

# ISAS Brief

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## **Political Turmoil in Paradise: The Unfolding of the Maldivian Crisis**

*On 1 February 2018, the Supreme Court of the Maldives ordered the government to release all political prisoners and called on the legislature to hold its first meeting in 2018. This resulted in tensions between President Abdulla Yameen and the judiciary. In an attempt to forcefully re-establish its authority, the government imposed a State of Emergency and curtailed the basic rights of its citizens. As a result of the government's crackdown, the Supreme Court annulled its earlier order on 6 February 2018. This paper traces the outbreak of the political turmoil in the Maldives and looks at the response of the international community to the crisis.*

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On 1 February 2018, the Supreme Court of the Maldives ordered the government to release nine opposition leaders, including former president, Mohamed Nasheed, who has been living in exile in Britain since 2016. In its judgment, the Supreme Court stated that, “Upon deliberation of matters petitioned at the Supreme Court under supervisory jurisdiction claiming: criminal proceedings were conducted based on political motivations; and in violation of the Constitution and the international human rights covenants acceded to by the Maldives; and the rulings were given subject to undue influence over judiciary and the

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prosecutor; and contrary to due process; the court finds these cases require retrials and judgments pursuant to the law”.<sup>2</sup> Pending the re-trial, the Supreme Court ordered the government to release all nine political prisoners. The Supreme Court’s order also reinstated 12 members of parliament who lost their seats due to their defection to the opposition. The order also called on the *Majlis* (legislature), which was suspended in 2017, to hold its meeting.<sup>3</sup> Under state coercion, both orders were annulled by the Supreme Court on 6 February 2018.

In an early reaction to the Supreme Court’s judgement, President Abdulla Yameen’s government sent three letters to the Supreme Court on the challenges faced in implementing the orders delivered on 1 February 2018. The President of the Maldives is authorised to send letters to the Supreme Court under Articles 115 (a) and (c) of the Maldivian Constitution. In his letters, Yameen indicated his inability to implement the Supreme Court’s Order No. 2018/SC-SJ/01. The letters stated “that the Supreme Court Order No. 2018/SC-SJ/01, issued on 1 February 2018, has resulted in an encroachment on the regulatory powers of the State, the disruption of the functions mandated to State institutions under the Constitution, and the infringement of national security and public interest, and if implemented, which would potentially lead to an undermining of the supremacy of the Constitution of the Republic of Maldives”.<sup>4</sup> The contents of the letters were briefly revealed by the Minister of Legal Affairs at the President’s Office, Uza Aishath Azima Shakoor.

In response to those letters, the Supreme Court stated that, “There are no obstacles in implementing the ruling...and that this has been informed to the Prosecutor General’s office.”<sup>5</sup> Following this unprecedented judgement, the judges were said to fear for their lives, and were believed to be taking shelter in the Supreme Court. On the other hand, the government expressed the view that that the Supreme Court might be setting the stage to impeach President Yameen. Interpreting the 1 February 2018 judgment to justify the

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<sup>2</sup> ‘The Supreme Court Order Number: 2018/SC-SJ/01’ (Unofficial Translation). <http://C:/Users/isasar/Downloads/Unofficial%20Translation%20of%20the%20SC%20Court%20Order%202018-SC-SJ-01.pdf>. Accessed on 6 February 2018.

<sup>3</sup> Ibid.

<sup>4</sup> “President Shares his concerns with the Supreme Court in implementing the Court’s Order”, The Presidency: Republic of Maldives <http://www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=18748>. Accessed on 6 February 2018.

<sup>5</sup> “Maldives President Says Supreme Court Overstepped its Power” Mohamed Sharuhaan, *Associated Press*, 6 February 2018. <http://www.philstar.com/world/2018/02/06/1785091/maldives-president-says-supreme-court-overstep-ped-its-power>. Accessed on 6 February 2018.

government's position, the Attorney General, Mohamed Anil, claimed that he has information which "says the Supreme Court might issue a ruling to impeach or remove the president from power."<sup>6</sup>

## State of Emergency

Amidst these political developments, on 5 February 2018, Yameen, using his powers under Article 253 of the Maldivian Constitution, declared a State of Emergency for 15 days. Procedurally, the President is required to inform the legislative body about the implementation of the Emergency in the country within two days of taking such a decision. However, this was not possible as the legislature has been suspended since 2017.<sup>7</sup>

This is not the first time that a Maldivian president has declared a State of Emergency in the country. In November 2015, Yameen's government also declared a State of Emergency. At that time, seven articles of the constitution, including those guaranteeing the rights of assembly, free expression, freedom from arbitrary detention and freedom of movement were curtailed. It was announced that the Emergency would be in force for only 30 days without the imposition of a curfew. However, as a result of global criticism, the government was forced to revoke it within a week of its imposition.<sup>8</sup>

Declaring the State of Emergency, the President's office stated in a release that the reason for the Emergency is "to protect the peace and welfare of all citizens and the country, following the events that unfolded in relation to the Supreme Court Order No 2018/SC-SJ/01, issued on 1 February 2018; which has resulted in the disruption of the functions of the executive power and the State institutions vested with specific mandates under the Constitution, the infringement of national security and public interest, and if implemented, which would

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<sup>6</sup> "Maldives government says will resist any attempt to impeach president", Mohamed Junayd, *Reuters*, 4 February 2018. <https://www.reuters.com/article/us-maldives-politics/maldives-government-says-will-resist-any-attempt-to-impeach-president-idUSKBN1FO03W>. Accessed on 6 February 2018.

<sup>7</sup> "Maldives President declares Emergency, former leader arrested", Meera Srinivasan, *The Hindu*, 5 February 2018. <http://www.thehindu.com/news/international/maldives-president-declares-state-of-emergency-official/article22660908.ece?homepage=true>. Accessed on 6 February 2018.

<sup>8</sup> "Maldives revokes state of emergency amid global outcry and tourism worries", *The Guardian*, 10 November 2015. <https://www.theguardian.com/world/2015/nov/10/maldives-revokes-state-of-emergency>. Accessed on 12 October 2017.

potentially lead to undermining of the supremacy of the Constitution of the Republic of Maldives”.<sup>9</sup>

However, the press release maintained that, during the Emergency, “there will be no enforcement of a curfew; and general movements, services and business will not be affected”.<sup>10</sup> Soon after its declaration, on 5 February 2018, the former authoritarian president of the Maldives, Maumoon Abdul Gayoom, was arrested. He is the half-brother of Yameen. Political differences between them, especially on the leadership of the Progressive Party of Maldives, have led the two to part their ways. The police also detained a few of the protestors on the streets in Male.

On 6 February 2018, the police stormed into the Supreme Court where the judges who delivered the judgment on the release of the political prisoners were taking shelter. The police arrested Chief Justice Abdulla Saeed and Justice Ali Hamid, and a judicial officer.<sup>11</sup> This crackdown led to the remaining judges of the Supreme Court revoking the 1 February 2018 order. In their statement, the judges stated that they are revoking the order “in light of the concerns raised by the President” in his letters and press releases.

Criticising the government’s move over the Supreme Court’s judgement, Nasheed said that the banning of fundamental freedoms, and the suspension of the Supreme Court is “tantamount to a declaration of martial law”. He termed it as “unconstitutional and illegal”, and stated that “nobody in the Maldives is required to, nor should, follow this unlawful order”.<sup>12</sup> In his opinion piece in *The Indian Express*, the former president and opposition leader who was acquitted by the Supreme Court in its 1 February 2018 order, has argued the case for India to intervene in the Maldives.<sup>13</sup> He wrote that, “It is essential that India leads the international community in forcing President Yameen to comply with last week’s [1 February

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<sup>9</sup> “President Declares State of Emergency”, The Presidency: Republic of Maldives, 5 February 2017, Ref 2018-28. <http://www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=18752>. Accessed on 6 February 2018.

<sup>10</sup> Ibid.

<sup>11</sup> “The Latest: 2 of Maldives’ 4 Supreme Court justices arrested”, *The Associated Press*, 6 February 2018. <http://abcnews.go.com/International/wireStory/latest-maldives-government-declares-state-emergency-52848216>. Accessed on 6 February 2018.

<sup>12</sup> “Maldives President declares Emergency, former leader arrested”, Meera Srinivasan, *The Hindu*, 5 February 2018. <http://www.thehindu.com/news/international/maldives-president-declares-state-of-emergency-official/article22660908.ece?homepage=true>. Accessed on 6 February 2018.

<sup>13</sup> “A Villian in Paradise”, *The Indian Express*, 7 February 2018. <http://indianexpress.com/article/opinion/columns/a-villain-in-paradise-maldives-president-abdulla-yameen-5053962/>. Accessed on 7 February 2018.

2018] Supreme Court order. This will pave the way for genuinely inclusive, free and fair elections with full international monitoring”.<sup>14</sup> Dunya Maumoon, former foreign minister and daughter of the incarcerated leader Abdul Gayoom, has termed Nasheed’s position as “irresponsible”. She said that, “I believe that the call by Nasheed for foreign intervention is very irresponsible even via certain countries. Yes, we are having a crisis and there are lot of issues we need to resolve and I have been continuously calling for peaceful dialogue and enough of war, we have seen a lot of destructive actions and our people are very concerned. As a country, we really need to make the decisions ourselves and find a way by ourselves.”<sup>15</sup> However, according to a report in *The Times of India* on 7 February 2018, “The [Indian] Armed forces are on standby for any contingency in the Maldives, from evacuation of Indian tourists to military intervention in the archipelago, but there is no political directive to swing into action as yet”.<sup>16</sup>

## International Response

There has been worldwide criticism of the declaration of State of Emergency by Yameen. A United States official stated that, “America stands with the people of Maldives. The Maldivian government and military must respect the rule of law, freedom of expression, and democratic institutions. The world is watching.”<sup>17</sup> In South Asia, reacting to the Supreme Court’s decision, India maintained that, “In the spirit of democracy and rule of law, it is imperative for all organs of the Government of Maldives to respect and abide by the order of the apex court.”<sup>18</sup> After the declaration of the State of Emergency, India stated that, “We are disturbed by the declaration of a State of Emergency in the Maldives following the refusal of

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<sup>14</sup> Ibid.

<sup>15</sup> “Mohamed Nasheed’s call for India’s intervention very irresponsible....Emergency a necessity: Dunya Maumoon”, Jyoti Malhotra, *The Indian Express*, 8 February 2018. <http://indianexpress.com/article/world/nasheeds-call-for-indias-intervention-very-irresponsible-emergency-a-necessity-dunya-maumoon-5055048/>. Accessed on 8 February 2018.

<sup>16</sup> “Maldives crisis: Indian military kept on standby”, *The Times of India*, 7 February 2018. <https://timesofindia.indiatimes.com/india/maldives-crisis-indian-military-kept-on-standby/articleshow/62813515.cms>. Accessed on 7 February 2018.

<sup>17</sup> Maldives Emergency Live Updates: “MEA expresses concern over situation, asks Indian nationals to avoid non-essential travel”, *The Indian Express*, 6 February 2018. <http://indianexpress.com/article/world/maldives-president-declares-state-of-emergency-official-live-updates/> Accessed on 6 February 2018.

<sup>18</sup> “Press Release on India’s Reaction Over evolving situation in Maldives after order of the Supreme Court of Maldives”, Ministry of External Affairs, Government of India, 2 February 2018. [http://mea.gov.in/press-releases.htm?dtl/29409/Press\\_Release\\_on\\_Indias\\_\\_over\\_evolution\\_situation\\_in\\_Maldives\\_after\\_order\\_of\\_the\\_Supreme\\_Court\\_of\\_Maldives](http://mea.gov.in/press-releases.htm?dtl/29409/Press_Release_on_Indias__over_evolution_situation_in_Maldives_after_order_of_the_Supreme_Court_of_Maldives). Accessed on 6 February 2018.

the Government to abide by the unanimous ruling of the full bench of the Supreme Court on 1 February, and also by the suspension of Constitutional rights of the people of Maldives. The arrest of the Supreme Court Chief Justice and political figures are also reasons for concern.”<sup>19</sup> On the other hand, one of the new-found friends of the Maldives, China, maintained that, “What was happening there is an internal affair”.<sup>20</sup>

## Conclusion

The presidential elections in the Maldives are scheduled to be held this year. It was, therefore, expected that there would be issues and tension between the incumbent and the opposition. The Supreme Court’s judgement gave legitimacy to the opposition’s voice and provided much-needed domestic support to opponents of Yameen’s political leadership. However, under coercion from the state machinery, the Supreme Court had to reverse its decision.

Notably, a Maldivian president had implemented a State of Emergency in November 2015. At that time, global pressure forced him to back down. It is likely to be a similar scenario this time around. Unless there is strong international pressure on the Maldivian government, it may not take heed and back down. The only difference between 2015 and 2018 is that there is now a strong China factor in the equation. The Maldivian crisis could possibly lead to a bitter exchange between India and China over the internal political situation in the tiny South Asian nation.

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<sup>19</sup> “Situation in Maldives”, Ministry of External Affairs, Government of India. <http://www.mea.gov.in/press-releases.htm?dtl/29415/situation+in+maldives>. Accessed on 7 February 2018.

<sup>20</sup> “China suggests its tourists not visit Maldives until situation stabilizes”, *Maldives Times*, 6 February 2018. <https://maldivestimes.com/china-suggests-its-tourists-not-visit-maldives-until-situation-stabilizes/>. Accessed on 6 February 2018.