

**OPINION No. 14/2003 (MALDIVES)**

Communication addressed to the Government on 3 February 2003.

Concerning: Mohammed Zaki, Ibrahim Moosa Luthfee, Ahmed Ibrahim Didi and Fathimath Nisreen.

**The State has not ratified, nor signed the International Covenant on Civil and Political Rights**

1. (Same text as paragraph 1 of opinion No. 15/2002.)
2. The Working Group conveys its appreciation to the Government for having forwarded to it the requested information.
3. (Same text as paragraph 3 of opinion No. 15/2002.)
4. In the light of the allegations made, the Working Group welcomes the cooperation of the Government. The Working Group transmitted the reply provided by the Government to the source, which provided the Working Group with its comments. The Working Group believes that it is in a position to render an opinion on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto.
5. The communication concerns Mohammed Zaki, resident of Kuala Lumpur, owner of the "Nazaki" company, involved in shipping and trading, aluminium manufacture, sea transportation and construction; Ibrahim Moosa Luthfee, resident of Malé, businessman, who runs a computer business called "Viuga" with offices in Malé; Ahmed Ibrahim Didi, also a businessman; and Fathimath Nisreen, personal secretary to Ibrahim Moosa Luthfee.
6. According to information submitted to the Working Group, these four persons were arrested because of their alleged involvement in writing and contributing to an Internet bulletin called "Sandhaanu" which carries articles deemed critical of the Government of Maldives. Mohamed Zaki, who normally resides in Kuala Lumpur, was visiting Malé on business. He was arrested on 30 January 2002. Ibrahim Moosa Luthfee was arrested on 31 January 2002 from his residence in Malé. They were both arrested without a warrant by police from the National Security Service (NSS).
7. Ahmed Ibrahim Didi was arrested on 31 January 2002 at the Bandaranaike International Airport in Colombo by Sri Lankan Interpol officers and was taken back to Malé. He was about to board a plane to Bangkok where he was going for medical treatment for a heart problem. Fathimath Nisreen was arrested, without a warrant, from the offices of "Viuga" in Malé on 1 February 2002, also by police from the NSS.
8. The four were taken to Malé Police Headquarters where they were held in solitary confinement for two weeks. They were then transferred to Dhoonidhoo detention centre, located on a small island approximately 5 km from Malé. They were not permitted visits from relatives or friends. On 2 May 2002, after a number of appeals, Mohamed Zaki was taken back to Police Headquarters in Malé where relatives were permitted to see him for a few hours.

9. On 29 May 2002, the detainees were brought to the criminal court in Malé for the first time. They were reportedly charged under section 29 of the Maldivian Penal Code with “committing acts that were hostile to the Government” and under article 163 of the Penal Code with “defamation”. On 26 June 2002, a second hearing took place.

10. On 26 June 2002, Ahmed Ibrahim Didi and Fathimath Nisreen were transferred to an island prison called Mafushi, 18 miles from Malé. On 27 June, Mohamed Zaki and Ibrahim Moosa Luthfee were transferred to Mafushi prison. It was alleged that their conditions of imprisonment at Mafushi prison amounted to cruel, inhuman or degrading treatment or punishment. They were kept in solitary confinement, in cells measuring 4x4 feet, and had to sleep on the concrete floor on a piece of plywood. They were not permitted visits from family members.

11. It was alleged that at no time were the detainees allowed to be represented by a lawyer. On 7 July 2002, all four detainees were brought back to court in Malé for sentencing. Mohamed Zaki, Ibrahim Luthfee and Ahmed Didi were sentenced to life imprisonment, which is 25 years in the Republic of Maldives. They were given a document which listed the charges as follows:

- (a) Insulting the President and his Government;
- (b) Trying to overthrow the Government by calling on the people to come forward and fight;
- (c) Causing hatred in the people’s minds towards the Government by means of a newsletter called “Sandhaanu”;
- (d) Spreading false news; and
- (e) Forwarding the “Sandhaanu” newsletter to others through email.

12. Fathimath Nisreen was sentenced to 10 years’ imprisonment. She was given a document which listed the charges as follows:

- (a) Writing false information in articles in “Sandhaanu”;
- (b) Expressing her dissatisfaction with the Government’s policies;
- (c) Trying to overthrow the Government by calling on the people to come forward and fight; and
- (d) Supporting the “Sandhaanu” originators.

13. After sentencing, the four detainees were returned to Mafushi island prison where they are currently serving their sentences.

14. It was said that in cases where the nature of the charges is considered by the Government to be political, prisoners may not be given leave to appeal to the High Court. It is not clear if the prisoners will have the right to appeal against their sentences. Relatives of the detainees have

sent numerous letters with appeals to the President of the Republic and to the Ministry of Defence, raising their concerns. As of 25 October 2002 (date of submission of the communication) they had not received any response.

15. It was further alleged that although “Sandhaanu” uses strongly critical language, it does not in fact advocate violent political opposition to the Government. Even if the four detainees had been involved in the publication and distribution of the magazine, any such involvement would amount to no more than their exercise of the right to freedom of expression.

16. The source further reports that in January 2002, Malaysian police searched Mohamed Zaki’s home in Kuala Lumpur and took away his computer.

17. On 10 July 2002, the authorities brought Mohamed Zaki to Malé for further questioning by the police about his businesses activities, in particular asking for information about a ship named *Mazeena* which he had owned in 1995. They asked him for details about the ship’s captain and about a shipment of cement to Viet Nam that was made around that time. According to the source, this additional interrogation appears to have been designed to harass and intimidate him, since he had already been sentenced to life imprisonment.

18. In its reply the Government denied, in general terms, all the allegations made by the source. It pointed out that the procedure conducted against the four persons is in keeping with the Constitution and the laws of the Republic of Maldives.

19. In its comments on the Government’s reply the source, on the one hand, reiterated its earlier allegations. On the other hand, it admitted that there have been calls in “Sandhaanu” to a jihad against the Government. According to the source however, “... the use of the word jihad does not necessarily imply a call to violence. While there are different interpretations of the meaning of jihad (ranging from non-violent opposition to violent uprising), there has not been ... any violent political activity in the Maldives arising from such a call in the magazine.”

20. As to the allegation of the source that during the criminal proceedings against the four people their basic rights to a fair hearing were not guaranteed, the Working Group observes that the Government does not contest the allegation of the source that Mohammed Zaki and Ibrahim Moosa Luthfee were arrested without any warrant of arrest, that all four people have been detained for approximately four months without being charged or brought before a tribunal, that none of them has been allowed to be represented by a lawyer, and that no appeal against conviction and sentence was available to them.

21. The Working Group does not find convincing the allegation of the source that the four persons have been prosecuted exclusively for the peaceful expression of their political conviction. The information provided by the source - in particular its reference to calls for a jihad - support the assumption that some articles in “Sandhaanu” or other publications did incite readers to violent actions.

22. In the light of the foregoing the Working Group expresses the following opinion:

The deprivation of liberty of Mohammed Zaki, Ibrahim Moosa Luthfee, Ahmed Ibrahim Didi and Fathimath Nisreen is arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights, and falls within category III of the categories applicable to the consideration of cases submitted to the Working Group.

23. Consequent upon the opinion rendered, the Working Group requests the Government to take the necessary steps to remedy the situation and to bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights, and encourages the Government to sign and ratify the International Covenant on Civil and Political Rights.

Adopted on 4 September 2003