**3rd Cycle of the Universal Periodic Review**

**36th Session of the UPR Working Group** - **Review of Maldives**

**Intervention on Justice and Legal Sector Reform by**

**His Excellency Ibrahim Riffath
Attorney General**

4th November 2020

**Madam President, Distinguished Members of the UPR Working Group, Esteemed Delegates,**

This unique process of UPR is based on two crucial facets of every democratic society: human rights and rule of law. However, they are just empty words without an independent, fair and accessible justice system.

We have been yearning for a just and competent Judiciary for decades. The 2008 Constitution of the Republic of Maldives sought to establish an independent Judiciary, that is free from interference from other State organs. However, it is regrettable that the benefits reaped from the constitutional framework and the 2010 Judicature Act proved to be momentary. Allegations of corruption and political influence tarnished the Judiciary’s reputation soon after.

These allegations were at its peak during the previous administration. The Maldivian Judiciary was undermined by systemic manipulations, unimaginable levels of corruption, coercion and political influence.

**Madam President,**

One of the crucial platforms on which this administration was elected, is judicial reform. I am pleased to note that this Government has not wavered in delivering the promise of a Judiciary that we Maldivians truly desire.

In 2019, the Government formulated its judicial reform proposals. A feasibility assessment was carried out in May 2019, which revealed the areas that required urgent attention within the Judiciary. The Government’s 5-year Strategic Action Plan covered the areas identified and dedicated a sub-sector for Rule of Law and Judicial Reform.

The judicial reform plan is based on 3 areas: reforming court structure and jurisdiction and; enhancing administration; and accountability and integrity of judges.

The Government plans to establish district magistrate courts which will operate on the model of circuit courts. The circuit court model will be extended to the High Court enabling High Court hearings to be held in all islands. This would strengthen quality and access to justice.

The second area for reform, is court administration. In September 2019, the Judicial Service Commission Act was amended to bring about changes to court administration. The most significant of them being the removal of the Department of Judicial Administration from the purview of the Supreme Court, ensuring its independent functioning. The Department is now run by a Chief Judicial Administrator, appointed by the Judicial Service Commission.

**Madam President,**

The most vital reforms proposed by the Government for the justice sector concerns the accountability and integrity of judges.

Oversight of the Judiciary was mandated to the Judicial Service Commission by the 2008 Constitution. The Commission was created to be independent and impartial, and was afforded powers to appoint judges, investigate complaints and take disciplinary action.

However, since its formation in 2008, for various reasons, the Commission was futile and was subjected to numerous external influences. This was further amplified by the overturning of the Commission’s decisions by the Supreme Court.

The current Commission has been strenuously pursuing their mandate and has taken various actions to strengthen its functioning. Rise in public confidence in the Commission is evident from the increase in the number of complaints submitted. In 2018, only 9 complaints were filed. This number rose to 114 in 2019.

The 2019 amendment also changed the procedures on disciplinary proceedings against judges. Emphasis was given to due process and transparency.  For the first time in the Maldives, an appeal process has been established for disciplinary actions taken against judges.

The 2008 Constitution envisaged a Judiciary comprising of qualified and experienced individuals acting as judges and magistrates. However, during the transitional stage, the majority of the judges were re-appointed for life, by-passing the constitutionally mandated vetting process. Consequently, a significant number of the appointees lacked educational qualification, while some had criminal convictions, or pending civil and criminal cases filed against them at the time they were sworn in.

The Judicial Service Commission is resolute in ensuring the quality and integrity of judges, by appraising them as statutorily mandated. A Judicial Competency and Performance Appraisal Policy and Procedure has been formulated. A policy has been adopted to put in a higher threshold for integrity of judges during the selection process. The Commission is also actively tracking the status of cases and performance of judges to eliminate undue delay.

The Government has formulated amendments to Judges’ Act to be submitted to the Parliament this year, to enhance rules of judicial conduct, introduce mechanisms to evaluate the capacity and competency of judges, and establish mandatory asset declaration rules for judges.

The absence of a continuing legal education regime affects the competency of judges and quality of justice. The Second Amendment to the Judicial Service Commission Act re-established the Maldives Judicial Academy to be run by the Department of Judicial Administration.  Government has been actively engaging with international and regional partners to facilitate training opportunities for the judiciary.

**Madam President,**

Adherence to the open court principle is one of the defining characteristics of an impartial court. As part of the Judiciary’s commitment to this concept, the Supreme Court and the High Court of Maldives now broadcasts all hearings.  Whilst a digitization programme for the court is underway, access to justice is ensured during the COVID-19 pandemic through virtual hearings.

Achieving gender parity in the Judiciary is a top priority in the Government’s Judicial Reform Plan. While there is still a long way to go, I am proud to say that for the first time in the Maldivian history, there are women judges presiding over cases at all tiers of the court system, from the Magistrate Courts to the Supreme Court of Maldives. The first women Justices were appointed to the Supreme Court in September 2019. The first woman Judge to the Criminal Court was appointed by the Judicial Service Commission in September 2020 and a woman Judge was appointed to the High Court in October 2020.

Furthermore, the current President of the Judicial Service Commission and the Chief Judicial Administrator are the first women to be appointed to those positions. Hence, for first time in the history of Maldives, the oversight body of the entire Judiciary, is currently chaired by a woman.

**Madam President,**

The Government’s vision for the justice and legal system will not be fully realised without improving the existing legislative framework.

A comprehensive 5-year Legislative Agenda was formulated at the beginning of this administration, identifying over 200 bills. The Government has so far submitted 76 bills to the Parliament. The bills are intended to further strengthen the legal system and comply with international obligations of the State.

Key legislation enacted during this reporting period include the Gender Equality Act, Criminal Procedure Act, National Wage Policy Act and the Act repealing the Defamation Act.

An Act on Presidential Commissions, Heritage Act, Whistle Blower Protection Act, Juvenile Justice Act, Child Rights Protection Act and the Second Amendment to the Prevention of Terrorism Act are important human rights related laws enacted in 2019.

Despite the challenges faced by the COVID-19 pandemic, the Government’s Legislative Agenda has not been hindered. The Amendments to the Criminal Procedure Act, Act on Water and Sanitation, Competition Act, an amendment to the Employment Act and amendments strengthening the autonomous functioning of independent institutions are some of the crucial laws enacted during this time. A comprehensive and consolidated Civil Procedure Code has also been formulated and submitted to Parliament for the first time.

In order to improve the criminal justice system, Prosecution Directives were revised for the first time in December 2018, after its initial adoption almost a decade ago. It guides the Prosecutor General to prioritize rehabilitation and reintegration in cases concerning children in conflict with the law, restrict anonymous testimonies to cases of homicide, gang violence and terrorism offences, and emphasizes the Prosecutor General’s obligation to ensure timely review of remand periods.

The Government seeks to develop and strengthen the regime of evidence and testimonials in criminal justice by replacing the outdated 1976 Evidence Act with a new Evidence Bill and formulating a Witness Protection Bill. Collaborations are underway to develop mechanisms of non-custodial measures and restorative justice, and to consolidate all penal laws within a single Penal Code. A legal aid bill is also being formulated for submission to the Parliament within this year to establish a National Legal Aid Commission to provide state sponsored legal representation to the financially under privileged.

Government is proud to note that impactful achievements are being made in the criminal justice system. Just last month, the High Court of Maldives issued the first conviction of marital rape in the Maldives, a progressive step in the State’s efforts to align the justice system with our human rights obligations.

A Legal Professions Act was enacted in 2019, which established the first Bar Council of the Maldives, providing self-regulation of the legal profession. This was a significant and necessary change subsequent to the usurpation of the regulation of lawyers by the Supreme Court in 2015, which resulted in suspension of lawyers *en masse.*

Establishment of alternative dispute resolution mechanisms also is also a priority of the Government. As such, the Maldives International Arbitration Centre, which had been defunct since its creation under the Arbitration Act of 2013, has recommenced, with the centre now ready to administer arbitrations.

We have acceded to the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards and also signed the UN Convention on International Settlement Agreements Resulting from Mediation in 2019.

**Madam President,**

Whilst we have made great strides in justice sector reforms over the past two years, much work remains to be done. The Government is committed to successfully executing the Judicial Reform Plan and the Legislative Agenda. We look forward to implementing the recommendations we receive from this process. We remain steadfast in our efforts to move ahead and we must change to stay ahead.

Thank you.