

REPORT OF THE COMMISSION OF NATIONAL INQUIRY, MALDIVES

I. EXECUTIVE SUMMARY

The Commission of National Inquiry (the “Commission”) was established pursuant to Presidential Decrees Nos. 2012/2 and 2012/3 and reconstituted pursuant to Presidential Decree No. 2012/4 under Article 115(o) of the Constitution of the Republic of Maldives (the “Constitution”) to conduct “independent and impartial investigations of the following issues; the events that transpired in the Maldives from the 14th of January 2012 to the 8th of February 2012, the change of government on the 7th February of 2012, whether the resignation of the then President Nasheed was illegally coerced, and whether the government changed legally on 7th February 2012.” In doing so, the Commission was mandated to “explore the facts, circumstances and causes of the events of 7th February 2012 that resulted in the transfer of power in the Maldives.”

The Commission worked over a period of six months. It sat in Malé and visited all principal sites. A total of 293 witnesses were interviewed by the Commission over the course of 224 hours. Fifteen witnesses were interviewed more than once.

Among other things, the following documents were comprehensively reviewed by the Commission:

- The Constitution of the Republic of the Maldives
- The Maldives Penal Code 2004
- The Armed Forces Act 2008
- The Police Act 2008
- Presidential Decree Nos. 2012/2, 2012/3, 2012/4, 2012/5

- Commitment to Strengthen the Commission of National Inquiry in the Maldives signed by the Government of Maldives and the Commonwealth Special Envoy
- Commitment to Strengthen the Commission of National Inquiry in the Maldives signed by President Nasheed and the Commonwealth Special Envoy
- The Commission of National Inquiry – Rules of Procedure
- The Timeline of Events published on 6 June 2012 by the Commission prior to its reconstitution
- “A Coup D’état backed by Police and Military,” by Ameen Faisal and Mohamed Aslam
- “The Central Role of Mohamed Waheed in the Maldives Coup D’état,” a note by the Maldives Democratic Party
- Press Reports in the international media, in particular, Reuters and Agence France-Presse
- Written Statement of President Nasheed dated 8 August 2012
- Report of the Human Rights Commission of the Maldives on human rights abuses in the Maldives on 6 and 7 February 2012
- “Resignation Under Duress,” by Hassan Latheef
- “Arrested Democracy,” by Anders Henriksen, Rasmus Kiefer-Kristensen and Jonas Parello-Plesner

In summary, the Commission’s findings are as follows:

- The change of President in the Republic of Maldives on 7 February 2012 was legal and constitutional.
- The events that occurred on 6 and 7 February 2012 were, in large measure, reactions to the actions of President Nasheed.
- The resignation of President Nasheed was voluntary and of his own free will. It was not caused by any illegal coercion or intimidation.
- There were acts of police brutality on 6, 7 and 8 February 2012 that must be investigated and pursued further by the relevant authorities.

With regard to the idea that there was a 'coup d'état', nothing in the Maldives changed in constitutional terms – indeed, the Constitution was precisely followed as prescribed.

Moreover, in terms of the democratic intent and legitimacy of the authority of the Presidency, as foreseen in the Constitution, President Waheed properly succeeded President Nasheed. This coheres with the electoral prescription insofar as President Nasheed and his then-Vice President were on the same ballot and so the electorate was fully informed of the persons and exact role of the candidates for whom they voted and who ultimately took the oaths of office to serve under the Constitution.

Accordingly, there appears nothing contestable in constitutional terms under the generic notion of a 'coup d'état' that is alleged to have occurred – quite to the contrary, in fact.

The Commission gathered and received a considerable body of material which offered evidence of “the facts, circumstances and causes of the events of 7th February 2012 that resulted in the transfer of power in the Maldives”. It was soon apparent to the Commission from all it received and increasingly experienced that the context of the unforeseen transfer of power owed much to the challenges for governance of a young democracy which is deeply divided. Especially relevant are problems with basic institutions of democratic governance, notably the rule of law and administration of justice, the effective functioning of Parliament, and the politicization of the media.

Justice may take time, but needs to be speedy and needs to be seen to be done in order to reassure the public and inspire their confidence. This is unlikely to materialise in the absence of the rule of law which depends on effective institutions and the scrupulous conduct of responsible authorities over time. Above all, the Heads of the branches of government must by their own actions conform to the rule of law notwithstanding the political and practical challenges.

With a view to strengthening the rule of law and generating confidence, the Commission recommends that some immediate steps be taken. There appears some urgency in this regard to enable the country to pursue its social, economic and political development to the benefit of the people of Maldives.