



Permanent Representative
of the Republic of Maldives to the United Nations Office
and other International Organisations at Geneva

2017/OHCHR/L/06

Geneva, 29 August 2017


Excellencies,

I have the honour to refer to the joint communication dated 30 June 2017, submitted on behalf of the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard and mental health; Special Rapporteur on the independence of judges and lawyers, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, concerning the case of alleged arbitrary detention and deteriorating health condition of former Vice President of the Republic of Maldives, Mr Ahmed Adeeb.

With this letter, I wish to forward the response from the Government of Maldives, to the matters raised in the joint communication, by its deadline of today, 29 August 2017.

Please accept, Excellencies, the assurances of my highest consideration.

Yours sincerely,



Hala Hameed
Ambassador | Permanent Representative

H.E Mr Sètondji Adjovi
Chair-Rapporteur, Working Group on Arbitrary Detention, GENEVA

H.E Mr Danius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard and mental health, GENEVA

H.E Mr Diego Garcia - Sayan
Special Rapporteur on the independence of judges and lawyers, GENEVA

H.E Nils Melzer,
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UNITED NATIONS

JOINT COMMUNICATION FROM SPECIAL PROCEDURES

Working Group on Arbitrary Detention; the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; the Special Rapporteur on the Independence of Judges and Lawyers and the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Ref No: AL MDV 2/2017

In the Matter of

Ahmed Adheeb Abdul Ghafoor

v.

The Government of the Republic of Maldives

*Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14, avenue de la Paix
1211 Geneva 10, Switzerland*

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Chapter 1: Introduction

1. This submission is filed by the Government of the Republic of Maldives (hereinafter referred as Government or Respondent) in response to joint communication sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

2. The joint communication from the Special Procedures contain information that alleges Mr. Ahmed Adheeb Abdul Ghafoor (hereinafter referred as Mr. Ahmed Adheeb) is arbitrarily detained and that his detention conditions could amount to cruel, inhuman or degrading treatment or punishment.

3. In relation to Mr. Ahmed Adheeb's detention, the source alleges that the trial processes violated the following rights:

- a. Right to access to legal counsel;
- b. Right to adequate time and facilities to prepare a defence; and
- c. Right to present evidence.

4. In relation to Mr. Ahmed Adheeb's detention conditions, the source alleges that he was kept in solitary confinement and was not allowed family or conjugal visits for nearly a year after his detention. The source further claims that on 8 March 2017, following Mr. Ahmed Adheeb's transfer to Dhoonidhoo Detention Center, he is not allowed regular family visits and the cell in which he is being kept lacks of appropriate sanitary conditions.

5. The source also claims that reportedly Mr. Ahmed Adheeb is not provided with appropriate treatment for his health ailments and that the Government authorities and the Maldives Correctional Service have repeatedly denied Mr. Ahmed Adheeb's grave health condition as well as his request of medical leave to seek treatment, which would reportedly only be available abroad.

6. All of the above allegations centre on the circumstances of Mr. Ahmed Adheeb's arrest, trial and sentence/detention following allegations of two counts of terrorism charges; for possession of firearms and planting an IED on the official presidential speedboat (*Finifenma*) respectively, and embezzlement of public funds. Following the aforementioned allegations, under three separate cases, Mr. Ahmed Adheeb was tried and convicted and sentenced to imprisonment to 10 years, 15 years and 8 years respectively.

7. This submission is a formal response to both the allegations contained within the joint communication from Special Procedures and to the specific queries made by the Special Procedures.

8. The submission of the Government of Maldives (the Respondent) is that the allegations made, are either factually incorrect, or a mischaracterisation of the reality of the position and/or law, and therefore the detention of Mr. Ahmed Adheeb is justified, is in accordance with domestic and international law, and thus that the detention cannot be deemed to be arbitrary, and that Mr. Ahmed Adheeb's detention conditions meet the standards of domestic law and international law.

9. Further, we would respectfully request that the appropriate organs of the UN Special Procedures Branch, and the UN Human Rights Council accept the content of this submission and dismiss the information contained in the complaint to the Special Procedures in its entirety as manifestly ill-founded.

10. The remainder of this submission follows the table of contents as set out above. In particular, each individual allegation is addressed in isolation as well as cumulatively where appropriate.

Chapter 2: Background

11. Mr. Ahmed Adheeb was the former Vice President of the Republic of Maldives and Minister of Tourism.

12. On 28 September 2015, while President Abdulla Yameen Abdul Gayoom and First Lady Fathimath Ibrahim was travelling on the official presidential speedboat, *Finifenna*, there was an explosion. The President Abdulla Yameen Abdul Gayoom was unhurt; however, First Lady Fathimath Ibrahim, President's bodyguard and an aide sustained injuries during the incident. Investigation by the Maldives Police Service (hereinafter also referred as MPS or police), and the Forensic Reports by experts from Sri Lanka and Saudi Arabia have concluded that the explosion was an IED aimed directly at the President.

13. On 24 October 2015, around 1152 hours, Mr. Ahmed Adheeb was arrested under an arrest warrant issued by the Criminal Court over allegation of an act of terrorism following the explosion on the official presidential speedboat. He was taken to police custodial facility in Dhoonidhoo Island (hereinafter also referred as Dhoonidhoo Detention Center).

14. On the same day, at 1704 hours, Mr. Ahmed Adheeb was given the opportunity to meet with his lawyers.

15. On 25 October 2015, Mr. Ahmed Adheeb was taken to the trial courtroom of Criminal Court in Dhoonidhoo Island for his remand hearing pursuant to Article 48(d) of the Constitution of the Republic of Maldives (hereinafter referred as Constitution) in order to determine the validity of his detention. This hearing was conducted via audio-video link to the Criminal Court in Male' in accordance with the Criminal Court's 'Regulation on Conducting Remand and Trial Hearings of Accused Persons by way of Audio-Video Conferencing'. At this hearing, the judge upheld the detention of Mr. Ahmed Adheeb and ordered him to be kept in detention under police custody for a period of 15 days.

16. On 1 November 2015, Mr. Ahmed Adheeb appealed at the Maldives High Court (hereinafter referred as High Court) the Criminal Court's decision made on 25 October 2015 to keep him detained for 15 days in police custody. One of the grounds of the appeal was that the remand hearing held via audio-video link was in contravention to Article 48 of the Constitution.

17. On 2 November 2015, the High Court upheld the Criminal Court's decision made on 25 October 2015. In its judgment, the High Court upheld that the audio-video conference was held in accordance with the Criminal Court's Regulation on Conducting Remand and Trial Hearings of Accused Persons by way of Audio-Video Conferencing and held that the practice of conducting remand hearings and trial hearings were in accordance with Article 48(d) of the Constitution.

18. Three other separate police investigations were also conducted by Maldives Police Service against Mr. Ahmed Adheeb over allegations of possession of firearms and purporting to use it on public, misuse of authority and embezzlement of public funds respectively.

19. In relation to the allegation against Mr. Ahmed Adheeb for possession of firearms, he was accused of purporting to use a firearm in furtherance of his political views, on the eve of 1 May 2015, against participants of the May Day demonstration, which was organised by opposition parties.

20. In relation to allegation against Mr. Ahmed Adheeb for misuse of authority, he was accused of using his authority as the Minister of Tourism to lease to a third party a lagoon, the acquisition cost of which amounting to United States Dollar 1 million was misappropriated.

21. In relation to allegation against Mr. Ahmed Adheeb for embezzlement of public funds, together with his co-accused, Mr. Hamid Ismail and Mr. Abdullah Ziyath, he was accused of embezzling the acquisition cost of tourism resort lease of Lhaviyani Atoll Maabinhuraa Island,

which was paid to the state-owned entity, Maldives Marketing and Public Relations Corporation (hereinafter MMPRC). The acquisition cost was a sum of United States Dollars 5 million.

22. On 9 November 2015, Maldives Police Service forwarded the case of possession of firearms to the Prosecutor General's Office for prosecution.

23. On 22 November 2015, Maldives Police Service forwarded the case of misuse of authority to the Prosecutor General's Office for prosecution.

24. In relation to the case of possession of firearms, on 26 November 2015, the Prosecutor General filed a charge against Mr. Ahmed Adheeb with the Criminal Court under sections 2(a), (d) and (g) and section 6(b) of Law No 10/90 (Prevention of Terrorism Act).


25. In relation to the case of misuse of authority, on 6 December 2015, the Prosecutor General filed a charge against Mr. Ahmed Adheeb with the Criminal Court under Law No 9/2015 (Maldives Penal Code).

26. On 17 December 2015, upon application to the Criminal Court by the Maldives Police Service, the Court ordered Mr. Ahmed Adheeb to be kept in detention till the end of the trial of his case of misuse of authority. For this hearing, Mr. Ahmed Adheeb was presented before the judge in Criminal Court in Male'.

27. On 24 December 2015, Maldives Police Service forwarded the case of embezzlement of public funds to the Prosecutor General's Office for prosecution.

28. In relation to the case of embezzlement of public funds, on 26 January 2016, the Prosecutor General filed a charge against Mr. Ahmed Adheeb with the Criminal Court under sections 12, 13, 131 (a) and 132 of Law No 10/68 (Maldives Penal Code, Chapter 4).

29. On 27 January 2016, Mr. Ahmed Adheeb was transferred from the remand facility in Dhoonidhoo Island to the remand facility in Maafushi Prison, in Maafushi Island. His lawyer, Mr.

 was informed of the transfer on the same day.

30. On 24 February 2016, Maldives Police Service forwarded the case of planting an IED on the official presidential speedboat to the Prosecutor General's Office for prosecution.

31. On 7 March 2016, Mr. Ahmed Adheeb was transferred back to the remand facility in Dhoonidhoo Island. His family was informed of the transfer 24 hours prior to his transfer.

32. In relation to the case of planting an IED on the official presidential speedboat, on 15 March 2016, the Prosecutor General filed a charge against Mr. Ahmed Adheeb with the Criminal Court under sections 2(a), (d), (e) and (g) and section 6(b) of Prevention of Terrorism Act.

33. On 5 June 2016, the Criminal Court convicted Mr. Ahmed Adheeb guilty under sections 2(a), (d) and (g) and section 6(b) of Prevention of Terrorism Act for possession of firearms and purporting to use it and sentenced him to 10 years' imprisonment.

34. On 9 June 2016, the Criminal Court convicted Mr. Ahmed Adheeb guilty under sections 2(a), (d), (e) and (g) and section 6(b) of Prevention of Terrorism Act for planting an IED on the official presidential speedboat and sentenced him to 15 years' imprisonment.

35. On 21 June 2016, Mr. Ahmed Adheeb was transferred to the prison facility in Maafushi Prison in Maafushi Island. His family was informed about the transfer on the same day.

36. On 23 June 2016, the Criminal Court convicted Mr. Ahmed Adheeb guilty under sections 12, 13, 131 (a) and 132 of Law No 10/68 (Maldives Penal Code, Chapter 4) and with reference to Article 59(a) of the Constitution, which provides that the accused is entitled to the benefit of the lesser punishment if the punishment for an offence has been reduced between the time of

commission of offence and the time of sentencing, the Court sentenced him to 8 years' imprisonment under sections 30(d)(1) and 1002(a) of Law No 9/2014 (Maldives Penal Code).

37. On 20 July 2016, Mr. Ahmed Adheeb appealed the Criminal Court's decision made on 5 June 2016 at the High Court. On 24 April 2017, the High Court upheld the Criminal Court's decision.

38. In addition, Mr. Ahmed Adheeb has also appealed the Criminal Court's decisions made on 9 June 2016 and 23 June 2016 at the High Court. The appeal of both these cases are still ongoing at the High Court.

39. On 8 March 2017, Mr. Ahmed Adheeb was transferred from Maafushi Prison to prison facility in Dhoonidhoo Island to continue serving his sentences. His family was informed of the transfer 24 hours prior to the transfer.

40. All trial hearings of all the aforementioned cases were conducted in the presence of Mr. Ahmed Adheeb and his lawyers, at the Criminal Court in Male'.

41. During the investigation stages of all the aforementioned cases, Mr. Ahmed Adheeb was represented throughout by lawyers of his own choosing.

42. During the trial stages of all the aforementioned cases, Mr. Ahmed Adheeb was represented throughout by lawyers of his own choosing, namely [REDACTED]
[REDACTED]

43. During the period between his arrest on 24 October 2015 and the Criminal Court's first conviction and sentencing of Mr. Ahmed Adheeb on 5 June 2016, Mr. Ahmed Adheeb had in total 114 meetings with his lawyers, 38 family visits and 2 telephone calls to his family.

44. Since Mr. Ahmed Adheeb began enforcing his first sentence on 5 June 2016, he has had 112 meetings with his lawyers, 37 family visits including conjugal visits, 26 telephone calls to his lawyers and 37 telephone calls to his family.

45. Since Mr. Ahmed Adheeb began enforcing his first sentence on 5 June 2016, he has had 39 consultations with a doctor, including 24 consultations in Male' with doctors and specialist doctors.

46. At present, the Prosecutor General has filed with the Criminal Court 9 charges of corruption in relation to MMPRC, a terrorism charge in relation to weapons cache found in Himbalhidhoo Island and a charge of conspiring to commit murder.

Chapter 3: Issues of Complaint and Queries from the Special Procedures

General Discussion

47. The joint communication from the Special Procedures contain information that make various allegations with respect to Mr. Ahmed Adheeb's detention, his right to due process, his conditions of detention and his right to access to adequate and timely healthcare.

48. At the outset, the Respondent rejects the allegation that Mr. Ahmed Adheeb is arbitrarily detained. Mr. Ahmed Adheeb was arrested, tried, convicted and sentenced pursuant to criminal offences under domestic criminal legislations and both the investigation and trial stages of all the cases, in which he has been convicted and sentenced thus far, were conducted in accordance with the domestic laws and procedures. During both the investigation and trial stages, his fair trial rights were ensured and guaranteed. Even if the trial process entailed any irregularities, which the information contained in the joint communication alludes, even if accepted at the highest, they would not render his detention and trials, taken as a whole, unsafe and thereby arbitrary.

49. Each allegation will be dealt below under separate headings. The Respondent submits that where appropriate, specific queries from the Special Procedures will be dealt under the said separate headings.

i. Detention and the Right to Due Process

50. Under this heading, the joint communication from the Special Procedures contain information that allege the following:

- a. Mr. Ahmed Adheeb was deprived of the right to legal counsel prior to his first court hearing in December 2015, under charges of corruption;

- b. Mr. Ahmed Adheeb was barred from attending in person to his own trial hearing, which he followed remotely from the prison facility;
- c. Mr. Ahmed Adheeb was reportedly not allowed adequate time to prepare his defence;
- d. Incriminatory evidence heavily relied on anonymous testimonies and no defence witnesses were allowed to testify in the trials; and
- e. Mr. Ahmed Adheeb's lawyers were threatened and had to resign from his defence team in fear of retaliation.

51. At the outset, the Respondent submits that all of the allegations above are mischaracterisation of facts and therefore must be rejected by the Special Procedures. Each allegation will be responded in detail below.

52. In relation to the allegation that Mr. Ahmed Adheeb was deprived of the right to legal counsel prior to his first court hearing in December 2015, the Respondent reiterates the facts provided in paragraph 14 of this submission. Following his arrest on 24 October 2015 around 1152 hours, on the same day, he was given the opportunity to appoint a legal team of his own choosing and to meet them. Between the date of his arrest and 24 December 2015, Mr. Ahmed Adheeb in fact had 53 visits and/or meetings with his legal team.

53. As previously mentioned in paragraphs 41 and 42 of this submission, during both the investigation stages and trial stages of the cases in which Mr. Ahmed Adheeb had been convicted and sentenced thus far, he was represented throughout by a legal team of his own choosing.

54. In light of the aforementioned facts, the Respondent submits that the allegation that Mr. Ahmed Adheeb was deprived of the right to legal counsel prior to December 2015 is fundamentally baseless.

55. In relation to the allegation that Mr. Ahmed Adheeb was barred from attending in person to his own trial hearings, the Respondent submits that it is a clear mischaracterisation of reality.

56. As previously submitted in paragraph 40 of this submission, all trial hearings of all the cases in which Mr. Ahmed Adheeb had been convicted and sentenced thus far, were conducted in the presence of Mr. Ahmed Adheeb and his lawyers, at the Male' Criminal Court.

57. The Respondent submits for the information of the Special Procedures that only the remand hearings of Mr. Ahmed Adheeb were held in the Criminal Court's trial courtroom in Dhoonidhoo Island by way of audio-video link. In this regard, the Respondent reiterates the submissions made in paragraphs 15, 16 and 17 of this submission in that the remand hearings were held in accordance with the Criminal Court's 'Regulation on Conducting Remand and Trial Hearings of Accused Persons by way of Audio-Video Conferencing'.

58. As previously mentioned in paragraph 16 of this submission, on 1 November 2015, Mr. Ahmed Adheeb appealed at the High Court the Criminal Court's decision made on 25 October 2015 to keep him detained for 15 days in police custody. One of the grounds of the appeal was that the remand hearing held via audio-video link was in contravention to Article 48 of the Constitution.

59. Article 48 of the Constitution provides the rights of the person on arrest or detention. Article 48(d) provides:

[Everyone has the right on arrest or detention] to be brought within twenty-four hours before a Judge, who has power to determine the validity of the detention, to release the person with or without conditions, or to order the continued detention of the accused.

60. On 2 November 2015, the High Court upheld the Criminal Court's decision made on 25 October 2015. In its judgment, the High Court upheld that the audio-video conference was held

in accordance with the Criminal Court's Regulation on Conducting Remand and Trial Hearings of Accused Persons by way of Audio-Video Conferencing and held that the practice of conducting remand hearings and trial hearings were in accordance with Article 48(d) of the Constitution.

61. With respect to the above allegation, in all of the 3 cases in which Mr. Ahmed Adheeb has been convicted and sentenced thus far, the Respondent submits that both the remand hearings and trial hearings were conducted in accordance with the domestic laws and procedures.

62. In relation to the allegation that Mr. Ahmed Adheeb was not allowed adequate time to prepare his defence, the Respondent submits that Mr. Ahmed Adheeb was in fact given adequate time to prepare his defence.

63. At the outset, the Respondent submits that Mr. Ahmed Adheeb's lawyers were present and continuously informed from the initial stages of investigations of all three cases in which he has been convicted and sentenced thus far.

64. Relevantly, Mr. Ahmed Adheeb's legal team who assisted him throughout the investigation of his cases was aware and informed of the nature of the accusations and/or investigations. It is important to note at this point, the lawyers of the same legal team also represented Mr. Ahmed Adheeb during his trials.

65. Therefore, both Mr. Ahmed Adheeb and his legal team had knowledge of the factual and legal characteristics of the prosecution's cases before the suspect was charged and the trials started.

66. The following is a brief timeline of the cases which demonstrate that Mr. Ahmed Adheeb had ample opportunity and time to prepare his defence and had knowledge of the content of his cases:

- a. In the first case in which Mr. Ahmed Adheeb was convicted and sentenced, for possession of firearms, the first hearing was held on 10 January 2016, at which the

charge was communicated to him. At the same hearing, Mr. Ahmed Adheeb requested to give him an opportunity to appoint lawyers. The Court granted him a period of over 30 days. The second hearing of the case was held on 15 February 2016, at which he was represented by his lawyers and he/his lawyers had denied the charge. Between the communication of the charge to Mr. Ahmed Adheeb and the submission of defence, he was accorded a period of over 30 days to prepare his defence.

- b. In the second case in which Mr. Ahmed Adheeb was convicted and sentenced, for planting an IED on the official presidential speedboat, the first hearing was held on 30 March 2016, at which the charge was communicated to him. At the same hearing, Mr. Ahmed Adheeb requested to give him an opportunity to appoint lawyers. The Court granted him a period of 10 days. The second hearing which was held on 10 April 2016, was adjourned because the administrative formalities of the appointment of defence lawyers were yet to be completed and took place later on 21 April 2016. Between the communication of the charge to Mr. Ahmed Adheeb and the submission of defence, he was accorded a period of over 20 days to prepare his defence.
- c. In the third case in which Mr. Ahmed Adheeb was convicted and sentenced, for embezzlement of public funds, the first hearing was held on 7 February 2016, at which the charge was communicated to him. At the same hearing, Mr. Ahmed Adheeb requested for a period of 30 days to appoint a lawyer. The presiding judge granted him a period of 15 days to appoint a lawyer. In this case, the defence was submitted by Mr. Ahmed Adheeb and/or his legal team at the hearing held on 26 April 2016. Between the communication of the charge to Mr. Ahmed Adheeb and

the submission of defence, he was accorded a period of over 2 months to prepare his defence.

67. Upon examination of the above timeline, it is evident that in all 3 cases tried against him, Mr. Ahmed Adheeb was given adequate time and opportunity to prepare his defence and submit his case.

68. In this regard, the Respondent notes that there is no internationally pre-determined timeframe that could serve as static reference to assess whether Mr. Ahmed Adheeb's legal team was granted adequate time to prepare its case, as neither International Law nor international case law has provided a specific time limit that could be considered 'adequate' for criminal cases. It generally depends on the nature of the proceedings and on the particular characteristics of the case, including its complexity.

69. It must be noted that a period of 15 days to prepare a defence was found sufficient by the European Court of Human Rights in *Albert and Le Compte v. Belgium*¹, and that, as a regional comparison, it is possible to note that the Act regulating the International Crimes Tribunal of Bangladesh (ICT), an international tribunal officially established by the Government of the country to prosecute international crimes committed 40 years ago and one that may impose the death penalty, grants a period of three weeks to the defence to prepare its case. Drawing a similar analogy with respect to the serious nature of the offence in the cases at issue, a period of 30 days in the first case, 20 days in the second case and a period of over 2 months in the third case were given to prepare Mr. Ahmed Adheeb's defence, which could be considered consistent with the practice at regional level, or even more favourable towards the defendant.

¹ European Court of Human Rights (1983): "*Albert and Le Compte v. Belgium*", 10 February 1983, App nos 7299/75 and 7496/76.

70. Relevantly, Mr. Ahmed Adheeb was afforded the time to prepare his defence, and time that provided him with the opportunity to organise his defence appropriately and be allowed “to put all relevant defence arguments before the trial court and thus to influence the outcome of the proceedings”², which is the relevant standard established by the European Court of Human Rights.

71. In light of the aforementioned facts and submission, the Respondent submits that the allegation that Mr. Ahmed Adheeb was not given sufficient time to prepare his defence is a clear mischaracterisation of reality and therefore must be rejected.

72. In relation to the allegation that incriminatory evidence against Mr. Ahmed Adheeb heavily relied on anonymous testimonies and that no defence witnesses were allowed to testify in the trials, the Respondent submits that firstly, anonymous testimonies were allowed in accordance with the domestic law and secondly, in all three cases in which Mr. Ahmed Adheeb has been convicted and sentenced thus far, he was given the opportunity to cross-examine the evidence and to present defence evidence and witnesses.

73. At the outset, the Respondent submits that the allegation that Mr. Ahmed Adheeb was not allowed to present defence witnesses is a clear mischaracterisation of facts and submits the allegation must be rejected. In all 3 cases in which Mr. Ahmed Adheeb has been convicted and sentenced thus far, he was given the opportunity to present evidence and defence witnesses. In this regard, the Respondent submits the following for the information of the Special Procedures:

- a. In the first case in which Mr. Ahmed Adheeb was convicted and sentenced for terrorism charge of possession of firearms, on 15 February 2016, at the first

² European Court of Human Rights (2009): “Moiseyev v. Russia”, First Section, Application no. 62936/00, 6th April 2009, available at: <http://hudoc.echr.coe.int/eng?i=001-88780#%7B%22itemid%22%3A%22001-88780%22%7D%7D>}, last accessed: 9th August 2016, par. 220.

hearing, Mr. Ahmed Adheeb and his legal team were given the opportunity to adduce evidence. In this case, the Defence had opted not to furnish any evidence.

- b. In the second case in which Mr. Ahmed Adheeb was convicted and sentenced for terrorism charge of planting an IED on the official presidential speedboat, at the fourth hearing which was held on 26 May 2016, Mr. Ahmed Adheeb and his legal team adduced defence evidence. On 5 June 2016, at the sixth hearing, 5 defence witnesses were called, which were examined.
- c. In the third case in which Mr. Ahmed Adheeb was convicted and sentenced for charges of embezzlement of public funds, at the fourth hearing held on 18 May 2016, the Defence adduced evidence. On 1 June 2016, at the fifth hearing, the Defence called 2 witnesses which were examined. At this hearing, the Defence stated that they opted not to call the remaining witnesses citing establishment of defence through the examined 2 witnesses.

74. In light of the aforementioned facts, the Respondent submits that there is no factual basis to allege that Mr. Ahmed Adheeb was not accorded the opportunity to present defence witnesses during his trials. Accordingly, the Respondent submits that this allegation is manifestly ill-founded and must be rejected.

75. In relation to the allegation that incriminating evidence heavily relied on anonymous testimonies, the Respondent makes its submission in the following paragraphs.

76. The Respondent notes the jurisprudence of the European Court of Human Rights and the Inter-American system in this regard. Basically, the jurisprudence has established three requisites³:

³ See, for example, European Court of Human Rights (1996): "Doorson v. Netherlands", Court Chamber, App. no. 20524/92, 26th March 1996; and Inter-American Commission on Human Rights (2002): "Report on Terrorism and

- a. The anonymity must be necessary, and the Court must know the witnesses' identity;
- b. The evidence given by these witnesses must not be the sole or the decisive evidence demonstrating the guilt of the accused; and
- c. There must be certain procedural safeguards; particularly, the defence must be able to question these witnesses.

77. These three requirements were fulfilled in all 3 cases of Mr. Ahmed Adheeb.

78. Firstly, the Respondent submits that anonymous testimonies were only presented and allowed by the Criminal Court in accordance with Criminal Court's 'Rules of Procedure on Submitting Evidence, Admissibility of Evidence and Recording Testimonies of Witnesses'. Under the rules of procedure, parties may request the court to present witness in anonymity on the ground of protecting the witness from harm and/or intimidation. In all 3 cases in which Mr. Ahmed Adheeb has been convicted and sentenced thus far, anonymous testimonies were allowed in order to protect the witnesses from harm and/or intimidation.

79. Secondly, although the witnesses were presented in anonymity, the Court was fully informed and aware of the identities of the witnesses.

80. Thirdly, in all 3 cases, Mr. Ahmed Adheeb and/or his lawyers were given the opportunity to cross-examine the anonymous witnesses.

81. Fourthly, although the testimonies of the witnesses were important, they were not the sole determinant factor in all 3 cases. In all 3 cases, the decisions to convict and subsequently sentence

Human Rights", OEA/Ser.L/V/II.116, Doc. 5 rev. 1 corr., 22 October 2002, available at: <http://www.cidh.org/terrorism/eng/toc.htm>, last accessed: 10th August 2016, par. 251.

Mr. Ahmed Adheeb, were not solely based on the anonymous testimonies but there was ample material evidence that resulted in the guilty verdicts.

82. In light of the aforementioned submission, the Respondent submits that anonymous testimonies were allowed in all 3 cases in accordance with the domestic law and meet the requirements set under international law jurisprudence.

83. In relation to the allegation that Mr. Ahmed Adheeb's lawyers were threatened and had to resign from his defence team in fear of retaliation, the Respondent submits that there were no complaints lodged by Mr. Ahmed Adheeb to any authorities complaining of similar allegation. In fact, the Respondent recalls the submissions made in paragraphs 41 and 42 of this submission that Mr. Ahmed Adheeb was represented by a legal team of his own choosing during both investigation and trial stages of all the cases aforementioned.

84. The Special Procedures have requested for more information on the legal basis and evidence presented prior to Mr. Ahmed Adheeb's convictions, including the issuance of an arrest warrant and the filing of charges against him.

85. In this regard, the Respondent reiterates the submission made in the preceding paragraphs and submits that all 3 convictions against Mr. Ahmed Adheeb were made in accordance with the domestic laws and he was accordingly sentenced in accordance with the relevant domestic laws and procedures.

86. The Respondent respectfully reminds the Special Procedures that it is not for the mandates of the Special Procedures to evaluate the facts and evidence in a particular case or to substitute itself for domestic appellate tribunals.

87. The Special Procedures have also requested for more information on the status of any on-going legal proceedings against Mr. Ahmed Adheeb.

88. In this regard, the Respondent reiterates the information submitted in paragraph 46 of this submission.

ii. Conditions of Detention

89. In relation to the conditions of Mr. Ahmed Adheeb's detention, it is alleged that upon his arrest on 24 October 2015, he was placed in Maafushi Prison and was kept in solitary confinement. It is also further alleged that Mr. Ahmed Adheeb was not allowed family or conjugal visits for nearly a year after his detention.

90. At the outset, the Respondent submits that the aforementioned allegations are a mischaracterisation of facts and reality.

91. In contrast to what has been alleged in the information provided in the joint communication, upon Mr. Ahmed Adheeb's arrest on 24 October 2015, he was placed in police custodial facility in Dhoonidhoo Island. At no given time was Mr. Ahmed Adheeb kept in solitary confinement. Since the date of his arrest till date, Mr. Ahmed Adheeb is given daily welfare opportunities in that he is allowed to exercise and walk at a specified hour during which he can interact with other inmates in custody and/or detention. He was at all times placed in a unit, in which adjacent cells were accompanied by other detainees and/or inmates.

92. In particular, the Respondent submits that it is entirely untrue that Mr. Ahmed Adheeb was denied of family visits. As previously mentioned in paragraph 43 of this submission, during the period between his arrest on 24 October 2015 and the Criminal Court's first conviction and sentencing of Mr. Ahmed Adheeb on 5 June 2016, Mr. Ahmed Adheeb had in total 38 family visits and 2 telephone calls to his family.

93. Since Mr. Ahmed Adheeb began enforcing his first sentence on 5 June 2016, he has had 37 family visits and 37 telephone calls to his family. Since Mr. Ahmed Adheeb's transfer to Dhoonidhoo Island on 8 March 2017, he has had 5 conjugal visits with his family.

94. During the period in which Mr. Ahmed Adheeb was placed in Maafushi Prison, a separate conjugal visiting room was set-up in order to facilitate Mr. Ahmed Adheeb to have conjugal visits.

95. It is also alleged that Mr. Ahmed Adheeb was denied of having any books or newspaper and that air-conditioning in his cell was removed without justification. In addition, it is alleged that the cell in which Mr. Ahmed Adheeb is placed in Dhoonidhoo facility lacks of appropriate sanitary conditions.

96. In this regard, the Respondent submits that since the date of his arrest till date, Mr. Ahmed Adheeb has been granted welfare services and all materials that his family had provided to handover to him, including books, food, clothing and other items, have been regularly given to him.

97. The Respondent further submits that air-conditioning is not a feature in normal prison and/or detention units. During his detention in Maafushi Prison, when Mr. Ahmed Adheeb had complained of heat and humidity of the cell, the Prison services had in fact provided him with a fan.

98. The Respondent also submits that all custodial facilities, remand centres and prisons are established in accordance with the standards provided under domestic law, namely, Law No 14/2013 (Prisons and Parole Act) and regulations enacted pursuant to the Act.

99. In addition, the Respondent notes that the custodial facilities, remand centres and prisons are regularly reviewed by the Human Rights Commission of the Maldives, which is the National

Preventive Mechanism under Law No 13/2013 (Anti-Torture Act), and by the international community, including the SPT and the ICRC.

100. In this regard, the Respondent notes that Mr. Ahmed Adheeb's family has lodged complaints about his detention conditions with the Human Rights Commission of the Maldives. The Commission is currently investigating the complaint and although no public statements have been made with respect to its findings, the Commission is engaged with Mr. Ahmed Adheeb's family in sharing its findings.

101. The information provided in the joint communication from the Special Procedures allege that, on 8 March 2017, Mr. Ahmed Adheeb was transferred from Maafushi Prison to the prison facility in Dhoonidhoo Island without prior notice to his family or lawyers. The Respondent rejects the allegation as the Maldives Correctional Service had in fact informed his family of his transfer 24 hours prior to the transfer. Additionally, on 8 March 2017, upon his admission into the prison facility, his wife was informed of the same by the officers in Dhoonidhoo Detention Centre.

102. Under this head, lastly, it is alleged that Mr. Ahmed Adheeb is currently not allowed regular family visits and that he faces discriminatory treatment in this regard.

103. The Respondent submits that the aforementioned allegation entirely amounts to a mischaracterisation of the facts. As previously submitted in paragraph 44 of this submission, since Mr. Ahmed Adheeb began enforcing his first sentence on 5 June 2016, to date, he has had 37 family visits including conjugal visits and 37 telephone calls to his family. Without any discrimination, Mr. Ahmed Adheeb is given the opportunity to meet with his family and lawyers as per the domestic law and procedure as provided under the Prisons and Parole Act and the regulations therein.

iii. Access to Adequate and Timely Healthcare

104. Under this head, it is alleged that Mr. Ahmed Adheeb is not provided with appropriate medical treatment, various Government authorities and the Maldives Correctional Service have repeatedly denied Mr. Ahmed Adheeb to seek medical treatment, which would reportedly only be available abroad and that requests from Mr. Ahmed Adheeb's lawyers to access his medical records have been repeatedly denied.

105. The Respondent reiterates the facts submitted in paragraph 45 of this submission and recalls that since Mr. Ahmed Adheeb began enforcing his first sentence on 5 June 2016, he has had 39 consultations with a doctor, including 24 consultations in Male' with doctors and specialist doctors. Specialist medical consultations include consultations in relation to ophthalmology, nerve fibre analysis, glaucoma, oncology, [REDACTED]

106. For the information of the Special Procedures, the Respondent submits the following information regarding Mr. Ahmed Adheeb's on-going medical treatment, all of which are available domestically.

- a. In April 2017, medical examinations of Mr. Ahmed Adheeb identified a cyst [REDACTED]
[REDACTED] Mr. Ahmed Adheeb's treatment in relation to the cyst is currently on-going.
- b. In May 2017, Mr. Ahmed Adheeb was diagnosed of glaucoma. Mr. Ahmed Adheeb's treatment in relation to glaucoma is currently on-going.
- c. In July 2017, medical examinations of Mr. Ahmed Adheeb identified kidney stones. Mr. Ahmed Adheeb's treatment in relation to kidney stones is currently on-going.

107. In response to the aforementioned allegation and specific queries made by the Special Procedures in this regard, the Respondent submits that Mr. Ahmed Adheeb has been given access to medical facilities and to specialised medical treatment and that he will continue to enjoy his right to access to adequate medical facilities in accordance with the Prisons and Parole Act.

108. With respect to medical leave to abroad, the governing domestic legislation is the Prisons and Parole Act, under which, a prisoner may be given the opportunity to travel abroad for medical treatment, if a specialist doctor finds that the relevant treatment is domestically unavailable and submits such finding to the medical board. Upon the determination by the medical board, the Commissioner of Prisons may grant such prisoner medical leave.

109. In Mr. Ahmed Adheeb's case, no such findings by a specialist doctor has been submitted thus far for review by the medical board.

110. In the absence of such a request by a specialist doctor, the Respondent submits that it is entirely untrue to allege that various Government authorities have repeatedly denied Mr. Ahmed Adheeb's request to seek medical treatment abroad.

111. If any requests were to be submitted to the medical board in accordance with the domestic procedures, such requests will be reviewed and considered in accordance with the domestic law and procedures.

112. In this regard, the Respondent submits its commitment to respect and fulfil the rights of all prisoners, including their right to the enjoyment of highest attainable standard of physical and mental health as provided under the Constitution and domestic laws. Accordingly, the Respondent reiterates its commitment that Mr. Ahmed Adheeb will continue to enjoy access to adequate and timely medical treatment in accordance with the domestic laws and procedures.

113. In relation to the allegation that requests from Mr. Ahmed Adheeb's lawyers to access his medical records have been repeatedly denied, the Respondent submits that the allegation is untrue as at no point Maldives Correctional Service has received requests for his medical records from Mr. Ahmed Adheeb's lawyers.

Chapter 4: Conclusions

114. The dominant conclusion to draw from this response is that Mr. Ahmed Adheeb is evidently not being subjected to arbitrary detention or cruel, inhuman or degrading treatment, and that in any event the issues within the complaint cannot be considered given that the majority of those are both factually and legally unsubstantiated.

115. All three cases in which Mr. Ahmed Adheeb was convicted and subsequently sentenced were carried out in accordance with the Constitution and the relevant national criminal laws.

116. Mr. Ahmed Adheeb has, in his own volition, engaged in the domestic appeal process and the Respondent believes that Mr. Ahmed Adheeb has the opportunity to raise these issues during the appeal processes, through which Mr. Ahmed Adheeb has recourse to domestic mechanisms of redress.

117. Additionally, Mr. Ahmed Adheeb is not kept in solitary confinement and enjoys regular visits from his family and lawyers.

118. He is also given adequate and timely access to medical treatment. At present, no request for medical leave to abroad has been made as per the domestic processes and if any such request is to be made, it will be reviewed and considered in accordance with the domestic law and procedures.