



THE PRESIDENT'S OFFICE

MALE'

REPUBLIC OF MALDIVES

This is an English translation of the report entitled "Investigative Findings on the Death of Hassan Evan Naseem" presented to The President by the Presidential Commission established by The President, on 20 September 2003, to investigate the death of Hassan Evan Naseem, on Friday 19 September 2003, while he was serving time at Maafushi Prison.

Since certain parts of this report cannot be made public for reasons of national security, these parts have been removed from this published translation. Those parts are paragraphs 2.1.2, 2.1.3, part of the first line of 2.1.4, 3.22, 4.3.1 (d), 4.3.1(e), part of the first line of 4.5.2 (a) 5.2.3 and 5.2.5 of the report.

Although these parts have been removed, those parts of the report that examined how the incident in which Hassan Evan Naseem died unfolded, the details of various bodily injuries suffered by him, the identity of the persons responsible for his death and the extent of their responsibilities, specifics of the salient points noted by the Presidential Commission in its inquiry into the incident and, the proposed steps to be implemented to prevent the future occurrence of such an incident is included in this report.

5 Zul-Hijja 1424

27 January 2004

**INVESTIGATIVE FINDINGS ON THE DEATH OF
HASSAN EVAN NASEEM**

A TRANSLATION

PRESIDENTIAL COMMISSION

29 DECEMBER 2003

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Presidential Commission

Male'

Republic of Maldives

INVEESTIGATIVE FINDINGS ON THE DEATH OF HASSAN EVAN NASEEM

The President of the Maldives, Maumoon Abdul Gayoom, conducted an investigation into the death of Hassan Evan Naseem of Maafannu Asia, Male', a prisoner who been incarcerated in the gaol at Maafushi in Male' Atoll and who had died on the night of Friday, 19 September 2003;

By virtue of the Presidential Decree Number 213/2003 the President established a Presidential Commission and appointed us as its five members;

The President instructed the Commission to inquire into the circumstances surrounding the death of Hassan Evan Naseem; to identify the persons responsible for the incident and to determine the extent of their responsibility; to outline measures that could be taken to prevent the occurrence of such an incident in the future and to submit a report thereon;

The Commission had submitted to the President a report entitled “Report on the Death of Hassan Evan Naseem”;

The Commission deemed that, in addition to submitting that Report, it was necessary to produce an integrated and easily accessible compilation of its findings for general purposes;

-2-

Beseeching Almighty Allah for strength, the Commission hereby prepares and submits a separate document entitled “Investigative Findings on the death of Hassan Evan Naseem”.

29 December 2003

1. Abdul Sattar Moosa Didi *...signed...*
2. Shaaheen Hameed *...signed...*
3. Aishath Mohamed Didi *...signed...*
4. Abdulla Saeed *...signed...*
5. Dr. Mohamed Solih *...signed...*

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

1. INTRODUCTION

1.1 Findings

- 1.1.1 This document entitled “Investigative Findings on the Death of Hassan Evan Naseem” is prepared in addition to the ““Report on the Death of Hassan Evan Naseem” pursuant to his addition to the mandate of the Presidential Commission’s instituted on 20 September 2003 the task of investigating the death of Hassan Evan Naseem. Both reports have been submitted to President Maumoon Abdul Gayoom. This collection of findings of the investigation conducted by the Presidential Commission is compiled on the realization that it was important for its findings to be separately collated in a manner convenient for general purpose use.
- 1.1.2 This compilation contains the detailed findings of the investigation conducted by the Presidential Commission regarding the circumstances surrounding the death of Hassan Evan Naseem on 19 September 2003, the details and extent of bodily injuries suffered, the identity of persons responsible for his death and the extent of their responsibilities, the specifics of the salient points noted by the Presidential Commission in its inquiry into the incident and, the proposed steps to be implemented to prevent the future occurrence of such an incident.

In providing this compilation, emphasis has been laid by the Presidential Commission not to distort any facts of the matter or compromise any findings of its investigation.

1.2 Establishment of the Presidential Commission

- 1.2.1 President Maumoon Abdul Gayoom established the Presidential Commission to inquire into the circumstances surrounding the death of Hassan Evan Naseem of Maafannu. Asia, to identify the persons responsible for his death as well as the extent of their responsibilities and to submit a report to the President. The President also mandated the Commission to examine and submit proposals on measures that could be taken to prevent the occurrence of such an incident in the future.
- 1.2.2 The Members appointed to the Commission were Mr Abdul Sattar Moosa Didi, Mr Shaaheen Hameed, Mr Abdulla Saeed, Ms Aishath Mohamed Didi, and Dr Mohamed Solih. Mr Abdul Sattar Moosa Didi was assigned the Chairman of the Commission.

1.3 Visit to Maafushi Jail

- 1.3.1 Members of the Commission visited Maafushi Jail on two occasions, namely on 23 September 2003 and on 6 October 2003. The purpose of the first visit was to gather an impression of the circumstances and environment surrounding the death of Hassan Evan Naseem on the 19 September 2003. Places and items related to the incident were photographed and captured on video.
- 1.3.2 In addition to the Members of the Commission, the investigation teams working under the Commission visited Maafushi Jail on various occasions and obtained necessary information where available.

2. BLOCK C

2.1 Block C

- 2.1.1 Although responsibility for maintaining the security of the prison blocks from the outside is vested with the Maafushi Jail Security Unit of the National Security Service, one block still continues to remain under their control. That is Block C or “Investigation Jail – 1”.
- 2.1.2 (removed)
- 2.1.3 (removed)
- 2.1.4 (part removed) this Block which is referred to as ‘Investigation Jail’ which in principle should hold people who are detained for investigation, also holds convicted offenders serving out sentences. It is observed that a large number of these inmates include those related to drug offences. Convicted offenders are given a set of amenities such as leaving the cell area, engaging in sports and watching television on a regulated basis. However, being confined with alleged offenders to whom these amenities are not applicable, the convicted offenders in Block C are in practice deprived of such freedoms to which they are in principle entitled to.

- 2.1.5 Therefore, co-habitation of criminals convicted of various offences and those detained for investigation, in congested and overcrowded conditions contributes to undermining harmony and order among inmates.
- 2.1.6 The common veranda to these five cells of the Block is guarded by the Maafushi Jail Security Unit. For the purpose of obtaining training, staff of the Department of Corrections, also maintains duty watch in the veranda, along with the National Security Service personnel since 24 April 2003.
- 2.1.7 As the National Security Service maintains duty watch over Block C, they retain possession of keys to the Block and are responsible for opening and closing the access doors to the Block. However, the role of the National Security Service is set by an established procedure, which is that if the inmates of the Block violate a rule, or if a problem arises, the matter is recorded in a book and referred to the Jail Office, which will carry out measures upon the advice of the Department of Corrections. However, it is not customary practice that the National Security Service are informed of the action so taken. Nevertheless, as the National Security Service maintains duty watch on the Block, they do notice the actions taken by the Department of Corrections in relation to inmates of that Block.
- 2.1.8 Although the procedure of recording in a book the violations by inmates and of requesting action by the Department of Corrections is followed, there are exceptions to the rule. With regard to matters that could pose a threat to national security, or in situations which might endanger people's lives and in instances of disobedience of orders issued by the National Security Service to assist the Department of Corrections, the National Security Service regard it their responsibility to act independently.
-

**3. CIRCUMSTANCES LEADING TO THE DEATH OF HASSAN EVAN
NASEEM**

It is observed that in the light of the information obtained by the Presidential Commission, investigations conducted by the Commission, and the inquiries made by the Commission that Hassan Evan Naseem died in the following manner:

- 3.1 In the morning of Friday, 19 September 2003, at least two inmates of Cell C3, where Evan was confined, went to C5 by first crossing over the partitioning wall between Cells C3 and C4 and then that between C4 and C5. A few minutes later at least seven inmates of C3 went again to C5 in the same manner and committed assault on Ali Didi of Henvairu Beauty House, an inmate at C5. These incidents were reported in writing by Maafushi Jail Security Unit to Maafushi Jail Office, in accordance with the established procedure.
- 3.2 Evan's name was not on either of the two lists of inmates of C3 who were involved in the two incidents of cell crossing as reported to the Maafushi Jail Office.
- 3.3 That afternoon, short eats, water and stones were thrown around by some inmates in Cell C3. When the inmates were given advice to stop the disturbance on the instructions of Lieutenant Mohamed Aswan, the most senior Maafushi Jail Security Unit officer present at that time, the inmates complied but the matter was not reported in writing by Maafushi Jail Security Unit to the Maafushi Jail Office.

- 3.4 The Officer-in-Charge of the Maafushi Jail Security Unit, Captain Adam Mohamed was in Male' on 19 September 2003. Lieutenant Mohamed Aswan telephoned Captain Adam Mohamed as he was about to leave for the Juma Prayers and informed him of the two incidents of Cell crossing and the assault on Ali Didi at C5. He also informed Captain Adam Mohamed that the inmates involved in the incidents had been brought back to their Cells and their names had been noted and that the two incidents have been reported to the Maafushi Jail Office. He also informed Captain Adam Mohamed that no further disturbance was observed. Supposedly
- 3.5 In the afternoon of the same day, around 3.15 pm, Lieutenant Mohamed Aswan telephoned Captain Adam Mohamed a second time and informed him that the inmates who instigated the disturbance earlier were again involved in throwing objects from one cell to another. In that conversation he added that based on the two incidents in the morning and an incident on the night of 18 September 2003 where certain inmates of Block C had hammered on their sleeping benches with wooden planks to make a commotion, he was of the opinion that certain inmates were trying to create disorder in the Jail. He further added that in his view, if that was the way things were, it would be a serious security issue.
- 3.6 When these events transpired, Captain Adam Mohamed briefed Major Ibrahim Latheef about the incidents. The latter subsequently called Captain Adam Mohamed and instructed him to return to Maafushi Jail, informing him that the Deputy Commander-in-Chief Anbaree Abdul Sattar Adam and the Commissioner of Police Brigadier Adam Zahir had said that matters would get settled when Captain Adam Mohamed went back to Maafushi.
- 3.7 Captain Adam Mohamed was able to return to Maafushi between 4:45 pm and 5:15 pm on 19 September 2003, along with those members of his unit who had been in Male' to play volleyball that day. According to those who returned with him, there was no sign of any disturbance in the Jail and everything was observed to be as normal as any other day.
- 3.8 Nevertheless, Captain Adam Mohamed called Major Ibrahim Latheef from Maafushi, informed him that there was unusual activity at Block C and that the quiet and order at

the Jail continued to be disrupted, and queried about separating the troublemakers from the other inmates upon which Major Ibrahim Latheef consented to the removal of the prisoners.

- 3.9 According to Major Ibrahim Latheef, he permitted the removal of the troublemakers from their Cell because Captain Adam Mohamed had stated that the disruption in Block C was becoming worse. In addition to the throwing of objects, enraging and inciting inmates in other cells with verbal abuse, the situation had supposedly deteriorated to an extent where the Department of Corrections could not control it and that the disturbances were being instigated by about 10 prisoners whom he had identified. Major Ibrahim Latheef further said that when Captain Adam Mohamed inquired about what action should be taken against them, he briefed the Commissioner of Police Brigadier Adam Zahir and the Deputy Commander-in-Chief Anbaree Abdul Sattar Adam both of whom advised that the troublemakers be removed and kept handcuffed and separated from others and in a sheltered location.
- 3.10 However, it has been established during the investigation that no report of the incident of throwing objects that occurred at midday was submitted in writing to the Maafushi Jail Office.
- 3.11 Captain Adam Mohamed then informed his Unit that his superiors had instructed the separation of troublemakers from the rest of the inmates and asked his Unit to be ready to remove those inmates from their Cells after 8:00 pm.
- 3.12 At that point, the Unit was formally assembled, and when it was arranged that six persons would be detailed under Corporal Mohamed Nazim to remove inmates from the cells, Captain Mohamed ordered the detail back into the assembly, and arranged the despatch of 4 men under Corporal Abdulla Hassan for that mission. The team was provided with 12 pairs of handcuffs, and 50 riot batons were issued to other Maafushi Jail Security Unit personnel who were assembled.
- 3.13 Captain Adam Mohamed informed Jaufar Adam, the Deputy Director of Maafushi Jail Office that Maafushi Jail Security Unit had to arrange for two employees of the Department of Corrections to be present in the Range while the inmates were detained

there, and when the Director of Department of Corrections Mohamed Muizz Adnan learned about this from Jaufar Adam, the Director questioned on whose orders the inmates were to be removed to the range for taking action against them without the knowledge of the Department of Corrections, and claiming that he should be informed when an event of such magnitude was taking place, Mohamed Muizz Adnan called Major Ibrahim Latheef, Captain Adam Mohamed, and the Executive Director of the Ministry of Defence and National Security Ibrahim Mohamed Maniku.

- 3.14 Although Captain Mohamed claims that the list of inmates he gave to Corporal Hassan contained names of only those 7 inmates who were included in Maafushi Jail Security Unit's report to the Maafushi Jail Office on the day of the disturbances. Corporal Adam Hassan maintains that the list contained 12 names and furthermore that when the latter noticed the names of Hassan Evan Naseem and Shameez Shihab in the list, he pointed out to Sergeant Adam Haleem that those two did not participate in either of the two incidents that had occurred that day. However, Corporal Abdulla Hassan was ordered to remove all the inmates in the list. Private Ahmed Shujaz confirms that Corporal Abdulla Hassan did say that those two were being removed wrongfully.
- 3.15 As the names of the persons who were required to be removed from C-3 cell were being read out from the list carried by Corporal Abdulla Hassan, the men came out of their cells, and as they came out, each was handcuffed. When Evan's name was called out, he refused to come out, and upon his refusal, the rest of the names were called out and the men were sent to the Range.
- 3.16 When Evan's name was called out again by Corporal Abdulla Hassan, Evan said that he would not come out and added that he had not done anything that warranted his removal, and queried from the employees of Department of Corrections what his infringement was. According to Sergeant Adam Haleem, Captain Adam Mohamed overheard the walkie-talkie message from Corporal Abdulla Hassan to Sergeant Haleem about this, and told Sergeant Haleem to ask Corporal Abdulla Hassan to go into the cell and remove Evan.

- 3.17 Evan was removed from the cell that night among the persons who were taken out of their cells for being marked as instigators of unrest. However, he protested against his removal and against the move by claiming that he did not participate in either of the two incidents of crossing over to another cell that occurred that day, and by further saying that he was not aware of any reason as to why he had to be removed from his cell.
- 3.18 It is established that Evan did not take part in any of the cell crossing incidents of 19 September 2003. To protest against his removal from the cell he, with a piece of wood, twice hit and injured Private Ahmed Ishaq the member of Maafushi Jail Security Unit who came in to take Evan out of the cell. When that happened, numerous members of the Unit came into the cell screaming, and after they came in that manner, Evan obediently walked out of the cell, upon which he was taken to the Range or the yard of the workshop site.
- 3.19 As he walked out of his Cell, Evan said to Adam Ismail, the Department of Correction's Assistant Warden that "should I suffer any injury, Corrections must take responsibility".
- 3.20 After being taken to the Range, Evan was kept away from the rest of the inmates in a place where the light was unsuitably insufficient. He was kept in a standing position, back against the eastern wall of the Workshop, with his arms raised behind his head and handcuffed to the steel bars on the eastern wall of the Workshop.
- 3.21 While Evan was handcuffed to the steel bars of the Workshop he was beaten by at least 12 Maafushi Jail Security Unit personnel who in addition to using bare hands, used wooden planks, riot batons, and the boots that they were wearing.
- 3.22 (removed)
- 3.23 Some members of the Maafushi Jail Security Unit and some employees of the Department of Corrections were present at the scene of torture on Evan, and some other members of the Maafushi Jail Security Unit also saw the beating, and none of

them attempted to stop the actions. The NCO Officers of the Maafushi Jail Security Unit were among them.

3.24 Relying on the list of injuries identified by Indira Gandhi Memorial Hospital as having been sustained by Evan, it is noted that the most probable cause of Evan's death was the fracturing of his seventh rib on the right side, causing the lung to collapse and resulting in respiratory failure. However, some of the other injuries sustained by Evan would also have been fatal if health care was inadequate.

3.25 The first doctor to examine him recorded Evan's time of death as 11.20 pm of 19 September 2003.

4. PERSONS RESPONSIBLE FOR THE DEATH OF EVAN AND THE EXTENT OF THEIR RESPONSIBILITY

SPECIAL NOTE: PERSONS IDENTIFIED HERE BY THE PRESIDENTIAL COMMISSION TO BE RESPONSIBLE FOR CERTAIN ACTS OR OMISSION ARE FINDINGS OF FACT ONLY. THEIR LIABILITY IN LAW AND THE EXTENT OF GUILT, IF ANY, ARISING FROM ANY SUCH LIABILITY MAY ONLY BE DETERMINED BY JUDICIAL PRONOUNCEMENT.

4.1 Persons Who Inflicted Direct Bodily Injury

As a result of its investigations, the Presidential Commission finds the following 12 persons to have in various ways inflicted direct bodily injury on Hassan Evan Naseem by beating him with either riot batons, wooden planks, parts of a broken chair, with bare hands and feet or with boots after saying that he was “playing a game” when he was left lying motionless inside the workshop.

- i. Private Ahmed Ilham
- ii. Private Ahmed Riyaz
- iii. Private Mohamed Shiuneez
- iv. Private Abdulla Ibrahim
- v. Lance Corporal Ahmed Niyaz
- vi. Private Baduru Mohamed
- vii. Private Ibrahim Rameez
- viii. Private Ahmed Shujaz
- ix. Private Shiyad Mufeed
- x. Private Mohamed Alim

- xi. Private Mohamed Mansoor
- xii. Private Ibrahim Shareef

4.2 Persons Who Caused Bodily Injury

For reasons mentioned below, the Commission finds that Corporal Abdulla Hassan is a person who both caused and aided in inflicting bodily injury to Evan:

4.2.1 The definition of “injury” under section 28 (g) of Chapter I of the Maldives Penal Code includes unlawful injury to a person’s body. While Evan was handcuffed to steel bars with his arms raised behind his head and his feet barely touching the ground in a place where there was little light, Corporal Abdulla Hassan who was in charge of overseeing these actions failed to rectify the unlawful action; and

4.2.2 Section 12 of Chapter I of the Maldives Penal Code defines “abetment” in an offence to include its facilitation in any kind. For reasons mentioned below the Commission also finds Corporal Abdulla Hassan as a person who aided in the infliction of bodily injury on Evan:

- (a) Corporal Abdulla Hassan was assigned the operational charge and responsibility for the transfer of inmates from Block C to the Range on the evening of 19th September 2003. Although it is illegal to carry out any action that could be construed to be maltreatment while prisoners were being removed and kept in the Range, when Corporal Abdulla Hassan he saw that Evan was removed to the Workshop and was handcuffed to steel bars on the eastern wall of the Workshop, a place where there was little light, with his arms raised behind his head, facing away from the workshop, and with his feet barely touching the ground, he did not attempt to save Evan from such maltreatment.

- (b) While he saw that some of the personnel that he had detailed for duties at the Range, and some other members of the Security Unit who were there were inflicting a variety of bodily injury on Evan, Corporal Abdulla Hassan made no attempt to stop the maltreatment apart from telling them not to beat the prisoner. Despite witnessing repeated infliction of bodily injury on Evan, he did not notify his superiors.
- (c) Corporal Abdulla Hassan instructed that water be sprayed on Evan when he saw that he was unconscious as a result of the bodily harm inflicted on him.
- (d) The attempt by Corporal Abdulla Hassan, upon the death of Evan to cover up the place and the manner in which Evan had been kept that night, implies Corporal Abdulla Hassan's complicity.

4.3 Persons Responsible for Abetment in Causing Bodily Injury

Whereas section 12 Chapter I of the Maldives Penal Code defines "abetment" in an offence to include its facilitation in any kind, the Presidential Commission finds the following 6 persons responsible for abetment in a variety of ways in the infliction of bodily injury to Evan.

4.3.1 Captain Adam Mohamed

- (a) As the Officer in Charge of the Maafushi Jail Security Unit from the inception of the Maafushi Jail to 21 September 2003, Adam Mohamed obtained authorisation from Major Ibrahim Latheef, Assistant Commanding Officer of the Unit in Male', to remove some persons from Cell C-3 by providing false information over the telephone on the evening of 19 September. He claimed that upon his return to Maafushi from Male' that evening he had inspected the situation in Investigation Jail (Block C) and furthermore, the situation in Cell C-3 had deteriorated to an unusual level.

- (b) He informed Major Ibrahim Latheef that the situation in the Investigation Jail was deteriorating due to lack of appropriate action by the Department of Corrections against the inmates who had crossed into the other cell in the morning. Statements given by Lieutenant Mohamed Aswan, Assistant Officer in Charge who was also the highest ranking member of the Security Unit on Maafushi on that day, Sergeant Adam Haleem, Security In Charge of the Unit, Corporal Mohamed Nazim, Shift Commander for the afternoon shift of that day, and the Volley Ball Team members who went to Maafushi with Captain Adam Mohamed show that the situation in Block C was not inflamed due to the crossing over incident of that morning but rather that items were hurled from the cells of Block C because of delays in providing medical attention to an inmate of the Block. The briefing that he gave to Major Ibrahim Latheef that order in Block C had broken down because of inaction by the Department of Corrections against those who crossed over was done after he determined he would pursue a specific course of action without regard to the facts of the case.
- (c) Adam Mohamed informed Major Ibrahim Latheef at around 5:00 pm on 19 September 2003 that he had identified those who were instigating unrest in Block C that evening. When he informed Major Latheef that the instigators numbered 10, it must be concluded for reasons noted below, that he had included Evan among those who had crossed cells that day.
1. Corporal Abdulla Hassan and Private Ahmed Shujaz confirm that the list of names of inmates given to Corporal Abdulla Hassan by Captain Adam Mohamed for removal from their cells contained more than the seven names reported to the Jail Office for crossing over to another cell.
 2. As Corporal Abdulla Hassan has stated that he had asked Evan to come out of his cell because his name was also included in

the list given to him by Captain Adam Mohamed, it must be concluded that Evan was removed from his cell without a reason on Captain Adam Mohamed's instructions, and also because the testimony of Sergeant Adam Haleem corroborates that the instruction to do so was given by Captain Adam Mohamed.

3. 12 pairs of handcuffs were given to Corporal Abdulla Hassan and his team who were sent to remove prisoners from their cells.
4. While it could not be known from the record of the report lodged at the Jail Office that Evan was amongst those who crossed cells. While he was witnessing the removal of inmates from their cells, Sergeant Adam Haleem's testimony shows that when Captain Adam Mohamed heard Corporal Abdulla Hassan inform Sergeant Adam Haleem of Evan's refusal to come out of his cell, Captain Adam Mohamed ordered the removal of the prisoner from the cell.

(d) (removed)

(e) (removed)

- (f) It must be concluded that when Evan, refusing to come out of the prison without any reason, hit Private Ishaq Ahmed, one of the members of the Maafushi Jail Security Unit team who had tried to remove him from the cell, with a piece of wood. The command by Captain Adam Mohamed to ask "all the assembled members of the Security Unit to go to the cell" and to remove Evan and transfer him to the Range and to keep him separate from the rest of the inmates was an irresponsible order issued without regard to either the risk of maltreatment Evan faced from the members of the Unit or the extent of their anger towards him.

- (g) When he had visited Maafushi Jail Health Centre two or three times after Evan had been removed to the Range to inquire after Private Ishaq Ahmed who was injured by Evan, he would have seen inmates being taken to the Range and would have been receiving news of the maltreatment being inflicted by the members of the Unit on inmates; and,
- (h) It was Captain Mohamed's responsibility to supervise the conduct of the men under his command when they took Evan to the Range upon his orders, but he had in no way fulfilled this responsibility.

4.3.2 Sergeant Adam Haleem

- (a) Being the Security NCO In Charge of Maafushi Jail Security Unit on 19 September 2003, and it being his responsibility to supervise the security of the Jail and the security of inmates removed from their cell blocks, he had failed to discharge that responsibility;
- (b) When he ordered the Maafushi Jail Security Unit personnel assembled at the Volley Ball Court to go to Block C to remove Evan after he had hit a member of the Unit, and observing that the Security Unit personnel ran to Block C shouting aloud, he would have known that at such a time, the actions of the security personnel would not be carried out in the most proper manner;
- (c) Upon seeing Evan being removed from the Block by members of the Maafushi Jail Security Unit and hearing a banging noise against the wall after Evan was taken inside the checkpoint, he did not proceed to see what was being done to the prisoner by the members of the Unit;
- (d) Even while Evan had died of bodily injuries inflicted on him by members of the Security Unit after being taken to the Range on 19

September 2003, he did not go to the Range and undertake an adequate inquiry of the events that took place there; and

- (e) He took no action despite knowing that the Maafushi Jail Security Unit personnel taking Evan to the Range were very angry and that the place and manner in which Evan and the other inmates that were taken to the Range that night was contrary to the applicable procedures.

4.3.3 Staff Sergeant Ali Hassan

- (a) Having entered the Range and observed what was happening with Evan handcuffed to the steel bars on the eastern wall of the Workshop, four members of the Unit inside the Range have said that his visit to the Range coincided with a time when some members of the Unit were inflicting bodily injury on Evan. As the third most senior member of the Unit and the most senior NCO to have entered the Range when Evan was being maltreated, he made no attempt to stop the unlawful actions.
- (b) The testimony of Maafushi Jail Security Unit personnel who were present indicates that he saw that Evan was handcuffed to steel bars of the eastern wall of the Workshop, and having seen that Evan was handcuffed in a manner in which he was being subjected to unlawful bodily injury, and while the personnel present at the Range were all subordinates, he did not instruct them to remove the handcuffs; and
- (c) His failure to inform his superior officers of the maltreatment and the unlawful actions committed by his subordinates against Evan.

4.3.4 Sergeant Shahid Ali Maniku

- (a) Having gone near the place where Evan was tied with handcuffs to the steel bars of the eastern wall of the Workshop, he has admitted to having seen the manner in which Evan was kept, and although the

isolation and the manner in which Evan was handcuffed was unlawful and in such a way that would cause him bodily injury, and although these actions were carried out by personnel of subordinate ranks, he failed to instruct the members of the Unit to remove the handcuffs; and

- (b) Having gone near the place where Evan was tied with handcuffs to the steel bars of the Workshop, and upon discovering when he looked him over that Evan was weak, he took no action and did not find out what was being done to Evan by the members of the Unit who were there, and he failed to report the matter to his superiors.

4.3.5 Corporal Mohamed Rafeeu

- (a) Having gone to the Range after Evan was taken there and having seen that Evan was tied with handcuffs to steel bars of the eastern wall of the Workshop, and as handcuffing in that manner was unlawful, he did not instruct the removal of the handcuffs;
- (b) He did not take appropriate action and did not report to his superiors that he saw members of the Maafushi Jail Security Unit near Evan beating him while he was talking to Evan at the place where he was held in handcuffs; and
- (c) He failed to question members of the Security Unit when he discovered that bodily injuries had been inflicted on Evan as he went up to Evan and questioned him regarding the telephones used in the jail.

4.3.6 Corporal Mohamed Nazim

- (a) Having gone into the Range and waited after Evan was taken there, and having heard from the direction of the eastern wall of the Workshop in the Range the infliction of bodily injury on Evan and he failed to take any action to stop that;

- (b) Having been aware that security unit personnel were inflicting bodily injury on Evan and that fact that he left the Range without taking issue with such maltreatment and failing to inform his superiors of the maltreatment; and
- (c) He went to the Range with Sergeant Shahid Ali Maniku and while he says that he heard the infliction of bodily injury on Evan, the two of them left the Range together and he made no effort to inquire about who was maltreating Evan or to find out about the matter.

4.4 Persons Responsible for Assisting in the Cause of Bodily Injury on Evan

Whereas section 13 Chapter I of the Maldives Penal Code defines “aiding” in an offence to include any action that would help the commission of such offence, the Presidential Commission finds the following 6 persons also responsible for the death of Evan through aiding in a variety of ways in the infliction of bodily injury.

4.4.1 Private Sharafuddin Ali

- (a) He failed to report the matter to his superiors after having been to the Range and seen that Evan was tied with handcuffs to the steel bars of the eastern wall of the Workshop, when such treatment was unlawful.
- (b) He failed to report the matter to his superiors despite having heard, while he was inside the Range, the maltreatment of Evan by the Maafushi Jail Security Unit personnel, and despite having seen such bodily harm being inflicted on Evan; and
- (c) He remained in the Range most of the period in which Evan was subjected to bodily harm, and he was there for the purpose of assisting

Corporal Abdulla Hassan who is one of the leading people to have aided and abetted the infliction of harm on Evan.

4.4.2 Private Ibrahim Thaufeeq

- (a) He failed to report the matter to his superiors after having been to the Range and seen that Evan was tied with handcuffs to the steel bars of the eastern wall of the Workshop, when such treatment was unlawful;
- (b) He failed to report the matter to his superiors despite having heard, while he was inside the Range, the maltreatment of Evan by the Maafushi Jail Security Unit personnel, and despite having seen such bodily harm being inflicted on Evan; and
- (c) He remained in the Range most of the period in which Evan was subjected to bodily harm, and he was there for the purpose of assisting Corporal Abdulla Hassan who is one of the leading people to have aided and abetted the infliction of harm on Evan.

4.4.3 Ahmed Mohamed. Guard, Department of Corrections

- (a) He saw Evan being subjected to bodily harm by Maafushi Jail Security Unit personnel both outside and inside the Range, he saw that Evan was kept handcuffed to the steel bars of the eastern wall of the Workshop with his hands tied over his head, he heard some members of the Maafushi Jail Security Unit inflict bodily harm on Evan and the screams of the latter, he knew that Evan was weakened by the bodily harm inflicted on him, he knew that some members of the Maafushi Jail Security Unit had thrown sand on Evan and sprayed water on him and he had gone very close to Evan to give him some water upon which he was told “come every now and then, I cannot call you,” by Evan who also asked for help. He failed to do anything to save Evan

from the torture being inflicted on him by some members of the Maafushi Jail Security Unit, and remained there till Evan died;

- (b) He failed to duly inform the Department of Corrections of the matter although he knew that Evan was being subjected to bodily harm by Maafushi Jail Security Unit personnel both outside and inside the Range, and also after he was stood up and handcuffed to the steel bars of the Workshop; and
- (c) Where encouragement and opportunity was provided to the personnel of the Maafushi Jail Security Unit to torture Evan, he was aware of the maltreatment and remained there without taking any action to stop it. He did not give any response even when Evan asked for his help and he remained there without duly reporting the matter.

4.4.4 Ali Maaniu, Guard, Department of Corrections

- (a) He didn't make any effort to stop the maltreatment even though he was aware that before Evan was taken inside the Range a member of the Maafushi Jail Security Unit inflicted bodily injury on him. After he was taken inside the Range Evan was stood up and handcuffed to the steel bars of the Workshop and was tortured by several persons. Although he saw, when he got to about 6 feet from Evan, that he had become very weak as a result of injuries inflicted on him by some persons he did not take any steps to stop it.
- (b) He knew Evan was being subjected to bodily injury by Maafushi Jail Security Unit personnel both outside and inside the Range and failed to duly inform the relevant authorities; and,
- (c) Encouragement and opportunity was provided to the perpetrators of the torture because he saw the maltreatment and remained there without notifying the Department of Corrections.

4.4.5 Mohamed Thaufeeq, Assistant Warden, Department of Corrections

- (a) Being the head of the Department of Corrections duty shift between 6pm to 12 midnight of 19 September 2003, and having known that Evan was being subjected to bodily injury by Maafushi Jail Security Unit personnel inside the Range, he failed to make any effort to prevent further injury to Evan and chose to remain within earshot of the infliction of injury;
- (b) Having known that Evan was being subjected to bodily injury by Maafushi Jail Security Unit personnel inside the Range he failed to duly inform Department of Corrections and kept the matter secret;
- (c) He provided by default the opportunity for the perpetrators of the torture on Evan to inflict torture because he made no effort to stop the maltreatment, gave it secrecy and did not report it to the senior officials of the Department of Corrections, despite being ware that Evan was a person under the responsibility of Department of Corrections for serving a sentence and having learned that Evan was being subjected to bodily injury by some other party.

4.4.6 Adam Ismail, Assistant Warden, Department of Corrections

- (a) He failed to check whether Evan was being tortured inside the Range despite being the person designated by his supervisor, the Deputy Director of Department of Corrections Mr. Jaufar Adam, to attend for the purpose of keeping watch on what transpired during the removal of inmates from Block C on the night of 19 September 2003 and despite the fact that Evan, while being escorted out of the C-3 had told him that “Corrections must take responsibility if I suffer any injuries.” He also failed to check whether Evan was being tortured despite having heard cries of pain as he subsequently entered the Classroom.

- (b) He failed to take any action to prevent the infliction of bodily harm or report the matter duly to Deputy Director Jaufar Adam, even though Evan had told him indirectly that he will be subjected to bodily injury inside the Range. After Evan was taken inside the Rang, he still did not take any preventative action despite being aware that some people inside the Range were torturing inmates removed from the Jail; and
- (c) Opportunity was provided by default to members of the Maafushi Jail Security Unit to inflict bodily harm on Evan when he remained outside the Range without intervening and without reporting it duly to the Department of Corrections, even when he knew that prisoners inside the Range were being tortured by some members of the Maafushi Jail Security Unit.

4.5 Persons Responsible As a Result of the Manner in Which the Duties of Their Office was Discharged

The Presidential Commission finds that, in addition to those who were directly responsible for the death of Evan through inflicting bodily injury, and those who aided and abetted in inflicting such injury, there are also persons responsible for the death of Evan as a result of the manner in which they discharged the duties of their office.

4.5.1 Jaufar Adam, Deputy Director, Maafushi Jail Office

As the matters described below are as they are, and as Evan died as a result of bodily injuries inflicted on him within the premises of the Jail, and as the Commission finds that the manner in which Jaufar Adam, the Deputy Director of the Department of Corrections who was in charge of the Maafushi Jail had acted, had facilitated and provided the opportunity for some persons to carry out unlawful actions with regard to Evan, the Commission finds that had he properly carried out the duties of his office, as those persons would otherwise

not have found the opportunity to carry out such actions which were contrary to the laws and regulations.

- (a) Having arranged for Department of Corrections guards to be sent to the Range while the inmates were kept in the Range when Captain Adam Mohamed had informed him that he needed to remove and isolate some inmates from Block-C, although he did not believe that that the situation in Block C had deteriorated to a level warranting such a course of action;
- (b) While it is provided that if inmates are kept in the Range, two guards of the Department of Corrections must remain in the Range along with the security personnel, the guards discharged to the Range were not given any guidance or special instructions;
- (c) Failing on the night of 19 September 2003, unlike on previous occasions when inmates were removed to the Range, to visit the Range and observe the actions of some members of the Maafushi Jail Security Unit despite knowing that several inmates were taken there; despite seeing at various times that night inmates were being removed from the Jail by members of the Maafushi Jail Security Unit; despite knowing that a member of that Maafushi Jail Security Unit had been hurt when an inmate hit him and sensing by that time from the actions of some of the members of the Maafushi Jail Security Unit that they were enraged; despite the Assistant Wardens Mohamed Thaufeeg and Adam Ismail having, by their admission, told Jaufar Adam that there was “a lot happening” inside the Range; and
- (d) When matters were as noted above, he was negligent in his duties when, as the head of the Maafushi Jail office, he did not examine as he should have the events that took place on the night of 19 September 2003 at Maafushi Jail, particularly in the Range.

4.5.2 Lieutenant Mohamed Aswan

Whereas bodily injury on Evan was inflicted by some members of the Maafushi Jail Security Unit, for reasons noted below, the Commission finds that opportunity arose for some persons to carry out, in relation to Evan, actions contrary to the laws and regulations because of the manner in which Lieutenant Mohamed Aswan had acted while in his position as the second in command of the Unit, and the Commission further finds that had he carried out the duties of his office in the best manner there would have been no opportunity for carrying out actions contrary to the laws and regulations.

- (a) (part removed) and whereas Lieutenant Colonel Ibrahim Rasheed, Commanding Officer of the Detention Security Unit had, following a previous report from Lieutenant Aswan to the Lieutenant Colonel about maltreatment of inmates in the Range by some members of the Maafushi Jail Security Unit, instructed him to check whether any member of the Maafushi Jail Security Unit maltreated inmates and furthermore that no such action should occur while Lieutenant Aswan was there, he failed on the night of 19 September 2003 to check whether such actions took place in the Range and also failed to have it stopped; and
- (b) He failed to carry out the duties of an officer of that Unit when he did not go to the Range on the night of 19 September 2003, when he did not check if any of the inmates were being maltreated by some personnel of the Unit and had not sought to stop such maltreatment, while he knew that because of Evan in Block C a member of the security unit had been hurt. He also knew that several members of the unit had escorted Evan from his cell to the Range, and also while he could sense from what he saw of the actions of some members of the unit that they were enraged because a member of the unit had been hurt by an inmate.

4.5.3 Major Ibrahim Latheef

As Major Ibrahim Latheef was the Assistant Commanding Officer of the Detention Security Unit of the National Security Service, when the incident of 19 September 2003 occurred, and also as he was the 2 IC of the Maafushi Jail Security Unit, which falls under the responsibility of the Detention Security Unit, and as he was the person to whom the Officer-in-charge of Maafushi Jail Security Unit, Captain Adam Mohamed had to report on 19 September because the Commanding Officer of the Detention Security Unit, Lieutenant Colonel Ibrahim Rasheed was out of the country, the Presidential Commission finds that, for reasons given below, because of the manner in which Major Latheef had discharged the duties of his office, the opportunity arose and was facilitated for some persons to carry out against Evan actions which were contrary to the laws and regulations and further that, had he carried out the responsibilities of his office in the best manner, the opportunity for them to carry out actions contrary to the laws and regulations would not have arisen:

- (a) The Commission has established that on 19 September 2003, the decision by the security unit to remove and isolate some inmates of Block-C was not taken at the request of the Department of Corrections and nor was it taken because the situation was going beyond control due to the breaking down of order, even though the procedure to be followed is that should there be any problem relating to Block-C, it must be notified to the Department of Corrections, that it would be the Department of Corrections which must take action in relation to the problem, and that action by the security unit would be subsequent to a request for assistance made by the Department of Corrections in the event that the Department of Corrections cannot control the situation.;
- (b) The investigation had established that Major Ibrahim Latheef had authorised the removal and isolation of inmates while he was aware that the matter on which Captain Adam Mohamed wanted to act was not a matter than had been notified to the Department of Corrections, that the problem notified to the Department of Corrections was the

matter of crossing over to another cell, and that a problem of the breaking down of order was not in any manner notified to the Department of Corrections;

- (c) The investigation had established that Major Ibrahim Latheef decided to pursue the course action determined for the Maafushi Jail Security Unit, rather than carry it out in collaboration with the Department of Corrections or have it carried out by the Department of Corrections, even when, after he had authorised the removal of inmates to the Range, the Executive Director of the Ministry of Defence and National Security Mr Ibrahim Mohamed Maniku contacted Major Ibrahim Latheef, subsequent to calls made by the Director of Department of Corrections Mohamed Muizz to Captain Adam Mohamed and to Ibrahim Mohamed Maniku expressing his dissatisfaction over the decision to remove inmates from the cell without notifying the Department of Corrections;
- (d) The investigation had established that in his capacity as the Assistant Commanding Officer of the Detention Security Unit, Major Ibrahim Latheef must be held responsible for the measures taken by that Unit, and although Major Ibrahim Latheef says that he gave credence to the claim that the situation at Maafushi Jail was very serious because Captain Adam Mohamed was a very experienced and reliable officer, and also that he takes every action by consulting and on the instruction of his superior officer, the Commissioner of Police, Brigadier Adam Zahir, Major Latheef cannot be regarded as a person whose function is without personal responsibility to submit information provided by Captain Adam Mohamed and to convey the Commissioner's decision to Captain Adam Mohamed.
- (e) The investigation has established that in view of the expertise of Major Ibrahim Latheef in relation to Maafushi Jail, he had sought to act in a manner contrary to the established procedure, and in fact acted in that

manner, in a matter that should have been acted upon by the Department of Corrections;

- (f) The investigation has established that Major Ibrahim Latheef had not sought authorisation or advice from the Commissioner of Police Adam Zahir on the removal of trouble-makers from their cells, and that the advice of the Commissioner of Police was given on the manner in which the inmates were to be treated, should they be removed from the cells.

4.6 Persons Who Were Aware of the Commission of an Offence but Who Took No Action

While Maafushi Jail Security Unit rules prohibit any maltreatment of inmates and while it is the duty of every National Security Service person to prevent the commission of an offence in their presence or with their knowledge, the Presidential Commission finds the following eight persons took no action despite being aware that bodily injury was being inflicted on Evan.

4.6.1 Sergeant Muthasim Fahumy

- (a) While Evan was kept in the Range, he went there and looked at what was going on but took no action to stop the cruelty taking place nor did he report the matter to a superior;
- (b) Some members of the Unit who were at the Range have testified that while he was in the Range that night, he would have seen some members of the Unit maltreat Evan while he was handcuffed to the steel bars of the eastern wall of the Workshop; and
- (c) His failure to notify his superiors of the unlawful actions carried out in the manner described above by men of junior rank to him.

4.6.2 Corporal Adnan Hussain

- (a) His failure to instruct for the handcuffs on Evan be removed when he went near Evan and saw that he was kept separately from others and handcuffed to the steel bars on the eastern wall of the Workshop at time when there were only men of junior rank to him present.
- (b) From his statement that when he saw how the members of the Maafushi Jail Security Unit were when he went to the place where Evan was being kept, he could guess that they had inflicted bodily injury on Evan, and while by his own admission he knew that persons of the Unit had maltreated Evan, he did not take any action to stop the actions of persons of junior rank to him nor report the matter to his superiors;
- (c) His failure to take appropriate action to stop the maltreatment of other inmates at the Range that night by the persons who are believed to have maltreated Evan that night, is noted as an encouragement to maltreat Evan.

4.6.3 Corporal Ibrahim Didi

- (a) He did not tell the men of junior rank who were there to remove the handcuffs when he went to the place where Evan was being kept in the Range and saw that he was held handcuffed to the steel bars of the eastern wall of the Workshop in a manner that was unlawful and cruel.
- (b) When he went near Evan and saw that members of the Maafushi Jail Security Unit were carrying batons, and while he knew that bodily injury had been inflicted on Evan, and even while he saw a lot of sand on his face and in various parts of the body, he did not inform superior officers; and
- (c) While he was aware that Evan had been maltreated, and while it was men of junior rank to him who were near Evan and carrying batons, he made no attempt to question them and find out what had happened.

4.6.4 Lance Corporal Hassan Moosa

- (a) He did not tell men of junior rank to him to remove the handcuffs on Evan when he came near and saw the cruel and unlawful manner in which he had been tied to the steel bars on the eastern wall of the workshop.
- (b) When he went up to Evan he was screaming out and while knowing that bodily injury had been inflicted on Evan, and also that Evan was very exhausted, did not attempt to find details of the injury.
- (c) Upon learning that bodily injury had been inflicted on Evan, his failure to find out how it was caused or to report the matter to his superiors constituted an encouragement to the perpetrators of such bodily harm.

4.6.5 Private Abdulla Sharafuddin

- (a) Made no attempt to remove the handcuffs on Evan when he saw that he was handcuffed unlawfully as he went up to Evan when he was tied with handcuffs to the steel bars on the eastern wall of the workshop.
- (b) He did not report the matter to his superiors nor make any adequate attempt to intervene when he saw that Evan was being beaten up with batons by the Maafushi Jail Security Unit personnel inside the Workshop.
- (c) His failure to inform to his superiors that Evan was being subjected to bodily injury and that other inmates taken to the Range were also been maltreated, is construed as something that helped in inflicting bodily injury on Evan.

4.6.6 Private Ahmed Saleem

- (a) Did not make a proper attempt to stop the maltreatment of Evan when he saw that Evan was tied with handcuffs to the steel bars of the eastern wall of the Workshop and when he saw Evan being beaten with various objects.
- (b) Having been present for most of the time when bodily injury was being inflicted on Evan, and having related these actions to Corporal Abdulla Hassan who paid no heed, he did not report the matter to a higher officer to stop the actions.
- (c) It could be construed that those who were inflicting bodily injury on Evan derived encouragement from the failure to take action to stop or report to higher authorities when other inmates who were brought when Evan was been maltreated were also subjected to a variety of physical abuse.

4.6.7 Private Mohamed Sharoof

- (a) Made no attempt to stop the infliction of bodily damage on Evan when he went up to the place where Evan was kept and saw the actions taking place while Evan was handcuffed to the steel bars of the eastern wall of the workshop.
- (b) It could be deemed that those who were inflicting bodily injury on Evan derived encouragement from his failure to take action to either stop what was transpiring or report it to higher authorities.

4.6.8 Private Ibrahim Moosa

- a) Having learned that Evan was kept tied with handcuffs to the steel bars of the eastern wall of the Workshop, he proceeded to where Evan was held, and when those members of the Maafushi Jail Security Unit who had come there together with him began to inflict various kinds of physical harm on Evan with a variety of equipment, he remained there with them to give support to them in a manner which encouraged them.
 - b) Having gone near Evan with the intention of inflicting bodily harm and having watched Evan been subjected to physical harm, he did nothing to stop the maltreatment when Evan was crying out, and did not report the matter to his superiors.
 - c) As he was a member of the Volley Ball Team, and as the persons who were beating up Evan that night were mostly members of the Volley Ball Team, his failure to report the matter to a superior can be construed as providing encouragement to those who were inflicting bodily injury.
-

5. FINDINGS

5.1 MAIN FINDINGS

- 5.1.1 There were two incidents of Cell crossing from C-3 to C-5 in the morning of 19 September 2003 and in one of those incidents bodily harm was inflicted on an inmate in C-5. While the incident of that afternoon when some inmates of C-3 and C-4 splashed water and hurled objects had been over when Captain Adam Mohamed arrived at Maafushi Jail from Male' in the evening and, although the situation in the jail was calm as on other days, Captain Adam Mohamed gave the impression to the senior commanders of the Unit in Male' after his return that the situation had still not returned to normal, that there was disorder and unusual activity continuing among inmates and that the trouble makers had been identified by him but order could not be restored until they were removed from their Cells and separated from other inmates;
- 5.1.2 Based on the information provided by Captain Adam Mohamed, the Unit's superiors in Male' permitted the removal of trouble making inmates from their Cells to be confined in a sheltered location. However, on the orders of Captain Adam Mohamed, at least 35 inmates from various Cell blocks were taken to the Range on the evening of 19 September 2003;
- 5.1.3 Inmates taken to the Range were handcuffed to one another and kept in 3 rows. They were kept in outdoors in the yard of the block containing the workshop, despite the rain that evening. Their names were noted by Maafushi Jail Security Unit personnel only after they were chained to each other by handcuffs and they were subjected to various forms of bodily injury while they were kept handcuffed in the Range. No specific Maafushi Jail Security Unit personnel were assigned the duty of looking after the inmates at the time they were brought to the Range;

- 5.1.4 Evan's death on the evening of 19 September 2003 was due to a series of unlawful actions facilitated by the permission received by Captain Adam Mohamed which was in turn based upon false and misleading information he had provided to his superior officers. He had not complied with the instructions that he had received on keeping the inmates and looking after them.
- 5.1.5 When the Commission asked to view the CCTV recordings of Block C during the relevant period maintained in the operations room, the Commission was informed that the CCTV recording of the incidents of 19 September 2003 had not been preserved. The Commission was therefore unable to have the benefit of viewing those CCTV recordings of Block C during the incidents of 19 September 2003 despite the fact that any recorded material would remain in the hard disk of the computer for a period of 72 hours;
- 5.1.6 When the Commission asked to view the video recording of the removal of inmates from Block C and their incarceration at the Range on 19 September 2003 and the Commission was informed that the tape used to record those incidents had been subsequently used to record the first visit of Umar Zahir, Minister of Construction and Public Works to Maafushi at least two days later. The Commission was therefore unable to have the benefit of viewing the video recording of the activities of the Maafushi Jail Security Unit on the evening of 19 September 2003 despite the fact those incidents were ordered to be captured on video by Brigadier Adam Zahir, Commissioner of Police, and Head of the Detention Security Unit;
- 5.1.7 The Commission did not have the benefit of obtaining the event log book of Maafushi Jail Security Unit because it did not exist up to that day even though it was required by National Security Service Regulations to be maintained by all its units and in which the events of 19 September 2003 should have been duly recorded;

- 5.1.8 According to doctors who had examined Evan and the Death Summary issued by Indira Gandhi Memorial Hospital on 20 September 2003, the most probable cause of Evan's death was the fracturing of his seventh right rib which caused the lung to collapse, resulting in an inadequate supply of oxygen to the brain and the rest of the body. He further stated that the other injuries sustained by Evan were also sufficient to cause death if not treated in time. The doctor had noted the time of death as 11.20 pm of 19 September 2003;
- 5.1.9 It is a fundamental right of every Maldivian citizen provided by the Constitution that no injury may be caused to his or her life, freedom, or body except in accordance with law;
- 5.1.10 The infliction of bodily injury on Evan by persons in possession of power and authority, while keeping him in a situation where he could do nothing to fend for himself, was a violation of the fundamental right against any unlawful bodily injury guaranteed by Article 15 (1) (b) of the Constitution of the Maldives;
- 5.1.11 The infliction of bodily injury or the carrying out of any action that may be construed as torture is a violation of Rule 19 (i) on Page 27 of the Maafushi Jail Security Unit Regulations that prohibit any such injury being inflicted on any inmate;
- 5.1.12 According to senior officers of the National Security Service, the initiation of action by Maafushi Jail Security Unit against inmates is justified only in circumstances where national security or the life of a person may be threatened or where an order of theirs is violated by an inmate while they acted in aid of and at the request of the Department of Corrections.
- 5.1.13 The removal of certain inmates from Block C on the evening of 19 September 2003 by Maafushi Jail Security Unit and their incarceration in the Range was in contravention of the established procedure at the Maafushi Jail of notifying in writing the Maafushi Jail Office of the

violations of the prison rules by inmates and requesting action. The matter should have been left for action by the Department of Corrections and did not require action by the Maafushi Jail Security Unit.

5.1.14 Despite the illegitimate actions by the Maafushi Jail Security Unit, the Department of Corrections failed to adequately discharge its responsibilities within its own mandate and jurisdiction; and

5.1.15 Had the Maafushi Jail Security Unit personnel and its senior officers respected the rules and practices established at the Maafushi Jail and permitted the Department of Corrections to discharge its own responsibilities, and had the senior Department of Corrections staff at the Maafushi Jail Office adequately discharge their own duties, Evan would not have died in the manner he did on the evening of 19 September 2003.

5.2 OTHER FINDINGS

5.2.1 Although the general responsibility of Maafushi Jail Security Unit is to guard the outer perimeters of Maafushi Jail, the overall responsibility of looking after Block C or Investigation Jail-1, still remains with Maafushi Jail Security Unit and the keys to the Block also continue to be in their possession;

5.2.2 Inmates taken to the Range on the evening of 19 September 2003 in addition to Evan also suffered various forms of bodily injury at the hands of Maafushi Jail Security Unit personnel;

5.2.3 (removed)

5.2.4 Some Maafushi Jail Security Unit personnel identified by the Commission in its investigations as participators in the infliction of brutal bodily injury on Evan on 19 September 2003 are among those Maafushi Jail Security

Unit personnel identified by Lieutenant Aswan in his letter of 2 July 2003 and his report sent to some senior officers of the National Security Service in the early part of 2003, as being suspected of being involved in the causing of bodily injury to inmates at Maafushi Jail; and

5.2.5 (removed)

6. RECOMMENDATIONS

On the basis of information received by the Commission, the investigations conducted by it, and the matters that it examined, the Commission notes below measures that could be taken to prevent the future re-occurrence of any incident similar to that which caused the death of Evan:

6.1 Relating to Government Departments

- 6.1.1 Generally, it is the Department of Corrections which attends to matters at Maafushi Jail, and it is the Maafushi Jail Security Unit which attends to matters of prison security. The former functions under the Ministry of Home Affairs Housing and Environment, while the latter functions under the Ministry of Defence and National Security. It would be important to keep a clear demarcation and distribution of individual responsibilities and functions between the Department of Corrections and the Maafushi Jail Security Unit in relation to Maafushi Jail. It would also be important for both to respect the role and responsibility of the other.
- 6.1.2 It would be important for the Maafushi Jail Security Unit to remain entirely outside the premises of the prison in order to protect the jail from any external threat;
- 6.1.3 Senior officers and other personnel of the Maafushi Jail Security Unit should be replaced or rotated in definite time periods;
- 6.1.4 It would be important to clearly spell out and make senior officers in Male' who are assigned to the Maafushi Jail Security Unit equally

responsible for what happens in Maafushi and to require them to actively supervise matters relating to Maafushi.

- 6.1.5 It would be important for the Department of Corrections to take full responsibility for looking after all internal matters relating to Maafushi Jail and the affairs of its inmates. It would also be important to spell out the responsibilities of its individual staff and to fully develop their respective job descriptions.
- 6.1.6 Staff of the Department of Corrections who come into direct contact with inmates should be educated and trained on to effectively deal with offenders and persons of difficult temperaments and they should also be competent and experienced to discharge their functions; and
- 6.1.7 The line of command among Department of Corrections staff should be strengthened and it should be made obligatory for them to inform their superiors of any wrongdoing that happens in their presence.

6.2 On Maafushi Jail

- 6.2.1 The practices currently used by the Department of Corrections in relation to Maafushi Jail need to be strengthened, and procedures for various matters need to be developed and implemented. At the same time, procedures established for the Maafushi Jail Security Unit need to be strengthened and rules need to be developed and implemented for matters that require collaboration between the Maafushi Jail Security Unit and the Department of Corrections.
- 6.2.2 It would be important to formulate and implement rules applicable to inmates. Sanctions for the infringement of such rules must also set out in advance and made known to inmates. If different regimes apply to those who are convicted offenders and those who are under investigation, such a distinction must also be clear from the rules.

- 6.2.3 Role and functions of the Consultative Committee on Jail Affairs which was established on 5 October 1998 and those of the Grievances Committee which was established on 1 March 2001 could be strengthened and the criteria used in appointing members to those committees needs to be changed. Grievances should be filed with and examined by these committees without any hindrances and positive results of their performance and utility should be shown. A mechanism should be formulated through which members serving on these committees and other such committees are obligated to personally visit the Jail and examine the operations of matters relating to their work.
- 6.2.4 As inmates are believed to indulge in unlawful acts due to long and inactive periods of confinement in crowded Cells, opportunities to offer education, training, and work as a reward should be created;
- 6.2.5 A permanent Board comprising members selected from relevant Government departments and from amongst respectable citizens may be formed to oversee the grant of rights to inmates, the compliance with rules in relation to them, the commission of acts detrimental to their rights by jail authorities. A mechanism to effectively facilitate the conduct of Board's duties may also be introduced and the members themselves may be rotated in definite periods;
- 6.2.6 A mechanism should be introduced whereby a detailed activity report is produced in respect of any isolation of an inmate.
- 6.2.7 CCTV recordings should be required to be preserved for a definite period of time.

6.3 On Inmates

- 6.3.1 Space requirements should be taken into consideration when inmates are confined in a Cell. Primary and secondary services, facilities and amenities available to an inmate should be clearly spelled out;
- 6.3.2 The mindset regarding inmates should be replaced with fresh thinking based on the fact that most of the inmates will return to society on completion of their term, and hence a reformatory environment should be provided during their term in Jail;
- 6.3.3 Drug offenders should be removed from amidst other general or serious offenders and should be confined separately and a system for their rehabilitation into society needs to be established.
- 6.3.4 Convicted offenders should be separated from alleged offenders, and they should be further separated based upon their age, the type and degree of seriousness of the offence they have committed or are alleged to have committed;
- 6.3.5 The current system of health care provided to inmates should be strengthened so that they would not need to be brought to Male' except under exceptionally serious occasions, and a hospital should be built at Maafushi through which inmates could receive medical treatment and attention;
- 6.3.6 A system that extends the services of counsellors, lawyers, and religious scholars to inmates should be developed;
- 6.3.7 The manner in which family members can meet with inmates and or inquire after them needs to be strengthened and an easier way needs to be established to facilitate families who wish to obtain news about their relatives.

- 6.3.8 The current rules on the provision of cigarettes and the like should be eased, and the provision of such items by family members should be established.

6.4 On the Investigation Stage

- 6.4.1 Persons who need to be kept in confinement during the investigation of an offence may be kept at a place other than Maafushi Jail and it is important to make alternative arrangements so that those in the custody of the Ministry of Defence and National Security are not assigned to Maafushi Jail which is a prison facility under the Ministry of Home Affairs Housing and Environment;
- 6.4.2 The practice of imprisoning individuals for minor offences needs to be reviewed as does that of sending individuals to jail because there is no place to effect a house arrest in Male'. Imprisonment for administrative reasons also needs to be reviewed and the introduction of a bail system needs to be considered. Reasons for delays in releasing prisoners on completion of their sentence need to be examined and the current procedures that apply need to be strengthened. In addition, a general code relating to imprisonment needs to be formulated.
- 6.4.3 A general and uniform set of regulations applicable to all persons detained in the country for investigation or for other reasons in the custody of relevant Government authority should be introduced.
-

7. GRATITUDE

While the Presidential Commission completes the investigation of the death of Hassan Evan Naseem and compiles this Report, the Commission recalls with appreciation those persons who had rendered various forms and degrees of assistance to it and expresses its gratitude to them with sincerity.

Relentlessly thanks are due, while recognising the immensity of their task, to the members of the Investigation Teams who worked on the investigation of the death of Hassan Evan Naseem under the guidance and direction of this Commission.

Profound thanks are due to the members of the Secretariat who assisted in the administration and coordination the affairs of the Presidential Commission.

Generous gratitude is extended to Heads of those Ministries and Departments of the Government which had extended their kind co-operation in our endeavor to find the staff necessary to undertake this demanding task, and released their staff for this work.

At the same time, earnest thanks are expressed to those Government departments for their kindness in providing information and attending to matters requested by the Commission and for the totality of their response.
