

# ASSET RECOVERY IN THE MALDIVES

*Zihna Naseer\**

## I. ASSET RECOVERY

### A. Introduction

With the enactment of the new Constitution on 7 August 2008, the Maldives's transition into a democratic nation was initiated. The Constitution gave way to long-awaited changes, and the numerous changes have been and are currently taking place within the small island nation of approximately 350,000 people who are geographically spread into smaller communities. Even though the process of transition into a democratic nation has been an age-long vision, the country in whole has been steadfast and focused into what the nation wished to achieve. Thus, time gave way to democratic change. Nevertheless, this sudden transition has not been easy due to the many challenges within the legal system and the mindsets of the people.

After the enactment of the new Constitution, the concept of separation of powers in its true meaning was, for the first time, established in the country. At present, the law making power of the nation is vested in the People's Majlis (the Parliament), while the executive power is vested in the President (government), and the judicial power, in the Courts of Law. The new Constitution also guaranteed a number of very essential fundamental rights and freedoms to the citizens, something which the country has never experienced in the past.

As the country's move to democracy is still in its infancy, there are many challenges which have to be tackled by the three primary organs of the State. It is noteworthy that the majority of the problems faced today are due to the lack of essential laws required to maintain and achieve peace, harmony, well-being and prosperity of and within the society. In addition to this, it is of utmost importance to update the laws that exist today so that they serve the purpose for which they were enacted.

Since the introduction of the new Constitution, there have been many important laws passed in accordance with the constitutional requirements. The Constitution has been a major turning point in filling the gaps and loopholes within the legal system of the country in terms of fulfilling the needs of the community and the challenges in it. Still, there is a long journey ahead; there are many laws required under the new Constitution, and also the need for subsidiary legislation.

Even though the relevant authorities of the country are aware of the requirement, the problems within the political arena have slowed down the process of designing and giving life to the required legislation in preventing or minimizing the level of corruption within the country. Recently a more comprehensive bill on corruption has been submitted to the Parliament and is still awaiting a vote.

### B. Current Situation of Corruption and Related Acts

One of the major changes in the legislative and institutional frameworks that followed the new Constitution was the establishment of independent commissions in the country. Key independent institutions include the Auditor General's Office, the Anti-Corruption Commission, the Prosecutor General's Office, the Civil Service Commission, the Human Rights Commission and the Judicial Service Commission.

The key legislation that governs the fight against corruption in the country is:

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\*Investigation Officer, Investigation Division, Anti-corruption Commission, Republic of Maldives.

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1. Prevention and Prohibition of Corruption Act 2/2000 (hereafter referred to as PPCA),
2. Anti-Corruption Commission Act 13/2008 (hereafter referred to as ACC Act),

Other legislation that supports the anti-corruption regime includes the Law on Public Finances, the Auditor General's Act, and the Regulation on Public Finance<sup>1</sup> and Banking Act. Under the new Constitution, the citizens of the country are required to act in compliance with treaties ratified by the State as provided or in a law passed by the Parliament.

On 22 March 2007, the Maldives became a party to the United Nations Convention against Corruption. Since the Maldives' accession to the United Nations Convention against Corruption, much has to be done in terms of implementing the institutional and legislative requirements of the convention. Hence, a legal and institutional gap analysis is being carried out by the Anti-Corruption Commission to identify the legal and strategic needs of the country to effectively implement the United Nations Convention against Corruption.

### **C. Existing Legal Regime**

The Anti-Corruption Commission, established under the new Constitution, is an independent legal entity<sup>2</sup> with a separate seal, possessing power to sue and be sued and to make undertakings in its own capacity. The Commission consists of five members appointed by the President with prior endorsement from the Parliament; the Anti-Corruption Commission is headed by a President and Vice-President of the Commission, and all decisions are subject to a majority of the votes of the members present in a meeting of the Commission.

The role of the Anti-Corruption Commission is to prevent and combat corruption within all spheres of the State without fear. The Anti-Corruption Commission employs a three-pronged strategy, which is Enforcement, Prevention, and Education. Responsibilities of the Anti-Corruption Commission include:

- Inquiring into all allegations of corruption;
- Investigating any complaints, information, or suspicion of corruption;
- Recommend further inquiries and investigations by other investigatory bodies, and
- To recommend prosecution of alleged offences to the Prosecutor General, where warranted;
- Carry out research on the prevention of corruption and to submit recommendations for improvement to relevant authorities regarding actions to be taken;
- Promote the values of honesty and integrity in the operations of the State, and
- To promote public awareness on the dangers of corruption;
- Conduct seminars, workshops and other programmes to enhance public awareness on the prevention and prohibition of corruption;
- Conduct surveys and research to further this end and the publication of such surveys and research;

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<sup>1</sup>Article 93 (a) of the Constitution of the Maldives states that the treaties entered into by the Executive in the name of the State with foreign states and international organizations shall be approved by the parliament, and shall come into force only in accordance with the decision of the parliament. And Article 93 (b) of the Constitution states that despite the provisions of article (a), citizens shall only be required to act in compliance with treaties ratified by the State as provided or in a law passed by the Parliament.

<sup>2</sup>Section 2 of the ACC Act provides for an independent legal status of the Commission that states that the Commission is an independent legal entity with a separate seal, possessing power to sue and be sued and to make undertakings in its own capacity.

- Disclose information pursuant to the prevention and prohibition of corruption that require public disclosure and publish statements where necessary;
- Implement and monitor the implementation of the PPCA and formulate and implement all rules necessary for the enforcement of the Act.

Therefore, the Prevention and Prohibition of Corruption Act (2/2000), is the most relevant law in the Maldives which adheres to the United Nations Convention against Corruption.

In introducing the PPCA in the year 2000, the older laws related to corruption were repealed. The aim of the Act is to prevent the offer and acceptance of bribery, the prevention and prohibition of attainment of undue advantage or the facilitation of attainment of undue advantage through use of influence from position, and the prevention of such. The Anti-Corruption Commission Act states that corruption offences are those offences criminalized in the PPCA<sup>3</sup> and the Anti-Corruption Commission has the mandate of implementing the PPCA<sup>4</sup>. The PPCA criminalizes the following acts of corruption:

- The offence of obtaining undue advantage by government employees. (section 12)
- The Offence of acting in a manner which precludes an advantage to the public or State where a benefit exists. (section 13)
- The offence of assigning work, procuring for the government and using government property for personal gain (section 14)
- The offence of offering and accepting bribes in relation to tasks undertaken by the government or a member of the public<sup>5</sup>; and
- The offence of offering and accepting bribery by a member of the Parliament<sup>6</sup> or the Judiciary<sup>7</sup>.

Furthermore Section 24 of the PPCA states that property and money obtained through commission of an offence stated in PPCA and property obtained through such whether with the person, with someone else, and wherever it is, whether sold or given to a person shall be confiscated.

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<sup>3</sup>ACC Act, Section 23.

<sup>4</sup>ACC Act, Section 21 (h).

<sup>5</sup>Section 2 (a) of the PPCA states: *In relation to a task or interaction undertaken, or to be undertaken by the Government or a government agency, it is an offence for an employee of government or government venture, on his own, using someone or through someone to accept bribery, to request for bribery, to agree to accept, to bribe, agree to bribe or propose to offer bribery to a similar employee, in order to lessen the burden, to ease, to benefit, to give any advantage whatsoever, to inconvenience or to make burdensome or to inflict any harm whatsoever on a specific party or to motivate or reward someone for the carrying out of such.* Section 2(a) of the Prevention and Prohibition of Corruption Act states: *A person who commits an offence stated in subsection (a) above shall be punishable with imprisonment, or banishment or house arrest not exceeding 7 years.*

Section 5 (a) of PPCA states that with regard to a task or interaction undertaken, or to be undertaken by a member of the public or Government, or a government venture, it is an offence for a person on his own or through an agent to accept bribery, to request for bribery, to agree to accept bribery, to bribe, agree to bribe or propose to offer bribery in order to lessen the burden, to ease, to benefit, to give any advantage whatsoever, to inconvenience, to make burdensome or to inflict any harm whatsoever on a specific party or to motivate or reward someone for the carrying out such an act, "Where someone is found guilty of the said offence he/she will be subject to imprisonment, banishment or house arrest for a period not exceeding 5 years."

<sup>6</sup>Section 3 (a) of the PPCA states that *it is an offence for a member of the People's Majlis (Parliament) on his own or through an agent to accept bribery, to request for bribery, to agree to accept, or to propose to offer bribery, or to agree to bribe, or to offer bribery in any form to motivate someone, to reward, in order to act or omit to act in the capacity as a member of the People's Majlis.*

Where a member of the Parliament is found guilty of the said offence he/she will be subject to imprisonment, banishment or house arrest for a period not exceeding 7 years.

#### **D. Mechanism to Investigate**

The Anti-Corruption Commission has mechanisms to investigate the cases filed at the Commission. Cases can be filed through a written letter, by phone, by e-mail, fax or in person, and informants have the choice of revealing their identity. Members of the Commission decide whether the complaint falls under the mandate of the commission, whether it is frivolous, whether it requires corrective action, or whether it warrants investigation.

When the Commission decides that an allegation warrants investigation, a Case File is prepared and assigned to an investigator. The investigator has to produce a summary of the case proceedings within 7 days. The summary proceedings are discussed with an auditor and a lawyer. Then, the investigation commences and upon completion, an investigation report is prepared. Then, legal review of the investigation report is done, and if the report does not suffice, it is handed back to the investigator for further inquiry. The final report and the recommendations of the investigator are discussed among the members. When the case is final, it is sent for prosecution, or forwarded to the relevant authorities to warn or order a fine, and the Commission receives notification of the action taken.

#### **E. Prosecution and Adjudication of the Offences**

The Prosecutor General's Office was established in 2008 under Article 220(a) of the new Constitution.<sup>8</sup> The Prosecutor General's Office is an independent legal entity with a separate seal, possessing power to sue and be sued and to make undertakings in its own capacity.<sup>9</sup>

Article 25(b) of Anti-Corruption Commission Act states that upon completing the inquiry and investigation of a case, the Commission has to send the case to the Prosecutor General's Office for prosecution if the case is one which involves an offence of corruption, and the Commission believes that there exists sufficient evidence to obtain a conviction at trial.

## **II. THE CURRENT SITUATION OF, AND PROBLEMS AND CHALLENGES IN, INVESTIGATION, PROSECUTION AND ADJUDICATION (INCLUDING CONFISCATION AND RECOVERY OF ASSETS)**

#### **A. Introduction**

The Maldives still faces many problems and challenges in terms of investigation. As for the investigations carried out by the Anti-Corruption Commission, the following problems and challenges are faced:

- Maldives consists of many islands separated from each other; there is always a difficulty in reaching the destination with ease.
- Due to the geography, it is difficult to take prompt action when there is a need to investigate a case with urgency.
- Travelling is costly whether by sea or air. Sometimes it is not easy to find transport when required and delays occur.
- Weather is another barrier when needed to travel. The seas may get very rough and travelling

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<sup>7</sup>Section 4 (a) of PPCA states that *it is an offence for a High Court judge, or judge, or a magistrate, or any other person assigned responsibility to pass judgment in performing or omitting to perform a responsibility of his post, to accept bribery, to request for bribery, to agree to accept or to bribe, agree to bribe or propose to offer bribery by himself, using someone or through someone in order to lessen the burden, to ease, to benefit, to give any advantage whatsoever on a specific party or to use position to motivate someone to commit such or to reward for the carrying out of such.*

Where a member of the judiciary is found guilty of the said offence he/she will be subject to imprisonment, banishment or house arrest for a period not exceeding 10 years.

<sup>8</sup>Article 220 (a) of the Constitution states that there shall be an impartial Prosecutor General of the Maldives.

<sup>9</sup>The Prosecutor General is independent and impartial, and he shall not be under the direction or control of any person or authority in carrying out his responsibilities and the exercise of his powers. He shall carry out his responsibilities and exercise his powers without fear, favour or prejudice, subject only to the general policy directives of the Attorney General, and on the basis of fairness, transparency, and accountability.

in small boats damages equipment.

**B. Current Situation, Problems and Challenges, Focusing on Measures/Mechanisms Relevant to Punishing Offenders Effectively**

1. Criminalization of Corruption and Related Acts

The Maldives is a young democracy in its most fragile, infant stage, and thus the legal system of the Maldives requires a complete overhaul if the wish is to remain a player in the international community. Currently, there are two Acts that are directly related to the prevention of acts of corruption in the Maldives. Namely, they are the Prevention and Prohibition of Corruption Act (Act No.22/2000) and the Anti-Corruption Commission Act (Act No: 13/2008).

Section 1(a) of the Prevention and Prohibition of Corruption Act states that the purpose of the Act is to prevent the offer and acceptance of bribes in addition to the prevention and prohibition of attainment of undue advantage through the use of influence from his/her position and also the prevention of any such act which can be considered as corruption. It is worthy to note that this Act does not give a definition of corruption, but it gives the power to the Courts to decide whether or not an act not explicitly stated in the PPCA constitutes to corruption.

If a government official, employee or an employee or an official of a government venture is found, on his own, or through someone to be involved in the act of bribery, the person will be sentenced for a term of not more than 7 years, to either house arrest, banishment or imprisonment. If the offender is a member of the Parliament, the sentence is also for a term of not more than 7 years. When a member of the Judiciary is the offender, the sentence is for a term of not more than 10 years.

The Penal Code of the Maldives covers offences such as theft, embezzlement of funds, misappropriation, deceit and criminal breach of trust.<sup>10</sup> However, recently a new Penal Code has been passed by the Parliament, and it will come into force at the end of this year.

2. Measures and Mechanisms to Encourage Persons Who Have Useful Information to Cooperate with Investigative and Prosecutorial Authorities

In the Maldives, there are no laws or regulations which grant immunity to any single person who cooperates with investigative and prosecutorial authorities. Nevertheless, witness protection, i.e., whistle-blower protection, in addition to reporting and cooperation by other public authorities is very much alive and practiced within the society.

Article 28 of the Maldivian Constitution clearly states that “everyone has the right to freedom of the press, and other means of communication, including the right to espouse, disseminate and publish news, information, views and ideas. No person shall be compelled to disclose the source of any information that is espoused, disseminated or published by that persona”. This Article of the Constitution guarantees the whistle-blowers’ emergence at times of need.

Furthermore Section 26(a) of the Regulation on the Right to Acquire and Receive Information from Official Bodies states that the sought information is that for which if confidentiality is not maintained, it may result in a threat to a person’s health, life or safety; then that respective authority retains the choice of whether or not to reveal the information sought. This section can be applied in both whistle-blower cases and witness-security cases.

3. Special Investigative Techniques and Their Use at the International Level.

The Maldives is a member of Interpol, and the Maldives Police Service collaborate with Interpol in various types of Investigations.

4. Other Criminal Justice Measures

Property and money belonging to a person accused of committing the offence of bribery stated in the PPCA shall be declared to have been obtained through bribery, where it is established during the trial proceedings that the person had accepted bribery and where the person fails to establish that

<sup>10</sup> Sections 131-149 of the Penal Code (Chapter 4).

money and property in excess of known income was not obtained through bribery.<sup>11</sup>

5. International Cooperation

The Maldives have signed three solely extradition agreements. They are with Sri Lanka (2 September 1981), an extradition agreement with Germany (14 September 1982) and an extradition agreement with Pakistan (12 July 1984). The Maldives is also a party to the *SAARC Convention on Mutual Assistance in Criminal Matters* which is yet to be endorsed by the Parliament. Article 1 of the Convention states that the State Parties to the Convention shall, subject to their national laws, and in accordance with the provisions of the Convention, provide to each other the widest possible measures of mutual legal assistance in criminal matters, namely investigations, prosecution and resulting proceedings.

As the Maldives is a member of Interpol, the Maldives seeks and provides assistance to/from other nations who are parties to Interpol. In addition, the Maldives has proposed Transfer of Prisoners Agreements to Syria, Russia, Indonesia, the Philippines, Thailand, Bangladesh, India and Pakistan; however, they are yet to be agreed upon.

**C. Current Situation and the Problems and Challenges Faced while Focusing on Measures/Mechanisms Relevant to the Effective Confiscation of Illegal Benefits and Recovery of Assets:**

1. Measures to Identify, Trace, Freeze, and Confiscate Instrumentalities and Proceeds of Corruption-Related Offences;

The main challenge faced by all the authorities in the Maldives is the unavailability of qualified personnel in the field and the lack of vital (up-to-date) laws. The Anti-Corruption Commission Act 2008 grants the Anti-Corruption Commission the power to search for, to see into and to acquire any information that the Commission feels relevant to a case being investigated by the Commission.<sup>12</sup>

The Banking Act obliges the banks under the jurisdiction of the Constitution of the Republic of the Maldives as follows: confidential information shall be disclosed upon a written request from a criminal investigative body.<sup>13</sup>

The Financial Intelligence Unit in the Maldives Monetary Authority operates in such a way that it traces and forwards the respective intelligence information regarding STR's to the Maldives Police Service.<sup>14</sup> However, it is important to note that, so far, no property belonging to anyone has been confiscated on the grounds of corruption nor has there been any freezing of assets.

In the Maldives, under the following sections of the Prevention and Prohibition of Corruption Act, freezing and confiscation of proceeds of corruption are considered:

- Property and money obtained through commission of an offence (section 24)
- Checking Bank Accounts (section 25)
- Withholding Bank Accounts (section 26)

2. International Cooperation for the Purpose of Identifying, Tracing, Freezing and Confiscating Instrumentalities and Proceeds of Corruption and Related Offences.

No such situation has so far arisen.

3. Return and Disposal of Confiscated Assets

No such situation has so far arisen. The Maldives requires financial, technical and professional assistance from the international community.

<sup>11</sup> Prevention and Prohibition of Corruption Act 2000, Section 11.

<sup>12</sup> Section 22(c) of the Anti-Corruption Commission Act 2008.

<sup>13</sup> Section 42 of the Banking Act 2010.

<sup>14</sup> Section 38 of the Banking Act 2010.

### **III. THE CURRENT SITUATION OF, AND PROBLEMS AND CHALLENGES IN, STRENGTHENING THE CAPACITY AND ABILITY OF CRIMINAL JUSTICE AUTHORITIES AND THEIR PERSONNEL**

#### **A. Introduction**

Aiming to maintain peace, order and good governance within society, the following authorities have been established. Some of these authorities have existed before the enactment of the new Constitution while others came into existence through the powers given by the new Constitution, which was ratified on 7 August 2008.

Even though, under the new Constitution, many authorities are established in order to strengthen the ability and capacity of the criminal justice system within the nation, there are still many challenges faced in running these institutions at their full capacity. In terms of authorities, the following challenges exist:

- Independent work environment is a necessity for some of these institutions carrying out sensitive and independent work. In the Maldives, lack of proper office buildings has been an issue due to the congestion of office buildings utilized by the State.
- In many of these entities, the requirement of proper and efficient equipment has always been an issue. It has to be noted that the technologies and technical equipment needed for the purpose of auditing and investigation are not efficient. This may have a major effect on the quality and output of the work.
- As some of these institutions are newly formed, there is a lack of proper planning to execute their tasks efficiently and effectively.
- Sometimes it has been an issue raised by the institutions that the funding required, and the funding allocated through the national annual budget is not sufficient to achieve their goals as planned.
- There is still a need for some authorities to come up with internal regulations to manage the institution and staff.
- In terms of membership of independent institutions, there is also the fear that a simple majority vote by the Parliament can dismiss the membership.

There is also a challenge for these authorities in terms of human resources. Therefore, the following problems have been noted:

- There is a huge requirement for these authorities to employ qualified, professional and experienced staff. The lack of professional people in the area of criminal justice has been a major drawback.
- Providing the essential training related to the field of criminal justice required. The staff within these organizations needs to be trained and educated to execute their tasks effectively.
- At the management level, it is important to check personality and background when employing staff. As we work in a small community, it is important to hire trusted employees who can uphold the values of the organizations and work independently and not expose confidential information to outside parties.
- Train staff to a level where they are able to make decisions in their own capacity. This will pave more time for the policy makers to concentrate on policy making.

## **B. Integrity and Independence of Criminal Justice Authorities in the Maldives and Their Personnel**

### **1. Anti-Corruption Commission**

The Anti-Corruption Commission was established on 16 October 2008, in accordance with the new Constitution (Section 199). The Anti-Corruption Commission Act (13/2008) governs the way in which the Commission shall be run. *[The] Anti-Corruption Commission is an independent and impartial institution. It shall perform its duties and responsibilities in accordance with the Constitution and any laws enacted by the People's Majlis. The Anti-Corruption Commission shall work to prevent and combat corruption within all activities of the State without fear.*<sup>15</sup>

The Constitution specifically says in sections 202(d) and 199(b) that the Commission should work towards promoting its values honestly in executing the operations, and further, the Commission has been granted the authority to function independently in achieving and executing the responsibilities of the Commission.

The ACC has been afforded many responsibilities and powers from the Constitution. Therefore the Commission should inquire into and investigate all allegations of corruption, any complaints, information, or suspicion of corruption. The Commission is also responsible to recommend further inquiries and investigations by other investigatory bodies, and recommend prosecution of alleged offences to the Prosecutor General, where warranted.

Further, the Commission should promote the values of honesty and integrity in the operations of the State, and promote public awareness of the dangers of Corruption, and perform additional duties or functions specifically provided by law for the prevention of corruption.

According to the Constitution, the Anti-Corruption Commission shall contain five members including the chairman of the Commission. The Members are appointed by the President of the Maldives, and approved by a majority of the members of the Parliament. The Constitution says that the members of the Commission should possess educational qualifications, experience and recognized competence necessary to discharge the functions of the Commission. It also says that the members of the Commission should not engage in any other employment.

The members of the Commission are appointed for one term of five years. The Parliament can approve the renewal of the appointment for an additional term of not more than five years. The majority of the members of the Commission constitute a quorum for meetings held for the purpose of the Commission, and any decision of the Commission is taken by a majority of votes of the members present and voting.

The salary and remunerations of the members of the Commission are determined by the Parliament. On the ground of misconduct, incapacity or incompetence, the member of the Commission can be removed from office by the majority vote of the Parliament members.

The staff working for the commission is interviewed and selected by the Commission members. Staff is allocated into sections such as the Administrative, Education & Research Section, Budget Section, Operations Section, IT Section and Commission Bureau. The two major areas of the Commission come under the Operations Section, namely, Audit and Investigation.

### **2. Prosecutor General**

The Prosecutor General's Office was established on 7 August 2008, in accordance with the new Constitution<sup>16</sup>.

*Prosecutor General shall carry out his responsibilities and duties in accordance with the Constitution and any laws passed by the People's Majlis.*

*The Prosecutor General is independent and impartial, and he shall not be under the direction or*

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<sup>15</sup> Constitution of the Maldives Article 199(b).

<sup>16</sup> Constitution of the Maldives Section 220.

*control of any person or authority in carrying out his responsibilities and the exercise of his powers. He shall carry out his responsibilities and exercise his powers without fear, favour or prejudice, subject only to the general policy directives of the Attorney General, and on the basis of fairness, transparency, and accountability.*

The President appoints the Prosecutor General with the approval of the Parliament. The Prosecutor General is appointed for one term of five years. Parliament can approve the renewal of the appointment for an additional term of not more than five years in accordance with the statute relating to the Prosecutor General.

The salary and remunerations of the Prosecutor General are determined by the Parliament. On the ground of misconduct, incapacity or incompetence, the Prosecutor General can be removed from office by the majority vote of the Parliament members.

### 3. Attorney General

The Attorney General's Office is established by the President under the powers vested in him from the Constitution. Prior to the establishment of the Prosecutor General's office the Attorney General's Office functioned in criminal and civil matters.

### 4. Maldives Police Service

The Maldives Police Service (MPS) was established on 1 September 2004 under the Ministry of Home Affairs, and is governed by the Police Act 5/2008. MPS is responsible for enforcing the criminal and traffic laws and maintaining public order and safety in the country.

### 5. Police Integrity Commission

The Police Integrity Commission (PIC) was established on 26 July 2009 as per the requirements laid down in the Police Act 5/2008 for an independent PIC headed by five members appointed by the President with Parliamentary endorsement.

The purposes of the Police Integrity Commission are<sup>17</sup>:

(i) to investigate complaints brought against the employees of the Maldives Police Services;

(ii) to identify, ascertain and investigate the offences committed by employees of the Maldives Police Service during the carrying out of their roles and functions;

(iii) to minimize and bring to an end corruption, excessive use of force and the commission of other offences by the police in carrying out their duties and functions;

(iv) to appeal any disciplinary or administrative action brought against an employee of the Maldives Police Services.

### 6. The Judiciary

The judicial power is vested in the Supreme Court, the High Court, and such Trial Courts as are established by Law (141)

The judges are appointed by:

- The President appoints the Judges of the Supreme Court (headed by the Chief Justice), after consulting the Judicial Service Commission and confirmation of the appointees by a majority of Parliament. (Constitution, S 148)
- All other Judges are appointed by the Judicial Service Commission (Constitution, S 148)
- Appointed without limited term, but shall retire at the age of 70 years.

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<sup>17</sup> Section 11 (b) of the Police Act.

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The System to ensure the transparency of the appointment of judges:

- Supreme Court: President appoints, but still checks and balances are maintained by the roles of the Judicial Service Commission and Parliament.
- Other Courts: The Judicial Service Commission consists of 10 members who are elected from various institutions and agencies. They are:
  - President of the Parliament, Elected judge from the Supreme Court other than the Chief Justice, Elected Judge for the High Court, Elected Judge from a lower court, a member of Parliament, Members of Parliament elected from the general public, a member appointed by the President, the President of the Civil Service Commission, the Attorney General, and a licensed lawyer (freelance)

Integrity of judges:

- They should execute their duties as stated by the Constitution.
- They should follow the Judges' code of conduct published by the Judicial Service Commission.
- Also, the Bangalore Principles on Judicial Conduct (2002) are followed as guidelines

7. Judicial Service Commission

*The Judicial Service Commission is an independent and impartial institution. It shall perform its duties and responsibilities in accordance with the Constitution and any laws enacted by the People's Majlis. The jurisdiction of the Judicial Service Commission shall extend to all members of the Judiciary and such other persons as designated by the People's Majlis.*<sup>18</sup>

Under the new Constitution, the following are some of the main roles and powers vested in the Judicial Service Commission

- Independent and impartial institute
- Consists of 10 members (area's mentioned in the Constitution)
- Power to appoint Judges to various courts, and recommendations to the President on the Chief Justice and other Judges for the Supreme Court.
- Investigate complaints regarding the Judiciary, take disciplinary action, and recommend dismissal
- Making rules and procedures on appointment of Judges and schemes for recruitment.
- Advise the President and Parliament on the Judiciary

8. Department of Penitentiary and Rehabilitation Service (DPRS)

The main purposes of the DPRS, a department under the Ministry of Home Affairs, include maintaining the prisons of the Maldives in compliance with the relevant laws of the Maldives. In addition to this, the department is also mandated to rehabilitate the inmates of the prisons.

9. People's Majlis (the Parliament)

The legislative authority of the Maldives shall be vested in the People's Majlis (70). Therefore the Parliament is responsible for making laws related to criminal justice within the country.

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<sup>18</sup> Constitution of the Maldives 157(b).