

**Opinion No. 4/2009 (Maldives)****Communication addressed to the Government on 28 August 2008****Concerning Mr. Richard Wu Mei De****The State is a party to the International Covenant on Civil and Political Rights.**

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
2. The Working Group conveys its appreciation to the Government for having provided it with information concerning the allegations of the source in due course and much in advance of the fifty-fourth session, when this Opinion was adopted. The Working Group transmitted the reply provided by the Government to the source and has received its comments.
3. (Same text as paragraph 3 of Opinion No. 17/2008.)
4. The case summarized hereafter was reported to the Working Group on Arbitrary Detention as follows.
5. Mr. Richard Wu Mei De, 40 years of age, a Chinese national, Manager of the Shanghai Restaurant and of the Grace Inn in Malé, was arrested without a warrant on 4 November 1993 in Malé by forces of the Ministry of Defence and National Security (MDNS), invoking immigration and foreign investment laws, and was accused of non-compliance with the directives of the authorities. He has been detained ever since under the authority of the MDNS, the Maldivian Police Services (MPS) and the Department of Penitentiary and Rehabilitation Services, at first at Gaamaadhoo Jail. However, it is not clear, which authority has actually ordered his detention. He was later transferred to his present place of detention at Mafushi Prison.
6. The source alleges that this detention might have been based on the collusion between one of Mr. Wu Mei De's erstwhile employers, Mr. Mohamed Musthafa Hussain, a former Government Minister and Representative to the United Nations, and the MDNS, as he became too vocal about his work permit not being renewed for dubious reasons.
7. Upon request the Ministry of Foreign Affairs explained to his ex-wife, Ms. Zhang Lin Zheng that Mr. Wu Mei De had not invested in the country according to the procedures laid down in the investments regulations of the Maldives. The MDNS reported, however, that he was detained because he had been making incriminating remarks about the Government and senior Government officials.
8. Mr. Wu Mei De claims that five Chinese nationals had raised more than 70,000 United States dollars to set up the Shanghai Restaurant and to rent the Grace Inn. Although both establishments were registered under Mr. Musthafa Hussain's name, the five Chinese nationals bore all expenses and kept the profit as well. As a result of a dispute with his employer, Mr. Wu Mei De's work permit was not extended. He filed a complaint in court against his employer and wrote to the Minister of Public Works and Labour, on 29 August 1993, requesting to grant him 60 extra days of stay in the Maldives as he had an ongoing court case against Mr. Musthafa Hussain for the conversion of the investment. He was arrested and detained two months after he had lodged a civil case in Justice Court No. 2 concerning a business dispute with his local employer and partner. The Embassy of China was informed of his detention and embassy officials were provided with consular access to him.
9. In 1997, the Government agreed to release him; however, he refused to be released until his case was discussed in a court of law. The Government of Maldives, in consultation with the Chinese authorities, has also attempted on several occasions to deport him, which

he refused for the same reasons. In a letter dated 30 April 1997, addressed to the President of the Republic of Maldives, Mr. Wu Mei De stated that he would be willing to accept release or a settlement on two conditions: The proceedings of his release be conducted officially by the Embassy of China with a representative of the embassy and a representative of an international human rights organization present at the release; and an assurance for his personal safety until he leaves the country. Mr. Wu Mei De has also demanded from the Government of Maldives an apology; a written confirmation stating that he is an innocent person; to be compensated for all his losses, both material and non-material, caused by his long imprisonment; and to investigate the case and bring those responsible to justice. He has reiterated these demands on 25 July 2005. Several international governmental and non-governmental institutions have been seized with the case of Mr. Wu Mei De.

10. The case of Mr. Wu Mei De was already the subject matter of an urgent appeal by the former Chairperson-Rapporteur of the Working Group on Arbitrary Detention on 6 September 2006, which has remained without a reply from the Government to date.

11. The Working Group notes that the Republic of Maldives became a party to the International Covenant on Civil and Political Rights 13 days after this urgent appeal, on 19 September 2006.

12. On 25 September 2008, the Government requested an extension of the 90 day deadline to submit its response, "in order to be able to facilitate an intensive consultative process and investigations with regard to the above-mentioned matter". On 23 April 2009, the Working Group received the reply from Government, which consists of three parties.

13. In the first part the Government states that "the case of Mr. Wu Mei De should be examined in the context of the broad and deep changes in the Maldives under the new administration which are aimed at improving human rights promotion and protection for all-irrespective of nationality. An important illustration of these changes is provided by the adoption, on 7 August 2008, of the new Constitution which is based on the International Bill of Rights. This part of the reply contains a number of steps which the Government has taken to promote human rights through engagement of various United Nations and national human rights mechanisms. Two Special Rapporteurs of the Human Rights Council have recently visited the country. Both visited places of detention and met with non-Maldivians detainees, including Mr. Wu Mei De, who was found to be in a good health. Since 2003, despite severe human and technical resource constraints, the Government has responded to human rights related appeals and communications and has one of the highest response ratios in the Asia-Pacific Region.

14. In the second part of its reply the Government recognizes that before the implementation of the reform measures over the last few years, detention conditions and procedures were not fully consistent with international human rights standards. Appropriate human rights safeguards were not in place to prevent and respond to all human rights concerns. The Government concedes that at the time, there was no regular system of prison visits by independent authorities mandated with that role". However, the Government notes that now police, court and detention procedures are rigorously followed and people in the detention system are fully protected.

15. In the third part of its reply the Government confirms that Mr. Richard Wu Mei De is a Chinese national who was arrested in relation to a civil dispute arising from allegations of breach of foreign investment laws in 1991. He was released shortly afterwards. At the time, arrest powers rested with the Ministry of Defense and National Security. In 2006 the Maldives Police Service was established as a civil force and all arrest and investigative powers rests with them under the Police Act 2008.

16. Mr. Wu Mei De was again arrested in August 1993 on public disorder charges apparently angered at the progress of the civil dispute. Soon after his arrest and due to his extremely unruly behaviour, the Maldives Government in cooperation with the Embassy of the People's Republic began the first of many attempts to deport him to China. However, Mr. Wu has repeatedly refused to leave the detention facilities, opting for voluntary detention, and has forcibly resisted all efforts to move him until his business grievances were resolved to his satisfaction.

17. On 30 April 1997, he made four demands to the Government of Maldives in granting him justice and said that upon failure to meet these demands he would lodge his case against Maldives in an international court. These demands were: An apology from the Government of Maldives for his arbitrary detention; a written statement stating that he is an innocent person; compensation for all losses —both pecuniary and non pecuniary— caused by his imprisonment; and the Government to investigate the matter of his court case against his business partner and to bring those responsible to justice.

18. The Government was unable to meet these demands because Mr. Wu Mei De had never been convicted of any crime: His grievances being civil and not related to the Government; but rather he had remained in custody since his arrest under his own volition.

19. In 2007, after more failed attempts to arrange his release and deportation to China, the Government, in order to resolve the impasse, agreed to grant him a sum of 30,000 United States Dollars on humanitarian grounds together with a detailed Note of his case. Mr. Wu has refused these arrangements and continued to stay in voluntary detention.

20. The Government further reports that Mr. Wu was released in February 2009, under Articles 45 and 46 of the Constitution. Article 45 of the Constitution stipulates that everyone has the right not to be arbitrarily detained, arrested or imprisoned except as provided for by law enacted by the Parliament. In addition, article 46 of the Constitution stipulates that no person shall be arrested or detained for an offence unless the arresting officer observes the offence being committed, or has reasonable and probable grounds or evidence to believe the person has committed an offence or is about to commit an offence, or under the authority of an arrest warrant issued by the court.

21. Upon his release, Mr. Wu Mei De was accommodated by the Government in a guest house and granted the necessary visa permits to facilitate his stay. However, shortly after his release, Mr. Wu Mei De insisted to the Ministry of Home Affairs that he wished to go back into detention facilities. Furthermore, he became a daily visitor to the Department of Penitentiary and Rehabilitation Services where he continuously demanded to be put back into detention. Now, Mr. Wu refuses to leave the Department of Penitentiary and Rehabilitation until he is put back into detention.

22. Through out his detention representative of the Government has met with Mr. Wu, endeavoring to clarify and accommodate his wishes and needs. He has stated that he did not want to return to China, and that he has submitted a case to an international court, and therefore he wishes to stay in detention until the matter be resolved by the court. Mr. Wu Mei De insists that he does not want to return to his home country despite the Chinese and the Maldivian Governments facilitation of all procedures for his safe return. On his request, the Government has facilitated his conversion to the Islamic Faith. The Government still maintains to provide Mr. Wu with the amount of US\$ 30,000 on humanitarian grounds. It further reports that although Mr. Wu he has not filed any cases in a court of the country, the Human Rights Commission of the Maldives is currently investigating his case.

23. On 24 April 2009, the Working Group transmitted the reply from Government to the source. The Working Group received the comments from the source on 6 May 2009. It did not find any major inaccuracies in the response from the Government: Whereas Mr. Wu has been released, his previous arrest and detention were unlawful and in contradiction with

international human rights law. Mr. Wu does not trust the justice of Maldives and he relies on what he calls “international justice”. He filled a complaint to the Human Rights Commission of Maldives concerning his arbitrary detention and unlawful release from Maafushi Jail.

24. The source confirms that Mr. Wu was officially released from jail on 7 February 2009 to be admitted in IGM hospital for medical treatment. On 14 February 2009 he was officially discharged with all his bills paid by the DPRS.

25. The Working Group is in a position to provide its Opinion on the case taking into consideration all the information and relating circumstances.

26. The Government reported that Mr. Wu was arrested first time in 1991. The source had informed that he had been arrested first time in November 1993. The Government confirmed that the legal basis for his arrest were a breach of foreign investment laws of Maldives. The Working Group notes that the legal provisions justifying Mr. Wu’s more than 17 years of detention are contradictory. While according to the Ministry of Foreign Affairs Mr. Wu was detained because he had not invested in the country according to the procedures laid down in the investments regulations of the Maldives, the Ministry of Defense and National Security reported that he was detained because he had been making incriminating remarks about the Government and senior Government officials.

27. The Working Group observes that the Government has not provided a clear explanation about the reasons for which Mr. Wu has been arrested several times without an legal arrest warrant and why he has been kept in long term detention without trial. Mr. Wu was detained at the instigation of a Maldivian citizen whom he tried to sue for irregularities in a business partnership.

28. The Government in its reply recognizes that Mr. Wu “has never been convicted of any crime”. In this case, the Working can not understand the reasons for his detention. Furthermore, the Working Group can not accept the Government’s explanation that Mr. Wu has been kept in detention “under his own volition” or his continued staying in “voluntary detention”.

29. There is also no explanation in the reply from the Government why the Government avoids investigating the matter of the court case against Mr. Wu business partner and to bring those responsible to justice. The Government solely affirms that it is trying to provide him with the amount of US\$ 30,000 “on humanitarian grounds” and repatriate Mr. Wu Mei De back to China.

30. Consequently, the Working Group considers that the arrest and detention of Mr. Richard Wu Mei De for more than 15 years without an arrest warrant, without concrete charges brought against him and without a trial or a decision by a tribunal is arbitrary as being devoid of any legal basis and in grave non-observance of international norms relating to the right to a fair trial. Mr. Wu has never been officially informed about the reasons of his arrest and detention and has never been allowed to contest his arrest and detention before a court of law.

31. In the light of the foregoing the Working Group, according to paragraph 17 (a) of its methods of work, renders the following Opinion:

The detention of Mr. Richard Wu Mei De for more than 15 years was arbitrary and in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights and fell within categories I, II, and III of the categories applicable to the consideration of cases submitted to the Working Group.

32. The Working Group requests the Government to exhaust of all available domestic remedies in order to provide Mr. Richard Wu Mei De with access to and the ability to bring the matter for resolution before a court of law, with a view to potentially obtain reparation and compensation for all losses, including those related to his investments, caused by his unlawful and prolonged period of imprisonment, however, not only on “humanitarian grounds”.

Adopted on 6 May 2009