

MDN Briefer on the Trial of Former President Mohamed Nasheed.

22 February 2015

- President Mohamed Nasheed was arrested by the Maldives Police Service on 22nd February 2015 at approximately 2.30 pm at his private home.
- The arrest warrant issued by the Maldives Criminal Court was signed by Judge Abdul Bari Yoosuf on 22nd February at 12:30 pm.
- The arrest warrant stated, “reason for arrest: above mentioned person (Mohamed Nasheed) may not attend court hearings regarding terrorism charges filed by the State and that he may flee”
- The warrant also stated “evidence to support arrest: What transpired during court proceedings at Hulhumale Magistrate court and police intelligence report.”
- President Nasheed’s legal team have not been informed of the details of the charges or the arrest.
- Neither President Nasheed nor his legal team have been informed of any such investigations against President Nasheed.
- The warrant was issued at the request of the prosecutor general who personally attended the court to sought the order. His office submitted and a police intelligence report which is highly irregular as such reports are submitted only during investigation stage.
- The arrest warrant does not have key information it must as prescribed by the law. Information such as place of detention, time period of detention are missing in the arrest warrant.
- Therefore the arrest as of now is arbitrary and indefinite.
- No information on the court hearing scheduled for Monday has been provided to him or to his legal team

- As per the procedures of the court and laws, appointment of a lawyer must be made two days prior to the hearing. However, the legal team has not been informed of any scheduled hearing. The legal team is of the opinion that this is done deliberately to deny president Nasheed of legal representation in the first hearing as the press has reported of a scheduled hearing for Monday.

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25 February 2015.

Detailing some points from MDN press release¹ 23 February 2015:

2. Regarding the Article 51 of the Constitution - Nasheed was allowed access to his lawyers upon arrest, and they met with him twice during detention. However a hearing on charges of terrorism was scheduled suddenly which caused his lawyers to be rejected from the court due to a procedure at the Criminal Court that required legal representation to register 2 days prior to a hearing. The hearing was scheduled only within hours.

The Constitution also requires that detainees be presented before a judge for a remand hearing within 24 hours of arrest. Nasheed was not presented for remand within the 24 hours. Individuals accused of a crime are only brought for remand in order to request for pre-trial detention, however charges were presented to Nasheed by the prosecution under Article 2(b) of the Prevention of Terrorism Act 1990, meaning he is not under arrest for purposes of the investigation but in order to produce him in court for the trial. Ordinarily individuals are brought to court under police custody for nonattendance at court.

3. Right to appeal - When Nasheed's lawyers tried to submit an appeal, they were informed that they should appeal to the same court - the Criminal Court that issued Nasheed's arrest order. The Criminal Court rejected the appeal saying the lawyers were not recognised by the court since they were not registered with the court:

Previously legal practitioners were required to register at all individual courts in order to be allowed inside. However the Supreme Court ordered a different procedure in 2011 which required legal practitioners to sign a declaration (which says they must not criticise the judiciary) and register at a single register with the Supreme Court which would enable them to practice at all courts in the Maldives. A much more recent regulation by the Criminal Court, however, states legal practitioners must register there individually.

Nasheed's lawyers requested to apply for registration at the Criminal Court and were told that an application form was unavailable. They were also informed that an appeal would take 7 days for review, which defeats the purpose of appealing an arrest in the first place.

¹ <http://www.mvdemocracynetwork.org/press-release-regarding-arrest-former-president-mohamed-nasheed-subsequent-unrest-male-city/>

4. The arrest order: The Constitution requires that an arrest / detention warrant must include in it where the detainee is held, under which authority (whether it is the Home Ministry - usually or someone else), the duration for which a person must be held under that warrant and when, if required to attend a court hearing. None of this was included in the warrant.

7. Requests for remand or arrest is made by a criminal investigations authority - in this case the Police. However the request was made by the Prosecutor General who does not have this mandate. The Judge who issued the warrant and those policemen who arrested and continue to hold Nasheed are therefore acting under an unlawful order.

The incidents that took place following his arrest:

Peaceful protests around the city which were dispersed by the police, infiltrated by gangs trying to create unrest, several arbitrary arrests and manhandling by police. Unnecessary force, especially frequent use of pepper spray at close range, tear gas and attacks on journalists.

Nasheed's hearing was conducted at 16.00 at the Criminal Court on 23 February. As he was brought into the premises a journalist asked him a question and when Nasheed turned to respond to the journalist the police surrounded him, trying to drag him into the court without speaking to him or instructing him not to interact with the journalist. There is no law or procedure that prohibits a detainee from responding to journalists or communicating with people around the premises when they are brought in for hearings.

Nasheed asked the police not to touch him, saying that he would walk into the court by himself, but approximately 5 to 6 policemen including those from the riot squad grabbed both his arms and began shoving him which caused him to fall to the ground, where cameras lost sight of Nasheed in the scuffle. However his voice could be heard screaming for help and telling the police to leave him. When he emerged later on, being half carried and half pushed into the court room by the police, the buttons on his shirt and his reading glasses were missing.

Media personnel inside the courtroom reported that he held his arm in a makeshift sling made from his tie, and he informed the judges that the police had manhandled him and injured him, requesting that he be allowed medical attention before proceeding with the hearing. The judges responded to Nasheed saying that they had been informed that the fall and injuries had been staged by Nasheed. The court proceeded and the police were ordered to provide Nasheed with medical care afterwards.

The Criminal Court ruled to detain Nasheed for the entire duration of his trial, at a place of detention prescribed by the Ministry of Home Affairs.

24 February 2015

Access to legal counsel.

Nasheed's hearing is scheduled for 20.30pm, 26th February, Thursday.

Nasheed's legal team attempted to access him twice on 24th and the meetings were subsequently cancelled by the police every time. While there is no law limiting access to detainees by legal counsel, it was limited to Nasheed by the police through the following means:

1. While those detained in Male' Custodial are granted access to lawyers until midnight, Nasheed's lawyers were told by police that access to Nasheed (in Dhoonidhoo Island Detention centre) can only be granted until 18:00pm.
2. While detainees in every new arrest are granted lawyers immediately at the time of arrest to ensure fundamental rights and presence at the time of booking into detention centres, regardless of what time the arrest is made. Nasheed's lawyers were constantly faced with obstructions in accessing their client. However once access was granted they were allowed to meet with him for the required length of time.

They eventually got permission to meet with him at Dhoonidhoo Island Detention Centre at 20.30pm.

While Nasheed has been given a period of 3 days to prepare for his hearing scheduled for 26 February, his legal team was given a box of documents, which amounted to approximately 3 reems of paper (approximately 1,500 sheets of paper). The legal team consists of 5 attorneys and have represented Nasheed in courts on previous occasions. However the legal team was informed this time that no more than 3 attorneys can be accepted inside the court. There is no law or procedure that requires a limit in the number of attorneys representing a client. The legal team has highlighted that in view of the seriousness of the charges and the short duration which has been allowed for preparation which includes reviewing the large number of documents related to the case.

The legal team was informed of this decision by the judges through the receptionist at the court and have not been able to get the decision in writing.

Requirement for judges on the bench to recuse and the case of trial premises.

Out of the documents that the legal team received from the court, witness statements taken by the State include those of the Prosecutor General and two judges on the bench for this case. The same two judges are also requested by the defence as witnesses, and therefore pose the issue of conflict of interest and a need to recuse from the bench.

The Prosecutor General, although not directly appearing in court over the matter, has initiated the arrest of Nasheed and also is parent to this case. He is also a state witness in the case.

The Chief Judge Abdulla Mohamed of the Criminal Court, where the case is being tried, is the judge who was allegedly "kidnapped" by Nasheed according to the terrorism charges pressed upon him. Although Judge Abdulla is officially on leave, it is known that he regularly attends the court and is in charge of administering the court. He is also a mentor to the judges presiding over the case. There is a high likelihood that he may influence the case through his subordinates and thus violate the right to a fair and free trial.

Former President Mohamed Nasheed's health

The police have assured the public that Nasheed does not have a medical issue.

According to Nasheed's legal team, he has informed them that he was granted access to a doctor at the detention centre and the doctor diagnosed injury to his shoulder. Nasheed was prescribed physiotherapy twice a day requiring a specific machine. The machine has been transported to the detention centre and he has been given the prescribed therapy. The fact that the police have provided for his health care contradicts with their statement that Nasheed does not have a medical problem.

Reports said that Nasheed was secretly brought to the city to a private clinic needing medical care, without informing family or the legal team.

Reports also say that there have been increased security measures at Dhoonidhoo Island Detention Centre from the evening of 24th February, and it is highly likely this may result with incidents of torture and maltreatment to Nasheed given the culture of ill-treatment to detainees, especially political opponents.

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2 March 2015

The first hearing of terrorism charges against Former President Nasheed was held on **23 February 2015**, which was highlighted in the Brief dated 23 February 2015.

The second hearing was held at the Criminal Court at 20:30pm as scheduled, on **26 February 2015**. Former President Nasheed was detained at the Dhoonidhoo Island Detention Centre as ruled by the court previously and transported to the court. Nasheed was escorted by police and some men in black shirts who could not be identified.

The hearing concluded with the defence requesting for more time to prepare responses to the case and the court allowed the defence a period of three (3) days to do so.

MDN is host to an **international trial observer from the Bar Human Rights Committee (BHRC) of England and Wales**. The international observer and one from MDN was registered at the Criminal Court since the morning of the scheduled date to observe the hearing. However minutes before the hearing both observers were informed by the court staff that the 20 seats allocated for media and the public were decreased to 8 seats and that they were following chronological order. Due to this several journalists from media outlets that had registered to observe the hearing were also told that they were not allowed inside the courthouse.

All journalists and observers were told by the police to stand on the pavement across from the court building. There was no unrest on the road outside the court. When the hearing was adjourned and Nasheed brought out, police formed lines between the journalists and Nasheed, obstructing the journalists from taking photos or video recordings of the scene. The police further obstructed Nasheed's legal team from speaking with the journalists outside the court building and the groups moved further up the road to gather information about the hearing.

The legal team and media personnel present inside the courtroom report that the seating arrangement inside the court was very different from other hearings, as Nasheed was required to take the witness stand for the entire duration of the hearing while his defence lawyers sat at the regular seats allocated for the defence, across from the judge's bench. Nasheed repeatedly requested for access to his lawyers and questioned the impartiality of the trial when two judges on the bench had given witness statements

during the investigation. Eventually the judges allowed the defence lawyers to walk to the witness stand and confer with Nasheed, but did not allow for Nasheed to sit at the defence bench.

The legal team of Nasheed requested the Minister of Home Affairs on 24 February 2015 to transfer Nasheed's detention to house arrest citing risk of harm to his body and life. The team has also complained that the police constantly obstruct and delay their requests to meet with Nasheed in order to prepare for the trial.

MDN learned on 27 February 2015 that some diplomats had raised **concern over the risk of physical harm to Former President Nasheed while in Dhoonidhoo Island Detention Centre**. This information was also shared with the international trial observer, who has since tried to share this information with the Attorney General, The Prosecutor General, The Human Rights Commission of the Maldives and the UN OHCHR representative at the UNDP offices. A meeting has not yet been possible with any of the parties as of today, while the Deputy Prosecutor General has confirmed an appointment for the 4th March 2015. The reason for the meeting was not disclosed in the letter of request due to the sensitivity of the matter, however an urgent meeting was requested from each party.

MDN notes the critical issue of Former President Nasheed's life being at risk, and calls on the international community to make all possible efforts to enable his transference to house arrest for the rest of his remand.

The third hearing of former President Nasheed is scheduled for 20:00 today, 2 March 2015. The international trial observer and an observer from MDN has been registered to attend the hearing in the public gallery. It is noteworthy that the Criminal Court refused to accept a letter from the BHRC informing of Ms. Blinne Ní Ghrálaigh's visit as their trial observer, requesting the opportunity to allow her to observe hearings.

Several irregularities in allowing for registration to observe hearings have been noted to date. While MDN and BHRC were not allowed into the courtroom for the second hearing of terror charges against former President, they were allowed into the second hearing of former Chief of Defence Force, against whom the similarly revised terror charges have been filed. The registration required observers to present themselves at the court in the morning and hence they were present at 09:00. However the Criminal Court informed those waiting to register that registration would commence at 10:00. The court once again delayed registration to 13:00, and registration was possible at 13:30 for the hearing scheduled for 19:00 on 28 February 2015.

When BHRC and MDN observers arrived at the Criminal Court at 07:45 the court informed that they were among the last three members of public able to register, as the seats were all taken. It is noteworthy that the official hours of the Criminal Court begins at 08:00am and members of Nasheed's family had been asked to wait until then before entering the court for registration. A total of 10 seats were allocated for the media and 6 for the public, while the courtroom has a total of 20 seats arranged at the observing section. Several members of the public including the family of Nasheed except for one sibling was not allowed to register to observe the hearing. When MDN checked for a regulation or policy entailing observation of trials, no such policy or regulation has been gazetted.

MDN is concerned that the Criminal Court, despite having faced the same problem of space for three hearings, with charges as serious as terrorism on a former president, current defence minister and ex-military officials, it has not opted to hold the hearings in a larger space and allow for transparency in the trial process.

The third hearing for terrorism charges against former President Nasheed was held at 20:00 on 3 March. Both trial observers from MDN and BHRC were allowed to enter the courtroom. Nasheed's sister was also able to enter the third hearing. At the beginning Nasheed's lawyers raised two procedural issues; requesting judges who gave witness statements to recuse themselves and legality of detaining Nasheed for the duration of the trial.

The judges took twenty minutes to deliberate on the first issue while the hearing was adjourned. The judicial panel returned and stated that there is no legal impediment to them presiding over the case since they have not been adduced as witnesses in court. Furthermore, Judge Didi claimed that none of the judges sitting on the case could be adduced as witnesses even though they gave witness statements during the investigation. The judicial panel completely dismissed the second procedural issue regarding holding Nasheed in custody for entire duration of trial; it claimed the panel's decision would be upheld.

Judge Yoosuf demanded the defence to cite exact judgment numbers when defence lawyer Ahmed Abdul Afeef referred to a case, however the judge failed to make similar demands when the prosecution failed specifically cite cases.

While the court was adjourned, a court clerk jokingly told a journalist that he couldn't let anyone hold on to their water bottles as he fears they may "hit the President" with it.

When the hearing resumed both prosecution and defence lawyers were asked to submit witnesses and documentary evidence. Lawyers were also asked to specify what was to be proven using these witness testimonies and documentary evidences. Again, judges demanded Nasheed's legal team to specify what was to be proven by adducing these witnesses in court. Prosecution was asked to do the same only after Nasheed's legal team raised differential treatment. The prosecution submitted twelve witnesses, mostly military and police officials and six pieces of documentary evidence. Nasheed's legal team submitted Ahmed Mausoom, former Finance Secretary; Mohamed Jinah, former Head of Drug Enforcement Unit; Muhuthaz Muhusin, current Prosecutor General; and Hassan Afeef, former Home Minister.

A fourth hearing has been scheduled to be held on 4 March at 22:00 although Nasheed's legal team requested a period of 30 days to go through new documentary evidence cited by the prosecution which has not been made available to Nasheed's legal team yet.

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4 March 2015

The **fourth** hearing of Former President Mohamed Nasheed, on **charges of terrorism** was held at the Criminal Court at 22:00pm on 4 March 2015.

The Criminal Court did not increase the number of seats in the public gallery from 6 and 10 media seats despite requests from family, friends, and MDN. It is noteworthy that trials previously held at the same courtroom seated **40** in the public gallery. While family and friends arrived for registration to attend the hearing early in the morning and discovered that the international trial observer from the BHRC had not been allocated a seat, they attempted to swap places and the court informed those inquiring about swapping names on the list that this was not going to be possible.

MDN further requested the clerks at the registration counter to allow the international observer to register for a seat with the media and was told they would pass the request on to the Media Officer at the court and revert. MDN could not reach the Media Officer after several attempts and hence the international observer could not enter the courtroom.

MDN notes that the court rejected two ladies previously citing they were not allowed to wear short sleeves inside the courtroom. The civil service dress code however does allow short sleeves. Further, a third lady was asked to change her blouse minutes before the hearing began on 4 March 2015 citing that her blouse was made of a fabric too thin although it had long sleeves.

Regarding the timing of the hearing: The lead lawyer with the defence lawyers for Former President Mohamed Nasheed is a lady who is presently pregnant and in her third trimester, who also has a two year old son. Lawyer Hisaan Hussain complained to MDN as this being discriminating against her. It is questionable why the hearing is held at such late hours in the night when the official work hours of the State and courts are from 08:00am to 15:00pm.

The hearing began with the State calling witnesses. However the defence lawyers made an intervention with reference to their request to transfer Nasheed under house arrest on 2 March 2015, requesting the Judges Bench to review their previous ruling regarding the detention of Nasheed for the duration of the trial. The defence lawyers explained that their appeal to the High Court had been rejected². The judges informed that the request must wait witness cross examination to be over.

² The High Court rejected the remand citing that an arrest warrant cannot be appealed and that summons to attend court should be respected. However the appeal requested to review the indefinite remand ruling on the Accused.

The defence lawyers then raised the issue regarding rejection of witnesses based on bad character evidence, with reference to High Court ruling on case 2011/HC-A/58 where the witness maybe in a position open to influence such as the witnesses being presented in the hearing who were police officers and military personnel presently working under those who were implicated in the overthrow of Nasheed's presidency; and ruling on case 2012/HC-A/192 which says that even though a person is not charged for an offense, if there is reason to believe that they are implicated in the act they should not be admitted as witnesses. The defence lawyers highlighted that the witnesses presented can be implicated in the incident under which charges have been filed.

The judicial panel gave an opportunity for the prosecution to speak, which was not used by the prosecution citing that they were waiting to present the same information in the presence of witnesses similarly to how the defence had. The judicial panel stated that the argument would be considered, however, the witness's cross-examination would continue and bad character evidence of the witnesses would be decided later on.

While the cross examination continued, it is noted that on two instances the judicial panel attempted to elaborate on behalf of State witness when the defence lawyers requested for clarification from the witness himself. Nasheed objected on both instances citing that the judges were "putting words in the witnesses' mouth." Nasheed was warned by the bench not to repeat the objection on the second instance, claiming that the judges' manner of enquiry is "the norm around the world."

Nasheed's legal team requested the prosecution to clarify whether they generally coached their witnesses into speaking truthfully, and the judicial panel stopped this line of question, asking the defence to continue questioning the witness instead. Defence lawyers explained that the question was necessary to determine impartiality of the witness, especially when one had established a practice of coaching witnesses, and continued to question the witness. The defence also explained that since the defence had requested the court for 30 days to evaluate the long list of witnesses and evidence submitted by the prosecution and only 1 day was given, it was necessary for the defence to ask these questions in order to evaluate the witnesses, and requested to allow the questioning, whereby the Judges' bench allowed evaluation, however barring the specific question.

After the witnesses were cross-examined the defence requested again for the court to review their ruling regarding Nasheed's remand on 23 February 2015³, adding that the defence assured the court that there would be no issues in producing Nasheed at the court. The Judges' bench declared a 5-minute recess to review it. The decision of the court after review was that the request could not be accommodated, citing previous incidents. It is worth noting that 4 more individuals are presently being tried for terrorism charges in relation to the same incident and none have been arrested.

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³ The regulation on remand states under 17(b)1 that a person may be detained for actual nonattendance to previous court summons. No previous court summonses were issued pursuant to these charges.

7 March 2015

The **sixth** hearing of Former President Mohamed Nasheed, on **charges of terrorism** was held at the Criminal Court at 20:00pm on 7 March 2015.

Nasheed was brought to the Criminal Court from the Dhoonidhoo Island Detention Centre for the hearing scheduled for 20:00pm. While he waited in the court premises for the hearing to begin he requested the officials to allow him some private space to perform his *Salat*. The court officials at first refused and asked him to perform the prayers in the common area where they all waited, and only allowed him the space when his lawyers intervened.

The hearing began with the judge announcing the presentation of State witnesses. The judge also informed the court that witnesses would be presented via audio only, saying that they were seated in another room.

Nasheed and his legal counsel objected to this presentation citing inability to determine who the witness was and therefore unable to negate the witness based on personal bias with reference to High Court precedent. They also noted that there was no way of determining whether the witness was, in fact, giving her oath upon the Holy Qur'an as witnesses are supposed to. The judge continued the presentation of witness via audio saying that she had been asked to give her oath under the Qur'an if possible and not to hold it if it was not possible⁴.

It is noteworthy that during the cross examination of witnesses the **judges repeatedly asked defence lawyers to "stop wasting time" and at times ordered them to halt questioning the witness**. Further, the defence objected to the prosecution meeting with witnesses and implied that witnesses may have been coached to give or omit specific information, and the presiding judge questioned this objection by the defence by asking why it was a problem. Defence then noted that the witness's statement to the investigating authorities and the information she was presenting at the hearing contradicted with each other. Witness later informed the court that the information was based on hearsay.

Nasheed requested to replay the audio of the witness statement but the court ignored this request.

With the second witness, the defence lawyers objected to the long narration of events requested by the prosecution as opposed to asking a question. The prosecution explained that this was normal practice in the court. The defence lawyers further objected to the cross examination citing leading questions, and prosecution rephrased it.

Defence lawyers asked from the court whether the witnesses in the different room were in the same room and whether there was a judge present there. The judges' bench informed the court that a Court Official was present with the witnesses. **Defence lawyers also objected to the court not having provided sufficient time for evaluation of witnesses by providing 24 hours only.**

With the third witness, the court refused to allow defence lawyers to present photo evidence which they cited as having relevance in order to negate the validity of the witness.

⁴ Islam prohibits women from touching the Qur'an during menstrual periods.

Defence lawyers highlighted that Nasheed had been charged differently before, initiating with the case of the Hulhumale' Magistrate Court, where procedural issues had been raised at the High Court and then at the Civil Court and Criminal Court, and that presently Nasheed was facing a completely different charge and the defence had not been allowed sufficient time to evaluate and prepare for the case, and requested for 30 days for preparation. The prosecution responded saying that **although the charges were different the documents of the case were the same and the State assumed sufficient time had been allowed for the defence to prepare**. The defence lawyers stressed that while the previous charges were on unlawful arrest and present charge on terrorism it required time to evaluate and prepare and also to evaluate witness statements. The presiding judge responded saying that defence would be allowed to evaluate witness statements on the day they were presented in court, in order to save time.

Nasheed raised his arm indicating a request to speak and the judge informed him that since his lawyers were present there was no need for him to speak. Defence lawyers attempted to speak regarding the time required for evaluation and the presiding judge intervened, saying that he had decided that sufficient time had been provided for the defence to prepare, and that it should not be brought up again.

The prosecution listed some witnesses such as the former Commissioner of Police and the former Deputy Commissioner of Police, who were not required anymore, but the presiding judge responded by saying that court will decide on whether they were needed in court or not.

The presiding judge then informed the court that viewing of documentary evidence would take place on the following day. Nasheed enquired what the documentary evidence entailed and was told by the judge that it was audio and video footage, to which Nasheed responded that he did not have access to appliances such as TV and radio where he was detained, therefore would not be able to evaluate the evidence. The judges then informed Nasheed that he would be provided with such. The defence lawyers then informed the judge that they would not have sufficient time to evaluate the documentary evidence if the hearing was set for the following day, and the judge responded saying that they would be given time to evaluate it.

Nasheed added a request to the judges to issue a verdict if the court was going to refuse sufficient time for him to evaluate the documentary evidence the State had produced against him.

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8 March 2015

The **seventh** hearing for the terrorism charges against Former President Mohamed Nasheed was held on 8 March at 21:00. The proceedings were initially scheduled for 16:00 the same day however it was postponed to 20:00, but it began an hour late.

Nasheed's **lawyers excused themselves** from representing Nasheed at the hearing due to lack of adequate time to prepare defence after being unable to review documentary evidence. The legal team sent a letter informing this to the Criminal Court around 20:00. A lawyer working with the firm of one of Nasheed's legal counsels delivered the letter at the Court's reception. Court clerks informed him that he could not leave. When he attempted to leave, the security personnel at the Criminal Court stopped him from leaving. He told the court clerk, "I am only here to submit this letter on behalf of the lawyers." After holding him there for 45 minutes he was allowed to leave the courthouse.

At the hearing Judge Didi questioned Nasheed why his lawyers were not attending the hearing. Nasheed said, "I respectfully request a 15-day period for them to prepare defence in light of new charges." To which the presiding judge responded, "We do not consider their reasons acceptable. The Court views that adequate time has been given. Why are lawyers protesting and obstructing proceedings. We might take action against your lawyers as per contempt of court regulations but we have not decided yet. **If they are not present at the next hearing, we will proceed without them.**"

The hearing was adjourned without examining prosecution's exhibits in order to afford Nasheed an opportunity to appoint new lawyers by the following day. At this point Nasheed had his arm raised to request opportunity to speak, however, he was not allowed. After the judicial panel left, Nasheed informed the court clerks that he cannot appoint lawyers as he was kept in custody at the detention centre on Dhoonidhoo Island.

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9 March 2015

The **eighth** hearing was held at 20:00 on 9 March. The leading Judge Abdulla Didi began by summarising previous hearings and terror charges against former President Mohamed Nasheed. Judge Didi then stated that prosecution's exhibits would be examined at tonight's proceedings.

Responding to Judge Didi's question regarding Nasheed's legal team, the former president raised that in many instances him and his lawyers were not allowed to speak, and when they were given permission, they were stopped half way.

The prosecution's documentary evidence was examined while making its main argument that the former government under Nasheed's presidency, and with him as Chief of Defence Forces had executed the operation to detain Chief Judge Abdulla Mohamed on Girifushi Island. Each time Nasheed was given an opportunity to respond to prosecution's claims, he reiterated that he would like to appoint a lawyer of his own choosing, and that it is a right afforded to him under the Maldivian Constitution. Furthermore each time he was to respond to the prosecution, Nasheed **requested for legal counsel** and claimed: "this is not a court of law, this is injustice."

Judge Didi reiterated the judicial panel's stand, "there have been adequate time, this case was submitted to the Hulhumale Magistrates' Court in 2012, all parties to the case have received all documents regarding this case." Nasheed responded, "**This case was never submitted to Hulhumale Magistrates' Court**, for the past three years they [his lawyers] have been reviewing and contemplating a defence for entirely different allegations. It took the State 3 years to realise that the charges were incorrect and needed revision." The judges threatened Nasheed with action under contempt of court regulations and asked the prosecution to proceed with its documentary evidence. The aforesaid evidence included video footage of two of Nasheed's speeches and an audio clip of a speech Nasheed gave to Maldives Police Service, all of which was made during his presidency.

One of the public prosecutors from the 5-member prosecution team claimed that the prosecution does not object to Nasheed being afforded time to appoint lawyers of his own choosing as he had reiterated it. Judge Didi responded by saying that the panel has decided to proceed without Nasheed's lawyers.

Nasheed repeatedly asked that the judges issue a verdict instead of proceeding without his lawyers. He went on to claim that "in the history of Maldivian statehood, it has not witnessed a circus such as this," warning the judicial panel and urging Maldivian citizens to "summon the three of you judges to a court of law and make continued extensive efforts to establish justice."

While examining Exhibit 286 – video footage of Judge Mohamed's arrest – the prosecution claimed that the video proves the judge was forced to go into military custody. When given opportunity to speak, Nasheed again said, "I would like to appoint a lawyer of my own choosing. Additionally, **it is clear even from that video that Your Honour and Judge Bari were active at the scene.**" Nasheed also repeatedly

claimed that since the Maldives embraced Islam it has not witnessed such a travesty and that the judicial panel was presiding over this travesty. "We are seeing Your Lordship destroy the Constitution and betray the Maldivian people."

The prosecution analysed more exhibits, two court orders, one issued by the Supreme Court and the other by the High Court, urging the then government to release Judge Mohamed. The prosecution highlighted that the government did not abide by those court orders.

Nasheed responded, "**I request legal counsel.** This is not a court of law, this is injustice. I respectfully call upon all Maldivians to stop this grave act of injustice and put these three judges before me on trial and make you answerable to them. We are witnessing the Constitution being torn apart and you are presiding over this atrocity."

Before adjourning the proceedings until the hearing scheduled for 10 March at 20:00, Judge Didi claimed that defence witnesses could not be produced at court under these proceedings. He claimed that the witnesses were not submitted to disprove claims made by the prosecution. However, the judicial panel decided to present Judge Mohamed at the next hearing although he was not submitted as a prosecution or defence witness.

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13 March 2015

The **eleventh** hearing for the terrorism trial against former President Mohamed Nasheed was scheduled for 20:30 on 13 March 2015. However the proceedings began at 21:15. A journalist came to the court at 20:35; he was initially told by court ushers that he was not allowed to enter the courtroom since he was late. **The journalist pointed out that unregistered individuals have repeatedly attended Nasheed's hearings.** After other journalists and members of the public protested this, court ushers eventually allowed him in. At this time the protests that were a few blocks away calling for Nasheed's release could be clearly heard inside the courthouse. The police brought Nasheed to the courthouse around 19:30. When Nasheed attempted to speak to the media across the road from the entrance of the courthouse, **individuals who appeared to be police officers but wearing black with no identification** obstructed him and moved him inside.

When proceedings began, Judge Abdulla Didi summarised the charges of terrorism for the enforced disappearance of Judge Abdulla Mohamed during the Nasheed administration. The leading Public Prosecutor Abdulla Rabiou presented the State's closing argument. The case was to be adjudicated based on the witness testimonies of police and military personnel Ahmed Shakir, Mohamed Jamsheed, Mannan Yoosuf, Ahmed Shiyam, Ali Shahid and Aishath Zeena and Judge Abdulla Mohamed's wife. Prosecution informed the judicial panel that there was no need to summon the rest; those witness testimonies were "sufficient to prove all elements of the terror charges," claimed the leading prosecutor. The State also adduced documentary evidence and a video of Judge Mohamed's arrest; audio recordings of speeches made by Nasheed at a cabinet meeting, a meeting with the police; and video footage of one made in public during January 2012. The prosecution closed its case in 13 minutes by stating that the witness testimonies and documentary evidence "prove Nasheed's guilt beyond reasonable doubt."

Judge Didi claimed defence witnesses could not be summoned considering that those witnesses do not prove innocence. The leading judge said, "When considering summoning of the defence witnesses, **we believe that they have not been submitted to disprove the prosecutors' claims.**" The judicial panel then gave opportunity to Nasheed to present his closing arguments. **Nasheed began by pointing out that the hearing was being held on a public holiday** "Today is a Friday and it's a holiday in the Maldives," he said. Nasheed continued, "Just because the clairvoyants practicing the sorcery brought to this Earth by angels *Haroot* and *Maroot* have asked you to find the infidel Jinn between evening prayers, you don't have to do this on a day Maldivians consider holy, a day we spend with our families, trying to stay away from work as much as possible."

Judge Didi intervened and asked Nasheed to speak regarding the case. Nasheed then responded, “On Friday, the State and its offices are closed. I am locked up in one of the State’s custodial centres. **The lawyers submitted a withdrawal from representation in court due to the professional obligation to ensure a fair trial to their client, after adequate facilities and means necessary to review the evidence with my legal team was denied. I sincerely request a 20-day period to appoint lawyers of my choosing and draft a concluding statement after discussion with my lawyers.**” Judge Didi stopped Nasheed again and stated that all hearings for the case was adjourned and that the final hearing to issue the verdict would be held shortly. The hearing ended at 23:13.

While the public and the media were waiting for the final hearing, court clerks refused to allow the media to use their phones or leave the court premises. **One journalist claimed he did not wish to stay for the final hearing but court clerks did not permit him to leave, claiming they were following orders.** They did not clarify from whom. Members of the public began to question court clerks asking why the journalists’ freedom was being denied. One member asked the court clerk to let them know if they were under arrest. **Everyone was held inside the courthouse incommunicado until the final hearing that began at 23:13.** Journalists submitted a case of terrorism against the court for their unlawful detention, however the Maldives police shortly dismissed the case entirely. The **three journalists who protested were not allowed to enter the courtroom**; they remained at the seating outside until the hearing ended.

Summing up by the judicial panel began at 23:13, Judge Didi claimed that the charges made against Nasheed by the State had been proven through its witnesses and evidentiary documents adduced in Court. Going through the prosecution case, he referred to the testimony of General Shiyam when Nasheed stood up and said; **“I did not hear General Shiyam testify to that in court.”** The leading judge claimed that Shiyam testified that he requested the former president to release Judge Mohamed. However, **all journalists and members of the public observed that Shiyam did not mention it during his testimony.**

Judge Didi asked Nasheed to sit down and continued to read out the verdict, “Therefore in consideration of the said primary and secondary evidence submitted by the State, the Court finds Mohamed Nasheed guilty of the offence of terrorism under Article 2(b) of the Anti-Terrorism Act 1990, and as penalty for the offence, sentenced to 13 years’ imprisonment.”
