PRESS RELEASE

Due to the gravity and nature of the issue as well as the duty of the Executive Committee of the Bar Council of Maldives found in Section 7 (r) of the Legal Professions Act 2019 (No. 5/2019) to make its opinion known on Constitutional and legal matters of public importance and the duty of all our Members to uphold the Constitution and protect and promote human rights, this Council calls upon the Government of Maldives to reverse the Administrative Order issued by the Ministry of Home Affairs on 14 July 2020 (Ref: (IUL)10-MP/10/2020/36) and calls upon the Parliament to repeal Section 24 (f) of the Peaceful Assembly Act 2013 (No: 1/2013) which we believe impose an unconstitutional restriction on the freedom of assembly enshrined in Article 32 of the Constitution.

In addition to the requirement in Article 18 of the Constitution to protect and promote the right to assembly, it is the duty of the Maldivian State to, aspire to the principles enshrined in Article 20 (1) of the Universal Declaration of Human Rights (UDHR) and abide by its obligations under Article 21 of the International Covenant on Civil and Political Rights (ICCPR).

Any restriction on the right to freedom of assembly should;

a) Not as mentioned in Article 69 of the Constitution, defeat the purposeful enjoyment of the right;

b) Not impose an obligation on the public to seek the prior permission of the State;

c) Be demonstrably justifiable in an open democratic society as required by Article 16 of the Constitution; and

d) Be in pursuance of the legitimate aims of national security or public safety, public order, protection of public health or morals or protection of the rights and freedoms of others as mentioned in Article 21 of the ICCPR.

As the right to assembly includes inter alia the right to protest, this Council affirms the Principles on the Protection of Human Rights in Protests (2016) published by Article 19 which we believe provides a sound guideline for the interpretation of those rights. In particular we refer to Principle 8 which mentions the integral nature of the freedom to choose the location of protests in order to ensure that the sentiments expressed in those assemblies reach their intended audience.
Based on the above, it is this Council’s unequivocal belief that the regime in Section 24, (f) of the Peaceful Assembly Act 2013 allows the Minister of Home Affairs to impose a requirement to seek prior permission before exercising the right to assembly in select locations in the capital city of Male’, as well as the Administrative Order of 14 July 2020 issued requiring the public to seek prior permission before conducting assemblies or demonstrations in any area of Male’ except for the Carnival Area in Henveiru, is in direct contravention with the letter and spirit of Article 32 of the Constitution and the international obligations of the Maldives.

15 July 2020