

## APPENDIX XVI

### OVERVIEW AND OBSERVATIONS OF THE INTERNATIONAL ADVISERS

Following the Presidential Decree No. 2012/4, we were appointed as Advisers to the Reconstituted Commission of National Inquiry. We have worked closely and harmoniously with it. We were involved in the review and assessment of the evidence which had been heard by the original Commission and in the hearing of the 203 additional witnesses. There were some who had previously given evidence which the reconstituted Commission felt it was essential to hear again in person. Initially we tended to identify issues about which the Commission members could ask questions, or sent notes to them, but this was soon seen as inefficient and we were invited to question directly.

This was a fundamental part of the work of the Commission. For the evidence collecting exercise to have value all witnesses had to be questioned and challenged about their recollections of events and the basis for them. Equally they had to be confronted with alternative evidence so they had the opportunity to comment upon it. Some found this process unsettling. Many were familiar and only comfortable with making assertions and not being required to justify or explain how they had reached their view.

Although the Commission's terms of reference cover a relatively confined period it is apparent that the issues which lead to the transfer of power go back a long way. There are tensions within the Constitution itself with a Presidential system engrafted onto a Parliamentary system which will always be problematic. The creation of Independent Commissions and Offices will only be the safety valve intended when they are adequately resourced and fulfil their mandates in a timely and decisive manner.

Fundamental to the operation of a modern democratic society is the existence of an operating and absolutely independent Judiciary which has the confidence of the entire community. Radical action is required to breathe utility into much of the State framework, especially to ensure the proper administration of justice. This cannot wait.

We have been impressed by the manner in which the Commission has undertaken its unprecedented and awesome task. Four of the five members acted at all times with independence and integrity in carrying out the important task for the future of the nation. The other member was not at all times willing or able to act independently and resigned the evening before this report was submitted and published. Despite a clear and unequivocal agreement to maintain confidentiality about the work and deliberations of the Commission, this was breached. Without any justification, it created discord and mistrust in a community which desperately needs reconciliation.

We have seen nothing but objective and independent professionalism in the institution. The Commission has sensibly and sensitively heard all who wanted to make a contribution. It has firmly and fairly held participants to telling what they had heard and seen for themselves and deflected them from conjecture and speculation without facts. The nation has been well served by the Commissioners and any assertions of bias or lack of objectivity levelled against those remaining have no justification. They reflect badly on those making unfounded allegations.

The evidence as it unfolded described a national obsession with street demonstrating at an alarming level. Some would want to call an example of the rights of freedom of expression and assembly. In reality it is rather more bully-boy tactics involving actual and threatened intimidation by a violent mob. This perpetual behaviour is sapping public life and hindering the Maldives' development as a modern democracy.

The Maldives has commendably committed to the Commission to resolve these vital and sensitive issues. It is now essential that all Maldivians look to the future so that together they can enjoy the clear potential which is available.



Sir Bruce Robertson

International Judicial Adviser



Professor John Packer

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