



## **Brief: Former Defence Minister (Retired) Colonel Mohamed Nazim's Appeal Status and Medical Condition**

**12 October 2015**

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A Special Operations force of the Maldives Police Service (MPS) raided the then Defence Minister Mohamed Nazim's residence in the early hours of 18 January 2015, later accusing him of weapons smuggling. Similar to the rushed trial of Former President Mohamed Nasheed, Nazim's 11 years' imprisonment, issued on 27 March, also received international and local criticism for lack of due process and procedural impropriety.<sup>1</sup>

The ex-defence chief's legal team filed a complaint at the Police Integrity Commission with regard to remarks made by the Commissioner of Police Hussein Waheed that allegedly contradicted search records.<sup>2</sup> To date, the ineffective complaints mechanism against police conduct has consistently failed to release any findings into its investigations. The trial was adjudicated solely based on prosecution evidence and witnesses, which could not be examined by Nazim's defence lawyers. The proceedings lacked legitimacy or procedural propriety. The judicial panel seemed hasty to reach what appears to be a pre-determined outcome of the trial; the rights of the accused granted under the Constitution have been violated repeatedly. In doing so, fundamental rights and liberties such as the right to non-discrimination (Section 17), the right to equality (Section 20), fair trial rights (Section 42) and rights afforded to a defendant or a detainee in pre-trial detention (Sections 48 and 51 respectively) have all been violated. Prior to the trial, the appellate court's precedents<sup>3</sup> that outline

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<sup>1</sup> European Union Parliament, 'Joint-Motion for Resolution on the Situation in the Maldives', (published online 29 April 2015)

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2015-0392+0+DOC+XML+V0//EN&language=en> accessed 01 October 2015.

<sup>2</sup> Fathih, Mohamed Saif. 'PIC investigating Nazim's complaint against Police Commissioner', *Minivan News*, (published on 17 February 2015),

<http://minivannewsarchive.com/politics/pic-investigating-nazims-complaint-against-police-commissioner-92826> accessed 01 October 2015.

<sup>3</sup> *Prosecutor General v Ahmed Kalo* 2014/HC-A/156

<http://www.highcourt.gov.mv/dhi/mediamanager/2014-156.pdf>;

*Prosecutor General v Fahud Shareef* 2014/HC-A/84

[http://www.highcourt.gov.mv/dhi/mediamanager/2014-84\\_b--7.pdf](http://www.highcourt.gov.mv/dhi/mediamanager/2014-84_b--7.pdf)

rights during remand were ignored to reach a contrived conclusion.

## **Appeal Status**

Nazim's legal team called for an independent inquiry since the High Court continues to deny hearings for his appeal, which was filed on 16 April. Nazim's lawyers maintain that they still have not received the full trial report. The former Defence Minister's appeal has been stalled since the Supreme Court arbitrarily revised the composition of the 5-member High Court bench. In mid-August, his lawyers petitioned the Supreme Court to order the High Court to reconstitute a bench to hear the appeal.

In March this year we called on President Abdullah Yameen Abdul Gayoom to grant Former President Mohamed Nasheed and Former Defence Minister Mohamed Nazim clemency as per Sections 106 and Section 29(c) of the Clemency Act.<sup>4</sup> The Spokesperson for the Government responded (on social media) claiming that clemency cannot be granted.

Nazim was not afforded fundamental rights of an accused. The Maldivian Constitution guarantees that any individual accused of a crime would have adequate time and facilities to mount a defence, and to communicate with and instruct legal counsel of his own choosing, under Section 51, subsection (e). Furthermore, subsection (g) of the aforementioned section states that all individuals shall have the right to examine the witnesses against him and to obtain the attendance and examination of witnesses. As the Former Defence Minister has been denied any means to domestic legal recourse, guaranteed to all citizens under Section 56, his lawyers have decided to submit an application to the UN Working Group on Arbitrary Detention.

## **Medical Condition**

Before his appeal was submitted to the High Court, the former Defence Minister was allowed to travel to Singapore to get medical treatment on 10 April. A month later the Government wrote to his family requesting that he return to the Maldives. In early July, Nazim's family publicly stated that he was having problems with his vision due

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<sup>4</sup> Maldivian Democracy Network, 'The Trials of Former President Mohamed Nasheed and Former Defence Minister (Retired) Colonel Mohamed Nazim', (published online 24 March 2015) <http://www.mvdemocracynetwork.org/wp-content/uploads/2015/03/Press-Release-29Mar2015-English.pdf> accessed 20 July 2015.

to kidney damage and was at risk of losing his eyesight.<sup>5</sup> It is noteworthy that Nazim did not have this medical condition prior to incarceration. Mr Adam Azim, Nazim's brother, told local media that his brother is being detained under appalling conditions, resulting in skin ailments.<sup>6</sup> Former Defence Minister's lawyer, Husnu Al-Suood, has informed Maldivian Democracy Network of doctors' concerns with regard to the condition of Nazim's kidney. Suood has previously urged authorities to transfer Nazim to house arrest in line with doctors' recommendations. The Government of Maldives allowed Nazim to attain medical consultation in Singapore for a 7-day period in mid-September. The family has informed Maldivian Democracy Network that although travel to India was requested due to time constraints, costs and availability of specialists; the Government only permitted medical treatment in Singapore.

The actions of the State with regard to all political prisoners, including Former Defence Minister, can constitute to acts of torture criminalized under Section 21 of the Anti-Torture Act. According to Section 19 subsection (b) of the Anti-Torture Act, authorities must facilitate medical assistance within 24 hours of any such request by an inmate or detainee. The Act prescribes penalties and remedies for infliction of physical and psychological torture. Under the law, Section 13 subsection (a) defines physical torture as any act or omission of "a state official under whose care a person is," that results in "the sensation of pain," or "weakens the body," and eventually causes "the body or part of the body to not function in its normalcy." The continued detention of former head of the armed forces – under inhumane conditions that contribute to deterioration of his health – could result in the same detrimental effects stipulated under the definition of physical torture. The Human Rights Commission

The Human Rights Commission of the Maldives found that Nazim's rights were not violated during the raid on 18 January. The Commission is empowered to take all direct and indirect action to stop, discourage and prevent inhumane punishment and all acts of torture as defined by the Act (Sections 37 and 44). Thus far, the Commission has not carried out an investigation into the allegations of torture. The Former Defence Minister's family members have informed Maldivian Democracy Network that there has been no progress into the Commission's investigation of maltreatment and deteriorating health under custody.

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**ENDS**

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<sup>5</sup> Fathih, Mohamed Saif. 'Ex-defence minister at risk of losing eyesight, says family', *Maldives Independent*, (published online 30 August 2015), <http://maldivesindependent.com/politics/ex-defence-minister-nazim-at-risk-of-losing-eyesight-says-family-116887> accessed 01 October 2015.

<sup>6</sup> Hameed, Shafaa. 'Jailed ex-defense minister brought to Malé for medical treatment', *Maldives Independent*, (published online 25 July 2015), <http://minivannewsarchive.com/politics/jailed-ex-defense-minister-brought-to-male-for-medical-treatment-101258#sthash.tSBO21Jb.dpuf> accessed 01 October 2015.

