addition to the contravention of Article 15 (right of the child to freedom of association and assembly) of the Convention of the Rights of the Child (CRC), this restriction is a violation of the right to freedom of associations which is granted in the Constitution to all citizens of the Maldives.

² Ibid., p. 14.

Similarly, Article 4(d) of the Regulation, which states that “an association cannot be registered under the name of a person who is found to have a criminal record or is currently under any kind of detention,” is an infringement on the rights of individuals with criminal records from founding associations. This means, for example, that a recovering addict with a criminal record will not be able to form an association to help other recovering addicts to better integrate into society. As stated in Article 22(2) of the International Covenant on Civil and Political Rights (ICCPR), restrictions cannot be placed on the right to freedom of association unless they are “necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Both the Act and Regulation fail to provide reasoning to justify the requirements imposed on founders of associations and are, therefore, in clear violation of Article 22 of the ICCPR. The government of the Maldives must take the necessary steps to amend the Act and Regulation to be in line with the Constitution and not infringe on the rights guaranteed by the Constitution, the CRC, and the ICCPR.

2. REGISTRATION OF CSOs

Article 4(a) of the Regulation makes registration mandatory for associations and Article 37(b) of the Act places criminal sanctions on any individual who forms or operates an association without registering. Given that the Constitution

does not limit the right to association to only registered associations, and in line with international best practices, the right to freedom of association should protect both registered and unregistered associations without imposing criminal sanctions on the latter. The UN Special Rapporteur Maina Kiai recognizes that “criminalization could be used [by governments] as a means to quell dissenting views or beliefs,”³ which goes against the fundamental principles of democracy.

The Act and Regulation should decriminalise unregistered associations and introduce special benefits and privileges to associations under mandatory registration, such as tax exemptions. The state can incentivise registration of associations by incentivising donations to non-profit organisations. For example, businesses that provide financial assistance to registered CSOs can be allowed tax exemptions.

In addition to that, the registration process should be simplified, free, and available online. The current procedure for registering associations, as stated in Articles 4 and 5 of the Regulation, is lengthy and requires the submission of multiple documents. As it stands, the current procedure appears to be a ‘prior authorisation procedure’ (an association has to seek prior approval of state authorities before creation) rather than the ‘notification

³ http://freeassembly.net/wp-content/uploads/2013/10/A-HRC-20-27_en-annual-report-May-2012.pdf

procedure’ (an association need only notify authorities of its creation) the UN Special Rapporteur sees as better complying with international human rights law.⁴ After a designated short time limit from when the association notifies the Registrar of its founding, the association should automatically be granted legal status unless the Registrar contacts the applicants with questions about its Governing Regulations or any missing documents. The applicants must be allowed to revise their Governing Regulations according to the suggestions of the Registrar and submit any missing documents. The system should be restructured to avoid granting excessive discretion to the Registrar of Associations in matters of establishing and maintaining CSOs. The law should be amended so that it is mandatory that the refusal of registration of any association by the Registrar is backed by transparent, legal reasoning in writing to the applicants. The law should also stipulate an appeals process so that the applicants will legally be allowed to challenge the decisions of the Registrar before an impartial and independent court of law.

3. ACCESS TO FINANCIAL RESOURCES BY CSOs

Article 29 of the Regulation states that while associations are allowed to undertake projects at local and national levels, associations must inform the Registrar of projects costing more than Maldivian Rufiyaa 150,000 (approximately USD 9, 818). This places burdensome reporting requirements

on associations that undertake projects costing more than MVR 150, 000. The annual report, which includes detailed financial records from the calendar year, should suffice as a means to track the financial activities of CSOs.

Article 34 of the Regulation grants excessive discretion to the Registrar in matters of obtaining foreign funding. Article 34 states that “associations shall get approval from the Registrar of Associations, before seeking and accepting assistance from foreign parties.” The restrictions placed on foreign funding impede on the right to freely exercise the right to association, and is therefore a violation of Article 22(2) of the ICCPR. Furthermore, it violates Article 13 of the Declaration of Human Rights Defenders, which grants everyone the right “to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means.” It is indispensable that the government not only allow the establishment of CSOs but also allow CSOs to use the appropriate means to exercise the freedom of association without any impediment, such as funding restrictions. Article 34 of the Regulation also fails to reflect the spirit of democracy, as the Registrar’s discretion may be unfairly used to suppress individuals with dissenting beliefs.

It should be noted that Articles 29 and 34 appear under chapter eight of the Regulation, titled “Preventing Money Laundering and Terrorism Financing.” The UN notes that “in some instances, domestic legal and administrative

⁴ Ibid., p.15.

provisions, such as national security and counter-terrorism legislation, and other measures, such as provisions on funding to civil society, have sought to or have been misused to hinder the work and endanger the safety of civil society in a manner contrary to international law.”⁵ The Regulation should be amended so that only CSOs with clearly defined aspects that characterise terrorism are required to seek approval before obtaining foreign funding. Blanket measures stigmatise all forms of foreign funding, with CSOs receiving foreign

funding often being labelled as foreign agents. Furthermore, it is unfair that restrictions on foreign funding are placed on CSOs by a state that receives large amounts of foreign funding themselves. In order to comply with international human rights law while countering terrorism and to respect the ‘democratic society’ listed in Article 22 of the ICCPR, the government should seek alternative mechanisms to replace the current provision on foreign funding, such as stronger banking and criminal laws.

5 http://freemassembly.net/wp-content/uploads/2014/11/A_HRC_27_L.24-ENG.pdf



GASIM ABDUL KAREEM: THE HAND THAT ROCKED THE BOAT



On 18 February 2016 Gasim Abdul Kareem, Manager at Bank of Maldives Nilandhoo Branch, was arrested by Maldives Police Service for disclosing to the public detailed bank statements of a private company, SOF Pvt. Ltd., that is in the midst of one of the biggest cases of grand corruption, money laundering, embezzlement and abuse of power the country has ever seen.

The disclosed documents revealed how SOF bank accounts were used to siphon off millions of dollars embezzled from Maldives Marketing and Public Relations Company (MMPRC) – a state company set up to promote Maldives as a tourism destination.

Many view Gasim as a whistleblower who exposed corruption involving powerful people, for which he was unfairly targeted and persecuted by the state. The state, on the other hand, wants Gasim to be seen as someone who violated privacy by revealing confidential information. But does that argument really hold water?

A whistleblower is someone who exposes a wrongdoing at work, and does so in the interest of the public and not for any personal benefit. The Maldives Penal Code states that any good faith disclosure of private information for the purpose of exposing a wrongdoing is not an offence.

Gasim, by exposing a clear case of corruption, gained no monetary benefit nor was he expecting to acquire political or institutional power and therefore acted in good faith. This makes Gasim a whistleblower and the state has a responsibility to ensure his protection.

However, the state decided to prosecute Gasim as a criminal, under Article 232 (Unlawful Acquisition of Information) and Section 233 (Unlawful Disclosure of Information) of the Penal Code.

One point that the state has been eager to emphasise is that Gasim did not share the information to competent state authorities: why did Gasim go straight to the public instead of reporting to the police, Anti-Corruption-Commission, or the judiciary, if he was so concerned about corruption and money laundering?

Making even a cursory effort to understand Gasim's actions through his perspective reveals a dilemma. He had witnessed the state's pattern of response towards individuals who dared to associate them with corruption. Consider how the former Auditor General Niyaz Ibrahim was removed from office for publishing the 2004 audit report that revealed that a staggering USD 6 million had been embezzled from MMPRC. It was clear that the systems put in place to stop corruption was not working.

Consider also how the arrest and subsequent investigation of the then Vice President Ahmed Adeb revealed the compromised nature of all key watchdog state institutions. One cannot be blamed if Gasim had little faith in law

enforcement agencies, as it was President Yameen who stated that law enforcement agencies were corrupted and Adeb routinely bought influence from the police.

As for the Anti-Corruption Commission, the Chair of the commission just a few short months back accepted a luxury flat gifted to him by the President's Economic Council, which is co-chaired by the President and the then Vice President, Adeb.

Therefore, it is not all that surprising that Gasim chose to bypass state institutions and go straight to the public. But for doing so, he paid a high price. He was dismissed from employment in February, spent 133 days in Dhoonidhoo Prison, spent 138 days under house arrest, and on 15 November was sentenced to 8 months and 12 days in prison. He was released on 17 November as he had already spent the required amount of time in detention.

Gasim should have been praised and protected, not punished, for taking action against corruption. The public have a right to know when public funds are being embezzled to enrich a powerful few that always seem to be above the law. To prosecute Gasim sends the message that protecting the privacy of individuals who engage in corruption on a grand scale is more important than protecting whistleblowers who expose their corruption.

For more information on Gasim's case visit www.dropthecase.transparencymaldives.org

THE RIGHT TO INFORMATION



“Right to marriage”

We do not have to give reasons to exercise our human rights.

The right to information is a human right
and we do not need to provide a reason to exercise it.

Section 6 of the Act indicates that persons requesting information are not required to provide reasons for their requests .

The Right to Information (RTI) Act came into effect in the Maldives in July 2014. It guarantees the right of every person, whether a biological person or a legal entity and irrespective of citizenship status, to access information as a

fundamental human right.

According to the global RTI rating index compiled by Access Info Europe (AIE) and the Centre for Law and Democracy (CLD), the Maldivian RTI Act holds a

score of 116 points out of a possible total of 150, and is currently ranked 12th out of the 111 countries assessed.

Despite this high score, it is alarming to see major areas of the Act being violated in practice. One such area is the requirement to provide reason for requesting information.

Section 6 of the Act indicates that persons requesting information are not required to provide reasons for their requests. However, the RTI Application Form made available by the Information Commissioner's Office and currently used by almost all the public authorities is in total violation of this provision as it has a clause on the form to state the reason for requesting the information.

Due to the inclusion in the RTI Application Form of the provision to require reason for requesting information, a number of public offices are refusing to

accept the Form and in effect denying the public of this fundamental right.

This is clearly not in line with international best practices. RTI is a universally recognized human right enshrined in the Universal Declaration of Human Rights and it has become a binding duty on all State parties to the International Convention on Civil and Political Rights (ICCPR) to protect, promote and fulfil this right for all persons within their jurisdictions. Furthermore, Article 29 of the Maldivian Constitution guarantees the fundamental right of every person to enjoy the freedom to acquire information.

Exercising one's fundamental human right does not require any justification. The right is there for every person to exercise by virtue of the constitutional guarantee.

THROUGH THE EYES OF A CLIMATE CHANGE ADVOCATE



Aisha Niyaz at the Global Divestment Day Maldives event by Ecocare in 2015.

Photo by Masrah Naseem

Maldives, known as the poster child for climate change by the international community, unfortunately do not seem to show the same level of urgency on climate change issues within its borders. This lack of urgency can be accounted for by the politicisation of the issue nationally, across political factions, making it difficult for young advocates and activists to carve out a role in addressing climate change issues in the country.

Aisha Niyaz, one amongst the handful of Maldivian advocates fighting the climate

change issues on the ground, shared with us her experience in engaging in climate change work both at the grassroots and policy level. Aisha has been advocating within the country and abroad for inclusive climate policy-making, and continues to play a pivotal role in getting young people engaged in climate change.

In 2011, Aisha was selected to represent the Global South youth through YOUNGOs (youth constituency under UNFCCC) with funding from the Norwegian Government and hence managed to secure a spot in the official Maldivian government delegation to the UNFCCC COP17 in Durban, South Africa. The experience gave her exposure on how climate change negotiations take place globally and allowed her to play a role in advocating for youth participation in addressing climate change. Due to Aisha's technical background and experience in the field, the head of the delegation (then Minister of Environment) allowed Aisha to speak at the closed-door negotiations and make contributions, which concluded that funds and programs need to be specifically allocated for building capacity of young people to address climate change. For young climate change advocates around the world this was a massive win, as in the final document of that years round of negotiations, building capacity of youth was specified in writing.

Locally Aisha has worked to get young

people engaged in the climate change arena with initiatives like Maldivian Youth Climate Network and Sai Level Change, and other such efforts. Aisha still continues to share knowledge and build capacity of local communities, particularly young people to address climate change. However, it has not been easy for activists and advocates such as Aisha to influence climate change policy at the government level in the Maldives.

“Withholding of information by the authorities/government has been one of the major challenges and barriers,” explains Aisha.

There is a lack of communication between government institutions and civil society engaged in the field of climate change. This is fueled by an atmosphere of mistrust where some institutions feel that civil society is nothing but critical of institutions and their work.

Article 6 of the United Nations Framework Convention on Climate Change (UNFCCC) clearly states that the public should be meaningfully involved in ‘the solution’. However “civil society is only treated as a stakeholder whenever government institutions see fit and is only allowed a tokenistic place, when instead they should be allowed to be meaningfully involved in decision-making,” states Aisha.

“Since the change of government in 2012 post Durban COP, I feel that the climate change department has pushed me away,” says Aisha. “There is no technical grounding for pushing away people like me, since I had been

involved in policy development up until that point, including the development of the National Environment Action Plan 2009-2013 and formulation of the carbon neutral master plan, to name a few.”

Aisha’s recent experience in working with the community of G.Dh. Fiyoaree to preserve the art of making *thundukunaa* (traditional mat weaving unique to Huvadho Atoll) is a good example of how climate change continues to impact the traditional way of life of people as the local natural materials needed to make these mats are increasingly difficult to obtain due to the impact of climate change on the livelihood.

According to Aisha, similar to many island communities across the country, there seems to be lack of trust by the local community towards their local government in Fiyoaree as well and a lot needs to be done to create dialogue between communities and government institutions that seek to address the climate change concerns of the people.

For climate change advocates, such as Aisha to contribute to climate finance governance, there needs to be more concerted effort on the part of government stakeholders to create space for citizens to engage in the governance of climate change projects. Similarly, more people should become aware of their rights and that the mismanagement of climate finance or climate change projects ultimately has an impact on their lives.

THE GIRL WITH THE GOLDEN EYES

When we travel to islands for our outreach programs we come across stories that are inspirational and other times distressing. Through this digest we hope to share stories of people we meet. To maintain anonymity we have changed the names and any other details that might compromise the anonymity of the people involved.



As I reached the beachfront, towards the thicket leading to the sea, I heard a feeble groan and I found her lying on the ground, half covered by the trees. Her clothes had been ripped open and she was covered in blood. Her skin had intermittent lacerations and I don't know much of what happened after.

As she sat silently on the makeshift swing just outside her house, her gaze seemed to follow a boy of two years who seemed lost in his own world. But momentarily she would sit back, close her eyes and not open them until the thoughts inside her head had subsided. She would then go back to observing the little boy. In front of her, seated on a chair so low she almost

seemed to be sitting on the ground, was an older lady, probably her mother who was having a conversation with the girl. She wasn't really paying attention to her but it didn't seem to deter the woman from engaging in long monologues about something we didn't really hear from where we were standing. She would have been barely eighteen and looked even

younger. From where we were standing it was very clear that she was at least six months pregnant.

The house, if it indeed could be called a house with its corrugated iron sheets as walls and roof and no lockable doors or any windows whatsoever, was located just a block away from the waste disposal area of the Island. The fumes from the waste that the island disposed of somehow left its grimy remnant on the house. As we walked towards the family, for the second time, the evening sun had cast a deep golden tint onto the corrugated sheets. Like a bright spotlight shining onto the single character on a tragic play, even the sun singled out her makeshift house. Their location was a poetic comparison to their standing in their own island. Almost everyone thought of them to be an anomaly from what the island really was. To the rest of the people in the island, her life was a comparison to make themselves feel good about what they weren't. And maybe in some uncanny way, the girl and her family too had a purpose. A calling. To epitomize the inequality so rampant in the country. To act as a poster child for the luxury and privilege of everyone else but her. As we greeted her, the poster child was still watching her son play. And as we got closer it became apparent that the golden tint that shone on her house also made her semi golden eyes glisten.

We were lost for words. We didn't know what to ask her or how to ask her the questions we really wanted to find an answer to. We exchanged pleasantries and was hoping she would say something when her mother, as we had then come to know, broke the ice.

"It's nice this time of the day. Doesn't heat up the tin sheets and we don't feel like we are being roasted" She said.

While the others in my team busied themselves with entertaining her 3-year-old son, I sat down next to her mother and inquired more.

"How long have you lived here"? I asked.

"It's been about eight years now. We really didn't have a place to live and we had to wander around with no permanent home until we got this place. My son helped in setting this place up." She said smiling.

"Do you work?" I asked.

"No. I used to but not anymore. I can't work. With everyone to take care of, I don't have time."

"How do you provide for you and your family then?"

"I ask from people, hoping they will say yes. Not for money. Just for food and water to drink. Sometimes they will give us some rice or flour and mostly water. That's life for us. That's all I think about every day" she said and looked away.

I waited until she collected her composure and smiled at her daughter. Making use of the moment I asked her about the girl.

"How old is your daughter?" I asked casually.

"Almost eighteen" She said and before I

could probe further she elaborated “She is in this state because she wouldn’t listen to me. I told her not to go out with boys and yet she wouldn’t listen. Now look what he has done to her.”

“But she must have been much younger when she had her first child?” I inquired.

She didn’t reply. She looked at her daughter then bowed her head and didn’t say anything for a while. Her son was playing with my colleagues. The kid had discovered some extremely tart berries, which he was unwillingly sharing with everyone.

“She was raped.” She said

I nearly gasped but kept my composure as she recalled what had happened to her daughter three years ago.

“I had to go to the mosque to get some water and she was on a phone with her elder brother. When I came back she had disappeared. I searched for her everywhere and finally asked from the neighbours. I was screaming her name and combing the entire area. As I reached the beachfront, towards the thicket leading to the sea, I heard a feeble groan and I found her lying on the ground, half covered by the trees. Her clothes had been ripped open and she was covered in blood. Her skin had lacerations and I don’t know much of what happened after. But she was taken to the hospital and the authorities were informed but nothing came out of it. Those who did it, and I don’t really know who, are still roaming free. Not a day in prison for what they did to my daughter.”

It was my turn to be speechless. I looked at the barely eighteen year old girl with golden eyes and a weak smile. She looked younger than her age except for her protruded belly.

“Did you see who did it?” I asked the girl, addressing her for the first time.

She looked at me shyly and smiled but it vanished instantaneously as she said.

“No. They wore masks.”

“I am so sorry.”

She didn’t respond but I knew I had to change the subject.

“Have you seen a doctor recently?”

“She saw one three months into the pregnancy” Her mother responded. “They gave her some medicine but that’s been over for months now”

“Can I have a look at the doctor’s reports if you don’t mind” I asked.

The mother motioned her daughter to get the records and she walked briskly into the tiny bedroom. There weren’t any beds just mattresses atop the paved floor. Much of the floor needed urgent repair as large cracks and breakage exposed the floor to cement and sand. The girl came back with a neat folder and handed it to me. I glanced at her records and paused. I had to make a decision whether to inquire about what I saw or to just let it go. In the end, I decided not to drop a boulder onto an already swollen foot as the local proverb goes. She needed to take

the iron and vitamin supplements that the doctor had prescribed but it had been months since she had taken any.

“Why haven’t you refilled the medication? She needs to have this throughout her pregnancy,” I said and immediately realized the condescending tone in my voice.

“How? She doesn’t have an ID card. She won’t be covered by insurance. I don’t have money to get those medicines. I know she needs them, but...”

“I am sorry,” I said for the second time.

I sensed I had botched my chance of continuing the conversation and thanked her. She responded with a nod and I stood up to leave. I reached out to shake the girl’s hand and she responded. As she extended her arms to meet me halfway, I saw that her arms were crisscrossed with scars that might have been a glaring indication of what she thought of her life. Immediately the information on her medical file made complete sense. She

had been raped at fourteen and before her most recent pregnancy, she had had a miscarriage. Her life had been set up to fail. Her social status and her family’s standing or the lack of it in the society disallowed her from being seen as a human being. She was everything that was wrong with the society and she had to live up to it. She was an easy target for predators who liked them young. She was broken and beaten by the society’s moral stick until she couldn’t get back up again. Despite all the rights and freedoms enshrined in the Constitution and despite all the International Conventions that hoped would empower people, they didn’t speak the language of the most vulnerable. They failed to spell out rights for those who lived on the fringes of what society considers as civilized. And in spite of all the information we would disseminate during the trip about human rights and human dignity, she would not find herself in the descriptions we come up with. I shook her hand and walked away slowly as the sun dipped its golden light beneath the shimmering horizon.



