

## Commission of National Inquiry

### RULES OF PROCEDURE

#### 1. Purpose

- (1) The Commission of National Inquiry (CoNI) was established under a Presidential Decree (Decree Nos. 2012/2 and 2012/3) under Article 115 (o) of the Constitution of the Maldives to conduct an independent and impartial investigation into the events in Maldives from 14<sup>th</sup> January 2012 to 8<sup>th</sup> February 2012. The Commission will also explore the facts, circumstances and causes of the events of 7<sup>th</sup> February 2012 that resulted in the transfer of power in the Maldives. Following the conclusion of the hearings, the Commission will compile and submit a report to the President, Speaker of the Majlis, the Attorney General and the Prosecutor General including any recommendations it deems appropriate and in the public interest.
- (2) These Rules and Procedures will serve as guidance for all functions of the Commission and the Commission staff. These rules may be altered, amended and updated as needed by a majority vote of the Commission.

#### 2. Citation and Commencement

- (1) These Rules may be cited as the Rules of Procedure of the Commission of National Inquiry and shall come into force on 17th June 2012.

#### 3. General

- (1) The Commission has the authority to determine their staff requirements and hire their own staff.
- (2) The Commission encourages public to provide names and addresses of all persons they feel ought to be heard, and to provide Commission copies of all relevant documentations including statements of anticipated evidence, at the earliest opportunity.

- (3) The Commission may grant standing to people whose participation may be helpful to the Commission in fulfilling its mandate. The Commission will determine on what terms standing may be granted.

#### **4. No determination of liability**

- (1) The Commission is not to rule on, and has no power to determine any person's civil or criminal liability.
- (2) Notwithstanding the above, the Commission is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.

#### **5. Composition of Commission**

- (1) The Composition of the Commission shall be the following:-
  - a) Mr. Ismail Shafeeu, Chairman of the Commission
  - b) Justice G Pannir Selvam, Chairman of the Commission
  - c) Dr. Ibrahim Yasir
  - d) Dr. Ali Fawaz Shareef
  - e) Mr. Ahmed Saeed

#### **6. Appointment of Secretary and Other Staff**

- (1) The Chair of the Commission may appoint a secretary and other staff:-
  - a) To attend the sittings of the commission;
  - b) To record their proceedings;
  - c) To keep their papers;
  - d) To request and record the evidence of witnesses; and
  - e) Generally to perform such duties connected with the inquiry as the commissioners may instruct, subject to the directions, if any, of the Chair.

#### **7. Terms of reference**

- (1) The Commission is required to inquire into and report on the events in Maldives from 14th January 2012 to 8th February 2012.

- (2) The Commission is required to inquire into and report on the facts and circumstances leading to the transfer of power on 7 February 2012 and to determine whether the resignation of President Mohamed Nasheed was obtained under duress, as claimed by him, and whether the transfer of power was illegal.
- (3) The Commission, in the pursuance of its mandate, shall:
  - a. hold such inquiries and make all such investigations as are necessary to fulfill its mandate;
  - b. review the material previously gathered by CoNI and indentify any gaps and lacunae that may exist in such material;
  - c. obtain further material evidence from individuals, organizations and state institutions as may be required including documents, photographs, audio and video footage, bank statements, minutes of meetings, telephone records, and any other relevant sources of evidence and may if necessary seek court orders for such purpose;
  - d. examine any persons or persons who may have been directly involved with or may be in a position to provide relevant information or material evidence relating to the events that resulted in the transfer of power;
  - e. Put in place such measures that ensure the security and confidentiality of such testimony;
  - f. Undertake rigorous deliberation to draw conclusions from the evidence obtained.
- (4) The Commission shall carry forward from the work already done.

## **8. Sittings of the Commission**

- (1) The Chairman shall conduct its hearings and preside at its deliberations.
- (2) The presence of a majority of the members of the Commission shall be required at its sittings. The Commission shall, nonetheless, endeavour to conduct its sittings in the presence of all its members.

- (3) All hearings and sittings of the Commission shall take place in private.
- (4) Only members of the Commission shall take part in its deliberations.
- (5) The Commission shall endeavour to reach its decisions on the basis of consensus failing which the decisions shall be taken by a majority of the Commission. The Commission may appoint legal counsel, who will assist the Commission throughout the inquiry.
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## **9. Powers and proceedings**

For the purpose of conducting the inquiry, the Commission shall have the power to:-

- (1) Procure and receive all such evidence, written or oral as the Commission may think it necessary or desirable to procure.
- (2) Request any person in Maldives to attend any meeting of the Commission to do all or any of following within such period as appears to the commission to be reasonable-
  - a) Give evidence;
  - b) Produce any document, record or other thing in his custody or under his control that relate to a matter in question at the inquiry;
  - c) To produce any other thing in his custody or under his control for inspection, examination or testing.
- (3) Set time allocations for the conduct of interviews. For this purpose, Commission will send a request in writing to the person before he or she is interviewed.
- (4) Examine all such persons as witnesses as the Commission may think it necessary or desirable to examine, and determine the order in which those witnesses shall be examined.

## **10. Evidence**

- (1) Where a person is giving oral evidence at the inquiry, only the members of the Commission may ask questions.
- (2) A person as a witness may be called more than once.
- (3) Require the evidence (whether written or oral) of any witness to be made under a declaration.
- (4) The Commission may admit any evidence (written or oral) which might be inadmissible in a court of law. The strict rules of evidence will not apply to determine the admissibility of evidence.
- (5) Subject to Commission's discretion, the Commission may, as much as practicable and appropriate for a fair inquiry, refer and rely upon;
  - a) Any existing records or reports relevant to the subject matter of the inquiry
  - b) The statement of a witness given to the inquiry on a previous occasion
  - c) Any summary of background facts prepared by Commission
- (6) The Commission shall treat all documents and information it receives as confidential.
- (7) The Commission may prepare summaries of background facts and documents relevant to the subject matter of the inquiry.
- (8) The Commission, if necessary may have the evidence assessed by an expert.

## **11. Right to Counsel**

- (1) Any one interviewed by or on behalf of the Commission is entitled to have one personal counsel present for the interview to represent his or her interests.

## **12. Code of Ethics**

- (1) Every member of the Commission shall act on the following, when discharging the responsibilities and exercising the powers of the Commission:

- a. In the performance of functions act in accordance with the Constitution and the Laws;
- b. Promote the Rule of Law, and protect the rights and freedoms of the people;
- c. Uphold national duty and safeguard the interest of the people when discharging the responsibilities and exercising the powers of Commission;
- d. When discharging the responsibilities and exercising the powers of Commission, no one shall be discriminated against based on race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property and wealth, birth or other status, family or native island, language or dialect, social status or position;
- e. Not to be influenced by any person or party when discharging the responsibilities and exercising the powers;
- f. Apply the Constitution and the Law impartially and without fear, favour or prejudice;
- g. Refrain from committing any act, or having any kind of involvement, or expressing any views or opinions, which may lead to the impartiality of the person being questioned, and refrain from any act which might question or compromise the independence, impartiality and fairness of the Commission;
- h. refrain from taking advantage of the prestige of his/her position or use any information acquired therein, for personal gains or to obtain similar benefits to another person;
- i. Information acquired shall not be used or disclosed to a third party.
- j. At all times and in all their actions, conduct themselves in a socially acceptable manner.
- k. Shall not act on behalf of any particular person or individual or be seen to be promoting or protecting any particular person or individual's opinions, rights or interests.

- (2) Ethics stipulated in Paragraph 1 shall apply to the Secretary, other staff and International Advisors of the Commission.
- (3) If the Chair and the Co-Chair recommends to the President that a member is in breach of this Article, the President then reserves the right to remove that member from the Commission.

### **13. Rights and Protection of the members**

- (1) No criminal or civil suit shall be filed against any member of the Commission or staff of the Commission in relation to committing or omitting an act in good faith while undertaking responsibilities of the Commission or exercising the powers of the Commission.

(2) The Commission members and staff have immunity from all legal claims and proceeding regarding the work that they do in carrying their duties

### **14. Time Frame.**

- (1) The Commission shall submit its report, as per paragraph 15(1), by 31 July 2012,

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### **15. Reporting**

- (1) The Commission shall submit a report on its findings to the President, Speaker of the Majlis, Prosecutor-General, Attorney-General and on a read-only basis to former President Nasheed.
- (2) The report may contain findings of the investigations, recommendations and also anything else that Commission considers to be relevant to its mandate of it.
- (3) Report shall carefully consider and accurately represent the evidence received. Every witness to the inquiry shall be named in the appendices to the report.
- (4) The contents of the report are to be treated confidential until the report has been published by the Commission, as subject to an obligation of confidence owed by each one involved in the Commission.

- (5) The Commission shall use its best efforts to reach its conclusions by consensus failing which the Commission shall reach its decisions by majority of the Commission.
- (6) The report shall be signed by the Chairmen of the Commission.

## **16. Record management**

- (1) During the course of the inquiry the Commission shall ensure that the record of the inquiry is comprehensive and well ordered.
- (2) At the end of the inquiry, the Commission must transfer the custody of the inquiry record to the appropriate public record office.

## **17. Miscellaneous provisions**

- (1) The Commission shall not rule on and has no power to determine the civil or criminal liability of any person, but the commission is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.
- (2) Every witness requested to attend or appearing before the Commission shall have the same privileges and immunities.
- (3) Any matter not covered in this Rules of Procedure shall be decided by a majority of the Commission.

## **18. End of inquiry**

- (1) The inquiry comes to an end on the date, after the submission of the report of the inquiry, on which the Chairman notifies the President that the inquiry has fulfilled its terms of reference or on any earlier date specified in a notice given to the chairman by the President.