



Dhivehi Qaumei Party

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# DEMOCRACY BETRAYED

behind the mask of  
**The Island President**

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# Democracy betrayed- Behind the Mask of the Island President

## Introduction

This document explores and analyses the events surrounding the resignation of the Maldives' first democratically elected President from office. It particularly focuses on the way in which former President Nasheed's own actions contributed directly to that crisis and threatened our new democracy.

This is a personal analysis and does not reflect the official view of the Maldives Government. However I believe that my perspective of events can contribute to a better understanding of the events leading up to President Nasheed's resignation in 7<sup>th</sup> February 2012. As an Attorney General for former President Gayyoom, Presidential Candidate in 2008, Special Advisor in former President Nasheed's initial coalition cabinet and currently Special Advisor to President Waheed, I have had a ringside seat for these momentous political events. I observed at firsthand the actions and failures of former President Nasheed which led to the democratic crisis in the Maldives.

A leader must be judged by his or her ability to deal with the inevitable crises that face anyone running a country. It is my belief that far from being able to avert or manage crises, Nasheed's approach to leadership made crises much more likely. Instead of strengthening our new democracy, Nasheed compounded the weaknesses we inherited as the legacy of President Gayyoom. In particular, the absence of a strong civil society to

hold politicians and political parties to account was exploited by Nasheed rather than seen as a fundamental weakness to be corrected.



*Mohamed Nasheed takes oath of office as the 4th President of the Republic of Maldives. The oath of office was administered by Chief Justice, Uz. Abdulla Saeed*

Nasheed demonstrated his weak leadership often and in so many ways.

- **He frequently resorted to inappropriate and grand gestures** instead of negotiation and consensus building. Examples of actions that he instigated and openly encouraged are described later and include the mass resignation of the cabinet, the closing down of the spas and padlocking the Supreme Court.
- **He had little experience of government**, but instead of seeking help and advice from those who had more experience to draw upon he surrounded himself with people who were equally inexperienced but always happy to tell him what he wanted to

hear. As a result, Nasheed was often out of his depth with no experienced advice available to moderate his increasingly erratic and rash decisions.

- **He developed his own brand of cronyism** despite his criticisms of his predecessor over the issue. Civil servants were transferred to corporations to make it easier for him to get his own way and to reward his supporters. Allegations of corruption were frequent.
- **He was deliberately antagonistic to the country's Muslim beliefs and traditions.** He offended many with a widely perceived impression that he was irreligious and that he was willing to compromise religious beliefs in order to appeal to the West rather than engage with the vast majority of Maldivians.
- **He was clearly emotionally unstable and willing to say anything to get what he wanted.** The commitments he made about the mid-term election were one example. His announcement of his resignation and subsequent rewriting of history went a stage further.
- **He was completely unable to work collaboratively.** As I describe below, he started out with a lot of goodwill and a mandate based on the support of a wide coalition; but over the course of just three years Nasheed managed to alienate almost every key group outside the core element of his own party.

In the following chapters, I describe many examples of these weaknesses and the impact they had on the country. These examples are structured to help explain how his leadership failings alienated so many disparate



groups of people.

In the run up to Nasheed's resignation on February 7, 2012 there were some strong legal, judicial, political and religious undercurrents in the country. Although they may not have been visible to a casual observer of Maldivian politics they were certainly clear to those directly involved.

- **Parliamentary control** which Nasheed had wrestled from the Opposition was slipping through his fingers.
- **Nasheed faced a series of court defeats** in legal cases which the Opposition filed against his administration and key officials. Some of these judicial pronouncements had huge political and financial implications for Nasheed personally and his administration collectively. This included the full bench of the Supreme Court passing a series of rulings disqualifying candidate after candidate in the local council elections with any form of theft conviction. The effect of these judgments meant that Nasheed too faced a serious threat of disqualification from any future presidential election.
- **Nasheed's religious credentials and his commitment to Islam** were increasingly questioned. Nasheed struggled to balance conflicting tensions. On the one hand he sought to please local voters and at the same time he tried to maintain the "modern Muslim" outlook he had projected to the West.

A good leader might have been able to manage these challenges. Instead Nasheed made things worse through his erratic behaviour and readiness to ride roughshod over the legal and democratic systems of

our country. The consequence was that he lost the confidence of most key sectors in our society. The Maldives is a small nation and the size of the population means that the resulting tensions were exacerbated by his actions even more than might be the case in similar circumstances in larger countries.

In the following chapters I analyze and examine these events in more detail. However, before doing so it is helpful to remind ourselves of some of the historic background to the crisis.

By February 7 it was clear that Nasheed had eroded the majority of the support he had received in the second round of the Presidential Election. He had gradually withdrawn to his inner circle of key activists. Opposition to him and his style of administration was very obvious. This included the loss of confidence of our security services who, fearful of being instructed to conduct further illegal acts, no longer trusted him.

Perhaps realizing this, in his final dramatic act, Nasheed resigned in the full glare of the media. Yet within a day he was again showing the unstable side of his nature and telling a very different story.

What lessons this hard evidence teach us for the future? The most fundamental conclusion of my analysis is that Nasheed is not the right leader for our country. The danger for the Maldives is that if he gets back into power he will believe that his aberrant behavior of the past has been legitimized. Equally, Nasheed in opposition cannot be allowed to generate further crises for our country in pursuit of his personal agenda. I hope any follow-up actions resulting from the Commission of National inquiry (CoNI) will focus on this.

# Chapter 1

## Background to the Crisis

It is important to understand that the Maldives became a democracy in its own way. We preceded the Arab Spring by some years. Thankfully, unlike some countries, there was no overthrow of the sitting regime and we had a relatively peaceful transition. At the same time, the process was perhaps slower than in other countries, which sometimes led to frustration. Nevertheless as a result of both internal and external pressure, in 2004 President Gayyoom proposed revolutionary changes in the way the country was governed. Following that initiative, for the first time political parties were introduced.

The first political party to register was the Maldivian Democratic Party (MDP) led by Mohamed Nasheed. This was soon followed by a number of others including the Dhivehi Qaume Party (DQP).

Following long and detailed discussion over several years in the Maldivian Parliament (Majlis) and a wide public debate, a constitution was drawn up. In a nationwide referendum held on 18 August 2007 the public chose the option of an American style of Executive Presidency, as opposed to a Prime Ministerial and Parliamentary form of Government. Assisted by the Commonwealth, UN and other bilateral and multilateral partners, a constitution was adopted on 7 August 2008. The first multi-party, free, fair and democratic two round presidential elections were then held on 8 and 28 October 2008.

In the first round of the 2008 Presidential election, the two leading

candidates were incumbent President Gayyoom of the Dhivehi Rayyithunge Party (DRP) who secured 40.63% votes and Mr. Nasheed (MDP) along with his running mate Dr. Mohamed Waheed Hassan Manik of the Gaumee Ithihadh (GI) party who secured 25.09%. Those two candidates would fight the second round of the election on 28 October 2008.

As part of the coalition building prior to the second round, Mr. Nasheed publicly pledged to hold a midterm election if he beat President Gayyoom. On the basis of this pledge and with the support of first round presidential candidates including myself, (Dr. Hassan Saeed, Independent/New Maldives Movement with 16.78% votes), Hon Qasim Ibrahim (Jumhooree Party or JP with 15.32% votes) and Mr. Ibrahim Ismail (Social Liberal Party with 0.078% votes) Mr. Nasheed was able



*Leaders of Maldivian Democratic Party, New Maldives, Jumhooree Party, Adhalath Party, Maldivian National Congress, Social Liberal Party General meeting during the second round of the 2008 presidential elections.*



to increase his share of the vote from 25.09% in the first round of voting to 54.21% in the second round.

There is no question that this substantial increase in the vote was a result of commitments Nasheed made. The support came from a wide range of political parties who believed at the time in the pledges that Nasheed had given.

However it became clear from early on that Nasheed had no compunction about breaking his pledge of an early Presidential election, claiming as an excuse that he had been misinterpreted over Parliamentary and Local Government elections being the mid-term test of the government. Those who supported him to enable the Maldives to move ahead and become a democracy were very clear, however, about the commitment he had made and very disillusioned as a result.

But even before this, there were problems with the coalition Nasheed had assembled. The President of the Jumhooree Party (JP) the Honorable Hon Qasim Ibrahim, Nasheed's first Home Minister, resigned 21 days into office saying that he felt left out of the cabinet. I was Nasheed's first Special Advisor but I resigned on the 100<sup>th</sup> day of the new government's term because it was clear that Nasheed did not heed any of my advice. The Adhaalath Party, another coalition partner who aided Nasheed to power, also withdrew from its alliance with Nasheed in early 2011.

As a result of this coalition collapse there was constant conflict within the Maldivian Majilis. Despite the fact that the Majilis had a more recent mandate from the people of the Maldives, Nasheed showed it no respect at all.

The MDP had achieved a similar result in the Majilis to its first round Presidential election performance. However, few other parties now trusted the MDP enough for them to assemble an automatic majority coalition in the Majilis. Nasheed was not willing to work to build a coalition and instead resorted to arrests of MPs for allegations of corruption to intimidate the Majilis into supporting the Government. When the judiciary ordered the release of these MPs, the judiciary itself came under attack, leading eventually to the controversial arrest of a judge, which in turn generated large public protests. So we had one branch of government in constant conflict with the other two branches, leading to continuous instability.

Until finally three years, two months and 27 days into office, in a live televised event, surrounded by his supporters, Nasheed himself resigned



*The five members of the Commission of National Inquiry at the press conference at Muliaage on July, 5 2012. PHOTO/ NASRULLA SOLIH*

acknowledging he no longer had the support of the country. However less than 24 hours after his resignation, he claimed that he was forced to resign in effectively a 'coup'.

Why did these events occur? The Maldives needs the Commission of National Inquiry (CoNI) to establish the truth, to understand the particular context of the Maldives and to make recommendations that will help us avoid this situation happening again.

## Chapter 2

### ***The Battle for Parliament***

After destroying the coalition that allowed him to come to power, Nasheed and the MDP decided to contest the Parliamentary election in 2009 as a stand-alone party. Nasheed lost that election. Former President Gayyoom and his DRP which was battered, bruised and bankrupt made a spectacular comeback less than 4 months after a humiliating presidential election defeat. Several DRP MPs like Alhan (MP for Feydhoo constituency), Ali Waheed (MP for Thohddhoo constituency), Mahloof (MP for Galolhudhekunu constituency), Nihan (MP for Vilimale constituency) were elected. These and a host of others were either in their late twenties and or early thirties. The re-energized 'Young Turks' of the DRP opposition used Parliamentary Rules to make it difficult for Nasheed and his Government. This was a perfectly legitimate role for them, but also illustrates, that even in what might be known in some democracies as a 'honeymoon' period, he was not prepared to reach out and establish any cross-party consensus with those he had only relatively narrowly beaten in 2008.

Below are a few examples of the opposition that was building against him

1. Nasheed wanted to sell the country's only functioning international airport to GMR of India. Parliament amended the Public Finance Law to prevent that. So Nasheed returned the Bill to Parliament. Parliament then overruled his veto with an absolute majority.



What was Nasheed's reaction? Not only did he go ahead with the sale but he also refused to ratify and publish through the Government Gazette the law passed by the Majlis. In the end, the court ordered him to do so.

2. Parliament impeached the Auditor General Mr. Ibrahim Naeem, a close aide of Nasheed which precluded him from office. Nasheed's reaction to this was to refuse to send another name to Parliament for over 9 months! In other words, he was perfectly happy to govern the country without an Auditor General a constitutional office. It was of no concern to him that he was in serious breach of the constitution by doing this.
3. Parliament passed the Public Broadcasting Law to free state media from government control. The law transferred the oversight and control function to a constitutional body- The Public Broadcasting Commission. Nasheed then tried his best to get parliamentary endorsement for his nominations to the Commission but failed. Nasheed's reaction? He refused to execute the law! Finally he was forced to do so under a court order.

Nasheed and his team were clearly unable or unwilling to operate with the demands and strictures of a constitution and democracy.

To make matters worse, Nasheed lacked experience of government. And the fact that he surrounded himself with party supporters, again without government or private sector experience rather than with experienced administrators and advisors - who might of course not agree with him made matters even worse.

Nasheed and his supporters could not tolerate Parliamentary scrutiny and accountability any longer. They started harassing MPs, regularly staging protests outside Parliament and even invaded the House.

In the end Nasheed's patience ran out completely and this led to one of his most melodramatic gestures. In a live telecast event on June 29, 2010 his entire cabinet resigned blaming the Parliament for bringing the Government to a standstill! His ministers then came on to the streets of the capital Male' protesting against the democratically elected Parliament and describing MPs as dogs. The MDP dominated Male' City Council camped outside the Parliament, conducted its meeting there and announced its decision to confiscate the ancestral home of the former President Gayyoom in total disregard to the constitutional safeguards.

Nasheed's drastic action in staging an entire cabinet resignation was a reaction to his perception that he was besieged by the Parliament and that he could no longer carry out any executive functions. The people who surrounded him - energetic activists ever eager to see their political opponents crushed - reinforced this perception in his mind. But in the end he was their leader and he should have led and not followed. The mass resignation was unnecessary and damaging. It not only failed completely to win him any additional support but also seriously undermined the confidence of Maldivians in their new democracy.

The mass resignation was a bolt from the blue. Of course, there were occasional hiccups in the Parliament but up until then Parliament had approved every budget Nasheed proposed including supplementary ones; endorsed his entire cabinet without any scrutiny and endorsed every nominee he proposed as Ambassador. Parliament had not succeeded in passing a no-confidence vote against any Minister. Despite

getting his own way on all these issues, Nasheed still clearly felt that he did not have enough power.

Tense confrontation between the executive and the legislature - and indeed between various other branches of the State - is common in democracies, especially in Executive Presidencies. President Bill Clinton's balanced budget is a good example where that charismatic leader failed to secure legislative endorsement for his budget. The situation was so dire that he had to shut down most of government offices with a few exceptions like post offices. But he did not resign. Nor did his cabinet resign. He did what every democratic leader should do and is expected of them. He showed leadership, appealed to the public, won the argument over the U.S Congress and was subsequently re-elected in 1996.

Nasheed is no Bill Clinton, of course. His actions showed that he was determined to wrestle the control of Parliament from the opposition at any cost using any means at his disposal. To impose the control he wanted, he adopted a carrot and stick approach.

Firstly through a live telecast of an MDP rally he told the nation that he was prepared to bypass the Constitution in arresting political leaders and MPs! MPs and political leaders with most influence within the Parliament became the first target. MP and Leader of JP Hon Qasim Ibrahim and MP and Leader of People's Alliance (PA) Hon Abdullah Yameen were arrested. The arrests were implemented in such a manner to have maximum impact and to terrorise other potential 'trouble making' MPs. Nasheed even mobilized the military with tanks to affect their arrests.

Once sufficient terror was applied Nasheed moved on from leaders of parties to independent MPs. The most prominent of such MPs was the

MP for Kulhudhuffushi constituency, Hon Mohamed Nasheed. He had a widely read blog in English and Dhivehi. The writings were professional and academic but objectively critical of the government policies. But then private conversations which compromised his integrity were wire tapped and played on state media. Soon after that he toned down his views. A similar trend was seen in other independent MPs from mid 2010 to 2011.

Having applied the stick, Nasheed then offered a series of carrots to some MPs who were willing to bite. DRP Deputy Leaders Hon Ali Waheed (MP for Thoddoo constituency) and Alhan Fahmee (MP for Feydhoo constituency) were enticed to switch to the MDP. Shortly after the shift in their support, Ali Waheed was able to purchase several millions of Rufiyaa worth properties in Male' and Alhan was able to upgrade his motorcycle to an expensive BMW! DQP MP Hon Hassan Adhil (MP for Maradhoo constituency) got his government contract renegotiated shortly after adopting the MDP label. DRP MP Hon. Islamil Abdul Hameed, who was facing corruption charges, switched to the MDP apparently believing that Nasheed's government would save his seat.<sup>1</sup>

The cost of securing such a tainted Parliamentary majority was huge for Nasheed. His democratic credentials were seriously damaged. For the first time he attracted international scrutiny.

But obviously for Nasheed it was a price worth paying. He still had more than half of his first term in office to serve. He had already announced his intention to run for the second term. In fact his MDP had expressed confidence that no one could dislodge them from office for another 50

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<sup>1</sup> Mr. Hameed has since lost his seat when finally the Supreme Court rejected his appeal. The by-election that followed was comfortably won by the current coalition government.



years.

But as events developed from 2011 onwards culminating in the events immediately preceding his resignation on February 7, 2012 it became increasingly clear that Nasheed would lose his Parliamentary majority.

During this period his supporters began to be called to account. An Independent Anti-Corruption Commission began an investigation into MP Ali Waheed's multimillion Rufiyaa worth properties. MP Hon Hassan Adhil was charged with raping his own stepdaughter. MP Hon. Islamil Abdul Hameed was convicted for corruption and his appeal was pending. MDP MP Hon Mustafa was facing a private law suit filed by PPM Deputy Leader Umar Naseer.

If convicted - and unless the judgement was reversed on appeal- they all stood to lose their seats in Parliament and with that Nasheed and his MDP supporters would lose their Parliamentary majority. To make matters worse for Nasheed, independent MPs who had earlier gone into "hiding" after Nasheed's naming and shaming campaign came out following the arrest of Criminal Court Chief Judge Abdullah and made a strong stand against this action. These MPs joined the opposition protest rallies and pledged "to the last drop of their blood" to support the opposition struggle to free, initially Dr. Jameel and later Judge Abdullah. By then it was obvious for Nasheed that he had lost Parliament. As we saw from the earlier description of the staged cabinet resignation, Nasheed did not have the leadership skills to run the country without a comfortable imposed majority in the Parliament to rubber stamp every decision he and his administration made.

## Chapter 3

### *Judicial Assault*

From very early days, Nasheed faced a series of court defeats at the hands of the Opposition. These cases increased in number as the government proceeded with the sale of state assets in the name of privatization. Some of these judicial pronouncements had huge political and financial implications for Nasheed personally and his administration collectively. In addition to the shortfall in revenue Nasheed hoped to raise by selling these assets, every claim and every defeat re-energized the opposition and demoralized his supporters.

There are two main reasons for these continuing legal defeats. Firstly, Nasheed and his team lacked prior government experience, especially at top level. As the Head of the State, Nasheed had the simple belief that he had the power to do anything he wanted and that the other two branches of the state - legislative and judicial - were subservient to his executive authority. And there was no one in a position of influence to correct him.

Secondly, Nasheed, often under the influence of his party activists, did whatever he wanted without the inconvenience of finding out if it was lawful. Indeed he fired his very first Attorney General, Ms Fathmath Dhiyana Saeed, when she dared to question the legality of his actions. Nasheed then declared the office of the Attorney General 'not important' and proposed replacing that it with a desk officer in the President's office.



The fact that Attorney General is the chief legal advisor of the state and more importantly that it is a constitutional position did not bother Nasheed at all.

Following that action, subsequent Attorney Generals avoided offending Nasheed. Instead of offering professional legal advice they seem to have focused on defending and justifying government actions. As a result, the opposition, which consisted of many of the country's most prominent lawyers, had a field day in court against Nasheed and his administration. Nasheed faced defeat after defeat at the hands of the Opposition at a time when he had reduced his own chief legal advisor to the status of a desk officer. He had four Attorney Generals in his three year presidency. These cases illustrate some of his major court defeats.

- Nasheed gave city status to Addu Atoll without following the procedure established under the Decentralization Act. The Opposition challenged this. The Civil Court agreed with the Opposition and declared the government action invalid. For any democratic government the response would have been either to comply with the court ruling and reverse its action or appeal against the decision. But Nasheed and his supporters adopted a rather different approach. MDP supporters chased the court security officials, padlocked the court complex in the capital Male' and even tried to set fire to one court building in Addu Atoll. This outrageous behavior was never condemned by President Nasheed.
- Police sought a search warrant to search Bank of Maldives records. The Criminal Court refused to issue a blanket warrant.

Instead it demanded the warrant to be specific such as having a defined time period to investigate. Rather than go to the trouble of specifying these details, Nasheed's response was to go ahead with the search without a court order. He then discussed Judge Abdullah's refusal to issue the warrant in the Cabinet before demanding the police investigate the case.

- As stated above, Nasheed's administration sold the country's only functioning international airport to an Indian company – GMR - and collected USD78 million upfront. Serious allegations of irregularity and bribery arose from this and formal complaints were lodged with the Anti Corruption Commission. Under the Concession Agreement the government authorized GMR to levy a USD25 departure tax and USD2 insurance tax from every departing passenger. The DQP opposition party challenged the decision on the grounds that the country's constitution did not



*Chairman of MACL Bandh Ibrahim Saleem exchanges controversial Airport concession agreement with group Director of GMR Mr. G. Kiran Kumaru. President Nasheed witnessing the ceremony.*





*After padlocking Supreme Court Security forces are dutying inside the compound of the Supreme Court.*

allow any taxation without legislation. The Court gave its judgment in favor of the Opposition shortly before the events surrounding Nasheed's resignation began unfolding. In response Nasheed nullified the effects of the court ruling by simply agreeing to deduct an equivalent amount from money due to the government.

- As I explained before, immediately after Nasheed's entire cabinet resigned, he arrested Hon Qasim Ibrahim and Hon Abdullah Yameen without any court order. Just before the Supreme Court started its hearing into the case, Nasheed tried to speak to the Chief Justice Abdullah Saeed over the phone. The Chief Justice declined to take the call. Nasheed then sent a member of elite presidential guards to the Supreme Court building with a mobile phone. He passed Nasheed's call to the Chief Justice. The lawyers, their clients and reporters waited for more than 2 hours

while this drama unfolded without their knowledge. Nasheed's follow-up was even more outrageous. Despite all the threats and Nasheed's own supporters led by MDP MPs protesting outside the Court, the Supreme Court declared the arrest of Qasim and Yameen unlawful. In response to that at 12.30am in the Maldives, Nasheed dragged the Chief Justice to the military headquarters. Nasheed and his top military officials then confronted the Chief Justice. Not satisfied with this Nasheed then asked the security forces to padlock the Supreme Court and Department of Judicial Administration - the body responsible for providing administrative support for the Courts. In the ensuing negotiation with the Opposition, Nasheed made it clear that he would not allow the court to re-open unless Chief Justice Abdullah Saeed was replaced with his own handpicked member – Hon Justice Ahmed Faiz. When the Chief Judge of the Criminal Court was arrested the Chief Justice – the country's highest judicial authority - was Nasheed's own handpicked member. Despite this, it was he who declared the arrest of Judge Abdulla unlawful and demanded Abdullah's immediate release. It should also be noted that this was also the very Chief Justice who administered the oath of office to the Vice President (and current President) Dr. Waheed following Nasheed's resignation.

With the replacement of Chief Justice Abdullah Saeed and the reconstitution of the Supreme Court, President Nasheed did secure some important court battles. However, Chief Justice Faiz's and the Supreme Court's reaction towards police summons issued to Judge Abdullah and subsequent court orders to release him dispelled the "government

friendly” label from the Supreme Court. By then Nasheed, who had already given up on any favorable outcome from the lower courts, must have realized that he had also lost the confidence of the Supreme Court. This was a huge blow as he was already facing a serious threat of losing Parliamentary control.

This loss of confidence was compounded by the full bench of the Supreme Court passing a series of rulings disqualifying candidate after candidate in the local council elections with any form of theft conviction. The effect of these judgments meant that Nasheed too potentially faced a serious threat of disqualification from any future presidential election as he does have as such record. This is a live issue for the next Presidential elections too.

## Chapter 4

### *Religious challenges*

It is important that we understand religious sensitivities in the Maldives when considering these events and the issues that arise from them.

In a country where drinking alcohol or having sex outside of wedlock would disbar candidates from all public offices, Nasheed’s commitment to religion and religious values were issues of great concern to many people even before his election. Reports of him being interviewed over a glass of “sular shiraz” and the allegations of a notorious life style during weekend retreats in the country’s luxury resorts were frequently the subject of public discussion.

Prior to his resignation religiously minded people had challenged Nasheed’s religious credentials and his commitment to Islam. The challenges were rooted in three important issues which arose during his Presidency.

### *Re-establishment of diplomatic relations with the State of Israel*

For Maldivians the Palestinian issue is not an Arab-Israeli conflict. It is more of a religious issue where there is the perception that fellow Muslims are being oppressed. President Gayyoom and his senior cabinet ministers were educated in Egypt during the height of Arab-Israeli wars and consequently forged a close relationship with the PLO. In direct challenge to these long held positions, Nasheed rushed into establishing a diplomatic





relationship with the government of Israel. This led to Israeli medical and agricultural teams visiting the country to explore various possibilities for collaboration.

Nasheed also authorized scheduled flights of the Israeli national airline carrier. In addition the Maldives did not vote in UNESCO for a permanent seat for Palestine. The opposition criticized the Government for this. His own Minister for Islamic Affairs also voiced opposition. This was followed by the country's first National Assembly of Scholars - organized by the Islamic Ministry - expressing strong opposition to the Israeli flights.<sup>2</sup>

Nasheed did not know how to handle this sensitive situation. Initially the Government came up with some lame excuses such as the Maldives delegation arriving late for the UNESCO vote and the Minister being unaware of the voting. However this was widely seen as a weak response. Eventually Parliament took up the issue. Strength of feeling was so widespread that a number of MDP MPs also joined the opposition on this issue.

### *UN Human Rights Commissioner Pillay's visit*

The UN Human Rights Commissioner Ms Navanethem Pillay visited the Maldives from 22 to 25 November 2011.

<sup>2</sup> [www.haveeru.com.mv/dhivehi/news/115003](http://www.haveeru.com.mv/dhivehi/news/115003)

She addressed Parliament and in the course of her address she called for an open debate on the implementation of Hudhodu punishments in the country.<sup>3</sup> To make matters worse, she was later quoted as having said that she did not recognize the Maldivian constitution.<sup>4</sup> Her provocative remarks led to widespread condemnation of her by all religio-political groups. Nasheed's own Minister for Islamic Affairs Dr. Abdul Majeed Baari said that no one can challenge or call for a revision of Sharia-based punishments.<sup>5</sup>

Each night peaceful protests against Pillay occurred. Chief Justice Mr. Faiz also became involved by saying that no one has the right to express views contrary to Islam in the Maldives.<sup>6</sup> An emergency motion was tabled before the Parliament in which MPs condemned Pillai's statement.<sup>7</sup> The DRP opposition called on the Government not to allow any open debate



<sup>3</sup> [www.haveeru.com.mv/dhivehi/news/113248](http://www.haveeru.com.mv/dhivehi/news/113248)  
<sup>4</sup> [www.haveeru.com.mv/dhivehi/news/113277](http://www.haveeru.com.mv/dhivehi/news/113277)  
<sup>5</sup> [www.haveeru.com.mv/dhivehi/news/113266](http://www.haveeru.com.mv/dhivehi/news/113266)  
<sup>6</sup> [www.haveeru.com.mv/dhivehi/news/113287](http://www.haveeru.com.mv/dhivehi/news/113287)  
<sup>7</sup> [www.haveeru.com.mv/dhivehi/news/113412](http://www.haveeru.com.mv/dhivehi/news/113412)



on the Sharia-based punishment issue.<sup>8</sup>The Adhaalath Party also called on Nasheed to condemn Pillay's speech.<sup>9</sup>

Once again Nasheed and his administration did not know how to handle this sensitive situation. Although his Foreign Minister Mr Ahmed Naseem said that no debate would be allowed on questions touching the basic tenets of Islam.<sup>10</sup> Nasheed's own statements on the issue were perceived to support the UN Human Rights Commissioner's stand.<sup>11</sup>

This lack of clear leadership caused serious concern and upset amongst within our country and alienated many religious groups.

### *SAARC monuments*

The Maldives was scheduled to hold the 17<sup>th</sup> South Asian Association for Regional Co-operation (SAARC) summit. Nasheed decided to use this as a political opportunity and as a result held the summit in Addu City – the southernmost atoll in the Maldives archipelago. Some five hundred million Rufiya was spent on the summit. As the host country, Maldives had a near free hand in organizing the event. The Government came up with a theme for the summit which apparently showed Jesus Christ and other religious figures and symbols. At the same time the Government decided to place monuments representing various countries in the organization around the islands. Some of these monuments became the subject of intense debate. Religio-political groups across the spectrum criticized the Government. They considered these actions as a direct challenge to their faith. Nightly protests against the banners and monuments started.

8 [www.haveeru.com.mv/dhivehi/news/113287](http://www.haveeru.com.mv/dhivehi/news/113287)

9 [www.haveeru.com.mv/dhivehi/news/113276](http://www.haveeru.com.mv/dhivehi/news/113276)

10 [www.haveeru.com.mv/dhivehi/news/113309](http://www.haveeru.com.mv/dhivehi/news/113309)

11 [www.haveeru.com.mv/dhivehi/news/113309](http://www.haveeru.com.mv/dhivehi/news/113309)

People even tried to enter the international airport to remove the banners. Some monuments were vandalized, set on fire and even stolen.

Yet again, Nasheed had no idea how to handle the situation. On the one hand he had to please local voters and on the other he had to maintain the “modern Muslim” outlook he had projected to the West. Diplomatically he had to protect these monuments.

Initially Nasheed denied any knowledge of the monuments. Then pictures of the President with foreign heads of states unveiling the monuments were shown on commercial TV. Then recriminations started with some in his administration openly blaming the Foreign Ministry while others blamed the Addu City council which, in turn, denied any involvement.

Nasheed ordered the security forces to provide round the clock protection for the monuments. Many in the security forces also felt it was irreligious and illegal to maintain these monuments. To make matters worse, at this time some mosques in the capital Male and in Addu City were vandalized and the Quran desecrated. It is a measure of the suspicion and disaffection within the country at the time that fingers were immediately pointed to Nasheed and his supporters.

The collective Opposition organised a huge rally on 23<sup>rd</sup> December 2011 in Male. The theme of this ‘Big Rally’ was “Maldivians in Defense of Islam”. Up to 30,000 people attended the peaceful rally which went on for 8 hours. But the rally had to end because of the threat of violence from MDP supporters led by the parliamentary group leader Hon. Mr. Ricko Moosa Manik.

Not to be outdone, Nasheed's MDP announced a counter rally for the



same day. This rally held only a short distance away under the theme a “call for moderate Islam”. Fewer than 1,000 people turned up to this event. The MDP rally lasted around an hour and half. Visibly angered and agitated over the failure of his event, President Nasheed stormed off without caring about the impact of his behaviour on those who witnessed it.

Nasheed who prided himself as the “street activist”, close to his party activists, found himself beaten at his own game by a more organized opposition. He felt undermined and it was very demoralizing for his supporters. More importantly he had to appease his own activists and MPs. One of them, Hon Ricko Moosa Manik urged Nasheed to abandon the “softly approach” and arrest people like Dr. Mohammed Jameel Ahmed (Deputy Leader of DQP), Mr. Ahmed Didi (former Amnesty Prisoner of Conscience and DQP Council member) and former President Gayyoom. Nasheed heeded the advice and arrested Dr. Jameel and Mr. Didi.

## Chapter 5

### The reality on the ground when the 7 February events unfolded

#### *Religio-political unity*

Other than the Adaalath Party, traditionally religious groups like ultra conservative Salafis, and Super Salafis generally remain politically “inactive” until issues that concern them become the subject of discussion. The present debate on the death penalty is one such example where these groups have taken a keen interest in public policy issues.



These religious groups considered the SAARC monument issue described above a direct threat to their religious beliefs and an attempt to introduce religions other than Islam to the country. The mishandling of the situation by Nasheed’s administration made matters worse and eventually led to all the opposition, including NGOs and every religious group joining hands in the

rally on December 23, 2011. This rally which came to be known as the “23<sup>rd</sup> December Alliance” was the first event since the introduction of political parties in the country in 2005 where all the opposition parties and religious groups formed a united front and the largest gathering ever held in the country. This mobilization of religious groups is a crucial element in the events culminating in Nasheed's resignation less than two months later.

### *The shift to Opposition unity*

Nasheed came to power with the hope, trust and confidence of many. He rapidly threw that away.

When his tenuous coalition collapsed within 21 days of his presidency a number of parties went over to the Opposition. However these parties were initially highly divided, especially over past support in the 2008 Presidential elections for Nasheed. The DRP accused the DQP, JP and AP of ruining the country by supporting Nasheed. They, in turn, blamed the DRP and the ageing former President for holding on to power for too long.

There was a power struggle within DRP which led to a breakaway faction to form the Progressive Party of the Maldives (PPM). The division between these opposition parties often seemed as big, if not greater, as the division between the opposition and MDP. However, Nasheed's actions brought these different parties together more effectively than any impending election. For example,

- When Nasheed unlawfully arrested Hon Qasim and Hon Yameen, the opposition united in condemnation of the Government.

- The best legal brains in the opposition worked together as the defense team for the two detained leaders.
- When Nasheed tried to sell lands in the capital Male in breach of the Land Law, four political parties representing DRP, PA, JP and DQP filed a joint action to prevent the sale.
- The same four parties formed a united opposition front when Nasheed sold Male International Airport to GMR and vowed to work together in reversing the government decision.

Padlocking the Supreme Court, withholding civil servants salaries, refusing to set up free state media away from Government control, refusing to pass a subsidy for fishermen – all these were actions that brought the Opposition ever closer together.

Finally when Nasheed arrested Dr. Jameel three times within seven days and then arrested Judge Abdullah in total disregard of the law, the Opposition recognised that they were safer standing together than alone. And it was that at the point of his resignation, Nasheed had managed to unite almost the entire Opposition against him.

### *The position of the security forces*

The military (currently known as the Maldivian National Defense Force or MNDF) is the oldest institution in the country. A large number of its members are trained in the United States and in Commonwealth countries. It has always been known for its rigorous discipline and professionalism. Until 2005 the police (currently known as the Maldives Police Service) was a branch under the control of the military. As part



of the reform process the two forces were separated in 2005. The 2008 constitution laid down basic provisions governing them. For the first time in the history of the country, the Executive was explicitly prohibited from issuing unlawful orders to the forces. At the same time there was an obligation imposed on the forces not to carry out any unlawful order.<sup>12</sup>

I have already described on the issues that arose when Nasheed announced his decision to hold SAARC summit in Addu. The national budget was already under stress and there was only a short time period available to complete the infrastructure for the summit. The cost of the project multiplied and contractors were way behind their schedule. In response to this Nasheed mobilized the two security forces to take-over a number of programs that were behind schedule. The two professional, highly trained forces cleared the bushes, streets, and painted peoples' houses and boundary walls.



*Deputy Leader of Dhivehi Qaumei Party Dr. Mohamed Jameel Ahmed and Council member Sandhaan Ahanmaidi receiving summons: Dr. Jameel was arrested three times, summons five times within a week.*

After months of backbreaking work in a difficult environment away from their families and friends, the security forces were then asked to provide round the clock protection for "idols of worship" which the country's religious scholars had decreed as *Haram* or unlawful. They then had to contain protests against these idols. Then an even bigger problem emerged – protests that followed the arrest of Dr. Jameel and Mr Didi and then Judge Abdulla. Night after night the exhausted forces were put on full alert while the country's best orators, religious scholars, eminent lawyers and politicians told them and their political masters that their actions were contrary to the Constitution, their religion and their oath of allegiance to the Constitution.



*Criminal Court's Chief Judge Abdulla Mohamed was apprehended from his residence at midnight by MNDP*

By the time Nasheed resigned, both the forces were at the end of their tether. They believed that they were being forced to carry out actions against their beliefs - protecting idols. They believed that they had potentially violated the Constitution and the laws that established them

by carrying out unlawful orders of politicians in dispersing peaceful crowds forcefully. And finally they believed that they were in breach of their solemn oath by arresting those people unlawfully and refusing to free them when a court ordered them too. It is hardly surprising that they lost all confidence in President Nasheed.

### *Furious fishermen*

Fishing is the second largest industry in the country. Some 20,000 families depend on it for their livelihood. The fishing community is a highly influential group of people, especially in the islands.

Towards the end of Gayyoom's rule fuel subsidies for fishermen were introduced. Nasheed initially continued with this policy but subsequently refused to release the subsidies Parliament passed in the 2011 national budget. The Opposition grabbed the opportunity. They took up the issue in the media, parliament, and in the court system. Not surprisingly when the protest against the arrest of Dr. Jameel, Didi and Judge Abdullah began, large numbers of fisherman joined the protesting crowds.

### *Angry Civil Service*

Historically government has been the biggest employer in the country. Until a Civil Service Law was introduced in 2007, over thirty five thousand Civil Servants held office at the pleasure of the Executive. This Law, for the first time, made them independent from the Executive. It also provided them with better job security.

Just before the Parliamentary elections in early 2009 and barely 3 months into office, Nasheed increased Civil Servants' salaries by 1

billion Maldivian Rufiyaa (over 1/7th of the total national budget).

Then, shortly after the Parliamentary election in which Nasheed and his MDP suffered defeat, he announced 15% pay cuts of for all state employees and he persuaded the Civil Service Commission to follow suit. When the Parliament and the Courts demanded restoration of pay, Nasheed refused to do it.

### *Corporations and Cronyism*

In parallel to the Civil Service, Nasheed created a large number of state owned corporations and transferred large numbers of civil service employees to those corporations. Once transferred they became employees of the corporation. This, in effect, deprived them of the job security and other safeguards within the Civil Service. These corporations were headed by Nasheed's loyalists and MDP activists whose primary function was to increase party membership.

The 35,000 strong Civil Service was reduced to some 19,000 and in direct defiance of Parliament and court rulings, Nasheed also refused to restore their pay cuts. And so Nasheed lost the trust too.

### *Widespread corruption and nepotism*

Barely two years into Nasheed's administration, the country plummeted 27 points down Transparency International's Corruption Index. This was largely because Nasheed's supporters saw the government as a means to get rich quickly.

The principal beneficiaries of small and medium size loans which the government issued, contracts which the government awarded, and



islands which the government released for resort developments were MDP supporters and activists.

An example of a beneficiary was Nasheed's parliamentary group leader, MP Hon Moosa Manik who was awarded a state guesthouse. In addition he received a USD21 million reclamation contract by State Owned Thilafushi Corporation where a contractor financed contract suddenly was changed to employer-financed and 14.29 percent of the contract cost was paid in advance without obtaining an advance payment guarantee in the form specified in the contract. GMR also awarded a USD20 million reclamation contract for the international airport to Mr. Moosa Manik. Nasheed's political advisor and the MDP's first President was given a three million Rufiyaa government loan.

By February 7 decent hardworking people were outraged by the blatant corruption and nepotism which was widespread.

### *Relations with MATI*

The Maldives Association for Tourism Industry (MATI) is the most powerful Association in the country. It consists of the country's wealthiest people and represents the hoteliers in the country. Many of the hoteliers supported a change in President in 2008 but were soon to be disappointed with Nasheed's administration. Some of the reasons for their disillusionment included:

- Nasheed demanded an upfront payment of 2.5 million United States Dollars from every resort to extend its lease. This was clearly against the law which required a gradual payout. Nasheed insisted on an upfront payment. Eventually he was forced to back

off when the court declared the government action illegal but this was not before the Government had collected some 40 million USD from the industry.

- While the tourism industry was struggling in the global financial and economic crisis, Nasheed flooded the hotel property market with up to 400 new islands. As a result the asset value of resorts fell dramatically infuriating the resort owners.
- To make matters worse, six weeks before he resigned, completely out of the blue, Nasheed announced a ban on spas in all the resorts. He further threatened to ban alcohol and porks in the resorts too. The news spread like wildfire and made headlines across the world. This was understandably seen as a major threat to the tourism industry. He then tried unsuccessfully to secure a face saving ruling from the Supreme Court. Under enormous pressure, he eventually lifted the ban. But by then he had alienated powerful tourism industry investors.

### **Conclusion**

Through these actions, Nasheed had generated a whole host of unnecessary crises alienating many influential groups and losing the support of many ordinary Maldivian people. Eventually he recognised this and took the decision to resign. If he had stood by his decision, he might have earned some respect. However within a day he had completely changed his story and was pretending that the widespread opposition he had generated had never existed.

The Commission of National Inquiry will naturally want to investigate all

the events leading up to 7 February, assess evidence as to who said and did what and when and set out some conclusions as to what can be learned from the past and what can be applied in future.

I believe that any detailed investigation will support the charge of weak leadership and its contribution to our country's crisis which I have set out in this paper. This is based on Nasheed's:

- Inappropriate and melodramatic behaviour
- Lack of experience of government
- Failure to address cronyism
- Overt antagonism to the country's Muslim beliefs
- Emotional instability
- Inability to build consensus and to work collaboratively

Nasheed's great opportunity to prove himself instead demonstrated all his flaws. This is not just about one man's personal weakness. It is about the way his actions impacted on the whole country and threatened the existence of our newly established democracy.

I believe that it would be totally inappropriate for Nasheed to be a contender for the Presidency in 2013.

Nasheed carried our hopes for the future of our country. He let us all down. He was given his chance. The evidence strongly suggests he should not be given another one.

# Appendix I

## Making sense of the events of 7<sup>th</sup> February 2012

### *What happened on 7<sup>th</sup> February 2012?*

At 12.58pm on 7<sup>th</sup> February 2012 President Nasheed resigned from office. In line with the Maldives Constitution, at 3.19pm his deputy, Vice President Waheed was sworn in by the Chief Justice and the Speaker of the Majilis as the new President.

### *What were the events leading up to the resignation?*

To understand these events it is helpful to analyse this question in four parts:

1. Events on the day of the resignation itself 7<sup>th</sup> February 2012.
2. Events from 9<sup>th</sup> November (from the SAARC summit) to the 11<sup>th</sup> December 2011.
3. Events from the 12<sup>th</sup> December 2011 to 6<sup>th</sup> January 2012.
4. Events from November 11<sup>th</sup> 2008.



## 1. Events on the day of the resignation itself - 7th February 2012

### *The day of 7<sup>th</sup> February - what was happening immediately before Mr. Nasheed's resignation?*

The immediate reason for Mr. Nasheed's resignation was that he recognised that he had lost support of much of the public and subsequently the MNDF and Police. It simply was not tenable for him to remain in office. This loss of support had manifested itself in a number of ways:

- Members of the Police force had a sit-in peaceful protests in the Republican Square – right in front of police and military headquarters. This was where President Nasheed was based at this time.

### *Why were the police protesting?*

They were demanding assurances from the Government that in the future:

- They would not be required to follow unlawful orders.
- They would not be asked to order others to carry out any unlawful acts contrary to the Constitution.

These demands arose from a sequence of events starting in January with the arrest of Dr Jameel and Mr. Didi and culminating in the detention of Judge Abdullah.

### *What was the specific trigger for the Police demonstration?*

The night before (6<sup>th</sup> February) at a demonstration organised by supporters of the Opposition there was a confrontation between them and supporters of Mr. Nasheed. The Police, who were keeping the rival supporters apart, were ordered to withdraw from policing this confrontation on the direct orders of President Nasheed. They withdrew on the understanding that the MNDF would take over this role in policing the rival crowds. When the Police became aware that in fact the MNDF had also been withdrawn they returned, of their own volition, to prevent a serious disturbance.

The Police officers involved felt that this order to withdraw was putting lives at risk and was unacceptable political interference in their role. This led their protest on the morning of the 7<sup>th</sup> February.

### *Was there constitutional legitimacy for the Police demands and actions?*

- Article 245 of the Constitution says “No person shall give an illegal order to a member of the security services. Members of the security services shall not obey a manifestly illegal order.”
- Under article 64 of the Constitution “everyone has the right not to obey an unlawful order.”
- The Constitution prohibits the issuing of unlawful orders and actions even during a state of emergency.<sup>13</sup>
- Police Law also imposes such prohibition.

<sup>13</sup> Article 245 of the Constitution

### *What was the Government's response to the concerns of the Police?*

The Home Minister (or any senior official from the Ministry) and Commissioner of Police did not meet with the police or give any assurance that unlawful instructions would cease.

President Nasheed, escorted by senior military officials and the Defense Minister did meet with the protestors but he did not give the requested assurances either. Mr. Nasheed told the protestors that they were in the wrong and should surrender to the MNDF.

### *What happened after these exchanges?*

Mr. Nasheed demanded that the MNDF use weapons against the protesting police. The MNDF used rubber bullets and large amounts of tear gas but failed to disperse them.

### *What happened after this confrontation between the MNDF and the Police?*

The President:

- Could order use of live ammunition against the protesting police officers, or
- Could seek foreign military intervention.

According to reliable sources, foreign military intervention was sought from India. However this request was declined as India felt the situation did not warrant military intervention.

Live ammunition was not used. After his resignation, Nasheed told his supporters that military officers did seek his permission to use live ammunition which he declined.

### *What were the specific circumstances surrounding the actual act of resignation?*

The following is the chronology of events when external military intervention was refused:

- At this point Mr. Nasheed recognised his position was untenable.
- He made the decision to resign.
- He requested the MNDF to convey him to the Presidential office where he would write his letter of resignation.
- He telephoned key members of the Opposition informing them of his resignation.
- He spoke to the Speaker of the Majilis informing him of his decision to resign and that arrangements should be made for his Deputy to assume the Presidency.
- On arrival at his office he met with his Cabinet and informed his Ministers of his decision. Besides his Cabinet Ministers, there was no one else in the room.
- Nasheed rejected the call from some of his Cabinet Ministers to reconsider his decision.
- Nasheed wrote and signed his letter of resignation.
- Nasheed then announced his resignation - live on TV- surrounded by his Cabinet, his personal staff and around 50 journalists.



- He did not take any questions from the media.

He said in his resignation speech on February 7, 2012:

*"I believe if I continue as the President of the Maldives the people of the country would suffer more. I therefore have resigned as the President of the Maldives"*

*"It will be better for the country in the current situation if I resign. I don't want to run the country with an iron fist. I am resigning"*

*When did Mr. Nasheed first suggest an alternative version of the events of the 7<sup>th</sup> February and what did he claim?*

- On the 8<sup>th</sup> February in less than 24 hours after his resignation, Mr. Nasheed told AFP and NY Times that he was 'forced to resign at gunpoint'
- A little while later he elaborated and claimed that he was forced to sign his letter of resignation in the military headquarters.

It is now accepted that neither of these statements was true.

*What is the explanation for Mr. Nasheed's apparent change of heart?*

We understand that this is key question for many international observers when trying to make sense of the circumstances surrounding Mr. Nasheed's resignation. And perhaps this is why some look for more dramatic and sinister explanations for his actions. However to many in the Maldives Mr. Nasheed is well known for his erratic and impulsive behaviour. These are well-documented and are covered in later sections.

It was therefore his character.

## *Conclusion*

The above is a chronicle of the events that took place on February 7, 2012. They can be better understood if seen in the context of both the previous 3 months and then in the even wider context of the last 3 years.

## 2. Events from 9th November (from the SAARC summit) to 11th December 2011

### *Why is this period important?*

Between November 2011 and January 2012, Nasheed's religious credentials and his commitment to Islam were increasingly challenged by religious groups, opposition political parties, and civil society groups.

### *What were the specific allegations against Nasheed?*

There were three main issues which led to his religious commitment being challenged.

- The re-establishment of diplomatic relations with the State of Israel.
- The placement of monuments in Addu City during the 17<sup>th</sup> SAARC summit which some believed to be "*heathen idols*", and "*contrary to Islam and the laws of the country.*"
- UN Human Rights Commissioner Ms. Navanethem "Navi" Pillay

visited the Maldives at this time. During her visit she questioned the validity of certain *Hadd* punishments. She also questioned the validity of the country's Constitution which allows room for such punishments. Nasheed was accused of encouraging her views.<sup>14</sup>

### *What was the reaction of the public to these issues?*

All the opposition political parties, religious groups and a civil society umbrella group call *Madhanee Ithihaad* worked together to organize the biggest rally ever held in the Maldives. The theme of this 'Big Rally' was "Maldivians in Defense of Islam". This coming together of so many groups became known as the "23<sup>rd</sup> December Alliance" - a reference to the day on which it was held.

### *Was it well supported?*

It was the biggest gathering ever held in the country. Some 30,000 people came to the rally in Male' and even greater numbers took part in rallies held simultaneously across the country. It went on for 8 hours.

<sup>14</sup> The Islam.com – a religious website on 1st January 2012 described the reasons for the BIG rally as follows:

*The Union did not announce a rebellion to overthrow the Maldivian Government. It was not a protest against MDP. From the very beginning, it was made very clear that 23rd December would be a day for the Maldivians to express their disapproval of the Government's unrepentant disregard and disrespect of Islam. The Maldivian people have watched their Government's endorsement of the installation of what they believe to be heathen idols on their soil, its contempt and disregard of the Noble Qur'an, its frantic efforts to establish ties with the terrorist state of Zionist Israel blindly ignoring the latter's continued violence against the beloved, oppressed people of Palestine. The mass protest was organized to tell the Government and the world that the Maldivians did not approve of these policies. (The message of 23rd December – WE LOVE ISLAM AND WE WANT TO BE MUSLIMS, January 1, 2012. The Islam, <http://dhiislam.com/eng/5483> (Accessed on January 1, 2012) )*

### *What were the protestors demanding?*

There were five very specific demands:

- The removal of idolatrous statues of false gods from Addu City.
- That Nasheed apologize for and denounce the mockery of the Islamic *Shari'ah* ruling against adultery and fornication by UN High Commissioner for Human Rights, Ms. Pillay.
- That the Israeli flights due to start shortly should be stopped.
- That brothels that operated in the guise of massage parlours in Malé should be closed down.
- That the Government's efforts to sell alcohol in inhabited Islands should cease.

### *What was Nasheed's reaction to the 'Big Rally'?*

When the united religio-political front announced the 23<sup>rd</sup> December event - the 'Big Rally', Nasheed quickly announced a rally of his own - on the same date and at the same time just few hundred meters away. However, fewer than 1000 people attended Nasheed's rally and it only lasted an hour and half.

### *What was Nasheed's reaction?*

He was furious, humiliated and wounded. The entire nation watched the two events live and the contrast couldn't have been any clearer. He stormed out of the place on foot and walked all the way to his official residence. This self-proclaimed "king of street activists" recognized that



he had been beaten at his own game.

### *What was Nasheed's reaction to the 'Big rally' demands?*

*On monuments:*

- He blamed the monuments on Addu City Council and the Foreign Ministry and said that he only came to know about them much later when people started protesting against them. However, this statement was rather undermined when photographs appeared of him along side Heads of States unveiling some of those monuments!

*On the ban on brothels in Male':*

- Nasheed used the public concern about brothels in Male as an excuse to damage some of his rivals who owned resort islands. He sent security forces accompanied by government officials to raid and shut down Spas in resorts belonging to his political rival Leader of Republican Party and MP Hon Qasim Ibrahim. He then introduced a spurious ban on spas in all resorts!

*On the ban on the sale of alcohol in inhabited islands:*

- Again, Nasheed used an issue of public concern to try to further his personal ends. He threatened to impose a ban on the sale of alcohol and pork in resorts.

### *What was public reaction to the closure of spas?*

Nasheed's ban on spas and threats to ban alcohol and pork in resorts shocked the entire country, investors, resort owners and tour operators.

It made headlines all over the world. It had a huge negative impact on the tourist industry.

### *How did Nasheed react to public anger?*

- As a face saving move, Nasheed tried to obtain a ruling from the Supreme Court as to whether the sale of pork and alcohol was permitted in the country. The Supreme Court did not give that ruling.
- Having failed to obtain a Supreme Court ruling over the issue, a week after imposing the ban he lifted the ban on Spas. Once again the President's reputation for erratic and rash behavior was confirmed.

## 3. Events from 12th December 2011 to 6th January 2012

### *How did the period of political unrest that led to President Nasheed's resignation start?*

This began with the summons on 12<sup>th</sup> December of DQP deputy leader Dr. Mohamed Jameel Ahmed and DQP Council member Mr. Ahmed Ibrahim Didi to police headquarters and the subsequent arrest of the two for allegedly "Defaming the Government and Criticizing the Government's religious policies". This followed the publication, by their political party, the DQP, of a pamphlet and a subsequent appearance on national TV to discuss it.

### *Who is Dr. Jameel?*

- Dr Jameel holds a doctorate in law from the School of Oriental and African Studies of the University of London.
- Former Justice Minister in Gayyoom's administration. One of the key architects of criminal justice reform during that period
- Former Civil Aviation Minister in Nasheed's administration.
- Former Chief Judge of the Criminal Court.
- Former State Prosecutor.
- Current Home Minister (since 8<sup>th</sup> February 2012)

### *Who is Mr. Didi?*

Mr Didi, an Amnesty Prisoner of Conscience, started the fight for freedom of speech during President Gayyoom's administration. He published an underground online newspaper called *Sandhaanu*. He and his three colleagues were arrested and sentenced to life imprisonment.

### *What was the background to Dr. Jameel's and Mr. Didi's arrest?*

Both had been vociferous critics of President Nasheed. Mr Didi and Dr. Jameel have repeatedly told supporters and reporters that they will ensure the President ends up in prison for "crimes" and illegal and unconstitutional acts he had committed. They were particularly critical of Nasheed's religious policies. Mr. Nasheed was under pressure from MDP activists to silence them – hence the police summons.

### *What about the pamphlet itself?*

The issues in the pamphlet have been part of wider debate in the Maldives over a number of years.

The Party has listened to feedback it has received and recognise that sections of the pamphlet should be worded differently. As a result the Party is in fact now revising it. Nevertheless we need to recognise that the Maldives is a traditional Muslim country. People feel very strongly about the Palestine issue and seek to uphold traditional Islamic values.

If the Government or anyone else is unhappy with something that is published there is a proper judicial process to follow. That is the only way to protect freedom of speech as set out in the Constitution.

### *Who ordered the investigation of Dr. Jameel and Mr. Didi?*

The President's Office issued the direction (Signed by the Cabinet Secretary Ms. Hisaan). The President's Office invoked Section 125 of the unreformed Penal Code which dates back to the 1960s - a catch all for smothering anti government sentiment. The Attorney General had previously submitted a legal opinion to the President explaining that this section of the Penal Code contravened the new Constitution of the Maldives.

### *What happened when Dr. Jameel and Mr Didi reported to the police?*

Dr. Jameel was allowed to go home after his interrogation. In the course of Didi's interrogation - which started after Dr. Jameel's interrogation -



Home Minister Hassan Afeef arrived at the police headquarters. When he got out of his car, protestors confronted him and called for his resignation. Inside the police headquarters, he saw Mr. Didi criticizing Nasheed and his government. The interrogation was abruptly stopped and Didi was arrested and sent to Dhoonidhoo detention center. Police then went to arrest Dr. Jameel at his home but he refused to surrender without a court order.

The following evening just before the Criminal Court was due to start consideration of Didi's application challenging his arrest, the police released him.

### *What was the process surrounding the arrest of Dr. Jameel?*

Between 12<sup>th</sup> and 18<sup>th</sup> January 2012 Dr Jameel was summoned to police headquarters five times and they arrested him three times without a court warrant. Every summons and every arrest was based on the same alleged offence.

### *What happened between 13<sup>th</sup> and 15<sup>th</sup> January?*

The following day (13<sup>th</sup> January) police once again issued a summons for Dr. Jameel and Mr. Didi to report to the police on 14<sup>th</sup> January. They complied but both exercised their constitutional right to remain silent. They were allowed to go home after completing necessary paperwork. Once again the subject matter was the same.

On 15<sup>th</sup> January the police again issued a summons to Dr. Jameel and Didi. Once again the subject matter was the same. Once again Didi exercised his right to remain silent and was allowed to go home. On arrival Dr. Jameel was arrested and sent to Dhoonidhoo Island prison.

His lawyers immediately filed a *habeas corpus application*. Chief Judge of the Criminal Court judge Abdulla gave the police an hour to produce Dr. Jameel before the court.

### *Was Dr Jameel's arrest lawful?*

No. The Court declared the arrest unlawful because:

- There was no judicial warrant.
- All three arrests were challenged in the Criminal Court. In all three arrests police had said that they did not have a case and they were simply following orders.
- The courts declared all three arrests unconstitutional.

### *Who first declared Dr. Jameel's case unconstitutional?*

The First Judge to declare the arrest of Dr. Jameel unconstitutional was the Chief Judge of the Criminal Court – Judge Abdullah. This was on 15<sup>th</sup> January 2012.

### *What were the consequences for Judge Abdullah?*

The day after (16<sup>th</sup> January) he declared Dr. Jameel's arrest unconstitutional, police summoned Judge Abdullah to the police headquarters. Under the Constitution and laws of the Maldives the Police are not authorized to issue such a summons to a sitting judge.

### *What did Judge Abdullah do with the police summon?*

Instead of going to the police, the Judge went to the High Court. He sought an order restraining the police from enforcing the summons.

### *What did the High Court say?*

The High Court issued a temporary order until the court could give a ruling on whether a sitting judge can be summoned to the police headquarters. Any such ruling would be under Article 43(c) of the Constitution which states that anyone affected by an administrative action (a police summons being such an action) has a constitutional right to appeal to the Court of Law.

### *Is it normal for the High Court to issue such orders?*

It is standard court practice to issue such temporary orders to maintain the status quo until the case is decided on its merits.

### *What were the remedies available to the Government against the High Court order?*

The Government could have appealed the High Court ruling to the Supreme Court. It failed to do this.

### *What were the Government's allegations against Justice Abdullah?*

Initially the Government alleged that he had been speaking on 'political matters'. They subsequently claimed that in his role as a Judge he was obstructing police work and that this was a threat to internal security and public order and safety. These allegations are matters that should properly be examined by the Judicial Service Commission in order to protect the independence of the Judiciary.

### *Were there any other circumstances of note surrounding the arrest of Judge Abdullah?*

- On 16<sup>th</sup> January 2012 at 11:17pm ruling MDP activists - the Party of President Nasheed - started gathering outside the residence of Justice Abdullah.
- Almost at the same time (11.19pm) MDP Deputy Leader and Member of Parliament Hon Mr. Alhaan Fahmee, in the party rally, declared that he and the party would not allow Justice Abdullah to attend the Criminal Court the following day.
- Five minutes later (at 11:23pm) members of armed forces broke into Justice Abdullah's residence and detained him.

### *Does the military have the power to arrest?*

Under the 2008 Armed Forces Act the military has no civilian role except where a written request for assistance is made by the Police. Home Minister Hassan Afeef and the Defense Minister Tholhath Ibrahim Kaleyfaan said that MNDF acted in response to the police request for assistance. The manner of arrest and the way judge Abdullah was subsequently handled showed that it was a purely military operation.

### *What were the circumstances of his detention?*

- He was held on the military training island of Girifushi.
- His family was not informed of this until two days after his detention.
- It was the 20<sup>th</sup> January before he was seen by the Human Rights



Commissioner.

- He was never allowed access to his own legal representatives.
- He was never brought before a court of law as required by the constitution.
- Government violated Justice Abdullah's numerous constitutional rights.

### *What did the relevant judicial and legal agencies have to say about this arrest?*

The Supreme Court, High Court, Criminal Court, the Human Rights Commission, the Judicial Services Commission, the Prosecutor General and The Law Society all demanded the release of the detained Judge Abdulla. But Nasheed refused to release the Judge.

### *What was the political reaction to these arrests?*

All opposition parties in the Maldives were united in their condemnation of these arrests.

Public demonstrations protesting at these arrests and the unconstitutional behaviour of the President commenced on the 16<sup>th</sup> January and continued until the resignation of Mr. Nasheed on the 7<sup>th</sup> February.

### *What happened to Dr Jameel during this period?*

The following day (16<sup>th</sup> January 2012) once again the police issued a summons to Dr. Jameel. Again the subject matter of the investigation was the same. And again on arrival he was arrested and sent to

Dhoonidhoo Island Prison. Sensing the volatility of the situation – since they had heard that the Chief Judge of the Criminal Court who declared Dr. Jameel's arrest unlawful the previous night has been summoned to the police - Dr. Jameel's lawyers did not file *habeas corpus* application immediately.

However on 17<sup>th</sup> January, in an unusual move a three member Criminal Court bench declared Dr. Jameel's arrest illegal and section 125 of the Penal Code<sup>15</sup> under which he was charged was declared as unconstitutional as it violated Article 27<sup>16</sup> of the Constitution.

Police again on 18<sup>th</sup> January issued a police summon to Dr. Jameel to report to police. On arrival he was again arrested and again the allegations were the same as before even though the Court had declared the offense did not exist.

On 19<sup>th</sup> January in an application by Dr. Jameel's legal team a five member Criminal Court bench, once again declared Dr. Jameel's arrest unconstitutional. The Court further ruled that no citizen can be arrested when responding to a police summon.

Shortly after the Court ruling police once again issued a summons to Dr. Jameel and Mr. Didi to report to police at 8.30pm that very day – for the same offence! However, the summonses were later withdrawn.

A week later (26<sup>th</sup> January 2012) police then summoned Dr. Jameel's

15 Section 125 of the Penal Code which dates back to 1960s. It provides "Where a person expresses a fabricated statement or a statement whose origin cannot be proven, he shall be punished with house detention for a period between 1 month and 6 months or fine between Mrf. 25.00 and Mrf. 200.00".

16 Free speech clause under the constitution.

legal counsel Dr. Hassan Saeed for questioning over the same alleged offence.

### *Conclusions*

These were the immediate events that led up to the resignation of Mr. Nasheed. However it was only a matter of days after his inauguration as President that clear signs started to emerge as to the tone and ethos of his administration.

## 4. Events from November 11th 2008

On the 8<sup>th</sup> October 2008 the Maldives held its first democratic Presidential election.

In the first round Mr. Nasheed obtained 25% of the popular vote. The incumbent President Gayyoom received 40%. Other opposition candidates accumulated 35% of the popular vote. As no candidate received more than 50% the election went to a second round and the majority of the 'opposition' urged their supporters to vote for Mr. Nasheed in the second round.

Hence Mr. Nasheed was elected with a coalition of support.

That was the basis on which it was anticipated he would govern. Unfortunately this proved not to be the case.

Mr. Nasheed became President on 11<sup>th</sup> November 2008. At the start of the Presidents term of office there were 5 parties/groupings within the government. By the end there was only one: the MDP.

The constitutional abuses of the Nasheed's government are well

documented.<sup>17</sup>What follows is a summary of the history of the Nasheed government which demonstrates the difficulty Mr. Nasheed appears to have in governing in a fashion that unites rather than divides the country.

- After 21 days the Home Minister Hon Qasim of the Jumhoaree Party resigned being unable to work with Mr. Nasheed.
- After 100 days Dr. Hassan Saeed of the New Maldives (NM) movement (subsequently to become the DQP) resigned for the same reason. The NM (DQP) left the coalition formally in late 2009
- In the third year of the new government the Justice Party also left the coalition.
- In June 2010 Mr. Nasheed's cabinet resigned in a game of brinkmanship between the executive and legislature. Mr. Nasheed was never able to come terms with the fact that he did not command a majority in the Majilis and that his approach needed to be one that built consensus between the Executive and the Legislature.
- After the resignation of the cabinet a number of opposition MPs were arrested. These included Hon Qasim and Hon Yameen, leaders of the Jumhoaree Party and the Peoples' Alliance respectively. They were arrested by the Police (who are responsible to the Home Minister and President) without court warrants. These two arrests were ultimately declared illegal.

<sup>17</sup> Large number of such reports are found in the DQP website: [www.qaamee.org.mv](http://www.qaamee.org.mv) (go to English section).



- The government failed to hold Parliamentary and Local Council elections in the time frame defined by the Constitution, despite a Supreme Court ruling demanding compliance with those deadlines.
- There is a documented history of improper attempts to influence and intimidate the judiciary. These include the padlocking of the Supreme Court to try and influence its deliberations, setting up Kangaroo courts, holding protests outside the court and harassing judges.
- Access to state media was consistently denied to opposition political parties and a variety of restrictions and obstacles put in the way of private media. This included the threat to close a private TV Channel
- An alarming growth in the number of political appointments to reward MDP activists and pressure put on public appointees to join the President's political party the MDP
- A lack of transparency in the awarding of government contracts.
- A history of undermining independent institutions which had been set up as a check and balance on government if their findings were not in accordance with the views of the President.

### *Conclusion*

Speaking in Cairo President Obama described those *"who advocate for democracy only when they're out of power; once in power, they are ruthless in suppressing the rights of others."* Sadly it is behaviour such as this that we have witnessed in the Maldives. And ultimately the People of the Maldives were not prepared to tolerate this for any longer.

# Appendix 2

## 7<sup>th</sup> February 2012 – Weighing the evidence

This appendix examines the transfer of power in the Maldives from President Nasheed to President Waheed on 7 February 2012. In particular it analyses the specific events that are cited as evidence by those who claim that a coup d'état took place on this day.

### Part 1: Key events

Set out below are the allegations made by those who claim a coup occurred on 7 February. These allegations are then examined and refuted.

**Allegation 1:** Dr. Waheed met Opposition leaders in his official residence on 30<sup>th</sup> January 2012. The suggestion is that this is an indication that Dr Waheed was involved in a conspiracy with other members of the Opposition to force Nasheed from office

#### **Response:**

This meeting was held openly with the full knowledge of the media and the security forces. It took place in the Vice-President's official residence which is permanently guarded by the Maldives National Defense Forces.

The Opposition participants at the meeting subsequently held a live press conference to share their discussions with the Vice-President.

This was not a secret meeting.

If this meeting had the significance which is being claimed then one would expect it to be attended by the most senior leaders of the Opposition. There were no senior Opposition leaders present, only junior leaders. No evidence has been shown of any planning and collusion between the Vice-President and Opposition leaders.

Further, Dr. Waheed briefed President Nasheed and cabinet members about the meeting with the Opposition. Clearly he was not hiding anything from President Nasheed. This was also confirmed by Nasheed's spokesperson Mr. Zuhair who told reporters that there was nothing wrong with the Vice-President meeting the opposition.

**Allegation 2:** At this meeting the opposition leaders asked the Vice-President if he was ready to discharge his constitutional duty. To which he replied that he was.

#### **Response:**

Opposition politicians had been concerned by recent events such as the unconstitutional arrest of a judge and were pressing the Vice-President to uphold the constitution. The response by the Vice-President is what any Vice-President would say if asked this question. A person holding responsibilities for the future of the country is expected to be ready for duty if and when called upon. Nasheed's spokesperson Mr. Zuhair confirmed this when told Minivan News that the Vice President "has not said anything to cause a loss of confidence in him by the government. He was very careful in his statement, which was that he would undertake his duties as stipulated in the Constitution. Had the protesters gone to meet



with [Fisheries Minister] Dr Ibrahim Didi or [MDP MP] Reeko Moosa they would have said the same thing.”<sup>18</sup>

**Allegation 3:** The presence of civilians such as retired Colonel Mohamed Nazim and Abdullah Riyaz inside the MNDF headquarters on 7<sup>th</sup> February is cited as another indication that people ‘behind the scenes’ were encouraging security forces to rebel.

**Response:**

These two people were not the only two civilians in the headquarters at that time. For example, some MDP senior officials can also be seen to have been present in the various videos that are readily available online.

In fact, they were legitimately present at the HQ responding to a call to them by the Defense Minister.

Many people were being asked to go to MNDF HQ for legitimate purposes at that point in time. For example Nasheed himself asked the PPM Deputy Leader Umar Naseer to come to the MNDF headquarters to help in resolving the crisis.

**Allegation 4:** Colonel Mohamed Nazim and Abdullah Riyaz were also seen on 7<sup>th</sup> February in the President’s Office. They had no legitimate reason to be there.

**Response:**

Forces under the Defense Minister provided security to the President’s Office and to the President. Anyone invited by the Defense Minister or

<sup>18</sup> Minivan News, 30 January 2012 (<http://minivannews.com/politics/opposition-meets-vice-president-pledges-allegiance-and-urges-to-take-control-of-executive-31362>)

accompanying him or another Cabinet Minister is always able to enter that building during working official hours with or without prior notice.

As a result of the protests, it was a chaotic situation and in such situations normal access procedures and protocols are minimized and formal invitations to visit might not have been issued due to the urgency of the situation. However that informality does not in way support the claim that their presence was evidence that they were part of a coup.

**Allegation 5:** It was inappropriate that Nazim and Riyaz rather than political leaders were involved in negotiations on 7 February.

**Response:**

Until Nasheed fired them, the two people in question held senior offices in the MNDF and Police. Due to their previous high ranking positions they were in a position to speak, negotiate and mediate between the two rival factions at that time (ie the MNDF and the Police). This is why the Defense Minister asked them to help and explains their presence at the MNDF HQ and the President’s office.

**Allegation 6:** Members of the MNDF were seen hugging and lifting Nazim after the resignation of President Nasheed. It is claimed that this was a sign of appreciation for his role in a coup.

**Response:**

As one of the country’s most celebrated soldiers, Nazim was held in high regard by the MNDF. There is no evidence, either written or verbal, of him issuing orders and or acting as a supposed leader of a coup.



**Allegation 7:** Congratulatory messages sent to Nazim and leaked by the media are an indication of his involvement in a coup.

**Response:**

The whole incident of 7<sup>th</sup> February was broadcast on live television. People saw Nazim at the scene talking, negotiating and going in and out of the MNDF headquarters. At that point there was no leader –political, religious or otherwise - at the scene. Obviously anyone who welcomed the resignation of Nasheed as President may have congratulated Nazim as he was present (and had been fired by Nasheed). There is nothing more sinister to it than this.

**Allegation 8:** The two were subsequently rewarded for their part in a coup by being appointed as Defense Minister (Nazim) and the Commissioner of Police (Riyaz).

**Response:**

The day after Nasheed resigned (8<sup>th</sup> February) and before Dr. Waheed could make any appointments, many MDP supporters rioted across the country committing acts of violence and destruction. The two people in question were the most appropriate to handle what was a very volatile situation. Their experience was invaluable at such a difficult time and the new President and his government were right to prioritize stability and the rule of law by calling on that experience.

They were also held in respect by the Police and the MNDF so their appointments reassured the security forces.

It should also be noted that their nominations came from the coalition

partners in a meeting held on 7<sup>th</sup> and 8<sup>th</sup> of February at Hilaaleege. This was not a unanimous decision. Some coalition partners did object to a former soldier (Nazim) being appointed as the Defense Minister. However the overall view was that stability and the rule of law needed to be restored and they were the best people to deliver this quickly.

**Allegation 9:** Umar Naseer claims that on 7<sup>th</sup> February he played a key role at MNDF command centre.

**Response:**

Umar Naseer is known for his fiery and colourful speeches. Maldivians are quite familiar with this – it would be rash indeed for anyone to base the case for a coup on any announcement from Umar Naseer without substantiating.

**Allegation 10:** Dr. Waheed did not offer help to President Nasheed. It is claimed that as the Vice-President he was duty bound to help his President in his hour of need.

**Response:**

It is common knowledge that Nasheed did not have a good relationship with his Vice President. They were members of different parties elected as part of a coalition. However, their personal relationship is not the point. The Vice President's primary obligation is to the constitution and the country.

Nasheed did not work collaboratively, frequently keeping his Vice President in the dark over important government decisions, including the arrest of Judge Abdullah.



On February 7<sup>th</sup>, the Vice President did communicate with the Chief of Defense Force Major General Moosa Jaleel through SMS text message.

**Allegation 11:** MNDF forces taking control of MNBC One is a clear indication that this was a coup.

**Response:**

The truth of this incident is that junior officers were told that MDP thugs had attacked a group of soldiers from Kalhuthuhkkalaakoshi trying to join the protesting police. MNDF Officers were on their way to Kalhuthukkalaakoshi in response when they came under heavy attack from MDP activists near MNBC One. They then changed course and entered building and forced to stop its transmission.

**Allegation 12:** Vice-President Waheed issued a statement around 2am on 7<sup>th</sup> February “encouraging” the police officers in their revolt.

**Response:**

The statement by Vice-President Waheed was issued after MDP supporters set fire to the independent Island Broadcasting Company (VTV) station and caused other damage in Male. The Vice President called for an end to the violence and destruction. He also stated that he was prepared to play his legal and constitutional role to ensure the rule of law was enforced. This statement is consistent with the constitutional duties of the Vice-President’s constitutional duties.

**Allegation 13:** Soldiers and police officers were seen celebrating on the streets of Male after the resignation of President Nasheed.

**Response:**

Such jubilation was more an indication of relief and liberation. It is not evidence of a coup. There is no denying that the security forces that were tired, exhausted and overstretched were happy. They were happy that an era of unlawful orders had come to an end. They would no longer face the threat of criminal prosecution for carrying out unlawful orders or the risk of being held in contempt of court for refusing to produce Judge Abdullah. Nor would they face private law suits filed by the then Opposition for unlawful arrests and detentions of opposition members.

## Part 2: Key Issues

As well as the specific events of 7<sup>th</sup> February described in the preceding section, supporters of the coup conspiracy theory cite a range of broader allegations in support of their claim of an unconstitutional transfer of power. These are described below along with a considered response.

**Allegation 1:** There was a physical threat to Nasheed

**Response:**

At no stage was there any physical threat to Nasheed. At all times he was protected by the elite Presidential guard or the Special Protection Group (SPG). Even now, he continues to receive the same standard of protection as when he was the President.

**Allegation 2: Nasheed's family were under threat forcing him to resign**

**Response:**

Perhaps the following anecdote is the most effective way of debunking this allegation.

Immediately after Nasheed and his family moved from Muliyaage - the official residence - to his wife's home, they discovered that in the chaos Nasheed's children's cat was left behind. A few days later, Ms. Laila Ali (Nasheed's wife) called the new First Lady Ms. Ilhaam to ask her help in locating the cat in the President's residence. The two First Ladies along with the children tried to track down the missing cat.

This is hardly the actions of a wife and mother who is feeling threatened.

**Allegation 3: Nasheed had lost control of the armed forces, thus forcing his resignation.**

**Response:**

Whilst Nasheed may have lost the confidence of the security forces the MNDF continued to obey his orders until his resignation. For example:

He was frequently seen issuing commands to the MNDF collectively and to individual officers. This eventually led to the collapse of the command structure in the MNDF.

At Nasheed's instruction the military confronted the police and used teargas and rubber bullets to disperse the protesting police.

He was able to meet his cabinet ministers throughout these events.

He had the communications technology available to reach any international institution, country or person to alert them about a coup! But he never did this.

He wrote his own resignation letter which he read out at a live press conference.

Nasheed decided to return to his private residence. There was no objection to this request.

No attempt was made to isolate Nasheed from the public, party supporters or the international community or media – because no one thought there was anything bad to hide. For example, some 16 hours after his resignation he had the freedom to hold a press conference, an MDP National Council meeting, and also led a march and demonstration towards the military and police headquarters.

**Allegation 4: The protesting police were a threat to Nasheed**

**Response:**

The protesting police were never a real threat to the MNDF or the President.

They could not possibly enter the military headquarters. Whereas the MNDF had access to arms, the police did not.

Professional advice from the MNDF was that Nasheed should leave the police alone. Once tired they would return to duty or find a way to save face after their protest ended. However Nasheed ignored that advice.



### **Allegation 5: The Police were seeking to depose the President**

#### **Response:**

This was not the intention of the Police. They were protesting because they had been given unlawful orders.

Police Act prohibits issuing unlawful orders to the Police. The 2008 Constitution went even further by (1) prohibiting the issuing of any unlawful order to security forces (2) prohibiting the carrying out of any unlawful order (3) extended these two obligations even during a state of emergency (4) providing the right to refuse to obey an unlawful order which was a fundamental right.

The Police have the right to protest peacefully, without prior authorization or notice. This is a fundamental right of every citizen. No provision of the constitution nor any clause in any statute prohibits the police from exercising this right.

The Police were simply demanding an end to the issuing of unlawful orders as required by the Constitution and respective laws governing the Police and armed forces.

In fact for the Police as public servants are tasked with upholding the constitution. Keeping silent and passively approving such actions would themselves amount to an offence against the constitution.

### **Allegation 6: A wide range of individuals were responsible for masterminding the coup**

#### **Response:**

At different time Nasheed has blamed the following people for alleged coup.

- Two days after he resigned Nasheed said that Dr. Waheed was behind the alleged coup.<sup>19</sup>
- In an interview to Christiane Amanpour of CNN Nasheed said that the military tried to kill him and his family and then planned to go on a rampage across Male.
- In his interview on the David Letterman show, Nasheed said that Dr. Waheed tried to kill him.
- In an interview for the Indian Express Nasheed said Gayyoom was responsible for the coup.<sup>20</sup>
- In an interview for *Open* magazine, Nasheed's National Security Advisor Mr. Ameen Faisal and his MDP Acting Chairperson Reeko Moosa Manik accused the Indian High Commissioner to the Maldives Mr. Mulay for the coup.<sup>21</sup>
- While addressing reporters in Colombo in March 2012 Nasheed said that Mr. Nazim - current Defense Minister - and Mr. Riyaz - current Commissioner of Police - were responsible for the coup.<sup>22</sup>

The key point is that as can be seen, Mr. Nasheed is completely inconsistent and has no evidence of to support his wild allegations.

19 [www.haveeru.com.mv/dhivehi/news/116843](http://www.haveeru.com.mv/dhivehi/news/116843)

20 [www.haveeru.com.mv/dhivehi/news/120169](http://www.haveeru.com.mv/dhivehi/news/120169)

21 [www.openthemagazine.com/article/international/a-coup-made-in-india](http://www.openthemagazine.com/article/international/a-coup-made-in-india)

22 [www.haveeru.com.mv/dhivehi/politics/118859](http://www.haveeru.com.mv/dhivehi/politics/118859)

# Appendix 3

## What if Nasheed had stayed in office?

If Nasheed had not resigned there would have been damaging legal and constitutional consequences for our country. If he is reinstated as President then we would see these become reality.

### *The undermining of fundamental democratic rights*

A continuation or restoration of the Nasheed regime would be seen as confirmation that the government of the day can violate any fundamental right under the constitution without facing any consequences. The constitutional rights which Nasheed ignored included

- Personal liberty – as was the case with the arrest of Judge Abdullah, and multiple arrests of Dr. Jameel and Mr. Didi.
- Right to legal representation – the constitution guarantees this right from the time of arrest. Judge Abdullah was denied this right throughout his arrest.
- Right to be produced before a judge within 24 hours of arrest to determine the validity of the arrest – Judge Abdullah was denied this right for 21 days.
- Article 46 of the Constitution requires a judicial warrant to arrest and detain people. An exception is where an offence is being committed, or has just been committed or an offence is about to be committed. In all other instances a judicial warrant must be

obtained.

- If individuals who could not, otherwise be arrested except with judicial warrant, can be arrested under police summons this makes the constitutional protection of a judicial warrant meaningless.

### *Undermining the separation of powers*

- The separation of powers into Executive, Legislative and Judicial arms would become meaningless. Nasheed's willingness to ignore this fundamental principle of the Constitution can be seen in the government's complete disregard of court rulings and the threat carried out in the form of the arrest of Judge Abdullah.
- The constitutional requirement that no officials performing public functions, or any other persons, shall interfere with and influence the functions of the courts (Article 41(c)) would be ignored.
- The constitutional requirement that persons or bodies performing public functions, through legislative and other measures, must assist and protect the courts to ensure the independence, eminence, dignity, impartiality, accessibility and effectiveness of the courts (Article 141(d)) would be ignored.
- The procedure established to remove a judge (impeachment through Parliament) would become meaningless. Nasheed would do it as and when he felt like it.
- The safeguard that no action shall be taken against a judge for what he said, or ruled or ordered in the course of his judicial functions (Section 9 of the Judges Act) is lost. Regardless of the



subsequent explanations by the government, Judge Abdullah was arrested after he declared Dr. Jameel's arrest unconstitutional.

- The legal requirement that no judge shall be held answerable to any authority other than those authorized by the Constitution to discipline judges<sup>23</sup> would not operate. (The only such authority is the Judicial Service Commission set up under Chapter VII of the Constitution.)
- The arresting procedure for a sitting judge as laid down under section 12 of the Judges Act becomes meaningless. It requires a warrant from a court higher than the court where the judge to be arrested sits.
- As far as the Government and government officials are concerned, contempt of court would cease to exist as Nasheed and his security forces had ignored and violated a dozen orders from the Criminal Court, Civil Court, High Court and the Supreme Court relating to Judge Abdullah.

### *The consequences for the security services*

Constitutional prohibitions on the giving of an illegal order to a member of the security services and on members of the security services from carrying out manifestly illegal orders would be ignored. Nasheed illegally ordered the arrest of Judge Abdullah and later refused to release him even though the courts ordered it.<sup>24</sup>

Similarly, a citizen's right to refuse to obey an unlawful order also

23 Section 9 of the Judges Act.

24 Article 245 of the Constitution.

becomes meaningless<sup>25</sup> despite the fact that the constitution prohibits violation of this right even during a state of emergency.<sup>26</sup>

### *What about international organisations? Wouldn't they prevent an abuse of power in this way?*

Even though the Maldives is a UN Member State, the Government can still disregard, without facing any consequences, state obligations on upholding universal human rights like the right to liberty, freedom from arbitrary detention.

Similarly, as a Member State of the Commonwealth, the Government can disregard, without facing any consequences, basic Commonwealth values like the independence of judiciary, respect for democracy and democratic values.

### *What plans did Nasheed have for the future if he had not resigned?*

During the height of the crisis Nasheed told the security forces that he would not hold an election in the country unless a judiciary he considers independent is formed.<sup>27</sup> In other words, until he had the judiciary he wanted.

Nasheed had Executive Decrees prepared and ready for execution abolishing all the courts in the country, preventing judges from presiding over cases, and withholding their salaries.

25 Article 64 of the Constitution states this as a fundamental right.

26 Article 255 (b),(16) of the Constitution.

27 The leaked audio is available online

## *Conclusion*

If Nasheed had continued in office or if he is reinstated, there would be no legal or constitutional limit on what the President could do.

The President would be seen to be able to violate his oath of office - that he would respect the Constitution and the fundamental rights of citizens and would discharge his duties in accordance with the constitution and laws of the country - without any consequences. It would have resulted in an even graver crisis for our new democracy than that which we have dealt with this year.