



Statement by the
Minister of State for Foreign Affairs of the Maldives H E Mr Ahmed Naseem
High Level Segment, 16 Session of the Human Rights Council
28 February 2011

Mr. President, Madame High Commissioner, Excellencies, distinguished delegates, ladies and gentlemen,

“Either a full and effective observance of human rights is sought, or it is not”.

[Pause]

Excellencies,

It is clear from watching the momentous events of recent weeks that millions of people around the world do indeed seek “full and effective observance of human rights”.

On behalf of the people of the Maldives, the Government as well as President Nasheed; I would like to take this opportunity to congratulate the courageous and determined people of Tunisia and Egypt for asserting their fundamental rights and freedoms, and for believing in a better future.

Their achievement is an historic one, not only for themselves and their children, but also for countless other people around the world whose rights are withheld and whose freedoms are curtailed.

As a Muslim State which has recently undergone its own, quieter, democratic revolution, the Maldives offers its steadfast support to our democratic friends in the New Tunisia and the New Egypt, and calls on the international community, led by the United Nations, to assist both countries at this crucial moment in their and indeed our common history.

I have no doubt that from the pebbles dropped in the southern Mediterranean over the past two months; the ripples of democracy will continue to spread. The Muslim Awakening heralds the end of power of the few for the few, and the beginning of a new era founded upon universal values, individual freedom, and mutual respect and tolerance. The Awakening also puts to bed, once and for all, the notion that Islam is somehow inherently incompatible with human rights and democracy. Millions of Muslims around the world already enjoy democratic government, and, as we have seen, those who don't are willing to sacrifice all in order to assert their political rights.



Excellencies,

The new Islamic world being built from the Sahara to the Red Sea and beyond, demands a paradigm shift both in terms of how we as Muslims perceive and understand our own societies, but also in terms of how the outside world views and interacts with us. At the most fundamental level, this entails a rejection of governance models based on central control and management, and the acceptance of an open society without precondition.

This lesson must be learned by the Islamic world, and I would like to take this opportunity to appeal to all the governments of Muslim States to listen and respond to the aspirations of their people.

But the lesson must also be learned by outside powers who for too long have seen fit to preach democracy and human rights to Muslims while at the same time supporting regimes whose survival was and is premised on the suppression of those same ideals. The Muslim Awakening sends a clear signal that such double standards will no longer be tolerated. Using the spectre of Osama bin Laden and Islamic extremism to justify propping up morally, economically and politically corrupt regimes is no longer acceptable. Democracy is either everything or it is nothing. There is no half-way.

Mr. President,

It is with deep regret that we watch as the largely peaceful progress of the Muslim Awakening is brutally checked at the gates of Tripoli.

The Maldives strongly condemns the violence unleashed by the Libyan authorities against their own people – people who are merely trying to assert their universal rights to freedom of expression and association, and the freedom to democratically choose their own government. It is clear that gross and systematic violations of human rights have been perpetrated in Libya and that these in all likelihood constitute crimes against humanity.

The Maldives, a fellow Muslim country which itself recently began the transition to democracy, refuses to remain silent as hundreds of our Muslim brothers and sisters are abused and killed.

It is clear that the Libyan Government has no intention of honoring its primary responsibility to protect its own people. It is therefore beholden on the international community to intervene. Last week's Human Rights Council Special Session on Libya and the strong resolution adopted at the meeting sent out a strong message of intent. The Security Council has now built on this with its own resolution. However, we must do more. We, the community of nations, have a clear and unambiguous responsibility - to protect innocent men, women and children in Libya; to remove Muammar Gaddafi and his associates from power and hold them accountable for their crimes; and to help build a new democratic country.

Mr. President,

While it is clear that ordinary people in Cairo, Alexandria, Tunis, Tripoli, Benghazi and elsewhere do indeed seek the "full and effective observance of human rights". I wonder whether we can say the same about this Council?



Ubi jus ibi remedium

There is no right without remedy.

If we accept this founding premise of constitutional and human rights law, indeed this founding premise of the human condition, then it is surely necessary to ask ourselves the following:

Are the Human Rights Council and the Treaty Body system capable, as things stand today, of enforcing international human rights law, of securing accountability for human rights violations, and of providing redress to the victims? In other words, are they able to offer remedy?

Mr. President,

These questions go to the very heart of the international human rights system, a system which we in this room are charged with upholding.

And yet, we are by no means the first to ask them.

In fact, questions of enforcement, accountability, redress and remedy were all posed, debated and, to a large extent, resolved in 1947 as States built the United Nations and the international human rights system in response to the horrors of the Second World War and the Nazi Holocaust.

And that, Mr. President, brings me back to the quote I began with:

“Either a full and effective observance of human rights is sought, or it is not”.

This was actually the opening argument of the Australian delegation in 1947 as States in the Commission on Human Rights’ Working Group on Implementation debated how to practically enforce the nascent body of international human rights law then being drafted.

States in that Working Group agreed that for the international human rights system to work, individuals must be able to seek and receive remedy when their rights are violated. They must, in other words, have the right to petition the UN which would then try to “reconcile opposing points of view”. This was the genesis of the enforcement mechanisms we still have today – the Confidential Communications Procedure and the treaty body complaints procedures.

However, crucially, States in 1947 also unanimously agreed that “if efforts at conciliation fail, other solutions, such as judicial proceedings, will come into consideration”.

States in 1947 were thus clear – far clearer, in fact, than we are today – that “there is no right without remedy”. Discussion, recommendation and reconciliation between States should always be the preferred means of resolving human rights disputes. However, if such efforts fail, then, in order for human rights to mean more than words on a piece of paper, there must be recourse to independent judicial proceedings. The guards, in other words and to paraphrase Plato, cannot always be responsible for guarding themselves.



It was in this context that the Working Group considered a proposal put forward by Australia with the support of others including Belgium and Iran, to establish an International Court of Human Rights as "the final guarantor of human rights".

In presenting its arguments in favour of the establishment of the Court, the Australian delegation was blunt, (and I quote):

"Either a full and effective observance of human rights is sought, or it is not. If it is sought, then the consequences of this principle must be admitted and the idea of compulsory judicial decisions must be accepted".

Mr. President,

The Maldives, Switzerland, Uruguay and others will begin, at this session, a process of reflection. We will ask whether the current international human rights system, vulnerable as it is to politicization and subjectivity, has the tools it needs to deliver real and effective remedy for individuals whose rights have been violated? And, if the answer to this question is "no", then we will ask whether it is not time to return to the logic so clearly and universally understood in 1947.

Mr. President,

This is important, not only for the people in this room but also, more importantly, for the people on the streets today in Tripoli, for their neighbours in Tunisia and Egypt, and for all of us who have lived under oppressive regimes and have struggled to assert our freedoms. I say "us" because it is not so very long ago that the Maldives itself emerged from a 30 year-old autocracy. Many of us were victims of gross human rights violations including torture. During such dark moments, victims of human rights abuses, wherever they are, need to believe that there is an international human rights system which can help them, which can protect them, and which can offer remedy and redress.

We, in the Maldives, needed to believe. The people of Tunisia and Egypt needed to believe. And today the people in Libya need to believe.

Thank you.