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MALDIVES: Reform excludes freedom of religion or belief

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Mohamed Nasheed's election as President of the Maldives was hailed as the dawn of a new era of democracy and freedom in the Indian Ocean country. Under former President Gayoom, the once religiously tolerant Maldives - which tended towards folk Islam - was changed into a society intolerant of all beliefs except state-approved Sunni Islam. President Nasheed has, Forum 18 News Service notes, taken no steps to dismantle the Gayoom legacy of continuing religious freedom violations. Indeed, the scope for violations has been increased by the creation of a new and powerful Ministry of Islamic Affairs. The 2008 Maldivian Constitution, inherited from the Gayoom era, also places many obstacles in the way of establishing human rights. Many Maldivians - especially secular and non-Muslim Maldivians forced to conceal their beliefs - have begun using anonymous weblogs to voice their concern over the situation. Fear of social ostracism and government punishment prevents this concern from being openly expressed. If President Nasheed does not respect all Maldivians' right to freedom of religion or belief, he will not be able to fulfil his promises to respect their human rights.

The election of Mohamed Nasheed in October 2008 as President of the Maldives was hailed internationally and locally as the dawn of a new area of democratisation and the recognition of basic freedoms in the Indian Ocean country. However, what is often unnoticed is that religion is politically such a sensitive issue in the Maldives that President Nasheed has excluded it from his reforms.

Under President Nasheed's predecessor, Maumoon Abdul Gayoom, in power from 1978 to 2008, Sunni Islam was made the cornerstone of nationalism, and the once religiously tolerant Maldivian society - which tended towards folk Islam - underwent a wide ranging Arabisation and Islamic radicalisation. Indigenous cultural symbols and practices (including personal names) were declared un-Islamic and therefore forbidden. Islam became a compulsory subject in schools.

The 1997 Constitution - amended in 2008 - declared Islam the official state religion, while the 1994 Protection of Religious Unity Act went even further by ordering religious homogeneity (see Forum 18's October 2008 religious freedom survey at http://www.forum18.org/Archive.php?article_id=1203).

Seeing being a follower of Sunni Islam as an essential part of being Maldivian became deeply engraved in every Maldivian's heart. Nowadays most Maldivians perceive the very thought of non-Muslim Maldivians and/or the idea of a multi-religious society as a national threat. As a result, no politician openly challenged the suggestion of one Member of Parliament to add the clause "a non-Muslim may not become a citizen of the Maldives" to the newly amended Constitution in 2008. Thus, article 9d of the amended Constitution stipulates that "a non-Muslim may not become a citizen of the Maldives".

In May 2008 the local news agency Minivannews quoted the then Information Minister as saying: "it will be very difficult for Maldives mentality to accept Maldives citizens may belong to a different faith". And he added: "No Maldives leader would want to rock the boat." This has proved to be true not only for the members of the old government, which left office in the wake of last year's election, but also for newly elected President Nasheed and his government.

Even Dr. Hassan Saeed - co-author of the book "Freedom of Religion, Apostasy and Islam" which is banned in the Maldives (see Forum 18's October 2008 religious freedom survey at http://www.forum18.org/Archive.php?article_id=1203) - dismissed any concerns about the discriminatory citizenship clause. Minivannews quoted him as saying that the issue was of "very little relevance" as "we do not have a non-Muslim population".

It seems that the new government's commitment to human rights does not include freedom of religion or belief - which also touches such rights as freedom of expression and freedom of association. This was already exposed during the 2008 election campaign.

The political use of religion

At the same time as the Arabisation of Maldives was taking place, many young Maldivian students were sent to be educated in Islamic institutions abroad. Some of these youths have come back to the Maldives with radicalised religious views and attitudes. Their views mixed with former President Gayoom's rhetoric warning of religious (Christian) infiltration from outside and fostered

fertile ground for xenophobia in general and discrimination and intolerance against non-Muslims (mainly Christians) in particular. Accusing a Maldivian of being a "Christian" became the worst possible insult.

Not only parties like Adhaalath and the Islamic Democratic Party (IDP), which claim a specific religious basis, started making use of religious claims in politics. Other parties, without an overt religious basis, also started using religion as a political tool.

Religion became one of the main focuses of the 2008 presidential election campaign. While the government of President Gayoom accused the opposition of trying to introduce "foreigners and Jews" and non-Islamic religions into the Maldives, the opposition filed a case against President Gayoom, accusing him of not being a Sunni Muslim. The accusation was based on President Gayoom's refusal to make veiling of women mandatory and because he allegedly did not believe in the second coming of Christ.

During the presidential campaign, current President Mohamed Nasheed was also caught up in religious controversy. When his appointment of a female running mate was challenged as un-Islamic by his party's religious advisors, Nasheed yielded to pressure and dropped her. In order to win the elections, Nasheed depended on an alliance of the opposition, including the religiously conservative Adhaalath Party.

Party hostile to religious freedom given control of religious affairs

In the wake of a religiously motivated bomb blast in the capital Malé in September 2007, people finally started to realise the magnitude of the change in the religious perceptions of Maldivian society. President Nasheed too, seems to be aware of the dangers of religious intolerance. He told the Sri Lankan newspaper The Sunday Times shortly after his election: "We have to respect different religious views. I hope with improved governance and the rights of people being guaranteed the issue of fundamentalism will subside. People who want to preach can preach and those who want to follow a different line also do so. Fundamentalism will be eradicated with democracy."

However, President Nasheed is not following up on this promise. In order to secure the support of the Islamic conservative movement, one of his first acts as President was to create the Ministry of Islamic Affairs and to appoint members of the Adhaalath Party to its senior positions. As Minister of Islamic Affairs, President Nasheed appointed Sheikh Abdul Majeed Abdul Bari. In May 2007, Bari had told Minivannews that he believes that apostasy is one of three offences that must be punished by death, along with adultery and murder. (In the Maldives apostasy is understood to mean either leaving Islam as defined by the state or denying Islamic doctrines.) Bari also stated: "There would be peace if the country was practising Islamic Shari'ah."

Recently a reader voiced his disappointment with the new government in an open letter published in Minivannews: "Every single Friday prayer, since the inauguration of the new government, has been led by a religious figure from Adhaalath. Only scholars associated with the Adhaalath Party are allowed to give previously unseen sermons; all other Imams are asked to read sermons pre-approved by the Ministry of Islamic Affairs."

By giving Adhaalath political control over religious affairs, it seems that President Nasheed was trying to silence those expressing concern over possible religious pluralism under his presidency. However, by giving so much political power to members of the most conservative Islamic party in the Maldives, President Nasheed has opened the door widely to more religious discrimination.

In November 2008 a Maldivian man was investigated at the airport for having an English-language Bible in his luggage. The following month Bari, the newly appointed Minister of Islamic Affairs, not only temporarily closed down a Christian website, but on New Year's Eve he also ordered the banning of all discos and parties, explaining that mixed-sex dancing is forbidden in Islam.

In January 2009 the Ministry of Islamic Affairs announced that it would ban a religious group from practicing Friday prayers independently of the state. Bari justifies his orders on the basis of the Protection of Religious Unity Act and provisions of the new Constitution - adopted in 2008 - which outlaw anything that is against the "tenets of Islam". This illustrates how the new Constitution justifies religious discrimination.

On 28 January the local newspaper 'Haveeru' reported that a man had been prosecuted in the Maldivian Criminal Court for denying the existence of Allah and the prophethood of Mohammed. After the man confessed the existence of Allah and affirmed the prophethood of Mohamed in the court, the judge made him recite the Shahadah (Islamic creed) and urged him to embrace it strongly. The judge suggested that such cases should be handled by the Ministry of Islamic Affairs. Given Islamic Affairs Minister Bari's statement that apostasy deserves death, this development in the justice system causes concern.

Maldivian Constitution violates human rights

The current 2008 Maldivian Constitution, inherited from the era of President Gayoom, also places many obstacles in the way of establishing freedom of religion or belief in the Maldives. Some of the main obstacles are:

- Constitution denies citizenship to non-Muslims

Article 9d stipulates that "a non-Muslim may not become a citizen of the Maldives". Maldivian politicians are not sure how to interpret this article. Does it only refer to people who were not Maldivians at the beginning of this Constitution and now wish to become Maldivians, or is it possible to strip non-Muslims of their current Maldivian citizenship? Although widely discussed by the public, the government has so far refrained from officially clarifying the meaning of this article. Either way this article clearly contradicts the Maldivian commitment to adhere to international human rights standards.

- Rule of law undermined by Constitution's lack of clarity

Article 10 enacts Islam as the Maldivian State religion, but it does so in a way which causes great uncertainty about what this means in legal practice. Section 10b states that "No law contrary to any tenet of Islam shall be enacted in the Maldives". Similarly the Constitution limits the rights and freedoms of citizens in Article 16 to "a manner that is not contrary to any tenet of Islam". Article 16 c goes even further, pointing out that individual freedoms can also be limited "in order to protect and maintain the tenets of Islam". Likewise, the freedom of expression in Article 17 is explicitly limited to "a manner that is not contrary to any tenet of Islam".

"Tenet of Islam" is defined as: "the Holy Qur'an and those principles of Shari'ah whose provenance is not in dispute from among those found in the Sunna of the Noble Prophet, and those principles derived from these two foundations".

The reference to "tenets of Islam", takes away certainty of what is legal and what is not. According to Article 16c courts will have to draw the line between the protection and maintenance of the tenets of Islam and the limits of personal freedom guaranteed by the Constitution. In other words, there is no clear distinction between religion and law. In addition, the freedoms guaranteed by the Constitution are subject to various religious interpretations.

The problem of the uncertainty of law is further enhanced by the frequent references to Islamic Shari'ah. Article 142 stipulates that "When deciding matters on which the Constitution or the law is silent, Judges must consider Islamic Shari'ah."

"Islamic Shari'ah" is defined, as: "the Holy Qur'an and the ways preferred by the learned people within the community and followers of the Sunnah in relation to criminal, civil, personal and other matters found in the Sunna." As with "tenets of Islam", this is an extremely wide-ranging and vague formulation.

Shari'ah law in the Maldives is not codified and a matter of debate, subject to various interpretations. Some interpretations of Shari'ah clearly violate international human rights standards. These interpretations favour the rights of men over those of women and discriminate against non-Muslims. By referring to Shari'ah law in the Constitution, the Maldives weakens its commitment to adhere to human rights standards and the international commitments it has voluntarily undertaken.

- Freedom of religion or belief omitted from Constitution

When a Special Majlis discussed amendments to the Constitution in 2008, it dropped any guarantee of freedom of conscience and religion from the Constitution. This is in line with a longstanding practice of denial of religious freedom by the Maldivian government. The country has entered reservations relevant to freedom of religion or belief in a number of international treaties.

The decision to drop any reference to freedom of conscience and religion from the Constitution was taken in spite of the recommendations made by the UN Special Rapporteur on Freedom of Religion or Belief, Asma Jahangir, following her visit in August 2006 (see F18News 15 October 2008 <http://www.forum18.org/Archive.php?article_id=1203>).

- Religious discrimination included in Constitution

Article 17 lists attributes for which people should not be discriminated against. By excluding religion from this list - a very significant omission in the Maldivian context, the government not only signals approval for religious discrimination but underlines the religious discriminatory nature of this whole Constitution.

- Constitution imposes mandatory practice of Islam

Several Articles clearly make it mandatory for Maldivian citizens to practice Islam. Article 36 makes it "imperative on parents and the State to provide children with primary and secondary education". Section C of the same Article stipulates that "Education shall strive to inculcate obedience to Islam, instil love for Islam".

In practice, the wording is interpreted and understood to mean that parents are forced to educate their children as Muslims, whether they themselves are Muslim or not. Parents have told Forum 18 that their children are asked by teachers what they are taught about religion at home. This makes Non-Muslim parents hide their religious conviction from their own children in order to protect them from any harassment.

Article 67 goes even further than Article 36. Section g stipulates that it is the duty and responsibility of a Maldivian citizen to

"preserve and protect the State religion of Islam". Although the exact meaning of the wording is not given, ordering citizens to "preserve" and "protect" Islam is asking much more than simply to "respect" Islam. It puts non-Muslim citizens under pressure to compromise their own conviction.

- Constitution requires key posts to be held by Sunni Muslims

According to the Constitution, all candidates for Presidency or vice-presidency, all ministers, all judges, as well as all members of the parliament (People's Majlis) have to be Sunni Muslims.

Along with many other parts of the Constitution, this directly contravenes international human rights standards such as the International Covenant on Civil and Political Rights. As the former UN Human Rights Committee's General Comment 22 on Article 18 of the ICCPR notes at paragraph 10: "If a set of beliefs is treated as official ideology in constitutions, statutes, proclamations of ruling parties, etc., or in actual practice, this shall not result in any impairment of the freedoms under article 18 or any other rights recognized under the Covenant nor in any discrimination against persons who do not accept the official ideology or who oppose it."

Is President Nasheed really committed to human rights?

New Maldivian President Nasheed has promised to adhere to international human rights standards. Nevertheless, so far he has not moved to support freedom of religion or belief, a core human right inextricably linked with freedoms such as freedom of speech, assembly, and association. Publicly adhering to non-Muslim faiths - or indeed professing atheism - remains forbidden, while the public manifestation of Islam remains that defined by the state. Moreover, by giving the Islamic conservative Adhaalath Party political control over religious affairs, President Nasheed has increased the possibility of further violations of the right to freedom of religion or belief.

Recently, many Maldivians have started to voice their concern over this, in anonymous weblogs. It is feared that the Adhaalath Party was given control over religion in exchange for the political security of President Nasheed and Islamic legitimisation of the ruling party. Secular and non-Muslim Maldivians alike feel unease. However, the fear of social ostracism and government punishment inhibits people from voicing their concern openly.

President Nasheed faces a choice. If he does not bring the new Constitution into line with international human rights standards, or prevent the new Ministry of Islamic Affairs imposing its view of religion on the population, he will not be able to fulfill his promises to adhere to international human rights standards. Further, the nationalistic view of Maldivian identity created in the Gayoom era will be further entrenched, and Maldivian society will forget that it was once a religiously tolerant society.

President Nasheed's choices will be crucial in determining whether Gayoom's legacy of freedom of religion or belief violations will be overcome. If Nasheed does not respect all Maldivians' right to freedom of religion or belief, he will not be able to fulfill his promises to respect their human rights. (END)

For more background, see Forum 18's Maldives religious freedom survey at http://www.forum18.org/Archive.php?article_id=1203.

More analyses on freedom of thought, conscience and belief in the Maldives can be found at <http://www.forum18.org/Analyses.php?region=81>.

A printer-friendly map of the Maldives is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=maldiv>.

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