

Policy Note 17

Transitional Justice Mechanisms



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Investing in a Resilient & Sustainable Maldives

The purpose and intended result of establishing a transitional justice mechanism is to facilitate victims to seek redress and to promote reconciliation within society.

The Government intends to establish a transitional justice mechanism, to find, investigate and understand, through judicial and non-judicial mechanisms, actions committed by state officials and institutions in violation of human rights, dignity and sanctity. In this manner, complaints of human rights violations and degrading and dehumanizing treatment resulting from the actions or inaction of state institutions or an official in Maldives, between 1st January 2012 until 17th November 2018 shall be gathered, investigated and held accountable.

The Transitional Justice Bill was submitted to the Parliament on 23rd April 2019.

As per the Bill, reparations or remedies will be provided through the avenues stated below. Presidential Commission on Murders and Enforced Disappearances, is also an avenue available for victims to seek redress.

I. Establishing Presidential Commission on Murders and Enforced Disappearances

It is a priority of the Government of Maldives to establish a mechanism where parties who have suffered due to human rights violations by state organs, are able to seek and obtain justice. In that regard, President Ibrahim Mohamed Solih established via Presidential Decree, the Presidential Commission on Investigation of Murders and Enforced Disappearances. The Commission has been granted full investigatory powers, through enactment of the respective legislation.

II. Solutions through the Transitional Justice Commission

A Transitional Justice Commission will be established once the Transitional Justice Bill has been enacted by the Parliament. The Commission will be mandated to gather, receive and review complaints of serious human rights violations that resulted from actions or inaction of state institutions or an official in Maldives, between 1st January 2012 until 17th November 2018.

As the Bill stands now, the Transitional Justice Commission will constitute of 5 members appointed by the President. The Commission is afforded investigatory powers and is obligated to adhere to all procedural safeguards when investigating complaints. Once reviewed, the Transitional Justice Commission may forward the matter to the Ombudsman's Office for resolution.

III. Solutions through the Ombudsman's Office

The Transitional Justice Bill will pave way for the establishment of an Ombudsman's Office. The Ombudsman's Office will be mandated to resolve matters forwarded by the Transitional Justice Commission through revealing the details of the case, seeking reconciliation and

awarding compensation where due. Cases which cannot be resolved by the Ombudsman's Office may be submitted to the courts. In this regard, cases concerning criminal allegations maybe forwarded to the Prosecutor General for charges to be raised in the criminal court. Similarly, cases consisting of civil liabilities maybe forwarded to the Attorney General's Office.

Special attention will be given to ensure that the mechanism established via legislation is gender sensitive and allows due consideration to be given to gendered implications of human rights violations.

IV. Solutions through the Courts

Where complaints of serious human rights violations are not resolved at the Ombudsman's Office and forwarded for charges to be raised, the Transitional Justice Bill provides for specialised tracks for these cases to ensure the speedy administration of justice.

As such, the bill stipulates consistent and uniform timelines for charges to be filed, the trial process and exhaustion of appeal procedures.

V. Raising public awareness, institutional reform and National Consultation

The Government of Maldives believes that successful transitional justice mechanisms necessitate meaningful public participation. In this regard, raising public awareness and identifying the gaps within institutions that facilitate human rights violations constitute an important tenet of the transitional justice mechanism.

Further, to ensure public trust in the process, transparency will be maintained, with respect to victim confidentiality. The Government also plans to conduct effective awareness and outreach programs across the country on transitional justice, with a focus on cases that may have taken place in the form of gender-based violence and organized crimes.