

BARRY M. KAMINS PRESIDENT Phone: (212) 382-6700

Fax: (212) 768-8116 bkamins@nycbar.org

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Mohamed Jameel Ahmed Minister of Justice Justice building, Orchid Magu, 20212 Malé Republic of Maldives Fax +960 332 5447

Honorable Minister Ahmed:

I write on behalf of the New York City Bar Association to express our continuing concern for the apparent failure of the current trial of Mohamed Nasheed to comport with international standards for fair trials.

The Association is an independent non-governmental organization of more than 22,000 lawyers, judges, law professors, and government officials. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world, including within the United States.

I previously wrote to President Gayoom in July 2006 to express the Association's concern for the arrest and detention of Mr. Nasheed and others on charges of terrorism and "acts against the state" that appeared to be politically motivated. At that time, the Association respectfully requested that in the absence of fair trials that comport with the Maldives Constitution and international standards Mr. Nasheed and others be immediately released and charges against them dropped. In my previous letter, the Association also noted that Maldives has stated its intention to ratify the International Covenant on Civil and Political Rights (ICCPR). The ICCPR is the primary instrument defining the international standards with regard to fair trials.

It has been brought to the Association's attention that Mr. Nasheed's trial has not comported with international standards as defined in the ICCPR. First, The

ICCPR provides in Article 9(1) that: "Anyone who is arrested shall be informed at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him." Mr. Nasheed apparently was not informed of the reasons for arrest or the charges against him at the time of his arrest on August 12, 2005. Indeed, the first indication of the charges against Mr. Nasheed came on August 22, 2005, when it was reported on television that he had been charged with treason and terrorism, and neither Mr. Nasheed nor his lawyer was directly notified of the reason for his arrest until August 23, 2005. In addition, on October 27, 2005, the treason charges were changed during Mr. Nasheed's second hearing to include alleged acts taking place over the previous fifteen years with no prior notice to Mr. Nasheed or his attorneys. In failing to inform Mr. Nasheed of the reasons for arrest or of the charges against him in a timely manner the Maldives has failed to comport with international standards.

Second, Mr. Nasheed appears not to have been given adequate notice of the trial schedule or hearings and, as a result, has been denied the opportunity to prepare a defense. Article 14(3)(b) of the ICCPR states that an accused person is entitled to a minimum guarantee "[t]o have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing." Neither Mr. Nasheed nor his attorney was given prior notice of his first hearing date on August 28, 2005. Notice of the hearing was only posted at the court on the day of the hearing and Mr. Nasheed was notified only upon his arrival at the court. At the hearing, Mr. Nasheed was not able to confer privately with his attorney, since a police officer sat next to Mr. Nasheed throughout the hearing. Mr. Nasheed was not able to meet with his attorney until September 1, 2005, after his first hearing. The pattern of lack of notification or short notice of hearing dates has continued throughout Mr. Nasheed's trial and detention, resulting in a failure to achieve international standards for a fair trial.

Third, the trial of Mr. Nasheed appears to have proceeded with undue delay. Article 14(3)(c) of the ICCPR states that any accused person has the right "[t]o be tried without undue delay." Mr. Nasheed has been in detention, first in prison and then under house arrest, since his arrest on August 12, 2005. He has had six hearings since then, the last one on June 18, 2006. Since that time, the Court has given no indication of the trial schedule or a time frame for a ruling and has failed to respond to several applications to the Court filed by the defense.

Fourth, Mr. Nasheed appears to have been denied adequate access to evidence and information regarding the charges against him. Article 14(3)(a) of the ICCPR states that the accused is entitled to "be informed promptly and in detail in a language which he understands of the nature and cause of the charges against him." Mr. Nasheed appears not to have been provided with the bulk of the evidence against him prior to the start of the trial or records of the interrogations to which he was subjected upon his arrest. These records appear to be important to Mr. Nasheed's defense, since a statement allegedly written by him during these interrogations is reported to have been offered as evidence. In addition, defense requests for documents were denied on the grounds that the trial had not begun even though there had already been a hearing in which charges and evidence against Mr. Nasheed were presented. Finally, the treason charges and witness list that the prosecution had submitted to the Court were changed

during Mr. Nasheed's second hearing without any prior notice to the defense, again denying Mr. Nasheed the opportunity to understand the charges against him and to mount a defense.

Fifth, Mr. Nasheed has been denied the ability to confront witnesses and dispute the evidence presented by the prosecution. Article 14(3)(3) of the ICCPR states that the accused must be afforded the opportunity "[t]o examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him." Apparently, at Mr. Nasheed's third hearing on January 25, 2006, the prosecution introduced new terrorism charges, which the Court allowed despite its previous order that there be no further changes to the charges or witness list. As a result of the new terrorism charges, the defense was rightly granted three weeks to prepare a defense. However, despite this ruling the Court continued to allow the prosecution to present evidence at the hearing and overruled defense objections to the prosecution offering such evidence. The Court apparently allowed the prosecution to read directly from witness statements without calling the witnesses and to show a video without providing evidence to authenticate it. Consequently, the defense was denied an opportunity to confront witnesses regarding the evidence presented against Mr. Nasheed.

In light of the stated desire of Maldives to conduct its criminal trials in accordance with international standards, and out of concern that Mr. Nasheed be afforded a fair and just trial – which has been denied -- I respectfully request on behalf of the Association that the charges against Mr. Nasheed be dropped.

Thank you for your time and attention to this critical issue.

Very truly yours,
Barry Kamus

Barry Kamins

cc: President Mamoon Abdul Gayoom Presidential Palace, Orchid Magu Maafaru, Malé Republic of Maldives Fax +960 313 506; +960 325 095

> Hon. Hassan Saeed Attorney General Office of the Attorney General Huravee Building Malé Republic of Maldives Fax +960 314 109

Hon. Dr. Ahmed Shaheed Minister of Foreign Affairs Ministry of Foreign Affairs PA Complex, Hilaalee Magu Malé Republic of Maldives Fax +960 332 841

Hon. Ahmed Mujuthaba Chairperson Human Rights Commission of the Maldives ADK Tower, 8th Floor Ameeru Ahmed Magu, Malé Republic of Maldives Fax +960 338 658

Hon. Richard A. Boucher Assistant Secretary of State Bureau of South and Central Asian Affairs U.S. Department of State 2201 C Street NW Washington, DC 20520 Fax +202 736 4333

Hon. Robert O. Blake Ambassador to Sri Lanka and Maldives Embassy of the United States 44 Galle Road, Colombo 03 Sri Lanka Fax +94 11 243 7345