

MALDIVIAN DEMOCRACY NETWORK

Trial Observation Report: Yameen Rasheed's Extrajudicial Killing

23 April 2022

I. Background

Yameen Rasheed, a 29-year-old gifted writer who used his sharp wit to critique the Maldivian religio-political establishment, was brutally murdered in the early hours of Sunday, 23 April 2017. Rasheed's writing challenged decades-old political narratives that maintained the status quo. In his blog, 'The Daily Panic',¹ he wrote about local politics, including corruption and the country's trajectory towards religious fundamentalism brought to the people with his unique humour, which made his blog extremely popular. His extrajudicial killing would be the third of its kind in a country increasingly grappling with sectarian violence.

He was found slaughtered at stairwell of the building he lived in with his family. A person who lived in his building reported the murder around 2.30am after seeing his body at the stairwell where the lights had been removed shortly before Rasheed entered the building. Rasheed was pronounced dead shortly after the police took him to the hospital. Speaking to the media at the hospital, his father Hussain Rasheed said "*His throat was slit. We saw that he was stabbed over thirty-three times. A part of his skull was missing*". The killing received widespread international condemnation. In May 2017 the Maldives Police Service swiftly arrested six men in connection to Rasheed's murder². The Prosecutor General charged all six men for the murder of Rasheed and a trial began at the Criminal Court in September 2017³.

¹ See <http://thedailypanic.com/>

² 'Four more suspects arrested over Yameen Rasheed's murder', The Maldives Independent, (9 May 2017), accessible at: <https://maldivesindependent.com/crime-2/four-more-suspects-arrested-over-yameens-murder-130447>

³ 'Yameen Rasheed murder trial begins with secret hearing', The Maldives Independent, (11 September 2017), accessible at: <https://maldivesindependent.com/crime-2/yameen-rasheed-murder-trial-begins-with-secret-hearing-132477>

Following multiple death threats, Rasheed had filed complaints at the Maldives Police Service in September 2014 and again in December 2016. None of these reported threats were credibly investigated and the police were unable or unwilling to afford Rasheed any protection, despite evidence amounting to several pages of documented threats submitted to the police. In May 2015, Rasheed was arbitrarily arrested from the May Day protest and subsequently detained for twenty-one days, including five days under house arrest.

The threats against Rasheed intensified after he began leading a campaign seeking justice for Ahmed Rilwan, a journalist and his close friend who was forcibly disappeared on 8 August 2014. Rasheed initially started receiving death threats after blogging about a Human Rights Day protest calling for religious tolerance on 10 December 2011.

The Presidential Commission on Deaths and Disappearances (DDCom) was formed in November 2018, shortly after President Ibrahim Mohamed Solih was sworn in. Finding justice for Yameen Rasheed and Ahmed Rilwan was a major presidential pledge of Solih and the Maldivian Democratic Party (MDP). The DDCom consisted of five members. Upon commencement of their work, the former President of the Commission, Mr. Husnu Al Suood said in November 2018 that the entire workload of the Commission would be completed within the period of two years⁴. Suood said in December 2018 that the Commission was expecting to complete the investigation of a total of 25 cases sooner than expected, in April 2019⁵. After postponing completion of investigations to June, July and August 2019 the Commission held a press conference on 1 September 2019, making explosive statements connecting the disappearance of Ahmed Rilwan, the murders of former Member of Parliament Dr. Afrasheem Ali and Yameen Rasheed to Maldives based Al-Qaeda and the Islamic State while at the same time disclosing information about witnesses. A date of completion of investigation was not provided but the former President of the Commission Suood assured that out of 27 cases, only five remained unsolved at the time⁶.

⁴ 'Commission on Investigation of Murders and Enforced Disappearances commences work', PSM News, (21 November 2018), accessible at: <https://psmnews.mv/en/41302>

⁵ 'Deaths and disappearances' commission investigating 25 cases', Raajje MV, (30 December 2018), accessible at: <https://raajje.mv/47503>

⁶ 'Commission on Deaths and Disappearances discloses details of probe into Rilwan's Case', The President's Office, (1 September 2019), accessible at: <https://presidency.gov.mv/Press/Article/22015?term=0>

Mr. Husnu Al Suood resigned from the DDCom in December 2019 shortly before being appointed as a Supreme Court Justice⁷. The DDCom sent the case of three individuals connected to the murders of Ali and Rasheed and to the disappearance of Rilwan, to the Prosecutor General's Office in December 2019⁸, which was promptly rejected by the Prosecutor citing incomplete investigation. Since then, no case has been sent to the Prosecutor General's Office by the DDCom.

II. Key observations

Procedural issues

- ❖ Severe and unreasonable delaying tactics used by the defence lawyers to obstruct the course of justice.
- ❖ Maldives Correctional Service failed to produce defendants in court several times.
- ❖ Judges and prosecution were unable to effectively object to these delay tactics.
- ❖ The lawyers representing the defendants are the most prominent lawyers in the country, including the president of the Bar Council of Maldives. The judge and prosecutors appeared outsized by their presence at times.
- ❖ When the COVID-19 pandemic hit, the judiciary and the state made no efforts to hold in-person hearings; defendants initially refused virtual hearings. No hearings were held in the year 2020.

Police, judicial and prosecutorial shortcomings

- ❖ The evidentiary documents were not submitted on time and certain prosecutors were unfamiliar with the timeline of events, list of evidence and witnesses.
- ❖ Some prosecutors appeared to have forgotten relevant documents in court while the hearings were in session.
- ❖ Rasheed's family requested the Prosecutor General to lead the case in court due to its serious nature and the lack of capacity demonstrated by the prosecutors attending court, however, the request was refused with no justification.

⁷ 'Husnu Suood resigns from DDCom', PSM News, (8 December 2019), accessible at: <https://psmnews.mv/en/61141>

⁸ 'PG office requests for further completion of DDCOM investigations', Sun, (31 December 2019), accessible at: <https://en.sun.mv/57460>

- ❖ No one has been arrested, investigated, or charged for financing or commissioning Rasheed's killing.
- ❖ Repetitive closed preliminary hearings from September 2017 to October 2018 went ahead behind closed doors upon the previous Prosecutor General's request.
- ❖ Four key witnesses were under influence and refused to testify. None of the allegations of witness intimidation was thoroughly investigated or prosecuted.
- ❖ The Court was unable to summon a man by the name of Zahid Rameez for his role in threatening Rasheed in 2011 and 2012 publicly on social media.
- ❖ Clerics who inspired these attacks and created a climate of hatred have not been investigated in connection to the murder of Rasheed.
- ❖ The lead judge presiding over the case changed three times over the course of the trial, contributing to the delays.
- ❖ The court acquitted four out of the six accused, citing state negligence in submitting forensic reviews and chain of custody.

III. The criminal investigation

Commissioner of Police Ahmed Areef, who was at the time accused of negligence over Rilwan's forced disappearance, led the police investigation team. During a press conference on 15 May 2017, Areef informed media that he would not recuse himself or allow international investigators despite pleas from Rasheed's lawyers.

Rasheed's lawyers had filed an urgent appeal to the Office of the UN High Commissioner for Human Rights to intervene and send a fact-finding mission to the Maldives to independently investigate the blogger's extrajudicial killing. Rasheed's family and the then opposition repeatedly sounded the alarm on the lack of confidence in the Maldivian police to conduct an impartial investigation into the murder. On 6 July 2017, Rasheed's father raised concerns over the information he received about the police allegedly tampering with forensic evidence and allowing the crime scene to be washed and disinfected, and the blood splatter on the walls to be repainted within hours of the crime.

Reporters observed that there were more than 30 CCTV cameras in the area, including one that was at the entrance to Rasheed's building, and five belonging to the Maldives Police Service. According to a press statement from the Maldives Police Service published on 18 June 2017 after a press conference, approximately 1,850 hours of CCTV footage was monitored as part of the investigation and over 40,000 profiles were analysed. The police stated that they had collected sufficient evidence to convict the alleged killers. The statement also said that a defence lawyer was arrested for obstructing their investigation. Police stated that the suspects killed Rasheed based on their belief that he had insulted Islam. The prosecution submitted several anonymous witnesses, sixteen pieces of documentary evidence, seven intelligence reports, seven video analysis reports, one scene of crime report and a cybercrime report to the Criminal Court trial.

IV. Timeline of the trial

Preliminary hearings began on 10 September 2017. A total of six preliminary hearings were held behind closed doors. These pre-trial hearings continued until late April 2018. Rasheed's family and civil society actors advocated for the trial to be opened, to no avail.

After three cancellations, the first open hearing, originally scheduled for June 2018, was held on 30 July 2018 where the prosecution case was presented in court, stating that three of the defendants were actively involved in the killing while the other three defendants tailed Rasheed's movements and waited outside on the lookout during the attack and killing. Neither Rasheed's family nor the media were allowed into the court gallery to observe the first trial hearing.

A total of eight suspects were arrested during the investigation, while the six defendants who were charged at the Criminal Court – Ismail Haisham Rasheed, Ahmed Zihan Ismail, Ismail Rasheed, Mohamed Dhifran, Hassan Shifaz, and Hussain Ziyad – denied the murder charges. If convicted the defendants could be put to death in a country which has a long-standing *de facto* moratorium on executions. The authorities decided not to pursue charges against the seventh and eighth suspects implicated in the murder, citing a lack of evidence.

After a cancelled hearing in August, the hearings resumed on 11 October 2018. This was the first preliminary hearing where Rasheed's family members were allowed to attend. The final preliminary hearing was held on 18 October 2018, when the court decided to go ahead with the trial, starting with the anonymous witnesses submitted to prove the prosecution's case.

Following the conclusion of preliminary hearings in October 2018, the first trial hearings began in July 2019, after a nine-month-long hiatus. Eight out of the ten trial hearings scheduled in 2019 went ahead without cancellations. The police officers who took Rasheed's body to the hospital gave their testimonies in court on 15 July 2019. The prosecution also sought to summon the police officers who first reported to the crime scene, however, the officers were unable to attend as they were outside Malé at the time. On 22 July 2019, the presiding judge over the case raised concerns regarding multiple delays to the trial, reprimanding the defence lawyers for the forced cancellations.⁹

Details of how the violent extremists plotted and trained to kill Rasheed were revealed at the hearing on 31 July 2019 when an anonymous witness—who spoke via an audio device with voice distortion to protect their identity—gave the testimony remotely from another room in the courthouse. According to the witness, plans to kill Rasheed began in November 2016 at a mosque in Male'. The anonymous witness also testified about the role of the financier and the physical training that went into the killing.¹⁰ Additionally the two police officers who first attended the crime scene provided testimonies at the hearing.¹¹ Two other anonymous witnesses testified at the hearing on 7 August 2019. One of the witnesses said they saw the suspects flee the crime scene.¹² Two police officers were to give their testimonies on 21 August 2019, however, the proceedings were disrupted by objections from the defence lawyers, after which the judge decided to postpone the attendance of the prosecution's

⁹ 'Judge concerned over delays in Yameen Rasheed murder trial', The Maldives Independent, <https://maldivesindependent.com/crime-2/judge-concerned-over-delays-in-yameen-rasheed-murder-trial-146746>

¹⁰ 'Defendants "plotted and trained" to kill Yameen Rasheed, testifies secret witness', Raajje MV, (1 August 2019), accessible at: <https://raajje.mv/60627>

¹¹ Id

¹² 'Witness says he saw suspects in Yameen's murder "fleeing scene"', Raajje MV, (8 August 2019), accessible at: <https://raajje.mv/60976>

witnesses. At the hearing, prosecutors raised that their witnesses were being subject to threats and intimidation from unknown third parties.

On 27 August 2019, 10 September 2019 and 15 October 2019, expert witnesses testified in court, including those who analysed forensic evidence and CCTV footage. The prosecution said one witness who was scheduled to provide a testimony on 10 September 2019 refused, citing intimidation. Another anonymous witness testified stating that they “did not remember much” at the time but that the statement they gave to the police during the investigation was completely true.¹³

After a cancellation on 17 November 2019, a hearing was held on 25 November 2019 when the Court heard testimonies of the police officers who searched residences of the main defendants, Ismail Rasheed and Hussain Ziyad. At the hearing, the prosecution revealed that the remaining three anonymous witnesses had refused to testify.¹⁴ On 15 December 2019 the Criminal Court decided to summon Zahid Rameez, an individual who had threatened Rasheed publicly via social media in 2011 and 2012.¹⁵ The Court also decided to proceed with four out of the eleven defence witnesses in the following series of hearings as requested by the defence lawyers. Two hearings were held in 2020, on 7 and 30 January. The state was unable to summon Zahid Rameez, however, some defence witnesses gave their testimonies on 30 January 2020. Hearings scheduled for 15 January 2020; and 23 and 27 February 2020; were later cancelled by the court.

The Maldives entered its first Coronavirus pandemic related lockdown in March 2020, however, some court proceedings went ahead virtually. The defence lawyers refused virtual hearings and the state made no efforts to hold in-person hearings in line with COVID-19 restrictions within the Maldives.

¹³ ‘Witnesses in Yameen's case attacked, state retracts evidence’, The Edition, (12 October 2019), accessible at: <https://edition.mv/news/12879>

¹⁴ ‘Yameen Rasheed's murder trial: three witnesses refuse to give testimonies’, Raajje MV, (25 November 2019), accessible at: <https://raajje.mv/66635>

¹⁵ ‘Court decides to summon former PPM official, over death threats sent to murdered blogger’, Raajje MV, (15 December 2019), accessible at: <https://raajje.mv/67789>

The trial resumed a year later in February 2021. Seven hearings were held in 2021, while the hearings scheduled in November and December that year were cancelled. Out of the three hearings on 17 February, 18 March and 16 August of 2021, the first two hearings were held virtually and addressed one of the defendant's request to be transferred to house arrest on account of being unwell, allegations of torture and denial of medical attention.

Three months passed without hearings between April 2021 and August 2021. The Court attributed the delays to the previous judge's promotion requiring a new judge to be inducted to the role. There were marked disagreements between the state prosecutors and the court over the scheduled hearings. "*The hearings have not been scheduled as per Article 116 of the Criminal Procedure Court*", stated the prosecutors. The Criminal Court said that the hearings were agreed to by all parties on 16 August 2021 and that summons were sent to the Prosecutor General's Office for hearings on 17 August 2021. State prosecutors also said that they had requested the Criminal Court to expedite the trial, raising concerns about the delays. On 18 August 2021 the Court rejected an earlier request from one of the defendants to be transferred to house arrest.

During the court hearing held on 16 September 2021, while examining the evidence, defence lawyers raised issues with the admissibility of the evidence, especially the testimony provided by the prosecution's anonymous witnesses. Maumoon Hameed, the lawyer for Ismail Rasheed, stated that it was evident from the testimony given by one of the anonymous witnesses that the witness had been involved in the murder of Yameen Rasheed, and as such, their testimony should not be valid. He also stated that there were contradictions between the testimonies of witnesses and that there were issues of witness tampering by the prosecution as well as issues with the evidentiary chain of custody, such as the CCTV footage produced by the state. The lawyers for Ziyad and Dhifran stated that besides the testimony of an anonymous witnesses, there was no evidence against the two accused including the CCTV footage.

As the lawyer for Haisham, Shifaz and Zihan was not present in court citing health issues, another hearing was scheduled for and held on 19 September 2021 to carry out the proceedings related to the three defendants. During this hearing, the defence raised the question of why important aspects relating to the “body inspection” of the deceased was not carried out as well as a “palm comparison” of the accused Haisham, even though the prosecution put forth that the palm print found on a CCTV camera near the crime scene belonged to Haisham. The presiding judge stated that a hearing would be held on 14 October 2021 to take the statements of Rasheed’s heirs and that another hearing would be held in November for the court to hear closing statements.

On 18 November 2021, a hearing was held to deliver closing statements. During this hearing, the prosecution stated that Dhifran and Shifaz were involved in stalking Rasheed and that Ismail Rasheed was standing outside as a look out while Rasheed was being murdered in the stairwell by Haisham and Zihan. The prosecution also stated that Hussain Ziyad was unable to participate in carrying out the murder because of a leg injury he had received a few days before the murder. According to the prosecution, there was ample evidence, beyond a doubt, to prove the accusations. The defence lawyers argued that sufficient evidence to prove the case beyond reasonable doubt did not exist. Defence also raised technicalities of the law prohibiting the possession of weapons, stating that the evidence provided by the prosecution was inadequate to prove the case against their clients. The defence lawyers additionally argued over the technical capacity of the forensic experts who analysed the CCTV footage.

The verdict of the trial was read out on 19 January 2022. Out of the six suspects tried in the trial court, two (Ismail Haisham Rasheed, Ahmed Zihan Ismail) were convicted for the murder of Yameen Rasheed, while Mohamed Dhifran, Hassan Shifaz, Ismail Rasheed and Hussain Ziyad, were acquitted. After the verdict was delivered, in accordance with sharia, the court asked Rasheed’s heirs how they wished to proceed with sentencing. Maryam Shafeeqa, Rasheed’s mother stated that her son was a strong advocate for the right to life for everyone and requested for *Diya* (blood money), instead of the death penalty. Hussain Rasheed,

Yameen Rasheed's father, requested for the death penalty.¹⁶ The judge stated that the death penalty cannot be applied without consensus amongst the heirs, ruling on the request for *Diya*. Both Haisham and Zihan were sentenced to life (25 years) in prison and were ordered to pay MVR 1.3 million in compensation.

Following the verdict, Prosecutor General Hussain Shameem stated that he would consider appealing the acquittal of the four suspects. The DDCom has resumed the investigation into Rasheed's murder¹⁷. The DDCom suspended their investigation in 2020 following requests from the Prosecutor General who cited interference with an ongoing trial.

On 17 April 2022 the Prosecutor General submitted appeals on the acquittal of Hassan Shifaz and Hussain Ziyad to the High Court of Maldives. It has not yet been confirmed whether the Registrar has registered the appeals.

¹⁶ 'Yameen Rasheed's mother shows mercy saving murder convicts from death penalty', The Times of Addu, (19 January 2022), accessible at: <https://timesofaddu.com/2022/01/19/yameen-rasheeds-mother-shows-mercy-saving-murder-convicts-from-death-penalty/>

¹⁷ 'Yameen Rasheed murder: With convictions, DDCom restarts stalled investigation' Sun, (23 January 2022), accessible at: <https://en.sun.mv/72013>