



**Constitution Breach by Judicial Service Commission
Hijack of the Judiciary,
and link to 7 February 2012 coup d'état**

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Member of Judicial Service Commission, April 2009-May 2011**

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Judiciary experiencing horrific days: Chief Justice

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Judiciary experiencing horrific days...

Interim Chief Abdulla Saeed's speech at Judges' Oath, part of it MISSING! There appears to be a Gag Order on Interim Chief Abdulla Saeed's "speech" at secret Oath Ceremony, 4 August 2010. Except for this one mention, no media reports of Interim Chief's speech was reported. The video recordings, Master Copy at MNBC, was found to have been edited, part of Abdulla Saeed's speech gone missing.

Summary

1. From its' inception, the Judicial Service Commission (JSC) has acted as the Guardian of Judges rather than Watchdog and standard-keeper. A qualitative performance audit of the JSC looking at the substance of JSC's decisions, especially the response to complaints of judicial misconduct, would confirm.
2. Judicial Service Commission (JSC) breached Constitution by its' decision to nullify Constitution Article 285 as "symbolic"; and mislead State and Public in re-appointing the whole Judiciary for life without the Constitutionally required, and necessary, check.
3. Majlis Independent Commissions Committee, the oversight body for Independent Commissions was informed of JSC's actions as early as February 2010, but failed to inquire into the matter. Instead, Majlis aided and abetted in the hijack of the Judiciary, and covered up JSC's High Treason.
4. Those MPs responsible to hold JSC accountable, and to decide on the question of legitimacy of JSC's actions on Article 285 and re-appointment of judges (including Abdulla Mohamed of the Criminal Court) who had actively obstructed all attempts to get Majlis to hold an Inquiry into JSC, and publicly boasted that there would be no inquiry of JSC, led the protests against President Nasheed, calling for release of "Ablo Qaazee" or "Judge Abdulla".
MPs involved included
 - Current Chair of the Majlis Independent Commissions Committee **MP Mohamed (Kutti) Nasheed**,
 - Judicial Service Commission Member under Constitution Article 158(e) **MP Qasim Ibrahim**,
 - **MP of Laamu Fonadhoo constituency Abdul Raheem** who had obstructed the Majlis National Security Committee on the issue of Abdulla Mohamed on 2 Feb 2012 and spoken both at the protests and on VTV that night (early morning of 3 Feb 2012) declaring that he would ensure that "Velezinee Story" will never be heard.
 - Former Judicial Service Commission Member under Constitution Article 158(e) **MP Dr. Afraashim Ali**. It is also noted that Majlis removed Dr. Afraashim Ali from JSC in 2011 declaring that he had committed unconstitutional acts in JSC¹. However, no inquiry into the said acts were conducted; nor was the Speaker Abdulla Shahid who sat in JSC all along held accountable.
 - **MP Ahmed Mahloof**, member of Independent Commissions Oversight Committee responsible for checking Art 285 was involved too. He also was amongst those MPs, and politicians who went on TV following Hijack of Judiciary to misinform and mislead Public, and cover-up for JSC².
 - It is also noted that **PPM Deputy Leader Umar Naseer** a lead figure seen in events leading to 7 February 2012 was involved in defending JSC, despite all proceedings in JSC being closed and no one having had access to records. And an Inquiry on Article 285/JSC pending in Majlis.

¹ <http://minivannews.com/politics/decision-to-remove-dr-afraashim-from-jsc-a-victory-for-all-reformists-says-velezinee-21359>

² MP Ahmed Mahloof 's shame <http://www.youtube.com/watch?v=YjBD1KVBPTg&feature=relmfu>

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5. The “Hijack of Judiciary³” is linked, and is part of the conspiracy that led to the 7 Feb 2012 coup d'état. Those MPs seen to be leading events of 6 and 7 February 2012 have refused to hold an Inquiry into JSC and Article 285 despite the Majlis Independent Commissions Committee noting in its' meeting with the JSC on 2 August 2010 that it was a serious matter, and that it would hold an Inquiry; and despite the fact that the **Anti Corruption Commission had also written to the Majlis Independent Commissions Committee on 9 September 2010**, over a month after the Judges' Oath ceremony of 4 August 2010, providing information the ACC had collected “as Majlis is holding Inquiry”.
6. The International Commission of Jurists (ICJ) team who visited the Maldives in 2010 following the controversy of Article 285 and JSC found both procedural and substantive issues with JSC's treatment of Article 285⁴.
7. No State body or other outside Institution checked JSC and Article 285 except for the ICJ⁵, and ICJ's fact finding was not a full assessment of the events in JSC.
8. The Human Rights Committee's concluding observations and recommendations in its' July 2012 sitting substantiate the case of JSC and Article 285 as a matter for Inquiry and redress⁶.

³ Oath Ceremony 4 Aug 2010. Video (8:40min) with English subtitles: Appeal to judges to NOT join in JSC's high treason. <http://www.youtube.com/watch?v=HDiTN72684s&feature=relmfu>

⁴ ICJ Report :Maldives: Securing an Independent Judiciary in a time of Transition
http://www2.ohchr.org/english/bodies/hrc/docs/ngo/ICJ_Maldives_HRC102.pdf

⁵ Notes on JSC and Article 285 provided to the ICJ in September 2010 is provided in Annex 2. It lists the responses and actions of State Institutions and Civil Society Organisations related to Article 285.

⁶ Human Rights Committee, Concluding Observations on the Maldives (Geneva, July 2012)
http://www.google.mv/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CFAQFjAB&url=http%3A%2F%2Fwww2.ohchr.org%2Fenglish%2Fbodies%2Fhrc%2Fdocs%2Fco%2FCPCR.C.MDV.CO.1_AV.doc&ei=srYgUNqgHa6aiAevp_oH4Cg&usq=AFQjCNFuAKR2Z-UO3dumwiuo5p-asbG0ew

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Timeline of Significant Events related to Article 285 in JSC; links to events Majlis

Date	FACTS	Comments
Oct 2009	<ul style="list-style-type: none"> ▪ A Sub Committee comprising of 3 judges in the JSC formed to draw up Indicators and Rules for Assessment of Judges under Article 285. Sub-committee was chaired by Chair of JSC High Court Chief Justice Abdul Ghani Mohamed⁷. ▪ Committee met twice and agreed to table a Draft in the Commission on 7 November 2009⁸. ▪ Comprehensive draft developed by the Secretariat but never tabled in the Commission as the Sub Committee could not meet quorum to approve draft despite a number of calls. Supreme Court Justice Mujthaz Fahmy⁹ and Criminal Court Judge Abdulla Didi representing the Lower Courts failed to attend. ▪ Justice Mujthaz Fahmy's records¹⁰ show a clear conflict of interest. 	<ul style="list-style-type: none"> ▪ The matter of Article 285 remained outside Commission agenda though Commission continued to meet regularly and engage in mostly administrative issues and Secretariat business outside of the Commissions substantive work. Neither was work carried out to adopt House Rules and other regulations legally required to be adopted within 6 months of JSC appointment.
21 Jan 2010	<p>High Court Mutiny¹¹. Three of the 5 High Court Justices colluded against High Court Chief Judge Abdul Ghani Mohamed and published a Public Decree¹² removing</p>	<ul style="list-style-type: none"> ▪ Vice Chair Supreme Court Justice Mujthaz Fahmy takes Chair and refuse to hold elections. Elections for Chair was finally held on 11 March 2010, on which day Mujthaz Fahmy

⁷ Audio records of October 2009 Sub-Committee meetings (Available with JSC)

⁸ Draft by first **Sub Committee** was never tabled in the Commission.

<http://velezinee.aishath.com/content/initial-draft-article-285-lost-after-judge-abdulla-ghanis-removal-jsc>

⁹ Supreme Court Justice Mujthaz Fahmy disagreed with checking the educational qualifications of Judges or criminal records from before 2008 and was against acting upon Article 285. There was conflict of interest as both Justice Mujthaz Fahmy and Judge Abdulla Didi have negligible formal education, and Justice Mujthaz Fahmy's legal education consisted of a 6-month Certificate in Sentencing. In addition, Justice Mujthaz Fahmy had a criminal record where the Anti Corruption Board had found him guilty of embezzling State funds in 1998, claiming undue overtime.

¹⁰ <http://velezinee.aishath.com/sites/default/files/Mujuthaaz%20Fahmy%20CV%20+%20Criminal%20Records.pdf>

¹¹ Audio recording of 21 January 2010 and the following weeks available from JSC. More info on:

<http://velezinee.aishath.com/content/mutiny-high-court-and-jsc-high-court-resolution-21-january-2010>;

¹²

http://velezinee.aishath.com/sites/default/files/High%20Court%20Resolution%20of%2021%20January%202010.%20Discussions%20in%20JSC_0.pdf

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	JSC Chair Abdul Ghani Mohamed from membership in the Commission ¹³ .	got elected Chair and refused to hold elections for Vice Chair following his appointment as Chair ¹⁴ .
18 Feb 2010	A second Committee, this time led by Civil Service Commission Chair Dr. Mohamed Latheef and including 2 judges in the JSC and 2 judges recommended by the Chair, Supreme Court Justice Mujthaz Fahmy, formed to recommend Indicators to assess judges under Article 285.	<ul style="list-style-type: none"> ▪ The work of the 1st Sub Committee completed in October 2009 disregarded. ▪ At the same time, Majlis amended Civil Service Commission (CSC) Act; CSC would henceforth be solely decided and appointed by Majlis. Previously, the CSC was recommended by the President to Majlis for review and endorsement¹⁵.
23 Feb 2010	Dr. Latheef presents Report of Sub Committee to the Commission. Commission <i>votes to accept report for discussion</i> . ¹⁶	<ul style="list-style-type: none"> ▪ Information shared with Majlis on JSC's irregularities. Majlis requested to hold JSC accountable, ensure proper internal governance and fulfillment of Article 285.
1 May 2010	JSC corruption and manipulation exposed in blog ¹⁷ . JSC kept stalling work on Art.285	The matter of Article 285 remained outside Commission until May. Reason given for not tabling for discussion was "Dr. Latheef is out of town, and he must be present as he chaired Sub Committee"
6, 9, 11 May 2010	JSC adopts report of Sub Committee as the standard for reappointment.	<ul style="list-style-type: none"> ▪ Due procedure not followed¹⁸. ▪ Chair began meeting declaring the standards had already been adopted and there was no need for further

¹³ Following the High Court declaration, JSC decided unanimously to investigate 4 High Court Judges – 3 involved in issuing public statement and 1 the subject of the statement - for misconduct; and an Investigating Committee was appointed. However the Committee did not function and the case remained uninvestigated whilst those participating in the High Court Mutiny got rewarded and then Chief Judge Abdul Ghani Mohamed got demoted in the months that followed.

<http://velezinee.aishath.com/sites/default/files/Motion%20to%20Investigate%20High%20Court%20Resolution,%20%200%2028-01-10.pdf>

¹⁴ Full Audio 11 March 2010 JSC elections <http://www.youtube.com/watch?v=nG9x0Zgivr&feature=plcp>

¹⁵ **A guaranteed seat on CSC Dr.Latheef's reward for his work in JSC?** Dr. Latheef is a former Minister of Gayoom whose major concern at the time was re-appointment to CSC.

¹⁶ At the sitting of 23 Feb 2010, JSC Member under **Constitution Article 158(e) MP Dr. Afraashim Ali declared Article 285 is SYMBOLIC**. High Court Judge Adam Mohamed Abdulla explained that though Velezinee is right in her reading of Article 285, a delegation of judges led by Justice Mujthaz Fahmy had met senior leaders of the Government at the time of Constitution drafting and they had agreed that **no judge would be removed despite Article 285**. It is said that the judges had met with the then Chair of the Constitutional Assembly, and Finance Minister, MP Qasim Ibrahim. Full Audio of 23 Feb 2010

http://www.youtube.com/watch?v=yynn_cVr6S5Q&feature=plcp

¹⁷ www.velezinee.wordpress.com

¹⁸ Full Audio records of 6, 9, and 11 May 2010. <http://www.youtube.com/watch?v=Swmms6VnJzg&feature=relmfu>; <http://www.youtube.com/watch?v=-YZwMZ8Z1FI&feature=relmfu>; <http://www.youtube.com/watch?v=e5PhmUbO-FY&feature=relmfu>

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		<p>discussion.</p> <ul style="list-style-type: none"> ▪ No room provided for discussion in Commission. ▪ Recommendations and proposed amendment provided in writing not brought to Commission. ▪ No voting on adopting standards.
12 May 2010	JSC's corruption, Constitution breach, and failure to fulfill Article 285; and Majlis Committee's failure to hold JSC accountable reported to the Anti Corruption Commission, and an investigation was requested, by JSC member appointed under Constitution Article 158 (f) Sheikh Shuaib Abdul Rahman and JSC member under Article 158(h) Aishath Velezinee in a formal meeting with the ACC. Three of the then 4 members in ACC were present.	Majlis recess/ suspended?
25 May 2010	JSC publish the report of Sub Committee II as the standard for judges reappointment under Article 285.	Commission members not given opportunity to discuss or decide standards.
8 June 2010	Serious complaint against JSC sent to Majlis Independent Commissions Committee alleging gross misconduct for personal gain, constitution breach, lodged with Majlis by JSC member under Article 158(h) Aishath Velezinee when Majlis reconvened.	Majlis collect audio and documents from JSC.
July 2010	Interim Supreme Court declares itself permanent ¹⁹ .	A Silent Coup? Majlis failure to adopt Judges Act and Judicature Act was delaying Supreme Court nominations as numbers on bench was to be decided.
23 July 2010	<ul style="list-style-type: none"> ▪ Majlis Independent Commissions Committee to meet JSC at 1pm. ▪ About an hour before JSC was to meet with Majlis Committee, Speaker suspends Majlis citing "floor heating up" as reason. ▪ Majlis cancels summons to JSC 	A number of summons were made and cancelled by the Majlis Independent Commissions Committee between July and December 2010. No Inquiry was held. In December 2010 Majlis attempted further deviation by beginning an Inquiry into JSC members attendance and participation in

¹⁹ Letter of Interim Supreme Court declaring themselves permanent would be available in Supreme Court and President's Office.

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	following suspension of Majlis, noting all Committees suspended too.	meetings. The substance of the complaint, nullification of Article 285, was never addressed.
26 July 2010	JSC sends out SMS calls at about 5pm for a JSC meeting at 10am, 27 July 2010, to “reappoint judges under Article 285”.	Independence Day Chair of Majlis Independent Commissions Committee MP Mohamed Mujuthaaz informed via telephone and asked to intervene. Documents emailed same evening, 26 July 2010.
27 July 2010	<ul style="list-style-type: none"> ▪ JSC meets to “reappoint judges under Article 285”²⁰ ▪ Maldives Police Service informed of unlawful activities in JSC; Constitution breach and acts against the State. ▪ Public protests against JSC and appointment of substandard bench including some with criminal records. ▪ JSC agrees to review misconduct, decide Good Character; announce 32 named removed from the approved list for having criminal records. Amongst the 32 names removed was Criminal Court Abdulla Mohamed. 	<ul style="list-style-type: none"> ▪ Majlis remain suspended. ▪ Chair of Independent Commissions Committee did not respond to telephone calls or text messages after the initial call the evening before. ▪ Speaker who had been absent for most of the year actively engaged in approving all judges despite complaints pending in Majlis and ACC. ▪ President at a military function outside Male’ and could not be reached. ▪ Maldives Police Services was informed of what was going on in JSC, and warned that the Constitution would be killed if the JSC got away with what they were sitting doing at the time. No senior officer available at Maldives Police Service to hear complaints; stop JSC’s unconstitutional appointment of judges due to long hours on Independence Day and the fact 27th was a public holiday.
28 July 2010	JSC declares Abdulla Mohamed fit to remain on bench ²¹	JSC member appointed under Constitution Article 158 (f) Sheikh Shuaib Abdul Rahman walk out of Commission meeting in protest and announces on media that Abdulla Mohamed do not meet the Good Character required of a judge in Islamic Sharia’ and condemns JSC’s corruption.

²⁰ Media reports. Documentation, recordings in JSC.

JSC published the 32 names removed for having a criminal record and later removed it from their website. The list included Criminal Court Abdulla Mohamed.

²¹ Media reports of 28 July 2010. Sheikh Shuaib Abdul Rahman’s interview on MNBC.

Six judges were removed as token removals. Immediately after, when JSC reconvened MP Dr. Afraashim Ali began work to reinstate them back and some of the 6 removed for having criminal records were reappointed back to bench later. JSC Audio Recordings; documentation; letters from 6 removed judges all suspiciously similar.

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2 Aug 2010	JSC summoned to Majlis Independent Commissions Committee regarding complaints on Article 285.	JSC Secretary General confirms JSC tapes were edited before submission to Majlis; resigns.
3 Aug 2010	JSC adopts a “legal reasoning” to justify its’ action on Article 285. JSC holds a press conference announce judges re-appointment would be “soon”; fabricates stories and engages in malicious and defamatory talk to mislead public on events in JSC and create hatred.	Members Sheikh Shuaib Abdul Rahman and Aishath Velezinee not informed of agenda item to adopt “Reasoning” or decision to hold a press conference; and were excluded. Press Conference, lies and fabrications to mislead public and hate speech to discredit dissenting member reported to Maldives Police Services. Not investigated to date.
4 Aug 2010	Judges controversial Oath ²² http://www.youtube.com/watch?v=HDiT N72684s&feature=plcp (8:40 mins)	Urgent Request to Speaker for an “Injunction Order” to stop Oath until Majlis complete Inquiry made. Ignored by Majlis. http://velezinee.aishath.com/content/urgent-request-speaker-parliament-injunction-order Following 4 Aug 2010 Oath, the Majlis Secretariat responded to a question by Media on Article 285 Inquiry saying, “The Legal Counsel is studying Article 285” as reason for “delay” in Inquiry. The Inquiry never took place, and the said Legal Counsel, Dr. Abdulla Didi, was rewarded with a seat on the Supreme Court bench despite NOT fulfilling criteria. In fact, a superficial “amendment” was brought to the Judges Act, hours after it was adopted, to cover up the fact that Dr. Abdulla Didi do NOT qualify.
7 Aug 2010	Supreme Court “suspended” at end of Constitution-prescribed interim period.	<ul style="list-style-type: none"> ▪ Judges Act and Judicature Act pending, stalled, in Majlis. ▪ Number of Supreme Court bench not decided. ▪ Nomination for Chief Justice had been forwarded to Majlis by President (in discussion with JSC) for approval by Majlis. ▪ Majlis refuse to agenda and appoint Chief Justice, insisting full bench will be decided, yet not adopting necessary legislation.

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10 Aug 2010	First Supreme Court appointed.	Question as to whether JSC existed as a legal body at the time. Only 6 of the 10-member body remained following changes at end on Interim period; and there were no Office-bearers as JSC Chair who was controlling the Commission without permitting the appointment of a Vice Chair had lost seat. In fact, NOT the JSC, but 6 persons who were members of JSC at the time met President and proposed personal contacts for Supreme Court without proper checking, vetting or voting by JSC. No procedure existed as to how President seeks recommendation of JSC, or how JSC provides it.
31 Aug 2010	JSC reconvenes with new members.	
Sept 2010 – Feb 2011	Work on High Court ²³ appointments. Case filed against JSC in ACC by JSC member accusing JSC of manipulating and handpicking pre-determined applicants as reward for favours/ politics. Case filed against JSC in Civil Court by a Criminal Court judge. JSC fabricated documents to mislead Supreme Court; committed perjury ²⁴ .	Corruption case filed with Anti Corruption Commission. Investigation stopped by ACC following Supreme Court entry. Supreme Court lifted case filed by a Judge in Civil Court and dismissed the case. JSC proceeded with another secret oath without providing opportunity for re-appeal.

²³ All the Resolutions JSC adopted in relation to High Court appointments.

<http://velezinee.aishath.com/content/%DE%80%DE%A6%DE%87%DE%A8%DE%86%DE%AF%DE%93%DE%A6%DE%81%DE%B0-%DE%8A%DE%A6%DE%82%DE%91%DE%A8%DE%94%DE%A7%DE%83%DE%AA%DE%82%DE%B0-%DE%87%DE%A6%DE%87%DE%B0%DE%94%DE%A6%DE%82%DE%AA%DE%86%DE%AA%DE%83%DE%AA%DE%89%DE%A7%DE%8E%DE%AA%DE%85%DE%AD%DE%8E%DE%AE%DE%8C%DE%AA%DE%82%DE%B0-%DE%96%DE%AA%DE%91%DE%A8%DE%9D%DE%A6%DE%8D%DE%B0-%DE%90%DE%A6%DE%83%DE%88%DE%A8%DE%90%DE%B0-%DE%86%DE%AE%DE%89%DE%A8%DE%9D%DE%A6%DE%82%DE%AA%DE%82%DE%B0-%DE%82%DE%A8%DE%82%DE%B0%DE%89%DE%A6%DE%88%DE%A7%DE%8A%DE%A6%DE%87%DE%A8%DE%88%DE%A7-%DE%80>

²⁴ Transcript (Dhivehi) of JSC's phone calls where Vice Chair MP Dr. Afraashim Ali calls members and discuss drawing up Resolutions in the name of JSC without due procedure, in preparation for case in Supreme Court.

<http://velezinee.aishath.com/content/%DE%91%DE%83-%DE%87%DE%A6%DE%8A%DE%B0%DE%83%DE%A7%DE%9D%DE%A9%DE%89%DE%B0-%DE%A2%DE%A6%DE%8D%DE%A9-%DE%87%DE%A7%DE%87%DE%A8-%DE%87%DE%AC%DE%87%DE%B0%DE%86%DE%A6%DE%8D%DE%A6-%DE%86%DE%A6%DE%89%DE%A8%DE%9D%DE%A6%DE%82%DE%AA%DE%8E%DE%AC-%DE%84%DE%AE%DE%91%DE%AA-%DE%8A%DE%AF%DE%82%DE%AA>

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	Supreme Court ignored evidence of perjury (Audio tapes, and doctored papers) submitted by JSC member; and also forwarded by the Maldives Police Services to Supreme Court after case was reported ²⁵ .	
9 Sept 2010	ACC forwarded the case of JSC and Article 285 to Majlis ²⁶	NOT INVESTIGATED TO DATE
25 Nov 2010	Judicial Service Commission member issue a Press Release declaring the Judicial Service Commission is involved in a Silent Coup against State and Constitution.	Media blank.
Dec 2010	Majlis amends Judges Act, rewards Interim Supreme Court Justice and JSC Chair at time of “Hijack of Judiciary” Mujuthaz Fahmy with hefty pension²⁷.	
3 Jan 2011	<ul style="list-style-type: none"> ▪ High Court appointments scheduled for 2.30pm. ▪ JSC member Aishath Velezinee stabbed around 10am²⁸. ▪ 	
13 Jan 2011	<ul style="list-style-type: none"> ▪ Case filed at Maldives Police Service against 6 JSC members accused of High Treason, Conspiracy against State; Hijack of Judiciary. 	Not investigated to date. A complaint was filed with the Police Integrity Commission on 27 January 2012 requesting investigation of Maldives Police Services failure to investigate.
17 Jan 2011	<ul style="list-style-type: none"> ▪ JSC attempts to silence Velezinee ▪ JSC adopts Resolution forming an Investigation Committee including STAFF to investigate Commission Member Velezinee. 	Two weeks after stabbing JSC discuss silencing Velezinee, declare “she is dangerous” (MP Dr. Afrashim Ali); “a threat to our future” (High Court Judge Abdul Ghani Mohamed) ²⁹ .

²⁵ Phone recording. JSC forging documents to mislead Supreme Court

<http://www.youtube.com/watch?v=Po9reTOBaV0&feature=relmfu>

<http://www.youtube.com/watch?v=YW2KtGf-NoU&feature=related>

²⁶ Letter from ACC to Majlis must be available.

²⁷ Judges Act amended to reward Mujuthaaz Fahmy? <http://velezinee.aishath.com/content/operation-control-judiciary-speaker-s-dues-justice-mujuthaaz-fahmy-be-paid-state-decides-par>

²⁸ Timeline of events leading up to the 3 Jan 2011 stabbing provided to Maldives Police Services in January 2011.

<http://velezinee.aishath.com/content/timeline-activities-leading-3-jan-2011-stabbing;>

<http://velezinee.aishath.com/sites/default/files/Timeline%20of%20Activities;%20Nov%202010-Jan2011.pdf>

Media Report: <http://minivannews.com/society/if-i-keep-silent-i-have-become-a-traitor-velezinee-vows-to-continue-campaign-against-silent-coup-14963>

²⁹ Audio of 17 Jan 2011 JSC meeting.

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Nov 2011	<ul style="list-style-type: none"> ▪ JSC decides Abdulla Mohamed of the Criminal Court breached Good Conduct, not fit to be on bench³⁰. ▪ JSC refuse to decide on action, provides opportunity for Abdulla Mohamed to respond. ▪ Abdulla Mohamed files case against JSC in Civil Court. 	<p>Records of Abdulla Mohamed's investigation (audio) show Abdulla Mohamed raging at JSC declaring JSC has no power to investigate him.</p> <p>Investigating Committee looking into allegations against Abdulla Mohamed had requested Commission intervention due to non-cooperation by Abdulla Mohamed but JSC Chair refused to agenda the matter providing for impunity of Abdulla Mohamed.</p>
16 Jan 2012	<ul style="list-style-type: none"> ▪ Abdulla Mohamed "removed" by President Nasheed. 	
17 Jan 2012	<ul style="list-style-type: none"> ▪ Then Opposition (current Gov) begin nightly protests calling to free "Top Judge Abdulla"³¹ 	
7 Feb 2012	<ul style="list-style-type: none"> ▪ President Nasheed forced to resign. Unconstitutional activity - "Abduction of Judge Abla" - the major issue as declared by various politicians involved in the coup. 	
July 2012	<ul style="list-style-type: none"> ▪ Civil Court ruled JSC cannot take action against Abdulla Mohamed. 	Judges above check, JSC defunct?

Other Related Issues

1. Politics of the Courts, and politicized decisions of Courts, especially Abdulla Mohamed and Criminal Court, widely reported in media 2010-12
2. A number of corruption cases against Supreme Court judges in Anti Corruption Commission remain unchecked.
3. Auditor General Naeem's impeachment by Majlis came within days of him entering JSC for audit, inquired of illegal and unregulated self-payments taken by JSC members, and asked to end such practices.

³⁰ JSC records. Investigation tapes.

³¹ MPs involved included

- Current Chair of the Majlis Independent Commissions Committee **MP Mohamed (Kutti) Nasheed**,
- Judicial Service Commission Member under Constitution Article 158(e) **MP Qasim Ibrahim**,
- **MP of Laamu Fonadhoo constituency Abdul Raheem** who had obstructed the Majlis National Security Committee on the issue of Abdulla Mohamed on 2 Feb 2012 and spoken both at the protests and on VTV that night (early morning of 3 Feb 2012) declaring that he would ensure that "Velezinee Story" will never be heard.
- MPs with pending criminal cases and allegation of serious crime **Yameen Abdul Gayoom**

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4. JSC used funds unlawfully to reward members who joined in Conspiracy. Majlis provided cover.
5. **Majlis usurped powers of JSC and decided Abdulla Mohamed Chief of Criminal Court by Law despite the fact that the Constitution grants only JSC the power to appoint judges. Lawyers and Judges remained silent, JSC refused to agenda matter.**

ANNEX 1: Note on Abdulla Mohamed aka “Judge Abdulla”, JSC and Majlis

1. Records show **Abdulla Mohamed already had a criminal conviction even before he was first appointed a judge³² during President Gayoom’s time**. He was an Islam Teacher before.
2. At the time I joined the JSC in April 2009, there already were a number of misconduct allegations against Abdulla Mohamed pending without Inquiry³³.
3. In July 2009, Cabinet decided the matter of Abdulla Mohamed needed Inquiry, alleging he was obstructing Maldives Police Service inquiry into corruption of members of the former Government now MPs.
4. Following the Cabinet decision, the President’s Office forwarded the complaint to the JSC.
5. JSC reacted to the announcement of the said Cabinet decision in media by calling an Emergency Sitting, the first till then. Members found a 3 page draft Public Statement praising and defending Abdulla Mohamed, chastising President Nasheed, criticizing President Nasheed’s “ignorance of the Law” and condemning “interference in the Judiciary”. Members were called in to legitimise the drafted statement³⁴.
6. At that meeting, rejecting the referred statement, it was agreed that the complaints would be looked into. Citing urgency it was decided Justice Mujthaz Fahmy of Interim Supreme Court would study, and he recommended none of the complaints can be looked into.
7. One of the complaints was from 2005, forwarded by the then Attorney General Dr. Hassan Saeed³⁵ where it was said Abdulla Mohamed president over a case of child sexual abuse had ordered the victim to show the Court what was done to her. Mujthaz Fahmy argued JSC had adopted a Resolution in December 2008 declaring that no act from before ratification of Constitution can be considered or investigated by JSC, a Resolution that goes against the Objective of JSC, and contravenes Constitution Article 285 which required all judges appointed before adoption of Constitution to be checked.
8. After much argument, in the last sitting of the Interim Commission it was agreed that the 2005 complaint would be investigated. No Inquiry Committee was appointed.

³² Information available to JSC show there was no transparent process of selection and appointment of judges prior to Constitution 2008. Selection process and standards varied and corresponding calls for vacancies did not exist in case of some appointments. Most common was to handpick people as judges, similar to the practice for senior positions in public service. Judges were public servants and could be appointed and dismissed by the Justice Minister/President. A perfunctory JSC was introduced by Gayoom during the time of Constitution-drafting, saying it was to introduce Democracy but it’s role was only to vet names forwarded by the Justice Minister. **The Justice Minister at the time Dr. Mohamed Jameel Ahmed is Home Minister of Dr. Waheed’s government.**

³³ JSC was not following the Constitution or JSC Act, instead continuing old practice with the JSC Chair now acting in the role of the former Justice Minister deciding matters by himself. Complaints were dismissed without check, and often complainants/ public were reprimanded for their complaints. There existed no Rules of Procedure. The matter was raised in Civil Court (2010) Ali Hussain/Treasure Island Enterprises Pvt. Ltd. Vs Judicial Service Commission. Civil Court dismissed the case as has been the practice in cases where JSC faced action.

³⁴ It was later confirmed by the then Vice Chair of JSC, Abdulla Didi that the draft was prepared by Abdulla Mohamed himself! The Vice Chair Abdulla Didi was presiding at the time refusing elections to appoint a Chair as “the interim period is nearing end”. Abdulla Didi is a judge in Criminal Court where Abdulla Mohamed is Chief.

³⁵ Dr. Hassan Saeed is now Advisor to President, Dr. Waheed.

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9. The decision of the Interim Commission was not implemented, and the matter was not included in agenda of the Commission despite reminders, until more complaints against Abdulla Mohamed brought the case up again.
10. In December 2009 Abdulla Mohamed's name came up in the media again following his appearance on DhiTV where he declared it "not Court business to prop up a falling Government" and expressed hatred of President Nasheed and Government. An Urgent Motion to decide on this issue was pushed aside by Chair deciding instead to appoint an Inquiry Committee on alleged misconducts of Abdulla Mohamed.
11. Abdulla Mohamed acted with impunity speaking on media against JSC/ member Velezinee. JSC remained silent.
12. The December 2009 decision was again kept aside without appointing an Inquiry Committee.
13. Abdulla Mohamed's issue was once again raised when Abdulla Mohamed acted against procedure in response to the arrest of MP Abdulla Yameen Abdul Gayoom. JSC refused to act.
14. In February 2011 Abdulla Mohamed released an alleged murderer "to teach the Health Minister a lesson", and in 24 hrs the released committed a second murder³⁶. JSC remained silent³⁷.
- 15. On 17 November 2011, JSC majority decided Abdulla Mohamed guilty of misconduct³⁸ on one of the many cases pending.**
16. On 20 November 2011, former President Gayoom's PPM announces they were going to hold "protests to protect the judiciary"³⁹
On 28 November 2011, Civil Court ordered JSC to halt misconduct cases against Abdulla Mohamed⁴⁰.
On 5 December 2011, MDP Chairperson Reeko Moosa Manik met Abdulla Mohamed, asked to expedite criminal case against Majlis Deputy Speaker⁴¹.
On 26 December 2011 Abdulla Mohamed announces decision to sue MDP MP⁴².
17. On 16 January 2012 Maldives Police Service summoned Abdulla Mohamed. Abdulla Mohamed refused to appear; and instead petitioned⁴³ High Court to cancel Police Order.

³⁶ <http://minivannews.com/society/court-releases-murder-suspect-citing-lack-of-cooperation-from-health-ministry-16225>; <http://minivannews.com/news-in-brief/murder-suspect-at-large-17367>; <http://minivannews.com/society/two-dangerous-criminals-to-be-set-free-if-police-witnesses-fail-to-appear-in-court-warns-judge-24682>; <http://minivannews.com/politics/criminal-court-rules-gassan-arrest-unlawful-27411>; <http://minivannews.com/politics/police-considering-legality-of-300-arrests-in-wake-of-criminal-courts-release-of-gassan-27470>;

³⁷ Majlis response was an MDP MP submitting an Urgent Motion to decide on activating the Death Penalty at it's first sitting after recess, 8 March 2011. A letter bringing the issue of Abdulla Mohamed to the attention of MPs and requesting attention to the real issue – JSC and corruption of Judiciary was sent to Majlis by JSC member Aishath Velezinee the same day. <http://www.velezinee.aishath.com/content/jsc-fully-responsible-rise-serious-crime-open-letter-mps-detail-speaker-abdulla-shahid-and-m>

³⁸ <http://minivannews.com/politics/jsc-completes-report-on-misconduct-of-chief-judge-of-the-criminal-court-28339>

³⁹ <http://minivannews.com/politics/ppm-to-protest-for-protection-of-judiciary-28404>

⁴⁰ <http://minivannews.com/society/civil-court-orders-jsc-to-halt-misconduct-case-against-chief-criminal-court-judge-abdulla-mohamed-28766>

⁴¹ <http://minivannews.com/politics/reeko-moosa-calls-on-criminal-court-to-expedite-corruption-cases-29045>

⁴² <http://minivannews.com/politics/chief-judge-of-the-criminal-court-to-sue-mdp-mp-29922>

⁴³ <http://minivannews.com/politics/police-summon-chief-criminal-court-judge-abdulla-mohamed-for-questioning-30830>

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18. On the evening of 16 January 2012, Abdulla Mohamed is “removed” by MNDF, taken to Girifushi.
19. On 17 Jan 2012 protests to “free “Judge Ablo”” led by PPM and other Opposition leaders began, culminating in the 7 February 2012 removal of President Mohamed Nasheed.
20. On 23 Jan 2012 a “group of lawyers” forward what they called the case of “abduction of Judge Abdulla Mohamed” to International Criminal Court⁴⁴. The group of lawyers included Dr. Waheed’s Attorney General Aishath Azima Shakoor and Minister of Human Rights and Gender Dhiyana Saeed, and the President of the (then defunct) Law Society of Maldives⁴⁵.
- 21. On 2 February 2012 Majlis National Security Committee summoned JSC Chair Adam Mohamed Abdulla and former JSC members MP Dr. Afraashim Ali and Aishath Velezinee. MP Dr. Afraashim Ali refused to appear. PPM MP Abdul Raheem, together with QP MP Riyaz Rasheed, PA MP Ahmed Saleem and PPM MP Ilham would not permit Velezinee finally causing the Committee to close.**
- 22. From Committee PPM MP Abdul Raheem first went to speak at protests and then live on VTV; and in both instances his speech focused on “That Velezinee” and he was assuring that he would make sure she never got to tell the story she carries. He then made derogatory and defamatory comments on Velezinee.**
23. On **7 February 2012**, immediately after the forced resignation of President Nasheed, BEFORE Dr. Waheed was sworn in, Abdulla Mohamed was brought to Male’ from Girifushi where he was kept. Who gave the Order is unknown⁴⁶. Abdulla Mohamed’s “welcome ceremony” (telecast live) was led by former JSC member PPM MP Dr. Afraashim Ali who declared Abdulla Mohamed “holy” as “the call for prayers came with his feet touching Male’”!
24. That JSC Chair(s) covered up Abdulla Mohamed’s impunity is evident in the fact that
 - JSC stalled repeatedly refusing to set up Inquiry Committee even after Commission decided by consensus to investigate Abdulla Mohamed, July 2009.
 - Agreed to set up Committee only to prevent tabling of Urgent Motion to remove Abdulla Mohamed following his acts of Impunity becoming a public threat, and causing loss of confidence in Judiciary.
 - Did NOT follow JSC ACT in investigating allegations against Abdulla Mohamed; refused to table a report on status of ongoing Inquiry every 30 days as required by JSC Act; and refused to table the matter of Abdulla Mohamed’s non-cooperation the Inquiry Committee forwarded to the Commission.
 - Acted differently to previous cases against Judges Hilmy and Naeem, and refused action even after a JSC majority decision found Abdulla Mohamed unfit, November 2011.
25. JSC got away with High Treason with Majlis (influential MPs) covering up for JSC, and facilitating JSC’s impunity and conspiracy against Constitution/State. Those same MPs led the protests to “Free Judge Abdulla”; and are seen to be the powers behind the events of 7

⁴⁴ <http://minivannews.com/politics/lawyers-forward-chief-judges-case-to-international-criminal-court-31113>

⁴⁵ All three lawyers are fully aware of JSCs breach and questions against JSC.

⁴⁶ It was reported that MP Qasim Ibrahim’s Villa launches were involved in the operation with MNDF on that day.

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February 2012. Chair of Majlis Independent Commissions Oversight Committee **MP Mohamed Nasheed**, JSC Member **MP Qasim Ibrahim**, former JSC Member MP **Dr. Afraashim Ali** and other MPs – MP **Abdulla Yameen Abdul Gayoom**, **MP AbdulRaheem**, **MP Riyaz Rasheed** - who have been publicly accused of being part of Conspiracy to Hijack Judiciary, bring down Constitution were seen to be involved⁴⁷.

⁴⁷ Videos of MPs with Duty to check JSC out covering up JSC, misleading public on Abdulla Mohamed, corruption of Judiciary.

<http://www.youtube.com/watch?v=T4OhcXju0FM&feature=plcp> ...
<http://www.youtube.com/user/DhiTVNews/videos?sort=da&view=0&page=27> ...
<http://www.youtube.com/user/DhiTVNews/videos?sort=da&view=0&page=26> ...
<http://www.youtube.com/user/DhiTVNews/videos?sort=da&view=0&page=25> ...
<http://www.youtube.com/user/DhiTVNews/videos?sort=da&view=0&page=24> ...
<http://www.youtube.com/watch?v=kjubeGxQBI4&feature=plcp> ...
<http://www.youtube.com/watch?v=uLpFeMwh8Xk&feature=plcp> ...
<http://www.youtube.com/watch?v=0KZjs4rVeHE&feature=plcp> ...

ANNEX 2: Transcript of Appeal to Judges NOT to join in unlawful Oath, 4 Aug 2010
<http://www.youtube.com/watch?v=HDiTN72684s&feature=plcp>-----

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 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 Afraashim 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.

[Interaction with police]

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 [maslahath]. Please, please stop. [on 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 Afraashim 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 Afraashim here say? It is a 'Symbolic Article'. You are people of the Law, 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 people of the Law, 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 has he not the slightest respect for the *Raeesul Dhaula*(Head of State) 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.

Isn't this being done for the country? [someone else]

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

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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!

Under Article 285 of the Constitution, judges meeting the required standards...

This is being done against the Constitution. No standards have been set by the Judicial Service Commission according to the Constitution!

This is Unconstitutional.

This is Unconstitutional.

This is Unconstitutional.

ANNEX 3: A Note on JSC and Article 285 provided to the ICJ, September 2010

Article 285

The Judicial Service Commission, **acted with impunity**, and effectively **nullified Article 285** of the Constitution by its' failure to fulfill Duties and Obligations as directed by **Article 17 of the Judicial Service Commission Act (2008)**.

1. IMPUNITY

a. Judicial Service Commission

*The JSC ignored concerns raised by **the President** in a letter to JSC dated 27 May 2010 and in the President's Weekly Radio Address to the Nation of Friday, 28 May 2010; or to a **Public Petition of 1562 verified signatures**, submitted by CSO **Democracy Network (DN)** jointly with 12 CSOs calling for a review of the standards JSC adopted, particularly that of Good Conduct and Educational Qualifications); letters from the Mr. Ibrahim Ismail (former MP) as the **Chairperson of the Constitution Drafting Committee** (2008) alerting JSC to the Purpose and Object of Article 285 and urging to fulfill this duty in respect of and in the full spirit of the Constitution; the calls made by **lawyers** on Media discussions. Neither, did JSC respond to the repeated inquiries of DN for a response.*

The Commission Members were not notified of receiving any of these communications until the matter was heard on media or outside and raised repeatedly in meetings. Even then, none of the concerns were brought to the table for a discussion until AFTER the matter was decided.

b. The People's Majlis/ Independent Institutions Committee

*Communications were made to **People's Majlis/ relevant Committees** in **February 2010** reporting irregularities in JSC that compromised its' integrity, the same reports having been made to the President. There was no response, and in May 2010, whilst the Majlis was in recess, JSC finalized the standards by Majority, without due procedure, and, in my opinion based upon events and deliberations in JSC, with absolute disregard to the Purpose and Object of Article 285.*

*A **Serious Complaint against JSC, alleging Gross Misconduct for personal gain and Breach of Trust** in fulfilling Duties and Obligations under Article 285, as well as institutional practices that contravene the Constitution in letter as well as spirit, was submitted, together with documentation, to the **Independent Institutions Committee** on **8 June 2010**, when Majlis reconvened. The **Independent Institutions Committee** requested for relevant audio records and invited JSC to meet with the Committee on **23 June 2010**, to discuss the matter. The invitation letter also mentioned that it was in relation to a Complaint received from Commission Member. However, the meeting got cancelled due to heated arguments on the floor (unrelated matter), and*

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later, before the meeting with JSC could go ahead, Majlis, as well as all Committee work, was suspended indefinitely by the Speaker due to political disagreements.

In the meantime, whilst Majlis was suspended, and whilst all institutions were closed for the Independence Day holidays, JSC rushed to re-confirm and swear-in all judges, despite the Complaint pending in Majlis, together with the Public Petition of 1562 verified signatures, submitted by CSO Democracy Network (DN).

Following much discussion in the public/media of the dispute in JSC, when Majlis re-convened on 1 August 2010, the Majlis Independent Institutions Committee met with JSC on 4 July 2010. The discussions which extended to nearly 3 hours were held, as explained by the Chair, "to discuss Constitutional governance of JSC". Whilst most of the questions were on Article 285; and despite the fact that the Committee had earlier scheduled and cancelled (due to unrelated political events) an invitation to JSC to discuss the Complaint on Article 285; the Chair of the Committee directed all the questions to the Chair who stood accused of Breach of Trust. Even where questions by one DRP Member of the Committee were directed at both the JSC Chair and (Dissenter) Complainant, the Chair refused to provide an opportunity for a response saying "every member gets one chance." The Committee meeting (a full recording of which is available) can only be described as a sham. The Committee's response on being informed of records being edited before they were submitted to the Majlis was, "We are not discussing Records today" adding that there were serious issues and that the Committee had already agreed to hold a meeting with JSC specifically on the issue. It may also be noted that both the Chair at the time of JSC Interim Supreme Court Justice and the current Chair of JSC and Supreme Court Justice were permitted to lie blatantly to the Majlis Committee whilst the Complainant was effectively "gagged" by the Chair!

The Chair of the the Independent Institutions Committee was notified by telephone on the evening of 26 July 2010 that the JSC was moving ahead with re-confirming judges under the disputed Standards despite a pending Complaint, and during Independence Day holidays. Having requested an "Injunction Order" or similar intervention until Majlis can look into the matter and guarantee it fulfilled Constitutional Obligations, and having been assured he would look into the matter, a Narrative Report on JSC and Article 285 was emailed to the Chair of the the Independent Institutions Committee later that same evening. Yet, Majlis failed to respond and tacitly permitted JSC to go ahead re-confirming judges under the controversial standards.

Finally, the one-time historical event which should have been a national celebration in par with the oath-taking ceremonies of the other two powers (President and Parliament) was carried out in a controversial and secretive ceremony (that even the JSC staff were not involved in or informed of, according to Secretariat staff). There were no invitees, and only four Members (the three judges and the MP) of the ten-Member Commission participated in the secret oath-taking ceremony held under lock and key. This, after the President had called JSC Chair personally requesting to hold the process. (Video available of events on the evening of Wednesday, 4 August 2010). The Speaker of the Majlis also sent out a text message AFTER the controversial event saying that he too had requested the Chair of JSC to hold the process until Saturday, when the Judges Act was scheduled to be passed.

c. **Anti-Corruption Commission**

*As the People's Majlis was in recess when JSC 'adopted' the standards on 11 May 2010, JSC Member from the General Public (appointed by Parliament vote) Sheikh Shuaib Abdul Rahman and myself, met with the Anti-Corruption Commission (the three members in town at the time) on **12 May 2010** and raised our concerns regarding Breach of Trust in fulfilling Obligations under Article 285, and made a request to inquire into Misuse of Office and Breach of Trust as, in our opinion, JSC had violated **Articles 12 and 13 of the Corruption Prevention and Elimination Act**. A dossier of all available documents were hand delivered to the Chairperson and Vice Chair of ACC on **23 May 2010**, together with a write-up of major concerns.*

The ACC has not responded as of yet.

d. Human Rights Commission

In this period (February to May, 2010) serious concerns that JSC was failing to JSC fulfill its' Obligations and Duties under Article 285 in a manner that upholds the Constitution and furthers democracy and protects and promotes fundamental human rights of all persons as guaranteed under the Constitution were shared with the Chairperson and Vice Chairperson of Human Rights Commission. Whilst they shared the concern, the HRCM remained silent.

*JSCs' declaration in a Live Press Conference held on 3 August 2010 that the legal basis of JSCs decision on Article 285 are Articles 51(h) of the Constitution, Article 14 of ICCPR and Article 11 of UDHR; and Article 37 and 270 of the Constitution confirmed that the Standards for Qualification were adopted in the **Best Interest of Sitting Judges** rather than national or public interest or the Best Interest of the Judiciary.*

Further, as Article 17 of the JSC Act requires Members to act in accordance with the Constitution and the Laws; promote Rule of Law; uphold national duty, and to take all decisions in the Best Interest of the People. The explanation of JSC confirms that the JSC Majority acted in violation of the Code of Conduct required of JSC Members in exercising the powers of Office.

In addition, due procedure was not followed with meetings/ agenda manipulated, discussion time not provided, proposals/ alternatives were not tabled or acknowledged, and "selective hearing" exercised at meetings to achieve desired results. Information was withheld, and dissenting Member(s) were not informed properly of events in the rushed run towards the controversial ceremony held on 4 August 2010.

Access to records was refused to write a report to Majlis, following acceptance of Complaint.

Further, the refusal of JSC to acknowledge dissenting opinion or permit discussion of alternative proposals and amendments; the rush to beat the deadline despite a pending Complaint which the Majlis Independent Institutions Committee has indicated they would look into; and the obstruction of space/ opportunity for legitimate dissent in the name of JSC further raises questions about JSCs accountability and trustworthiness.

OUTCOME

Amongst those who took Oath of Office following re-confirmation by JSC are a few with criminal records, including:

- *Two Magistrates on trial at the Criminal Court on corruption charges, and suspended by the JSC since January 2010; [Alternatively a Judge of the Civil Court suspended for Public Immorality (Judge Hilmy, Hulhumale' Beach incident reported widely in the media) around the same time was disqualified]*
- *One Magistrate who has multiple records of a criminal nature: house-arrest for possessing pornography(?), imprisonment for disruption of public order during elections, and for a sexual offence, and was more recently accused of cheating on exams in the Diploma for Judges course currently being run in the College of Islamic Studies in association with the Department of Judicial Administration/ Supreme Court. (It may also be noted that this Magistrate is the hand-picked choice of the Interim Chief Justice for the Interim Judicial Council; and that he has been provided with disproportionate opportunity to work in Male', leading to accusations of favouritism.*

Prior to the adoption of Constitution (2008) judges could seek advice on cases before them, and were guided by the Ministry of Justice (and later the Courts in Male'); and in some cases were directed by the Ministry of Justice and penalized for failure to follow directions. The practical transition from a patronage system to an independent system requires higher standards, as well as a profound change of mindset amongst judges, and the skills and ability.