

**THE FAILED SILENT COUP:
IN DEFEAT, THEY REACHED FOR THE GUN**

The unsuccessful plot to change the government through a quasi-legal court ruling, and subsequent use of the police and military as illegal means to the same end

Aishath Velezinee

Translated by [Azra Naseem](#)
10 September 2012

“This is a time of great fear and uncertainty for the legal community: Chief Justice

Chief Justice Abdulla Saeed has described the current climate as one of ‘great fear and uncertainty for the legal community. He said judges today are treated worse than they were before democracy.

Speaking at the ceremony to mark the first batch of judges taking their oaths under the new Constitution, the Chief Justice said several provisions have been made in the Constitution to assure the independence of judges. But it is the legal sector that currently faces the worst uncertainty and danger, he said. Judges are working in a climate in which their decisions are mocked and their personal integrity questioned. Not even in pre-democracy times have they been treated as inhumanely, he added.

“The Constitution contains many provisions to ensure judicial independence. The Constitution is now two years old, and yet, it is still the judiciary that confronts the most uncertainty and danger,” the Chief Justice said. “In the past two years, judges have worked without any certainty of position or status. In an environment where their rulings are mocked and their personal integrity questioned. I note that currently judges are being treated with more cruelty than they were during the times before democracy was established.”

While noting the dangers to the judiciary, he also praised the work of Mujthaz Fahmy at the Judicial Service Commission (JSC).

“I have no doubt that the hard work done by President of the Judicial Service Commission (JSC) and Supreme Court Mujthaz Fahmy, at this time of great uncertainty and fear for the judiciary, would be forever recorded in Maldivian history as invaluable”, Chief Justice said.

Chief Justice Saeed further added that in any society, it is the judiciary that upholds and maintains its Constitution and laws. It is the just rulings of the courts that bring to fruition the rights and liberties guaranteed to them by the Constitution, he said.

He called on all judges to establish justice for the people and to continue their work free of all influence, political and financial.”

Haveeru News coverage of Judges’ Oath taking ceremony on 4 August 2010.

* The article, which appeared in Haveeru Dhivehi Edition on 5 August 2010, is on the front cover of the original book.



Aishath Velezinee served as the Parliament-appointed People's Member at Judicial Service Commission from April to July 2009 and as the President's Member at the Commission from July 2009 to May 2011.

Velezinee worked in government from May 1986 to July 2005. From 2005 to 2009 she worked as Editor of current affairs magazine *Adduvas* and in civil society, the 2008 presidential campaign of Gasim Ibrahim, and in the Male' office of UNFPA. She last served as Deputy Minister of Home Affairs from October 2011 until her dismissal by Dr. Waheed on 8 February 2012.

Velezinee holds a Master's degree from the Institute of Social Studies, The Hague, The Netherlands; a BA in Government, and in Women's Studies from the University of Queensland, St.Lucia, Australia. She also holds a Diploma in Journalism from the Indian Institute of Mass Communication, India.

This book is dedicated to my daughter Falak, my mother Shameema Ali, and my late father Mohamed Zahir. May he be granted eternal paradise.

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Introduction

Maldives is going through unprecedented political changes. As a member of the Judicial Service Commission, I was privy to many events that I sincerely believe must be made known to the general public. This book is my way of sharing that information. It is vital that any decisions we come to about the current political crisis in the Maldives be informed ones. They must be conclusions reached after due consideration of as many facts as possible. I believe it is my duty, therefore, to share what I saw and witnessed as a member of the Judicial Service Commission. It is an opportunity for every citizen to see what I saw and hear what I heard, and, to make this information a part of their decision on ‘what *really* happened’.

‘Judge’ Abdulla Mohamed is at the centre of this story. I believe it is the State’s duty to remove him from the judiciary. He may have the legal knowledge required of a judge; but, as the State knows full well, he has failed to reach the ethical standards equally essential for a seat on the bench. A judge without ethics is a judge open to influence. Such a figure on the bench obstructs justice, taints the judiciary. These are the reasons why the Constitution links a judge’s professional qualifications with his or her moral standards.

The Judicial Service Commission bears the responsibility for removing Abdulla Mohamed from the bench. Stories about him have circulated in the media and among the general public since 2009, but the Commission took no notice. It was blind to Abdulla Mohamed’s frequent forays outside of the ethical standards required of a judge. It ignored his politically charged rulings and media appearances. Abdulla Mohamed is a man who had a criminal conviction even when he was first appointed to the bench during President Maumoon Abdul Gayoom’s time. Several complaints of alleged judicial misconduct are pending against him. The Judicial Service Commission has ignored them all. What it did, instead, is grant him tenure – a lifetime on the bench for a man such as Abdulla Mohamed. In doing so, the Judicial Service Commission clearly failed to carry out its constitutional responsibilities. It violated the Constitution and rendered it powerless. Where do we go from there?

The Majlis is the institution that can hold the Judicial Service Commission accountable. The People’s Majlis knew the threat Abdulla Mohamed posed to national security and social harmony. Majlis was also aware of the Judicial Service Commission’s failure to carry out its constitutional responsibilities and its efforts to nullify constitutional requirements. Concern had been shared with the Majlis that Judicial Service Commission had committed the ultimate betrayal and hijacked judicial independence. The Majlis failed its Constitutional responsibility to hold the Judicial Service Commission accountable for any of these actions. The Majlis had violated the Constitution and rendered it powerless. Where to from there?

The remaining authority is the Head of State. It is his responsibility to uphold the Constitution. Thus it is also his task to ensure all State institutions carry out their constitutional duties fully. Democratic governance can only function if the entire system is working as an integral whole; it is impossible if the three separated powers are failing in their respective duties.

Under the circumstances---once was clear that Abdulla Mohamed was an obstruction to justice and a threat to national security, and it once it became apparent that neither the Judicial Service Commission nor the Parliament was willing to hold him accountable---the only authority left to take control of the situation was the Head of State. It is the President that the Constitution of the Maldives recognises as its Head of State.

The President took action. Giving priority to upholding the Constitution, for national harmony and for the benefit of people country, he had Abdulla Mohamed removed from the bench the only way he could.

When the President took action against Abdulla Mohamed, the third party aware of the threat he posed to national security was the Maldives National Defence Force (MNDF).

Others aware of Abdulla Mohamed's activities and the Judicial Service Commission's violation of the Constitution and its anti-State activities, were the Maldives Police Service, the Human Rights Commission, and the Anti-Corruption Commission. The Prosecutor General would have been able to observe Abdulla Mohamed's actions on a daily basis.

This book tells the story of what happened inside the Judicial Service Commission. It is the story of how the Commission betrayed the State in the re-appointment of judges. It is the story of how, under the control of influential Members of Parliament, the Commission created the conditions for major atrocities to be committed within it. It is the story of how the Commission hijacked the country's judiciary and rendered its Constitution powerless by ignoring the requirement to ensure that the judges on its benches met with the requirements it stipulates. This is the story of how a silent coup failed. And it is the story of the relations and connections between this silent coup in the judiciary and the coup that forcibly removed President Mohamed Nasheed from power on 7 February 2012.

There was a coup. Behind it are 'respectable' individuals familiar to the Maldivian people. The police and the military, the Judicial Service Commission, and the courts, too, all became means to the same end: the coup.

Today the Maldives is caught in a deadly political trap. The only way out of it, and the only means of upholding the Constitution, is now in the hands of the people.

By no means does this book claim to tell the whole story. Such a task cannot be completed in another hundred such volumes. But I hope that the information that it does contain is of assistance to the Maldivian people in their quest for the truth behind our current crisis. I also hope that this book is of assistance in establishing an independent judiciary in the Maldives.

Allah granted humans the power to tell right from wrong. It is surely He who gave me the strength to write this book.

Aishath Velezinee

Judicial Service Commission Member (April 2009 - May 2011)

Abdulla Mohamed, a threat to national security: letter to Majlis

Letter sent to People's Majlis notifying it of reasons to believe Abdulla Mohamed posed a threat to national security.

8 March 2011

*Judicial Services Commission
Male',
Maldives*

*URGENT
To all Members of Parliament*

Greetings.

Open letter: Freeing the Criminal Court for independent adjudication on incidents of inhumane crimes, bloodbaths, and slaughter occurring across the country:

Given that the first session of Majlis for the year 2011 has begun with an urgent motion relating to the various incidents of inhumane violence occurring across the country, I state:

This is a time of heated rhetoric about the State's inability to deal with the alarming increase of dangerous crimes in society. Missing from the discourse are the 'criminal laundering' activities of the Criminal Court with Chief Judge Abdulla Mohamed at its helm. There is proof to believe that, akin to a money laundering operation within an organised crime gang, the Criminal Court is systematically releasing dangerous convicted criminals back into society, acquitting them of all charges regardless of evidence to the contrary. Under political influence, the Judicial Service Commission is ignoring all such proof.

Please think.

- 1. The Interim Judicial Service Commission reached a consensus decision on 19 July 2009 to investigate Abdulla Mohamed's ethical conduct.*
- 2. Once the Judicial Service Commission proper was established, it delayed the investigation of Abdulla Mohamed on various pretexts. These delay tactics continued for so long that five months passed before it finally set up a committee on 13 December 2009 to investigate his conduct.*

3. *Article 29 (b) of the Judicial Service Commission Act requires all investigative committees to submit a written report on all ongoing investigations every 30 (thirty) days. However, from 13 December 2009 to this day (8 March 2011), the Investigative Committee on Abdulla Mohamed has not submitted a single report to the Commission. This is despite the Committee having met 44 times to date.*
4. *The three-member Investigative Committee on Abdulla Mohamed is composed of the Commission's members Dr Afrasheem Abdulla, Sheikh Shuaib Abdul Rahman and the designated Member of Public. Whenever a problem related to Abdulla Mohamed is raised at the Commission, Dr Afrasheem jumps to his defence. In several meetings, he has expressed the opinion that complaints against Abdulla Mohamed cannot be investigated. And, according to reliable information I have received, he has expressed the same view during meetings of the Investigative Committee itself. However, he has never officially submitted this view to the Commission in writing.*
5. *Speaker of the Parliament Abdulla Shahid, who also served in the Commission as Member 158(a), played the most active role in maintaining Abdulla Mohamed's presence on the bench and award him tenure. This he did knowing full well that Abdulla Mohamed is a man who, even when he was first appointed to the bench, was already in possession of a criminal record that cast doubt over his abilities to adjudicate fairly and free of influence. Shahid was also aware of Abdulla Mohamed's conduct which repeatedly demonstrated he is ethically unfit to be on the bench.*
6. *Abdulla Shahid is also behind the efforts that secured the Criminal Court for Abdulla Mohamed until 2026, basically a lifetime position.*

If gang rule in the Maldives is to be defeated, and justice and peace established in its place, the Judicial Service Commission must fulfil its obligations with independence, and its actions must facilitate the fulfilment of its responsibilities in this manner. However, the conduct of Commission Member 158(a), who is a member of the Commission by dint of his status as Speaker, and Dr Afrasheem Ali, who represents the Majlis at the Commission, obstructs the Commission's efforts to fulfil its Constitutional obligations, putting the country into a dangerous situation.

As representatives of the people, you must investigate these matters on their behalf.

*Sincerely,
8 March 2011*

Loyal to the country and people, [Signed] Aishath Velezinee Member 158(h)

Re-appointment of judges and establishing judicial independence

To begin acting on the 2008 Constitution, the first task at hand was dismantling the existing system of governance and replace it with a democratic system. The three powers of State had to be separated, each free from undue influence of the other. Just as the Constitution facilitated the election of a President and a Majlis, it also allowed for a judiciary to be established as the independent third branch of power.

However, as the UN Human Rights Committee noted during its session on 12 and 13 July 2012 in Geneva, there is currently no independent judiciary as assured by the Constitution.



People's protest on the 12th and 13th of July to demand justice

Re-appointment of judges: what was lost

October 2009

Article 285 of the Constitution required the re-appointment of judges according to the standards set out in its Article 149. To carry out this duty, the Judicial Service Commission set up a three-member committee in October 2009. Its task was to verify whether all sitting judges possessed the qualifications required for their re-appointment. **Speaker Abdulla Shahid** proposed that the committee be composed of the three judges to represent each tier of the courts system. The Commission agreed to the proposal unanimously. Thus, the Sub-committee to Verify Judges' Qualifications was composed of then Interim Supreme Court judge Mujthaz Fahmy, then Chief Judge of the High Court Abdul Ghanee Mohamed and, from the lower courts, then Criminal Court Judge Abdulla Didi. Presiding over the proceedings was then President of JSC Abdul Ghanee Mohamed.

Once it was decided that only judges would be included in the Sub-committee, I volunteered to assist in the proceedings and joined its meetings. That way, I had a ringside seat to its activities.

Committee meetings began with a dispute. President Abdul Ghanee's and Mujthaz Fahmy were of different mindsets. Mujthaz Fahmy's took the position that a particular educational standard could not be demanded of a judge. He also maintained that a judge's criminal record prior to 2005 was irrelevant. The Sub-committee met for a few days, said something different each day, declared it had drafted a Standards of Qualification for Judges to be put on the Commission agenda on 7 November 2009.

Attempts were made to hold a meeting of the Sub-committee during the last week of October to discuss the draft Standards and formally adopt it. However, both Mujthaz Fahmy and Abdulla Didi failed to turn up to the meeting, making further discussion and action impossible.

As time passed without a meeting of the Sub-committee, several requests were made of Abdul Ghanee to put the draft Standards on JSC's agenda for discussion among members. His response each time was that the Standards must first be passed by the Sub-committee. That was impossible. Without Abdulla Didi and Mujthaz Fahmy, only Abdul Ghanee was left in the Sub-committee.

For the matter to even be discussed by JSC, it had to first appear on the Commission's agenda. But, seemingly in fear of Mujthaz Fahmy's displeasure, Abdul Ghanee did not dare do so.

As the JSC continued to meet twice a week, the most important responsibility given to it by the Constitution was cast to the sidelines and ignored. Nor was any work done on the rules and regulations that had to be passed within six months of the JSC's establishment. Discussions in Commission meetings focused on administrative matters that were irrelevant to the Commission's real work and responsibilities. There were no set procedures for doing things. Instead of order, there was chaos.

Mujthaz Fahmy's Records

CURRICULUM VITAE – MUJTHAZ FAHMY

PERSONAL

1. *Full Name* Mujthaz Fahmy
2. *Address* M. Afzaa, Lainufaru Magu, Male' Republic of Maldives
3. *Date of Birth* 21st January 1960
4. *Marital Status* Married
5. *Nationality* Maldivian
6. *National Identification Number* A 013004

EDUCATION

7. *Education & Professional Qualifications*
 - "Niya Kandaelhumuge Sanad" Number 11/81-1, 30 August 1981
 - Training for Island Court Judges, 10 October 1985 to 26 December 1985
 - Training to Upgrade Judges, 26 August 1996 to 25 November 1996
 - Computer Course conducted by CPL, 08 August 1998 to 19 September 1998
8. *Study Tours / Workshops*
 - Training Programme for Maldivian Judges and Court Administrators organised by the Subordinate Courts of Singapore, 15-19 October 2007

EMPLOYMENT RECORD

9. *[A] From September 2008 to Present*
Employer **Judicial Service Commission of the Maldives, Male' Republic of Maldives**
Position and Description of Duties Position: Vice President
Duties:
 - Carrying out the various duties and responsibilities of the

Commission as a member and those responsibilities attached to the post of the Vice President of the Commission.

10. [A] From December 2005 to Present
Employer

Civil Court , Ministry of Justice, Male' Republic of Maldives

Position and Description of Duties

Position: Chief Judge

Duties:

- . Primarily responsible for the over all charge of the Civil Court, including administrative and finance and all matters related to the employees
- . Conducts the legal briefing held daily for all the Judges of the Civil Court where, the newly filed cases and other issues which come before the court are discussed
- . Monitoring and educating the Judges in the civil court with regard to the cases undertaken by various Judges
- . Allocation of cases and the track of the cases which are filed in the Court
- . Acting as the Judge in certain types of comprehensive and complex cases

[B] From August 1997 to December 2005

Employer

Civil Court , Ministry of Justice, Male' Republic of Maldives

Position and Description of Duties

Position: Judge

Duties: Hearing cases of civil, commercial nature and that of property and inheritance claims

[C] From November 1992 to December 2005

Employer

Court Number - 2 , Ministry of Justice, Male' Republic of Maldives

Position and Description of Duties

Position: Judge

Duties: Hearing cases of civil, commercial nature and that of property and inheritance claims

[D] From December 1990 to November 1992

Employer Court Number – 3, Ministry of Justice, Male’ Republic of Maldives

Position and Description of Duties Position: Judge

Duties: Hearing cases of civil, commercial nature and that of property and inheritance claims and in charge of over all administration of the Court

[E] From April 1988 to December 1990

Employer Court Number – 3, Ministry of Justice, Male’ Republic of Maldives

Position and Description of Duties Position: Assistant to the Judge (Ghaazege Eheetheriya)

Duties: Hearing cases of civil, commercial nature and that of property and inheritance claims.

[F] From October 1981 to April 1988

Employer Laamu Kunahandhoo Court, Ministry of Justice, Male’ Republic of Maldives

Position and Description of Duties Position: Judge

Duties: Hearing cases of civil, criminal and family and over all in charge of the Court with regard to administrative, finance and employees.

INTERESTS

Though I have had experience in all the fields of Law and the Legal System of Maldives such as Family and Criminal, a special interest is there for the civil and commercial matters.

Confidential letter: Anti-corruption Board to Justice Minister

*Anti-Corruption Board,
Male'
Maldives
Ref: 7/2000/21/123-C*

Minister of Justice Ahmed Zahir,

Greetings.

In an investigation of some financial staff at former Court No: 2 suspected of embezzlement, it has come to light that two of the Court's judges, Mujthaz Fahmy and Aboo Bakuru Mohamed, have wrongfully claimed MVR 900 each as overtime.

As this money was obtained illegally, the matter has been concluded with a decision requiring the two men to reimburse your Ministry of the said amount within one month. Mujthaz Fahmy was informed of this decision on 6 January 1999. Aboo Bakuru Mohamed was informed of the same on 10 January 1999.

As the information needs to go on their respective records, I am also informing you.

*Sincerely,
16 Rabeu'l Awwal 1421
19 June 2000*

*Abdulla Adam
Assistant Director General, Operations*

Ministry of Justice, Male', Maldives

Conflict of interest: JSC responsibilities or personal gain?

PERSONNEL FILE

STAFF PERSONAL INFORMATION

Record Number	2992	Identity Card No.	A013004	Passport Number	0 21 Mar 2010
Name	Mr. Mujibhaz Faruqy	Dhikethi Name	مجتباز فروقي	Date Of Birth	21 Jan 1960
Phone	Tele No, Mobile No, EXT N	Gender	Male	Login	JSCQ2892
Bank Name	Bank Of Maldives	Account No.	0 0 0	Account Transfer	No
Permanent Address	M. Afraa: K, Male'	Current Address	M. Afraa	Other	Service: 28Y 5M 4D Apply Late Penalty: Yes

LINKS : Edit | Delete | UPLOAD PHOTO | Edit Attendance | Add To Chit Signee | ARCHIVES | Leaves | Adjustments | New Search

Designation History New Employment Promotion Chit Resignation Chit

OFFICE	POST	SALARY	ASSIGNED DATE	TERMINATED DATE	CHIT NUMBERS
Supreme Court	Fandiyaaru .	51000	21 Aug 2008		(1)JSC/2008/03-E.

Designation History (VEYO)

OFFICE	DESIGNATION	CLASSIFICATION	JOB SALARY	SALARY EFFECTIVE	CHIT	TYPE
AILLAA AA BEHEY COURT	KHAAS'SYA MA+DH'ICON	SP	3310	07 Aug 2008	JAS-A/188/2008/02	NCVL
MADHANEE COURT	IS QAALEE	EX 10	6825	01 May 2008	188-P/MIS/2008/2121 (28-4-2008)	NCVL
AILLAA AA BEHEY COURT	KHAAS'SYA MA+DH'ICON	SP	3310	01 Jan 2008	1-FSD/21/2008/14 (21/01/2008)	CIS
MADHANEE COURT	IS QAALEE	EX 10	6825	01 Jan 2008	1-FSD/21/2008/10 (15/01/2008)	CIS
AILLAA AA BEHEY COURT	KHAAS'SYA MA+DH'ICON	SP	2170	07 Aug 2006	(1)2006/3514/D 7/8/06	VO
MADHANEE COURT	IS QAALEE	EX 10	5290	01 Dec 2005	(3)2005/2703/D 1-12-05	VO

Designation History (EMIS)

OFFICE	DESIGNATION	CLASS	OCCUPIED	OCCUPIED REF	VACATED	VACATED REF	SALARY REQS	REQE
MADHANEE COURT	QAALEE	EX 9.0	01 Aug	1-D/21/2004/213	01 Dec	(3)2005/2703/D 1-12-	5010	CIR TRA ...

MADHANE COURT	QAL'EE	EX 9.0	16 May 2004	(15)2004/739/D 16-5-04	01 Aug 2004	1-D/21/2004/213 (05/08/04)	4000	CCL	CJR	...
MADHANE COURT	QAL'EE	EX 8.0	18 Oct 2001	(1)2001/3681/D 18/10/01	16 May 2004	(15)2004/739/D 16-5-04	3625	APP	CCL	...
AYLLA AA BEHEY COURT	MA+DH'ON	SP.0	01 Apr 2001	(1)2001/1008/D 1/4/01	18 Oct 2001	(4)2001/234/D 18/10/01	780	APP	APR	...
MADHANE COURT	QAL'EE	EX 8.0	01 Aug 1999	1-D/21/99/157 (24/8/99)	18 Oct 2001	(4)2001/234/D 18/10/01	3625	CJR	APR	...
MADHANE COURT	QAL'EE	EX 8.3	01 Apr 1999	(11) 99/2661/D 05/05/99	01 Aug 1999	1-D/21/99/157 (24/8/99)	3130	INC	CJR	...
MADHANE COURT	QAL'EE	EX 8.2	01 Apr 1998	(11) 99/145/D 11/01/99	01 Apr 1999	(11) 99/2661/D 05/05/99	2980	INC	INC	...
MADHANE COURT	QAL'EE	EX 8	01 Aug 1997	(3) 97/949/D 04/08/97	01 Apr 1998	(11) 99/145/D 11/01/99	2700	TRA	INC	...
COURT NO. 2	QAL'EE	EX 7	11 Nov 1992	(3)92/1429/D	01 Aug 1997	(3) 97/949/D 04/08/97	2125	TRA	TRA	...
COURT NO. 3	QAL'EE	QAL'EE EX 7	01 Dec 1990	(3)90/904/D(4/12/90)	11 Nov 1992	(3) 92/1429/D	2125	TRA	TRA	...
COURT NO. 3	QAL'EE GE EHEETHERIYAA		10 Apr 1988	(3)88/287/D	01 Dec 1990	(3)90/904/D(4/12/90)	1050	TRA	TRA	...
MINISTRY OF JUSTICE	LAAMU KUMAHANDHO COURTGE QAL'EE		18 Oct 1981	(1)81/1248/D	10 Apr 1988	(3)88/287/D	225	APP	TRA	...

Staff Allowance History New Allowance Chit

ALLOWANCE	AMOUNT	ASSIGNED DATE	TERMINATED DATE	CHIT NO	AMOUNT
Living Allowance	13000	21 Aug 2008			(1)SC/2008/03.
Special Allowance	5550	21 Aug 2008			(1)SC/2008/03.
Transport Allowance	1860	21 Aug 2008			(1)SC/2008/03.

Allowance History (Old)

ALLOWANCE	DATE	CHIT NO	REASON	AMOUNT
First Pension	18 Oct 2001	[4]2001/234/D 18/10/01	NULL	2202.5

STAFF PENSIONS --NEW-- (NO INFORMATION)

Leave Statistics Leave Details

YEAR START	YEAR END	ANNUAL	SICK/MEDICAL	FAMILY	HALF PAY	ABSENTS	MATERNITY	PATERANITY	CURCUMSTANCE	NO-PAY	HAJJ
21 Aug 2008	21 Aug 2009	0/30	0/30	0/10	0	0	0	0	0	0	0
21 Aug 2009	21 Aug 2010	0/30	0/30	0/10	0	0	0	0	0	0	0

Qualification New Qualification Entry

QUALIFICATION	LEVEL	DATE	EXAMINATION BOARD	TASKS
Niyakanda Ethunuge Sanadhu	O Level			Edit Delete Archives

Offences Entry New Offence

TYPE	DATE DETAILS	REF	ACTION AGENCY	
CIVIL	COURT NO. 2 GE FAISAA AAI BEHEY KANTHAH BALAHATTA MUVAZZAFUN SARUKARUGE FAISAA AH KHUYANATY THERIVUMAI QAWAIDHAA KHILAAF AH SARUKARUGE FAISAA NAGAI BEYNUK KURAMUN DHAA KAMAH HUSHAHLEHFAIVAA MASSALA GAI QALTEE MUTHAZ FAHMY AAI ABOOBAKURU MOHAMED 1996 OCTOBER MAHU ITHURU GADEGE HAAZIRBE FOTHUGAI GADI NUJAHAI SOI NUKURAVVAA E MAHU ITHURU GADEGE FAISAAGE GOTHUGAI KOMME BEYFULHAKU RF 900/- AA HAWAALLU VELAVVAAPAI VAA MASSALA- ITHURU GADEE GE GOTHUGAI NANGAVVAA FAIVAA 900/- AKKE QAWAIDHAA KHILAAF AH HAWAALLU VELAVVAAPAI VAA FAISAA KAMAH VAATHEE 1 MAS DHUVAHUGE THEREYGAI MINISTRY OF JUSTICE AH E FAISAA DHEKKEVUMAH (MI MASSALA KUSHUGE RECORD 3 NO. FILE GA)	123- C/1/2000/44 (14/6/2000)	FAD ANTI-CORRUPTION BOARD	E I D I A

GROUP OR DIVISION ADD TO GROUP OR SHOW GROUPS (NO INFORMATION)

Mutiny in the High Court



The Constitution was, without a doubt, violated. Participants in the High Court mutiny (From left): 1. Ali Hameed 2. Chief Justice of High Court Abdul Ghanee 3. Adam Mohamed Ibrahim 4. Ahmed Shareef

On 21 January 2010, Thursday, all respect for the democratic values that underpins the Constitution were abandoned. The judiciary was the culprit.

Just as the day's meeting of the Judicial Service Commission began, a member of staff suddenly entered the room and distributed sealed letters addressed individually to each member of the Commission. Some members opened and read the letters immediately. There was much excitement. What had arrived in the envelopes was a High Court declaration against its own Chief Justice Abdulla Ghanee.

One of the five High Court judges was on leave at the time. The remaining three members had hastily formed a 'majority' to formulate and sign the declaration. The document alleged Abdul Ghanee had violated the

Constitution in all manners possible, and that he no longer met the ethical standards required of a judge. For these reasons, the Declaration stated, the High Court had decided to remove Abdul Ghaneer as its representative at the JSC. This document, unlawfully printed on official High Court stationery, and bearing the official seal of the court, was signed by Ali Hameed, Adam Mohamed Abdulla and Ahmed Shareef.

This was to be the beginning of a pattern of behaviour in which individuals easily took the law into their own hands. It is from herein on that we began to lose the values of democracy and rule of law, of legitimate governance.

At the meeting, one of the members read aloud the letter removing Abdul Ghaneer from the Commission. Abdul Ghaneer, meanwhile, continued to preside over the meeting. He seemed totally unfazed by the fact that he was presiding over a meeting discussing his removal from the very seat he was sitting on. Deputy President of the Commission Mujthaz Fahmy was absent. He only turned up later, after the chaos, to smoothly takeover its leadership and to make a decision on the Declaration by the three High Court justices. Although no other matter could be conducted at the Commission meeting that day, Abdul Ghaneer presided over it until its end, leading the discussion on the Declaration against him.

When the time scheduled for the meeting ended, it was extended to allow Mujthaz Fahmy to take over as President of JSC, and to discuss the Ghaneer Declaration. It was decided that since it is the President who appoints members to the Judicial Service Commission, the Declaration should be sent to him for consideration.

With these developments, I submitted a proposal to the Commission to investigate and act on the following issues: (1) a complaint submitted by then Attorney General Husnu Suood; (2) the abuse of legal power in violation of democratic principles by the three High Court Justices Abdul Hameed, Adam Mohamed Abdulla and Ahmed Shareef in publishing a Declaration alleging professional misconduct by Abdul Ghaneer without first submitting the allegations to the JSC for its deliberation; (3) questions arising over the integrity of the High Court and the subsequent public loss in the institution, arising from three of its judges making such allegations against their Chief Judge. The Commission agreed unanimously to investigate the said matters and take appropriate action. Nothing was done.

Mujthaz Fahmy hijacks JSC



Abdul Ghanee was not present at the next meeting held on 21 January 2010. At the start of the meeting, the legal community's JSC representative, Ahmed Rasheed, asked the Secretary General why Abdul Ghanee had not been asked to the meeting. Secretary General Muna Mohamed replied that JSC's Deputy President Mujthaz Fahmy had instructed her not to invite him. Mujthaz Fahmy also mumbled something. Mujthaz tends to mumble in such moments.

This was the beginning of his dictatorial leadership. The Commission had decided to send Ghanee's matter to the President who was yet to reach a decision. Yet, Mujthaz Fahmy had already used his power to stop Ghanee from attending meetings and distanced him from his responsibilities as a Commission member.

From his assumption of the Commission's leadership on that day until 11 March 2001, Mujthaz Fahmy successfully denied JSC the opportunity to elect a new President. Furthermore, once President, he also denied the Commission an opportunity to elect a new Vice President. In other words, he kept both positions at the top for himself. Before anyone realised, he had the whole Judicial Services Commission under his control.

Progress towards meeting the requirements of Article 285 were brought to a standstill in October 2009, and no opportunities were given to resume it. Some pretext or other was always presented to stop the matter from being put on the Commission's agenda. Meetings continued to focus issues entirely irrelevant to the Commission's responsibilities. As President, Mujthaz Fahmy directed how all matters should be dealt with. When issues were brought to the attention of the Commission, Members were often denied full disclosure, preventing them from getting the whole picture. The temporary Standard of Procedures requires that the agenda and related documents should be given to Members 24 hours prior to each meeting. This did not happen. Often, the only information we got about a meeting was a routine text message notifying members of time and place.

Even during meetings, instead of providing members with relevant documentation, a separate 'President's Agenda' would be prepared especially for Mujthaz Fahmy. He would then slowly read it out to the members, omitting whatever he wanted and focusing on whatever he desired. This process steered the Commission's decisions in any direction he wished. As soon as an issue was read out to the members, Fahmy would then rapidly dispense advice on exactly how the Commission should conclude that particular matter.

A perfect example of this process was a complaint of misconduct lodged by the Maldives Police Services against Judge Mohamed Naeem, then at the Civil Court. Mujthaz Fahmy misinformed the Commission that the Maldives Police Service no longer wished to pursue the complaint, leading to a decision by the JSC not to investigate the matter any further.

As far as I know, none of the Commission members saw the contents of the Police letter before the decision was made. I only saw managed to see it because, from the three-month period I had spent working at the Commission, I came to realise that things tended to be hidden or kept a secret there. I, therefore, made a point of always arriving to the meetings early, and specifically requesting the chance to look at all relevant documents ahead of discussions. Most members of the Commission go directly to the meeting room, accessible from an entrance separate from its Secretariat. More often than not, they did not have the time to look inside the folder handed to them on arrival at the meeting. Most members are also individuals who hold other high-level positions within the State structure.

There is no need to go into further details at this point about the Maldives Police Services' complaint against Judge Mohamed Naeem. The point I wish to make is that Judicial Service Commission was refusing to carry out its constitutional obligations. Proceedings were being dictated not by national interest or judicial integrity. It was driven by judges' personal interest.

Mujthaz Fahmy establishes new committee, Dr Mohamed Latheef chairs

18 February 2010

The matter of re-appointing judges as stipulated by Article 285 of the Constitution was next tabled on the JSC agenda on 18 February 2010.

Interesting coincidence: it was also the day on which Adam Mohamed Abdulla was appointed as the High Court's representative at the Judicial Service Commission to replace Abdul Ghaneer Mohamed. It was Adam Mohamed Abdulla's first Commission meeting.

The day's proceedings even began with a declaration by Mujthaz Fahmy that Article 285 of the Constitution could not be upheld. As usual, after discussions that went in various different directions but led nowhere, things ended as Mujthaz Fahmy wished. A new sub-committee was established, this time composed of Commission members High Court Justice Adam Mohamed Abdulla, Criminal Court Judge Abdulla Didi, President of the Civil Service Commission Dr Mohamed Latheef, and external participants proposed by Mujthaz Fahmy---Civil Court Judge Abdulla Ali and Children's Court Judge Shuaib Hussein Zakariyya. It was also Mujthaz Fahmy who decided on Dr Mohamed Latheef as the committee chair.

For Dr Latheef it was a time of uncertainty about his future. The two-year transition period extended by the Constitution was almost at an end. There was no guarantee that he would continue as President of the Civil Service for a second term. It was Dr Latheef's condition at the time to be afraid of the future, and to talk incessantly of this fear. It was often jokingly suggested in the Commission that a Judicial Training Centre be established of which Dr Latheef should be made chief.

At the same time, Dr Latheef's dealings in the various unconstitutional and illegal activities being conducted at the Commission were very dirty. He always went with the flow, and swayed to the interests of the particular. Soon Dr Latheef's participation in the efforts to obstruct the Commission's constitutional responsibilities and waste time at meetings began to be obvious.

When it became obvious that the Commission was not prepared to fulfil its constitutional obligations, I approached Dr Latheef. I told him that if he continued to act in defiance of democratic principles, I would have to take the matter up with the President. I also added that if he were to betray people and country in this manner, President Nasheed would not approve his nomination for a second term as the President of the Civil Service. Speaker of the Parliament and Judicial Service Commission Member under Article 158(a) of the Constitution, Abdulla Shahid, was close to enough to hear the exchange.

Amendment to the Civil Service Commission Act: a deal between Mujthaz Fahmy, Shahid and Dr Latheef?



Speaker of Parliament Abdulla Shahid

Something happened in the parliament at this time that shocked me. I only knew after the fact, from reports in the media.

It is this: a sudden amendment to the Civil Service Commission Act was proposed and passed at the Majlis. It rolled back the President's constitutional authority to appoint the Commission's President. According to the amendment, the Civil Service Commission would be fully under Majlis authority. The entire process--from advertising for candidates to screening nominees and confirming their appointment--would be handled entirely by Majlis. With the amendment, the Civil Service Commission had become an institution over which the President had no authority, and over which the Majlis had every power.

The media remained completely unaware of the secret machinations ongoing at the Judicial Service Commission. It was the same with the Majlis. It was not possible, therefore, for either to see it for the corrupt and dirty deal that it was.

From my vantage point inside the Judicial Service Commission, however, what I saw was Dr Latheef being guaranteed a position in the Civil Service Commission once he acquired Majlis approval. Dr Latheef's task was to get that approval.

Dr Latheef's task: invalidating the October sub-committee's work

This time, too, my request to be on the sub-committee was denied. Therefore, using the opportunity provided in the Commission's Act, I notified them of my wish to attend the meetings and requested the Secretary General to inform me when there were scheduled.

I had repeatedly requested, and been denied, a designated workspace at the Commission. At this time, therefore, I was using the conference room as my workstation. This meant the Commission could not hold a meeting during this period without my knowledge, except at night. Therefore, I was able to see very clearly how the meetings of the sub-committee proceeded.

It was purportedly set up to advise the Judicial Service Commission on how to judge whether or not a member of the judiciary possessed the qualifications required by Article 285 of the Constitution. The Commission had not decided on any set procedure for the committee's meetings. Therefore, when the Secretariat was preparing for the sub-committee's meeting, I requested the Secretary General to include the draft prepared by Abdul Ghanee after the meetings of the 2009 October sub-committee in their dossiers. This was done.

At the first meeting of the sub-committee it was decided to pay no heed to the previous work. Dr Latheef said it was a very "technical" issue, and laid out how the matter should proceed. What the sub-committee did next was extraordinary. They read the qualifications demanded of judges in Article 149; then decided that the required qualification must be one that allowed all sitting judges to remain. A six-month Sentencing Course was deemed as sufficient legal training for a judge. A good attendance record was similarly declared as proof of a judge's competency. Ethics and principles were declared subjective, having them was therefore unnecessary for a Judge. In this way, without a thought spared to the purpose of Article 285, Dr Latheef concluded the meeting with the decision that every judge who was a judge had the qualifications to be one. It had spent a grand total of eight hours on the matter.

When the second meeting of the committee began, I was not notified. When I arrived at the Commission as usual, preparations for the meeting were already under way. I asked the Secretary General why she had failed to notify me. She replied she had not dared disobey Mujthaz Fahmy's instruction to notify members only!

What was happening was a silent coup. At the time I did not fully realise the political purposes of these events. Back then I thought the machinations were part of a plan concocted and being carried out to ensure Mujthaz Fahmy's position as President.

Dr Afrasheem Ali: Article 285 is 'symbolic'

23 February 2010



At the next meeting, chair of the sub-committee, Dr Mohamed Latheef, submitted its report. Presiding over the meeting, Mujthaz Fahmy hastened to call a members' vote on the report. At this point I interjected, and said that a Standards can only be decided after discussions in the Commission. I insisted it should be done in a way that does not contradict the spirit and purpose of the Constitution. I also requested that Commission members be given the opportunity to discuss it before the Standards was passed.

Dr Afrasheem Ali, member of the Commission under Article 158(b) of the Constitution, objected to this. The duties of the Commission, according to him, were re-appointing the judges and establishing their tenure. He said Article 285 of the Constitution was symbolic.

Judicial Service Commission Member Husnu Suood and I both reacted in unison. '*Symbolic?*' we asked. Afrasheem repeated: it is a symbolic Article.

Speaker Abdulla Shahid, Judicial Service Commission member under Article 158(a), had been one of the people most actively engaged in the process of drafting and passing the new Constitution. As such, I requested that Shahid read aloud Article 285. Shahid said he could not 'speak for the Parliament'. I

replied that as a journalist I had closely observed the drafting of the Constitution and, referring to discussions of the Special Majlis, I repeated the request. But, Abdulla Shahid chose to remain silent. With that Article 285 was deemed 'symbolic'.

Another shock followed soon after. Adam Mohamed Haleem, who replaced Abdul Ghanee as the High Court member, shared some novel information. This is what he said: Velezinee, what you say is what is in the Constitution. But, I have been told that back then [when the new Constitution was being drafted], a five-member team of judges led by Mujthaz Fahmy successfully lobbied leaders of the time not to follow Article 285 even if it was written in the Constitution! It was said that it [Article 285] might cause dangerous problems in the judiciary, as enough qualified individuals did not exist.

From my subsequent inquiries into the matter, I found out that a delegation led by Mujthaz Fahmy did indeed meet with the Special Majlis when Gasim Ibrahim was its president, and there had indeed been such a deal made between them.

They did not care that dismissing Article 285 of the Constitution meant losing the independent judiciary it stipulates. They did not say it in so many words that day. No more attention was paid to what Adam Mohamed said, and after some discussion, several members agreed to decide on the Standards required of judges. The Chair, too, agreed that this was as should be. But a vote was not taken on the issue. Nor was it decided when the matter would be on the Commission agenda next.

At this point, Commission Chair Mujthaz Fahmy next requested that a vote be taken to see who approves the report. Things had never before been done this way. Knowing how Mujthaz Fahmy did things, I suspected something was afoot, therefore, I objected to the vote. They still called it. I refused to participate, saying I do not vote on issues that fell outside of the laws of the Commission. I also requested that my reasons for refusing to vote be put on record. Dr Latheef was uneasy with this request. He offered a blatant lie as justification for his refusal: 'Even the UN does not record how votes are taken'.

At the time, the Judicial Service Commission was not keeping records of who participated in what or who voted for what.

Concluding the day's proceedings, Mujthaz Fahmy talked of sharing the Standards with the judges. I said the Commission must first approve any Standards before it was discussed with judges. No vote was taken. It had previously been agreed that members would be given the opportunity to discuss and pass the Standards.

Dr Latheef sends Standards to judges



But, the very next day, under instructions from Mujthaz Fahmy, those very same Standards proposed by Dr Latheef's committee in its report were sent out to all the courts (and judges). This made me certain of Mujthaz Fahmy's intention to have the matter concluded in this manner.

To prevent the Standards from being decided among judges alone, and in ways that suited their personal interests rather than the national interest, I sent a copy of Dr Latheef's Standards to both the President as well as to the Law Society. I also shared this information with the then editor of Haveeru newspaper Hiriga Ahmed Zahir. The media was not covering any of these issues at the time.

Mujthaz Fahmy was running Judicial Service Commission *ad hoc*; it was failing in its Constitutional responsibilities; and it was attempting to make Article 285 irrelevant. I shared these concerns with Member of the Parliamentary Committee for Independent Commissions, Mohamed (Kutti) Nasheed. I also met with MPs representing different political parties. None of them used the word 'symbolic' to describe Article 285.

But, judging from Mohamed (Kutti) Nasheed's response to my letter expressing those concerns, just because he refrained from using the word 'symbolic' to describe Article 285 did not mean he did not think it so.

To the attention of the Majlis

25 February 2010



Work on Article 285 at Judicial Service Commission came to a standstill yet again. It was absolutely impossible to put the matter on the agenda. Mujthaz Fahmy maintained absolute authority over what could and could not be tabled for discussion at Commission meetings. He often put about 20, 30 or 50 items on the agenda for a meeting scheduled for one and a half hours. Several of them would be administrative matters unrelated to the Commission's responsibilities. The rest were mostly letters sent by judges/courts requesting something or other.

Not only did the Commission fail to do any work on Article 285, it also failed to work on drawing up its own Standards of Procedure, required to be in place within six months of the Commission being established. Nor did it carry out any substantial investigations into complaints received. Although it appeared busy, setting up an array of committees in various different names, hardly anything real work was done.

The first excuse was that such work could not be done while Dr Latheef was abroad. Dr Latheef had submitted the Article 285 Standards in February and left the country on an extended holiday.

The matter could not be put on the agenda even after his return. Every time I raised the matter, he had a different pretext for delaying the discussion. The recurrent theme was: 'What can I do? The matter is not on the agenda.' It is he who set the agenda!

Most Commission members did not seem to be concerned with this state of affairs. Judges on the Commission were preoccupied with advising the

President on establishing the Supreme Court proper to replace the Interim one then in place; and about giving judges a raise.

Abdullah Didi, representing the lower courts, meanwhile, remained occupied with working things out for the advantage of Criminal Court Chief Judge Abdullah Mohamed, or Abdulla Ghaazee. When work had to be done on increasing the detention periods of various criminals according to the new Constitution, the Commission decided this amounted to extra-work for the Court for which overtime pay should be given.

Additionally, it also decided to transfer a particular judge temporarily to the Criminal Court upon Abdulla Ghaazee's request. The Attorney General did not seem to do much at all.

The Judicial Service Commission was no longer being run by the Commission. It was a place for legitimising whatever Interim-Supreme Court's Mujthaz Fahmy wanted. Mujthaz himself would arrive to work at the Commission already full of advice he had been given from within the Interim Supreme Court.

100 days to Constitutional deadline for appointing judges

1 May 2010

Work on Article 285 was still at a standstill. We are talking about screening the approximately 200 sitting judges to verify whether they met the qualifications required by the 2008 Constitution. The Constitutional deadline for completing this work was 7 August 2008.

By now there was approximately 100 days of the two-year time period the Constitution had allocated for this work.

I began talking about these issues in public. I called the media to a press conference at the Judicial Service Commission and explained the situation. I also set up a blog: www.velezinee-wordpress.com to discuss the matter.

Members when JSC was working on Article 285

Speaker of Parliament, Abdulla Shahid
Interim-Supreme Court Judge Mujthaz Fahmy
High Court Judge Adam Mohamed Abdulla
Criminal Court Judge Abdulla Didi (representing lower courts)
Dr Afraasheem Ali (representing the Majlis)
Sheikh Shuaib Abdul Rahman (representing public, nominated by Majlis)
Dr Mohamed Latheef (Civil Service Commission President)
Aishath Velezinee (representing the President)
Husnu Suood (Attorney General)
Ahmed Rasheed (representing the legal community)



Article 285: in name only

6, 9, 11 May 2011

On 6 May 2011, Article 285 was finally put on the agenda. Interestingly, it was a day on which Speaker Abdulla Shahid put in one of his rare appearances at the Commission.

Recall the vote taken by Mujthaz Fahmy on 23 February 2010 on the Article 285 related Standards. Recall also the agreement reached on that day to give members time to discuss the Standards before passing it. None of this happened.

As usual, Mujthaz Fahmy conducted the meeting as he wished. It mattered not what the Constitution said, what laws applied, or what regulations existed. The Standards came to be the very ones suggested by Mujthaz. The amendments that I proposed in writing were not brought to the meeting. There was no opportunity for any discussions.

All ten members of the Commission knew full well what was happening was wrong. But, except for public member Sheikh Shuaib Abdul Rahman who said it was unacceptable for unqualified judges to remain on the bench, no other member made any efforts to uphold the Constitution.

I maintained that judges' ethical standards were an integral part of their qualifications and no judge can be appointed without first determining their moral standing. Speaker Shahid supported my position, and the day's meeting (on 6 May 2010) concluded with the agreement that ethical standards would indeed be a part of the screening process for the re-appointment of judges.

Next time the issue was put on the agenda, 9 May 2010, Speaker Abdulla Shahid was absent. Majlis went on recess, and Shahid went abroad. Pending at the Judicial Service Commission was one of the most important tasks to be performed in order to establish a democratic system of governance. It did not seem to matter to Shahid on vacation.

That day, Mujthaz Fahmy declared that the Article 285 Standards had been approved at the previous meeting. He also said Speaker Shahid had supported the Standards! Again, the previous day's agreement to check the moral standing of judges was forgotten.

The same issue was tabled again on 11 May 2010. No firm decisions were taken. No vote was taken on passing the Standards, as is required by Article 163. But, when the Standards were published on 25 May 2010, the Commission announced that it had been passed at a meeting on 11 May 2010.

Although the temporary Standards of Procedure followed by the Commission required that all members be provided with minutes of every meeting on the same day, this did not happen. The Commission's leadership did not want it. It was normal for minutes to be delayed for three or four months on various excuses such as 'administrative difficulties', etc. Without minutes, the Chair's memory was the only record according to which meetings were conducted. Other Members had barely a role left to play.

Under the circumstances, the door was open to corruption. If a decision taken by the Commission was not to the leadership's liking, it was not unusual for the matter to keep reappearing on the agenda until such time as a new agreement – favourable to the leadership – was reached. There were also occasions when members would reach unwritten decisions on matters only to issue a statement later that entirely misrepresented the decisions actually taken. On advice from the leadership, decisions taken by the Commission were also sometimes filed away and ignored without action.

To the Anti-Corruption Commission

12 May 2010

Corruption was rife at the JSC. It had interpreted Article 285 as 'symbolic' and rendered the Constitution powerless. The Majlis, however, made no effort to hold the Commission accountable. Besides, the Majlis was at a halt during this period too. I therefore submitted the issue of Article 285 to the Anti-Corruption Commission.

Shuaib Abdul Rahman and I met with members of the Anti-corruption Commission and updated them on the situation. We asked them to look into the matter as per Article 12 and 13 of the Anti-corruption Act.

There is nothing more beneficial to a people than a just and independent judiciary. By dismissing Article 285 as symbolic, the Judicial Service Commission had acted in the interests of the few and obstructed a right that belongs to everyone. Those who participated in this either directly or indirectly had all benefited from it. I will not elaborate on those unfair advantages here.

Of the Anti-Corruption Commission members three were present. They promised to investigate the matter and report back.

‘Symbolic’ re-appointment of judges, and ‘symbolic’ Standards

25 May 2010

Judicial Service Commission published the Standards passed by Dr Latheef’s Committee. It was touted as a JSC decision.

Standards for re-appointment of sitting judges under Article 285	
Education	Whatever level of education currently attained Six-month ‘Sentencing Certificate’ sufficient
Experience	Should have been a judge at the time new Constitution came into force
Competency	A good attendance record
Ethical/Moral Standards	No requirement

President Nasheed's letter on Article 285

To Mujthaz Fahmy, President of Judicial Service Commission

Regards

Article 285 (a) of the Constitution requires the Judicial Service Commission to verify whether all sitting judges meet the qualifications set out in Article 149 within two years of the Constitution coming into force. I believe that the purpose of this task is to ensure the judiciary is composed judges who are competent and capable of delivering equal justice to the people of the Maldives.

The Standards published on 11 May 2010 by the Commission to verify judges' qualifications as per Article 149, however, raises serious concerns over whether it will help achieve the said purpose.

At a time when the number of cases submitted to the courts is increasing and when the courts are being asked to handle serious Constitutional, civil and criminal cases, it is vital that the judiciary possesses the necessary educational and professional qualifications. The Standards published by the Judicial Service Commission regards possession of a Level Three Certificate as sufficient education for a judge and deems currently being on the bench as adequate competency. Given the level of development in today's society, and in the criminal justice system, I do not believe that these are sufficient Standards.

Article 149 requires judges to be of high moral character. The Judicial Service Commission has decided that any judges who have not been convicted of 29 criminal offences as listed by the Commission would be deemed as meeting required moral standards. However, in a democratic society, the standards for assessing a person's moral standing are not necessarily the same as the standards used by the courts to judge their criminality. Deciding someone is of high moral character based simply on the fact that they do not have a criminal record, I do not think, is the best way forward. Articles 149 (a) and 149 (b) clearly differentiate between the two concepts. It is a matter of grave concern that the Standards set by the Judicial Service Commission allows individuals to remain on the bench whose professional conduct have been called into question by the previous administration and Constitution, as well as individuals accused of various offences. Given that persons appointed to the bench sit in judgement of others, I believe that they are required to be of a higher moral standing than the ordinary person.

As judges, members of the judiciary enjoy a privileged status in society. It is essential that the standards by which their educational and professional qualifications are judged be high enough to inspire people's confidence in the judiciary. They should also be standards that facilitate the establishment of an able and just courts system in the country. Under the circumstances, therefore, it is my wish that you reconsider – and amend – the Standards for verifying judges' qualifications under Article 149 published by the Commission on 11 May 2010.

*Regards,
27 May 2010
Sincerely
Mohamed Nasheed
The President*

President Nasheed's Radio Address on Article 285

28 May 2010

President Mohamed Nasheed spoke of Article 285 in his weekly radio address to the nation on 28 May 2010. He urged that judges be reappointed according to the new constitution, and highlighted the sanctity of the judiciary.

At the time, this was described as 'President Nasheed meddling in the judiciary'. I have always been amazed at the manner in which President Nasheed is discussed in the Judicial Service Commission. It is as if he is an ignorant and deviant little boy who sneaked into the President's Office and sat on the President's chair when the real President, Maumoon, was out on a tea break.

Majlis resumes, case re-submitted

8 June 2010

When the suspended Majlis resumed, I resubmitted the matter of Article 285 and the Judicial Service Commission.



Copy of letter sent to People's Majlis on 8 June 2010

Chair of Parliamentary Committee on Independent Commissions, Mohamed Mujthaz,

Request for investigation into Judicial Service Commission's treatment of Article 285

In composing and setting the Standards of Qualifications for judges in line with Article 149 as required by Article 285, the Judicial Service Commission disregarded the Constitution and laws of the country as well as democratic principles and values, and worked in pursuit of personal gains for the few at the expense of the many;

I feel that these actions by the Judicial Service Commission can deny people their right to a fair and independent judiciary they can trust. I therefore humbly request that, on behalf of the people, the Parliamentary Committee on Independent Commissions investigate the conduct of the Judicial Service Commission and take necessary action against those who have participated in the said conduct. I also request that you order the Judicial Service Commission to carry out the national responsibility assigned to it by Article 285 of the Constitution and to conduct all its affairs with due respect for the country's laws and rules of justice.

I have attached a dossier of documents on how the Judicial Service Commission conducted its affairs relating to Article 285 and request that you share copies of the said documents with all members of the Parliamentary Committee. Given that minutes of some of the Commission meetings may have been altered or amended, I would also like to let you know that audio recordings of these meetings can also be obtained from the Judicial Service Commission for your perusal.

8 June 2010

Sincerely

Aishath Velezinee

[Signature]

Member appointed by the President under Article 158 (h)

*Mohamed Mujthaz, Chair of the Committee on Independent Commissions,
Majlis Secretariat*

*Copy: Members of the Parliamentary Committee on Independent Commissions,
Speaker of Parliament*

The Independent Commissions Committee contacted Judicial Service Commission regarding the letter, and obtained documents relating to its meetings on the re-appointment of judges as required by Article 285. The Committee also obtained audio recordings of the meetings.

And, on 23 June 2010, the JSC was asked to attend a meeting of the Independent Commissions Committee at 13:00.

Speaker Abdulla Shahid stops Majlis

23 June 2010



The JSC, which included Speaker Abdulla Shahid, had been summoned to the Committee on at 13:00 on 23 June 2010 when he suspended the Majlis indefinitely.

He claimed Majlis had become too unruly and used his powers as Speaker to suspend it. With this parliamentary committees, too, were suspended. The issue of the Judicial Service Commission could not be looked into. Shahid had locked up the Committee. The media did not realise the significance of the matter, so they did not cover it. They were oblivious to the atrocities behind the scenes.

Silent coup by Interim Supreme Court

July 2010



Taking advantage of the political turmoil and the suspended Majlis, the Interim Supreme Court conducted a silent coup.

The five temporary judges in the Supreme Court gave themselves tenure, obstructing the duty of the Head of State President Mohamed Nasheed to appoint judges, and rendering the Constitution powerless. By any standard, such an act can be nothing but a coup against the State. Given that the Constitution reiterates repeatedly that its standards are those internationally accepted as the democratic norm, there is no room to pass it off as falling within 'domestic standards' or as exercising its sovereignty.

Majlis plays hide and seek: conceals reality from the public



Between July and December 2010, the Parliamentary Committee on Independent Commissions summoned the Judicial Service Commission on several occasions. Each time, the meetings were cancelled at short notice and without reason given. No investigations were thus conducted.

To confuse things further, an investigation of the JSC was launched in December 2010 but it was limited to checking members' attendance records. No effort was made to investigate the matter relating to Article 285.

All judges are qualified

26 July 2010



Around 5:00pm on the afternoon of 26 July 2010, JSC members received a notification by text that screening of judges will be conducted at 10:00 a.m. on 27 July. It was Independence Day holidays.

I rang Mohamed Mujthaz, Chair of the Parliamentary Committee on Independent Commissions and notified him of the development. That evening, I also emailed him detailed documentation on how matters regarding the issue had so far proceeded.

Removing judges with criminal convictions

27 July 2010

It was reported in the media on 27 July 2010 that a dispute had broken out within the Judicial Service Commission, and that several hundred people had gathered outside its premises. People will also remember well what Chair of the Constitution Drafting Committee Ibrahim Ismail said to members of the Majlis and to judges on that day.

With the challenges that I mounted from within, and with the people's protest outside, the meeting, which began at 10:00 a.m. that day, ended with the decision to remove judges with criminal convictions from the list of qualified judges.

That very evening, a list of qualified judges appeared on the Judicial Service Commission website. It claimed to have removed 32 judges from the list for being unqualified. Later, the list was taken off the website.

The point of interest here is that among the 32 judges omitted from the list for having previous criminal convictions was the famous Abdulla Mohamed (Abdulla Ghaazee).

Abdulla Mohamed to remain on bench despite criminal conviction

28 July 2010

The next day, on 28 July 2010, the JSC decided that Abdulla Mohamed could remain on the bench despite having a criminal record.

With this decision, Shuaib Abdul Rahman walked out of the meeting, saying that the decision directly contradicted Islamic Sharia. He also spoke about it in the media that evening.

I had reason to believe that, in its work to reappoint judges according to Article 285, the Judicial Service Commission was acting in violation of the Constitution and was seeking to make it irrelevant. I, therefore, chose not participate in the meeting.

Judicial Service Commission summoned to Majlis

2 August 2010



Majlis summoned JSC to the Parliamentary Committee on Independent Commissions on 2 August 2010 regarding Article 285. I now believe that this was an opportunity granted to Mujthaz Fahmy to say whatever he wished to fool the public.

This is exactly what he did on that day: say whatever he wanted to say. In addition to lying blatantly, he also contradicted the Constitution and defied logic many a time. This was fine with the Parliamentary Committee.

If the Committee had taken even a cursory look at the documentation they had previously obtained and read what I had written to them, it would have known Mujthaz Fahmy was lying. Even on that day, I attended the meeting with evidence and proof. The Parliamentary Committee paid no heed.

I told the Committee that the documents submitted to it by the Judicial Service Commission had been doctored. Its response was to say 'today is not the day for listening to audio'! Was there anything more to be said at this point?

Ending the meeting, the Committee said it was a serious issue, and must be investigated. It also promised to summon JSC's Secretary General Muna Mohamed, who resigned that day, for questioning.

Now PPM member, MP for L. Fonadhoo Area, Abdul Raheem said: Everything is now clear [having listened to Mujthaz]. For Abdul Raheem Mujthaz Fahmy's words carried more weight than the evidence and proof submitted or witness statements to be obtained!

Another remarkable meeting about the day was that, although not the Committee's Chair, it was Committee member Mohamed (Kutti) Nasheed who presided over the meeting and directed the Committee's comedy act. He did it via text messages from his mobile phone.

Judicial Service Commission deceives the public

3 August 2010



What was seen next, on the following day, was a press conference of the JSC being aired live. Although several Commission members were present, Sheikh Shuaib Abdul Rahman and I were not notified of it. We had been deliberately excluded.

In addition to concealing what really happened at the Commission and misrepresenting the Constitution, members who called the press conference also referred to me directly, making comments and inferences designed to defame me.

I heard Criminal Court Judge Abdulla Didi, whose school life ended after Grade 4 at Ga. Nilandhoo School, saying that people who did not know the law were obstructing the Commission's work. Again, what else was left to say?

I went to the Maldives Police Services at 9:30 that evening and filed a complaint about the Judicial Service Commission telling lies and deceiving the public, and about the defamatory statements made by Mujthaz Fahmy and Dr Afrasheem Ali to damage my reputation and incite public hatred against me. I also obtained a recording of the full press conference from MNBC One and submitted it to the Police as part of the complaint.

To this day, the Maldives Police Service has not looked into the matter.

Judges' Oath

4 August 2010



The whole country is familiar with the scene, but not with all the facts behind it.

Firstly, only five of the ten JSC members participated in that night's meeting. They were: High Court's Adam Mohamed Abdulla and Abdulla Didi of the Criminal Court who claimed to be qualified and were going to take the oath; Ahmed Rasheed, the legal community's representative at the Commission and whose wife is a judge; Mujthaz Fahmy; and Dr Afrasheem Ali. Based on what I know now, I believe that Dr Afrasheem, Majlis representative at the JSC, was sent by the Majlis majority to take over the judiciary. Mujthaz Fahmy did not take the oath that evening.

Secondly, Abdulla Mohamed did not participate in the ceremony that evening. He took his oath at an even more secret ceremony on 6 August 2010.

Third, judges took their oaths that night because they were afraid of losing their position on the bench. I have been told by some judges that any member of the judiciary who requested that all issues relating to the matter be resolved before they took their oaths were warned: 'The Commission will decide what do with those who do not take the oath.'

In my opinion, this oath could only be forced on the judges because they themselves had no confidence in the Constitution. The reason was the Majlis – its contempt for the Constitution was evident.

Appeal against the unconstitutional oath taking ceremony for judges

4 August 2010

A lot of work done during the time of Abdul Ghanee sitting here. Since Abdul Ghanee was removed this Uz Mujthaz Fahmy took over the Presidency of the Commission and destroyed everything. He created measures to suit him, to fit him, and what he is doing now is in no way legal. That's why I am pleading with you, don't take part in this. There should not be an oath-taking ceremony here today. With the change of Constitution, electing the president, the president taking oath, that was a day the whole nation celebrated. The day a parliament was elected, the day parliament members took oath, that was day the whole nation celebrated. Are you not ashamed? What does the Judicial Service Commission want to hide from the people they are doing this so hush-hush? Isn't it because they have something to hide that they cannot let you have such a ceremony that befits your status? What are they trying to hide? The option is available for you to do this in a way that will earn you respect, status and people's love. It is simply not right to do this for the sake of one person. Please don't do it.

The President has pleaded time and again, please don't do this. This Commission member Afraasheem is lying about what the President said. What some members of the Commission said on TV last night, that was lies. Police are now looking into that.

Please, respectable people. I am pleading with you on behalf of the people. The judiciary is a place that has to be faithful to the people. You have been brought here into this deception, even all you judges have now been co-opted into a political game. I am begging you, respectable people, please don't be a part of this.

Wasn't this announced at the last minute today? Think about this. When I come out in public, on TV, and say all this, has Mujthaz Fahmy ever tried to bring charges against me? No. Why? Because there is truth in what I say. Things done by a large group of people together in violation of the Constitution and laws should never be accepted.

[phone]

Please, please. I am begging you. Don't be a part of this. I am here because there is no other way. I didn't come to say this because I wanted to. I don't want...I want this to happen the way it should...things getting to this stage where all judges have been brought here, this is a very shameful situation. But, Mujthaz Fahmy has done this hush-hush for his own advantage. Please, please stop.

[phone]

Didn't look at the benefit or the spirit, Mujthaz Fahmy set the standards---you can see this in the recording. It is said in the meeting records 'What Velezinee says is what is in the Constitution, but we talked to the people who were drafting the Constitution -they promised that no judge will be removed.' Therefore, this is being done to fulfil a political promise - you can see this in the records. Why are these recordings being kept a secret? Why is this being done? Why are they unable to do this in a way that people can see clearly as in the Constitution? Because he didn't do this that way. I have worked from the inside for a year to try and rectify this situation. I could not. it was only when there was a 100 days remaining that I started a blog. I started going on TV when even that didn't work. What you know what these Afraasheem and Abdullah Didi from the Commission says. Because I meet judges [during the trips], I was stopped from going to Atolls after I visited two. Why? Because they don't want anything else to be heard. Why is it that it's only their word that is allowed? Because they have deceived.

Whoever wants to leave should not be held back. Go! Give space.

What Mujthaz Fahmy has said is on record. Everything is on record. What does this Dr Afraasheem here say? It is a 'symbolic Article'. You are legal people, tell me, will there be 'a symbolic Article' in the Constitution? Will there be a 'symbolic article' in a law? If so, it deceives the public hugely. This has been done by saying it's a 'symbolic article'. You are the legal people, not me. Tell me, will there be a 'symbolic article' in the Constitution? Repeatedly he said, 'this is a symbolic article.' Tell me, please, will there be a symbolic article in a law? Surely this is something that you know far better than I do. But I can't believe that something the People's Majlis writes on behalf of the people will contain a 'symbolic article' saying changes will be brought to the judiciary only to prevent the change later and deceive the people.

The President has just phoned and asked directly of Mujthaz Fahmy why he has not the slightest respect for the Raeesul Dhaula, as you refer to him. He is not just the President. He is the Head of State. Raeesul Dhaula. Letters that have come from all parts of the world, Mujthaz Fahmy didn't even bring it to the Commission table. I saw this today. I was concerned, to assist this, to give you opportunities...there are many such documents that have not been brought to the Commission table. These are things people have sent since February because they are concerned - they haven't been brought to the table.

For the country, please stop this.

[Mujthaz Fahmy: Isn't this being done for the country?]

This is not being done for the country. This is being done for the personal interests of Mujthaz Fahmy. If this was being done for the country, it wouldn't

be done like this. The whole country will participate, it would be a respectful ceremony held at the main hall of the Islamic Centre in which everyone will participate. What we are talking about is the separation of three powers and laying the foundation of the third power.

...don't have to listen. You will know when you check the records. Even those have been changed.

...those who want to carry on, stay. All others, let's go. Even if you take the oath today, this will not be a lawful oath. While there is no Judicial Act in this country, how can this be done and finalised by ten people sitting secretly in a room? Do you accept as the basis for laying the foundation of justice in the country a decision taken by ten people sitting in a room? This is a right of the people. Everybody should know how this happened.

Don't do this! Don't do this! Don't do this!"

Mahloof's shame, Umar's fear: what's going on?

4,5,6 August 2010



Following the oath taking ceremony, a slew of politicians appeared to defend the Judicial Service Commission. Their rhetoric, which often went off-topic to focus on me personally, was meant to conceal the truth and hide their silent coup. I do not wish to go into details at this moment in time. When you listen to what PPM MP Ahmed Mahloof and PPM Vice President said that day in light of these two men's role in the ongoing coup of today, it is clear who took control of the judiciary then.

Furthermore, the fact that then members of the Parliamentary Committee on Independent Commissions such as DRP's Rozaina Adam, now PPM MPs Ilham and Abdul Rahman, and Jumhooree Party's Mutthalib spoke out in defence of the Judicial Service Commission and the judges' oath, proves rule of law had become no more.

Transition period ends, JSC comes to a halt

7 August 2010

On 7 August 2010, the transition period given in the Constitution came to an end. The Interim Supreme Court was no more, and Mujthaz Fahmy's position was gone. With this, the Judicial Service Commission came to a halt. Mujthaz Fahmy had been both its President and Vice President, and with the reduction in member numbers, there remained only six. It was no longer a legal institution.

Suspension of the Interim Supreme Court

7 August 2010

This is the day when the Law Society of the Maldives raised concerns that the Supreme Court had been locked. Political turmoil rocked the nation.

So far, nobody has looked into why and how it happened. Opening the lock was what the Prosecutor General hastened to do.

What would have happened if President Nasheed had not taken that step on that night? All I can say is that had he not done what he did, it would have allowed the silent coup to end in success.

The first Supreme Court of the Maldives

10 August 2010



Everyone knows that the country's first Supreme Court had to be established amidst deep political turmoil. It can be said that Supreme Court judges were appointed as part of a political agreement, through so-called 'political talks.'

What I know is that it was six individuals who went to the President on 10 August 2010 to act as advisors to the President in making the appointments. They cannot be described as the legal entity the Judicial Service Commission is meant to be.

I am not going to go into the details of what happened at this meeting at President's Office on that day. Suffice it to say, Dr Afrasheem proposed his friends as Supreme Court judges. His grounds for nominating them, he said, was because he worked closely with them in the Majlis and thus knew them very well.

As previously mentioned, with the changes that occurred at the end of the transition period, the Commission was now composed of just six members. And, with the President—who had also acted as Vice President—gone, the Commission had no leader. In reality, the six members of the JSC who met with the President [not as the JSC *per se*] proposed their close friends and colleagues as nominees for the Supreme Court without running any of the checks that the JSC is required to run. Nor was a vote taken. No procedures had been established for how the President should seek JSC's advice nor was there a procedure according to which the JSC should offer its advice to him.

Judicial Service Commission resumes

31 August 2010

Having come to a halt on 7 August 2010, Judicial Service Commission resumed with new members on 31 August 2010. When the pieces were rearranged for a new composition of the Commission, Abdul Ghanee – the same person who had previously been removed from it – was back as Member representing the High Court.

High Court hijacked



Now began the takeover of the remaining High Court. Through media reports of the time, the public are aware of the case filed in the Civil Court against the Judicial Service Commission by Criminal Court Judge Abdul Bari. Judge Bari alleged that the Judicial Service Commission had acted unfairly in its High Court appointments, and highlighted applicants who had been rejected. The public would also be aware that the Supreme Court took over the case, describing it as a Constitutional matter, listed the hearing while Judge Bari was on holiday, and, subsequently threw out the case on grounds that he failed to attend on the day of the hearing. The media had also brought to the public reports of how the Judicial Service Commission had submitted false documentation to the Supreme Court and also played audio recordings of that 'Big Phone Conversation' of Afrasheem. It is an incontestable truth that the Supreme Court did nothing to uphold the Constitution and take action against those who violated the court's sanctity.

The five judges of the High Court were not appointed according to law, nor were their appointments based on their qualifications. Behind the appointment of each of the five judges is a huge political secret. The purpose was to retain the influence of certain people over the court.

Publicly accusing JSC of a silent coup

25 November 2010

Judicial Service Commission

Male', Maldives

Special Press Release by Member appointed under Article 158(h)

Coup to overthrow Constitutional government using the Judicial Service Commission

I allege that under the guise of carrying out Constitutional duties and responsibilities, some members of the Judicial Service Commission are abusing its powers for personal and political gain, obstructing the establishment of democratic governance assured by the 2008 Constitution, and are attempting to render the Constitution powerless.

On 21 January 2010 the Commission had unanimously agreed to investigate a complaint against Supreme Court Justice Adam Mohamed Abdulla for allegedly abusing his position for personal gain. The matter has not yet been concluded. Judge Abdulla also regularly displays personality traits that psychiatrists attribute to those who have lost their grip on sanity. He has now been sat on the President's seat at the Judicial Service Commission, appointed by a vote of five of the JSC's 10 members. The Commission is being steered in this direction with the participation of Majlis Speaker Shahid in collusion with other members of the Majlis. The Majlis has refused to investigate the unlawful activities of the Commission. I am publicly accusing the Judicial Service Commission of running a secret and silent coup – with the approval of the Majlis – to obstruct judicial independence and exert political influence over it, prevent the establishment of rule of law; and to deceive the public and rob them of their elected government.

25 November 2010 (Thursday),

Aishath Velezinee,

[Signature]

Commission Member

Amending Judges Act to reward Mujthaz Fahmy

December 2010

As Mujthaz Fahmy himself said, when things ended, 'the Captain who saved the sailors' was thrown overboard. But not empty-handed.

The Majlis ensured he receives MRV 600,000 a year as a reward for takeover of the Judicial Service Commission and engineering the silent coup which, through deception, subterfuge and fraud, handed over control of the judiciary to a particular group of people. The Majlis bestowed these riches on him through an urgent amendment to the law designed specifically for the benefit of some people.

Operation Control the Judiciary: Speaker's dues to Justice Mujthaz Fahmy to be paid by the State, decides Parliament

Tuesday, 28 December 2010

In another slap on the face for the State and citizen, the Parliament has approved the reward of a hefty lifetime allowance for interim Supreme Court Justice Mujthaz Fahmy, removed from the bench at the end of the interim period. Mujthaz Fahmy has on record a conviction for fraud committed in 1996 for which he was 'convicted' in 1998. He was the Chief Engineer in co-opting the Judicial Service Commission as a tool in the Silent Coup to derail democratic government through rigging State-building.

The amendment to the Judges Act proposed by MP Abdulla Abdul Raheem, a member of the Parliament Independent Commissions Committee, applies only to Mujthaz Fahmy, a fact that only becomes obvious when one checks the records locked up in JSC out of bounds to media and public alike. The Speaker has paid his dues.

That Independence of Judges has been compromised, and no Independent Judiciary exists in the Maldives is a fact evident to the thinking mind. What remains unproven, simply for the lack of an Inquiry or Overseer, is that:

- (1) It is a pre-meditated, carefully strategized, long-term operation (a Silent Coup) per the Modus Vivendi agreed to between the former Government (i.e. the current Opposition and majority in Parliament) and "leaders" of the Judiciary;
- (2) The ground was prepared as early as 7 August 2008 when the Constitution was ratified.
- (3) The Speaker of Parliament Abdulla Shahid and interim Supreme Court Justice Abdulla Saeed played key roles, and other high-level State dignitaries are implicated both from within the Judiciary and the Parliament (former Government).

(4) The JSC was the prime tool for the control of the Judiciary, and the success of the Silent Coup.

It is a notion so confounding that the media has shut their eyes and ears to the obvious. The fear of the media is not unfounded as judges and JSC have systematically intimidated reporters/media for daring to report on JSC and Court matters.

The Modus Vivendi as explained to the Judicial Service Commission, on record, by Member appointed under Article 158(c) Justice Adam Mohamed Abdulla, upon his arrival in the Commission in February 2010, was to keep Article 285 for "image" and not fulfill it. Justice Adam Mohamed Abdulla replaced High Court Judge Abdul Ghani Mohamed, who was removed for non-cooperation in the operation, by a public resolution signed by three of the five High Court Justices, which included himself.

Justice Adam Mohamed Abdulla also recounted and praised the effort of Justice Mujthaaz Fahmy, as leader of judges, in leading negotiations with The Politicians (i.e. former Government) during Constitution-writing.

That Independence of Judges has been compromised, and no Independent Judiciary exists in the Maldives is a fact evident to the thinking mind.

It has become increasingly evident that the Courts are run by "Judicial Activists," and the comforts of the judges are above the Constitution and outweigh individual rights, common benefits and greater good.

It has become evident the Courts legislate and check themselves minus oversight, that all men are equal before the law but some more than others, and that fundamental rights of citizens put down on paper is for *image* and would remain ink on paper alone.

It has also become evident that the impunity and brazenness of "Chief Judge" of the Criminal Court Abdulla Mohamed is not only condoned by the Judicial Service Commission and others' responsible to uphold the integrity of the judiciary, but is openly rewarded and actively encouraged in other judges. In fact, the Judicature Act (Oct 2010) had given special consideration to the matter, declaring Abdulla Mohamed, would head the Criminal Court for the next 30 years (2010-2040), God-willing.

Abdulla Mohamed already had a criminal conviction for public proclamations of sexist and extremist ideology *before* his appointment to the bench, and has on record a number of unchecked complaints including one raised by the former Attorney General Dr. Hassan Saeed in 2005 when he reported to then President and the constitutionally declared "Supreme Justice", Maumoon Abdul Gayoom, the very serious allegation that Judge Abdulla Mohamed of the Criminal Court had ordered a child-victim of sexual abuse to show the act in Court, in role-play.

Earlier this year, the public was confounded by Judge Abdulla Mohamed's extraordinary consideration for MP A. Yaameen A. Gayoom accused of criminal breach and his lawyer Aishath Azima Shakoor, when Judge Abdulla Mohamed opened up Court late at night at the request of Azima Shakoor and issued a Court Order to the Maldives Police Service to present MP A. Yaameen A. Gayoom before the Court within the hour. Criminal Court regulations do not permit lawyers of those detained to directly access them in the event of a detention, and no such consideration or access has been provided by Judge Abdulla Mohamed before the said event, or even after.

Justice Mujuthaaz Fahmy who was then Chair of JSC decided the matter would not be discussed in the Commission despite it being raised by members, and later complaints being filed by the Home Ministry.

He also went to the extent of interpreting Article 22(b) of the JSC Act which gives powers to check rising misconduct issues in judges.

"I am the Judge, and legally, i can say, Article 22(b) is there so members know they can also file complaints using the forms and normal procedure like others do," Justice Mujuthaaz explained. The majority remained silent with some elaborating on Judge Mujuthaaz Fahmy's interpretation.

Abdulla Mohamed, designated "The Chief Cashier of Criminal Court" by public protestors, has been under investigation by JSC for over a year for multiple misconduct issues and continues to challenge the Commission and refuse to cooperate with the investigation, a matter that is not permitted discussion by the Chair. In the meantime, Abdulla Mohamed is a burden on State funds as investigating his misconduct issues has been probably one of the costliest investigations the Maldives saw in 2010 if one considers the cost per accused.

Read media report in Minivan News: <http://minivannews.com/politics/majlis-amend-laws-over-rf600000-a-year-retirement-package-to-former-judge-with-fraud-record-14647>

Attack on me; takeover of the High Court

3 January 2011

3 January 2011 was the day on which I was stabbed in the back with a sharp implement. It was also the day on which appointments to the High Court were scheduled.

I do not wish to go into detail about the attack in this book. It had to be mentioned in order to understand the full picture.

Today's readers will recall the scenes of the day, the behaviour of Judicial Service Commission members, and that Dr Afrasheem Ali gave a press conference on his own, in the name of DRP.

Complaint to Police accusing JSC of coup

13 January 2011

Use of Judicial Service Commission and the judiciary for anti-State activities

Thursday, 13 January 2011

*Commissioner of Police, Ahmed Faseeh
Regards,*

Several top-level state officials have refused to carry out the Constitutional and legal responsibilities assigned to the Judicial Service Commission, and have colluded in abusing their position to attain personal and political gains. In order to stop the attempts being made to cover up their activities aimed at rendering the Constitution powerless, and in order to eliminate high-level corruption and organised crime from the country, I ask of you to investigate the following complaint with due seriousness.

Allegations of criminal wrongdoing

Using the Judicial Service Commission to exert undue influence over judges

Making defamatory statements against me

Obstructing the work of an independent commission established by the Constitution

Using the Judicial Service Commission to conduct, and attempt to conduct, anti-State activities

The Accused

Judicial Service Commission Member 158(b), and President of the Judicial Service Commission, Supreme Court Justice, Abdulla Mohamed

Judicial Service Commission Member 158(e) and Vice President of the Judicial Service Commission, MP Afrasheem Ali [Also a lecturer in the Judge Course at Mau'hadh as well as a Sheikh who often serves as a religious pundit.]

Judicial Service Commission member 158(c), Criminal Court Judge Abdullah Didi [Also President of the Judges Association, Judicial Council Member during Transition, and student of Afrasheem's Judge Course at Mau'hadh]

Judicial Service Commission Member 158 (a) and Speaker of Parliament Abdulla Shahid

Judicial Service Commission Member 158(b), and former President of the Judicial Service Commission and Interim-Supreme Court Justice Mujthaz Fahmy

Judicial Service Commission Member 158 (g), formerly President and now member of the Civil Service Commission, Dr Mohamed Latheef

Evidence and further information submitted for investigation

11 January 2011 (Tuesday) – audio recording of meeting

11 January 2011 (Tuesday)- The lies told at the press conference held cloistered within an MNBC One studio at 15:00. The press conference was first scheduled to be held secretly at the JSC but was moved to MNBC One.

21 October 2010 (Thursday) Audio recording of meeting

21 October 2010 Information JSC Secretariat sent to MNBC One news bulletin at 12:00 and accompanying interview Adam Mohamed Abdulla gave; what various figures named in this document said on different media

24 October 2010 (Sunday) Audio recording of meeting

02 August 2010 Video of Parliamentary Committee on Independent Commissions meeting with Judicial Service Commission

03 August 2013 Video of press conference convened secretly by some members of the Commission

04 August 2010 Video of the entire secret ceremony for administering the oath to judges

I also take this opportunity to add that I am willing and ready to cooperate with you fully in sharing with you all the information I have access to, to provide detailed statements, and to assist in anyway I can in conducting an independent investigation into these allegations.

Sincerely,

13 January 2011

Loyal to the people and country

Aishath Velezinee

[Signed]

Commission Member, Article 158(h) of the Constitution

“Velezinee is a danger to us. We must protect our future...”

17 January 2011

The Judicial Service Commission meeting of 17 January 2011 was an extraordinary affair. In my absence, members discussed the necessity to ‘sedate’ me. She is ‘dangerous’ and our future must be protected, Dr Afrasheem Ali and High Court Judge Abdul Ghanee agreed.

There is no need for further details. The point is, they were afraid of something becoming known. Something that I knew.

What I knew was that the judiciary we have today is under the control of a few. That this was an end reached by using the Judicial Service Commission as a means. That most members of the Judicial Service had betrayed the Constitution, the country, and the people. That they broke their oath. That there was no room for free and fair hearings. And that most judges did not even know how to hold such a hearing.

Opposition leaders in search of Abdulla Mohamed



Opposition leaders led loud protests for 22 consecutive nights in January 2012 to free 'Abdulla Ghaazee'. These were the same people who bore the responsibility to investigate the allegation that Abdulla Mohamed, and the 196 judges who took their oaths between 4-7 August 2010, had been reappointed in violation of the Constitution.

Among them I particularly note the presence of the current Chair of the Parliamentary Committee for Independent Commissions Mohamed (Kutti) Nasheed, Majlis member for the JSC Gasim Ibrahim, and PPM MP Abdul Raheem who obstructed any parliamentary investigation into the takeover of the judiciary.

This Abdul Raheem is the same individual who, when President of the Judicial Service Commission, Supreme Court Judge Adam Mohamed Abdulla and I were summoned to the Parliamentary Committee on 2 February 2012, obstructed that meeting too. He then walked off to join the evening's demonstrations, and rallied protesters against me while defending Abdulla Ghaazee. Around midnight he appeared on television to declare 'that Velezinee' will not be allowed to talk her talk. What was being covered up?

Although members of parliament came out to speak in defence of Abdulla Ghaazee, it was they – specifically Mohamed (Kutti) Nasheed – who bore the responsibility to ask whether judges had been appointed constitutionally and to verify whether Abdulla Ghaazee was legitimately on the bench.

Writing to the Anti-Corruption Commission again

26 January 2012

Urgent

*Ma. Shimag
Male'*

Regards,

While I was a member at the Judicial Service Commission between 26 July 2009 and 17 May 2011, it acted in violation of the Constitution on many occasions, carried out many a corrupt activities, rendered the Constitution powerless, and conducted a coup to prevent the consolidation of democracy and establishment of rule of law in the country. It is now evident that, as a result of this coup, the Maldives justice system has become corrupted and taken under the control of influential political figures.

The corruption in the justice system has now spread so wide that it has become a threat to public order and national security.

On 23 May 2010, Judicial Service Commission member Shuaib Abdul Rahman and I met with your Commission. With reference to Articles 12 and 13 of the Anti-Corruption Act, we formally requested that you investigate the Judicial Service Commission's dismissal of Article 285 of the Constitution as 'symbolic', their conduct in reappointment of judges, takeover of the judiciary, and their rendering of the Constitution powerless. As of yet, there has been no investigation of these allegations.

Furthermore, on 27 January 2011, I reported to you that the procedure for appointing five judges to the High Court was corrupt, and requested that you investigate the matter before the new appointments were sworn in. To this day, this matter, too, has been ignored.

Given that these two matters, by their very nature, corrupt the justice system of the Maldives and render rule of law obsolete, I request you to please carry out your responsibilities and look into these matters without delay. I would also like to say that I am making these very serious allegations under an oath taken before Allah, and I am prepared to provide you with evidence and proof to support everything that I have said.

*Regards,
26 January 2012*

*Sincerely,
Aishath Velezinee, JSC Member 26 July 2009-17 May 2011*

Reply from Anti-Corruption Commission

6 February 2012

No: 123-B/MIS/2012/98

To Aishath Velezinee

Regards,

Re: letter dated 26 January 2012

With regard to the points highlighted in your letter, and in relation to the matters you submitted to us previously, the following is a report of progress and decisions taken to date.

The allegations made by Judicial Service Commission members Shuaib Abdul Rahman and Aishath Velezinee on 10 May 2010 that it had violated Articles 17 and 20 (c) of the Commission Act in carrying out its responsibility to verify whether the judges sitting on the bench when the new 2008 Constitution came into force satisfied the standards laid out in its Article 149; that it puts personal interests of judges before national interest; that the Commission's work is being carried out according to the wishes of whoever was chairing its meetings on a particular day, without written submissions or opportunities for discussion; and that it has made decisions allowing individuals with serious criminal allegations against them to be reappointed to the bench without investigating any of the allegations against them.

As this is a matter being investigated by the Parliamentary Committee for Independent Commissions, the matter – along with all relevant information – was forwarded to that Committee on 09 September 2010.

Case submitted on 27 January 2011 alleging that attempts were being made to appoint certain individuals to the High Court bench, having delayed the appointments past the specified 26 October 2010 deadline.

As this is a matter currently ongoing in a court of law, the Commission decided on 10 February 2011 not to proceed with it.

The allegation that the Judicial Service Commission has unlawfully claimed moneys not owed to them in violation of Article 164 of the Constitution.

On 13 February 2011, we instructed the Judicial Service Commission to suspend until further notice providing allowances to members for attending Commission and committee meetings. And, having analysed the necessary documents, on 13 June 2011, we requested the Majlis secretariat for further information required for our investigation. When

the Majlis failed to respond, we met with Majlis Speaker Abdulla Shahid on 11 August 2011, and also met with the Parliamentary Committee on Finance. We cannot proceed with the matter any further until we receive the necessary information from the Majlis.

Regards

06 February 201

*Sincerely,
Hassan Luthfee
President*

Forcing President Nasheed from office

7 February 2012



Civil Court renders Judicial Service Commission obsolete

Without going into details, it must be noted that by now changes had been made to the very structure of democratic governance envisioned by the Constitution.

There is no legal way in which the Civil Court can rule that the Judicial Service Commission cannot take action against Abdulla Mohamed. This decision says judges are above even the Constitution. Where, with what protection, does that leave the people?

Today



When you look at the seating arrangements on the bench today, the silent coup becomes a scream.

Two of the three people who participated in the High Court mutiny—Ali Hameed and Adam Mohamed—are today Supreme Court Justices. The third, Ahmed Shareef, who did not make it to the Supreme Court bench, is the Chief Judge of the High Court. He took the seat of Abdul Ghaneer, who was removed from his position. This move was facilitated by a law passed by the Majlis. These are three individuals who violated democratic norms and the Constitution, engineered a High Court mutiny, and facilitated takeover of the Judicial Service Commission.

The next person to get a seat on the Supreme Court bench is Dr Abdulla Didi, legal counsellor at the Majlis at the time. Whether he was qualified or not was deemed irrelevant. In response to a media enquiry as to why the Majlis was taking so long to investigate the judges' oath taking ceremony of 4 August 2010, the Majlis secretariat replied: the legal counsellor has not yet finished analysing the matter!

Shuaib Hussein Zakariya who participated in Dr Latheef's advice committee was given room on the High Court bench. Others for whom space was vacated on the bench includes Esmerelda Zahir, daughter of Seena Zahir, former Justice Minister and a chief architect in designing the Judicial Service Commission to become the national disaster that it is today; Abdul Rauoof, an individual who the Judicial Service Commission had shortly before been declared unfit to be a judge even in the lower courts; Abbas Shareef, formerly President Gayoom's member at the Judicial Service Commission, later lawyer for Yameen Abdul Gayoom and even later a frequent consort of current Attorney General Azima Shakoor; and Ali Sameer, who contested against Abdulla Didi for the Judicial Service Commission. At the time, there was talk of a deal between these men.

What we saw next was the position of Chief Executive Officer of the Supreme Court being handed to the wife of Judicial Service Commission member and Criminal Court Judge Abdulla Didi; and the appointment of former JSC Secretary General Muna Mohamed to a position in the High Court. Muna

resigned from her position when it edited and doctored audio recordings of Commission meetings requested by the Majlis.

Another issue that has been raised but has been ignored by investigative authorities is the allegation that a special court was established in HulhuMale' for the wife of lawyer Ahmed Rasheed, member of the Judicial Service Commission. It is, indeed, a fact that a court has been established in HulhuMale' and that Judge Shiyama, Ahmed Rasheed's wife, is its chief authority.

Dr Mohamed Latheef was assured membership of the Civil Service Commission.

Other points of note

- Politicisation of the courts and court rulings – especially issues relating to Abdulla Mohamed and the Criminal Court were reported in the media.
- Several anti-corruption cases against Supreme Court justices were submitted to, but ignored by, the Anti-Corruption Commission.
- Majlis removing the Auditor General from his position shortly after he ordered an end to the JSC's use of its funds for personal gain and launched an investigation into the matter.
- The rewarding of unlawful financial benefits to members of the JSC who participated in the coup. And the Majlis' cover-up of the matter.
- The Majlis assuming for itself the power given to the JSC as the sole authority for appointing judges, and deciding that Abdulla Mohamed should be the Chief Judge of the Criminal Court.
- It should also be noted that former JSC member (under Article 285(e)) Dr Afrasheem was fired from the Commission in 2011 for unlawful activities¹. So far, no investigation has been conducted into the said activities. Nor have there been any efforts made to hold Majlis Speaker Abdulla Shahid, also a member of the Judicial Service Commission, accountable.

¹JJ Robinson and Ahmed Naish, 'Decision to remove Dr Afrasheem from JSC "a victory for all reformists"', says Velezinee, Minivan News, 13 June 2011, <http://minivannews.com/politics/decision-to-remove-dr-afrashim-from-jsc-a-victory-for-all-reformists-says-velezinee-21359>

Conclusion

Based on what I can see and on the democratic principles that guide the Constitution of the Maldives, what we have witnessed today is a coup of the lowest grade. Several Members of Parliament, entrusted to represent the people in a government by the people banded together, and with complete disregard for the Constitution and against democratic norms and values, removed the first elected President of the Maldives Mohamed Nasheed from office. People have been robbed of their fundamental right to be governed by an elected leader.

Several incidents referred to in this book--such as Majlis meetings, the work that began on 23 December 2010 to remove President Nasheed from office which culminated on 7 February, the unrest created on the streets of Male' on 22 January, and the events of 6, 7 February--occurred in public. When this information in the public domain is considered together with the information I was privy to as a member of the Judicial Service Commission, the links between these events become clear.

There is only one person in this country with the level of influence necessary to connect all those links and to make them work together as a whole. That is Maumoon Abdul Gayoom, the ruler who placed foot-soldiers at each and every state institution before he was made to leave after 30 years as the ruler. True, the coup cannot continue without Dr Waheed to act as a fig leaf of legitimacy. At the same time, it is also true that without the influence of Maumoon, the Judicial Service Commission, Interim Supreme Court, Maldives National Defence Force and Maldives Police Service could not have been put to such subversive use.

It is Members of Parliament, elected by the people, who betrayed the people by forming an alliance with Maumoon. This does not mean that all 77 members are traitors to the people. The Majlis was also brought under the control of an influential few. In this context, is the same name that has to be named again: Speaker Abdulla Shahid.

There is no doubt that this coup would not have been successful without Abdulla Shahid.

The man who is referred to as President today, Dr Mohamed Waheed Hassan Manik, and about 200 judges currently on the bench are people who came to their positions and took their oaths using the power of the law. In both matters, it was Speaker Abdulla Shahid who made paved their paths to the oath.

Had the silent coup been successful, it would have most certainly removed President Mohamed Nasheed from power. And the machinations behind his removal from office would have remained hidden under the same narrative of

'things were done according to law.' Neither the Maldivian public nor the international community would have been any the wiser. The silent coup failed, however. And in failure, they reached for the gun.

For democracy and rule of law to be established in the Maldives, and for the right to govern themselves to be returned to the people, they must have an elected leader. And the judiciary, current being held hostage, must be freed. Article 285 of the Constitution must be fully upheld, judges reappointed, and an independent judiciary established.

Abdulla Mohamed: a brief introduction



1. When Abdulla Mohamed was first made a judge during President Maumoon's rule², he already held a criminal conviction. He was a schoolteacher in the subject of Islam.
2. Even when I joined the JSC back in 2009, there were several complaints pending against Abdulla Mohamed. But none of these complaints were under investigation.³
3. In July 2009, the cabinet decided to investigate Abdulla Mohamed on suspicion that he was obstructing the corruption case

against leaders of the former government and some current Members of Parliament.

4. As per the decision, President's Office sent the case to the JSC for investigation.
5. With this, an urgent meeting of the JSC was called (the only meeting held on the subject) and press statements were issued. The three page document defended Abdulla Mohamed, criticised President Nasheed as being 'ignorant of the law', and accused him of 'playing with the judiciary.' Members were summoned to vote on the document⁴.
6. At this meeting of the JSC, it was agreed to proceed with the investigation. In the name of expediency, Interim Supreme Court Justice Mujthaz Fahmy decided to do it himself. His conclusion was that none of the complaints could be investigated.
7. The complaint was made by then Attorney General Hassan Saeed⁵ in 2005. It centred around a report that he, while presiding over a child sexual offence case, asked the alleged victim to re-enact the offence in

² According to information received by the JSC, prior to 2008, there was no transparent procedure in place for nominating and appointing judges. Policies for appointing judges was ad hoc. Sometimes appointments were made without publicly seeking candidates. Both the President and the Minister of Justice had the power to hire and fire judges as they wished, as if the judiciary were the civil service. When the Constitution was being drafted, Gayoom formed the JSC in the name of democracy. But the only tasks carried out by the Commission were to pass proposals submitted by the Minister of Justice. The Minister of Justice then is the Minister of Home Affairs in Waheed's government, Dr Mohamed Jameel.

³ The JSC was acting in violation of both the Constitution and its own Act. Instead, it had a President who played the role previously played by the Justice Minister and made decisions as he pleased. Some complaints received were thrown out without investigation. Sometimes action was taken against the complainants. There was no Standards of Procedure. In 2010, Ali Hussein of Treasure Island Enterprises Ltd., sued the JSC for this. The Civil Court threw the case out, like it does with all other cases it hears against the JSC.

⁴ At the time, JSC Vice President Abdulla Didi had already confirmed that Abdulla Mohamed himself had drafted the document! Vice President Abdulla Didi had refused to appoint a President 'because the transition period was coming to an end.' Abdulla Didi is a judge in the Criminal Court where Abdulla Mohamed is the chief judge.

⁵ Dr Hassan Saeed is Advisor to the President in Dr Waheed's government.

court. Mujthaz Fahmy' conclusion was that JSC decided in 2008 that it could not investigate any complaints pre-dating the new Constitution. This is a decision that contradicts the very concept of the JSC. It also conflicts with Constitutional requirements in the reappointment of judges as stipulated in Article 285.

8. After lengthy discussions, at the very last meeting of the Interim Commission, it was agreed that the complaint should be investigated. But an investigative committee was not set up.
9. The Interim Commission's decision was ignored. Despite repeated reminders, the matter was not put on the Commission agenda for discussion. This is how it continued until other problems regarding Abdulla Mohamed surfaced.
10. In December 2009, Abdulla Mohamed was back in the news. This time it was for declaring on television that 'it is not the responsibility of the courts to defend a falling government' and for criticising President Nasheed and the government.
11. He also freely criticised President's Member at the JSC, Aishath Velezinee with no response from the JSC.
12. The December 2009 complaint was once again brushed aside. No investigative committee was established.
13. Abdulla Mohamed was in the news again soon. This time in connection with some illegal activities that he allegedly took part in subsequent to the arrest of MP Abdulla Yameen. JSC refused to take any action in this matter.
14. In February 2011, he deliberately released a prisoner accused of murder to 'teach the Health Minister a lesson.' Within 24 hours, the newly freed man had killed again⁶. JSC remained silent on the matter⁷.
15. On 17 November 2011, JSC arrived at a majority decision to uphold a complaint of misconduct⁸ against Abdulla Mohamed.
16. On 20 November 2011, Maumoon announced that PPM was launching a series of protests to 'protect judges'⁹.

⁶ Ahmed Nazeer, 'Court releases murder suspect citing lack of cooperation from Health Ministry', Minivan News, 17 February 2011. <http://minivannews.com/society/court-releases-murder-suspect-citing-lack-of-cooperation-from-health-ministry-16225> ; Ahmed Naish, 'Criminal Court rules Gassan arrest unlawful', Minivan News, 24 October 2011, <http://minivannews.com/politics/criminal-court-rules-gassan-arrest-unlawful-27411>

⁷ In response, an MDP MP submitted an urgent motion in the Majlis on introducing the death penalty as soon as Majlis reconvened for a new session on 8 March 2011. I sent a letter that same day to the Majlis to bring Abdulla Mohamed's matter to the attention of its members, highlighting the root causes behind the problem (JSC and judicial corruption). Open letter to the Majlis: <http://www.velezinee.aishath.com/content/jsc-fully-responsible-rise-serious-crime-open-letter-mps-detail-speaker-abdulla-shahid-and-m>

⁸ JJ Robinson, 'JSC concludes report on misconduct of Chief Criminal Court judge', Minivan News, 17 November 2011. <http://minivannews.com/politics/jsc-completes-report-on-misconduct-of-chief-judge-of-the-criminal-court-28339>

⁹ Ahmed Nazeer, 'PPM to protest for protection of judiciary', Minivan News, 20 November 2011, <http://minivannews.com/politics/ppm-to-protest-for-protection-of-judiciary-28404>

Judicial Service Commission,
Male'
Maldives

In the interests of the nation, I am ready and willing to settle this once and forever

I (Aishath Velezinee - Pic)

Versus

You (Abdulla Shahid - Pic) and "the majority"

1. Mujthaz Fahmy, Interim Supreme Court Justice and formerly President of JSC
2. Dr Mohamed Latheef, formerly President of the Civil Service Commission
3. Abdulla Didi, Criminal Court Judge
4. Dr Afrasheem Ali

in a trial held before the public.

Furthermore, if I am unable to prove my claims, I will accept whatever punishment that you see fit, be it a death sentence, lynching, or being put in one of those bird cages in Sultan Park and displayed to the public as a specimen of insanity.

29 November 2010

Aishath Velezinee
[Thumb print]
Commission Member

* This open letter written by Velezinee on official stationery of the Judicial Service Commission, and carrying her fingerprint, was on the back cover of the original book in Dhivehi