

Policy Note 19

Independent institutions: Accountability, and checks and balances



Maldives
Partnership
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Investing in a Resilient & Sustainable Maldives

One of the main challenges faced by Maldives is ensuring that the independent institutions established pursuant to the Constitution of 2008, are functioning effectively and in a manner that meets their ultimate objective of upholding the rule of law. The constitutional commissions intended to serve as oversight bodies are perceived to be weak, politically compromised institutions, lacking the necessary capacity to fulfil their roles. Lack of adequate budget allocation aggravated by constitutional and legislative constraints on their powers and functions, is a constant impediment to these commissions.

Therefore, the Government is committed to undertaking a review of the adversities posed to these institutions, both technically and functionally, and to make necessary changes to enable them their independent functioning.

The review will be conducted on the following aspects:

I. Ensuring accountability of independent institutions formed under the Constitution and laws:

A mechanism is to be established with appropriate changes to the legal framework to ensure that institutions formed pursuant to the Constitution and laws are held accountable and functions effectively. The Government proposes the following in this regard:

a) Authority to conduct administrative audits

This will encompass conducting an audit of administrative mechanisms of independent institutions every two year, identifying necessary changes and monitoring their implementation.

b) Authority to conduct performance audits

This will entail conducting performance audits of independent institutions and recommending necessary changes. This will also make it obligatory on the Parliamentary Standing Committee on Independent Institutions to forward cases of abuse of power or negligence by independent institutions or its officials to relevant investigative authorities.

c) Mandatory submission of case reports

Obligatory submission of reports, cases and complaints lodged with independent institutions to the Parliamentary Standing Committee on Independent Institutions, will facilitate transparency and enable parliamentarians to gauge effectiveness and efficiency. The submission shall also include detailed reports in a format provided by the Parliament's Standing Committee on Independent Institutions, on how complaints (lodged at independent institutions by public) were dealt with.

d) Mandatory accountability mechanism

This makes it obligatory for independent institutions to comply with directions from the Parliamentary Standing Committee on Independent Institutions and prescribe punitive measures for non-compliance.

II. Ensuring that independent institutions are free of undue influence

a) Identifying legal limitations to the functioning of independent institutions

This will be addressed through a legislative review through necessary changes to the administrative structure of independent institutions. Provisions and gaps will be identified that enable external influence or inhibits autonomous decision-making by independent institutions. It is envisaged that these findings would be translated into structural changes within these institutions, if necessary, including appointment or removal of members. The Government, under its first 100-days pledge, has submitted legislative amendments to laws governing five independent commissions established by the Constitution, in order to strengthen the independence of members and ensure independent functioning in accordance with best practice.

III. Ensuring efficiency

a) Addressing deficiencies in internal procedures

The main objective of these oversight institutions is to maintain a check and balance vis-à-vis the branches of Government, and to provide an avenue for citizens to lodge complaints against contraventions of the law. In this regard, the submission mechanism for complaints must be simple and easy, allowing for a speedy response. Accordingly, the government plans to introduce simplified processes for submission and tracking of complaints.

b) Capacity building and training of personnel

A significant issue that contributes to the delay in obtaining responses to complaints lodged at independent institutions, is the time spent in preparing responses and directing the matter to the relevant enforcement authority.

Assistance is required to improve the capacities of investigators, forensic analysts, legal officers and other staff of independent institutions, in keeping with international standards. Vigorous induction and professional development programs, as well as on-the-job training, are needed to improve their effectiveness.

c) Infrastructure and other resources

A lack of adequate infrastructure is a constraint to independent institutions in executing their functions. Targeted investment in technology will improve the efficiency and effectiveness of investigations, case management, proactive disclosure and other aspects of the work of independent institutions.