



ಸುಸ್ಥಾನೀಯ ದೃಶ್ಯ

# ಸುಸ್ಥಾನೀಯ ದೃಶ್ಯ 2019

ಜಿಲ್ಲಾ ಮಟ್ಟದ ಸುಸ್ಥಾನೀಯ ದೃಶ್ಯ 51 ನೇ ಸಂಚಿಕೆ

28 ನೇ ಸಂಚಿಕೆ 2019

ಜಿಲ್ಲಾ ಮಟ್ಟದ ಸುಸ್ಥಾನೀಯ ದೃಶ್ಯ 51 ನೇ ಸಂಚಿಕೆ (3 ನೇ ಸಂಚಿಕೆ)

14:00 ಗಂಟೆಗೆ



certain point it was to answer the question for the delegation concerning the willingness of the current government to combat the corruption. The findings of that report essentially were, there is willingness, there is interest, there is momentum. But there are some constraints were there. Some challenges and there are some risks that one needs to take into account. The purpose of my mission now these last two weeks has been because the opinion or the delegation I should say has a desire to engage in the country with what is called a support action. Or in Brussel speak technical assistance. And we would like to work on the governments prospective. More specifically on justice/judicial reform and anti-corruption. By justice and judicial reform, I am taking a more broad approach in my interpretation in the sense that I am not focusing just on the judiciary and there is some changes and amendments that have been done to the Judges Act and the Judicature Act. And the Judicial Services Commission and the judiciary itself. But also focusing on the other elements that directly or indirectly impact the effectiveness of the judiciary in the Maldives. Here I am talking about budgetary streamlining, public finance management, auditing, ethical behaviors of law enforcement. So, the National Integrity Commission, the Anti-Corruption Commission, the Presidential Commission on Combating Corruption and Asset Recovery. I am just trying to think if I am forgetting anybody. You can see that my, I have met a lot of people. Off course I also met with civil society and media to have their perspective. I have also taken the methodological approach of not reviewing previous reports on the judiciary in the Maldives because essentially all of them reached the same conclusion and I didn't want to be biased in my interviews based on other people's opinions about the system. I wanted to have an, I can only objectively identify possible risks and challenges if I do it in an impartial manner. And so, I would be reading those reports, the findings are not going anywhere on those reports, so I can do it later with a formed opinion based on my interviews and my research. So, the reason why, and I can sit down I can if it is of interest, I can identify what were the main challenges that I saw in my February report or the April report. When it was released the major concern I had at the time, and this does not directly relate to this commission but just for the purposes of clarification, since I want to talk about corruption and SOEs. The main challenge was that illegally there was no corruption in the Maldives. And you are going to say Pedro you are crazy. To which my counter argument to that is a, there are two laws. There is the Prevention and Prohibition of Corruption Act and the Penal Code. Both of which establish similar offenses, but it is unclear which one takes precedence. Because the Penal Code did not specifically revoke the PPCA. And that's one extreme of the argument. The other extreme of the argument is that even if the penal code did revoke the PPCA. That means that the ACC has no jurisdiction to investigate. Because its law says that it can only investigate acts based on the PPCA. So, this and, of course there are hues that come in between that that those two arguments that I have presented

to you. But when there is willingness and interest and momentum and drive to combat corruption it's not great to start with having to identify what corruption actually is. And I understand that even that statement is subtle because in a country where the population is four hundred thousand people it may not be clear what corruption sometimes is. I am not suggesting that this is the case here. But I have experience with other small islands states in which this certainly is. There is a promiscuity if I may say so. Promiscuity between what is public and what is private. And these tend to confuse from time to time. Again, it's no different from my country. Now the trend has been two folds in the large-scale corruption related matters. Again, I am focusing on high level corruption in which there is a financial, a negative financial impact to state. I am not saying that it is more or less important than smaller scale corruption like, public official requesting a bribe or police officer accepting a bribe not to give you a ticket or something like that. Those are also important. But I am talking about those shattering experiences like the gas scandal of 2009 or more recently the MMPRC scandal. We are all very curious to know how the supreme, the criminal court is going to decide this.

Chairperson Speaking:

Five years.

Mr. Pedro Gomes Pereira Speaking:

Five years. He have, It has already decided 5 years okay. Devoted trial came out 5 years. so, I am talking about these cases, these corruption cases that on the one hand provide a negative budgetary consequence to the state. For that destabilize, it becomes a national security concern, because it is now destabilizing the form of government and what. It's or what its people represent. And in that trend the problem seems to be all the biggest corruption risk seems to be either in tendering procedures and that essentially boils down to there is no uniform tendering guideline. And my understanding is that Ministry of Finance and the government is already working to rectify that situation and to review the exceptions that SOE's may not be subject to the same tendering procedures as the government as certain exceptions had been placed over the use and state-owned enterprises. Because illegally you are not a civil servant if you are by a state-owned enterprise. That is one of the points of concern. There are Point of concern of that sometimes, state-owned enterprises, state owned enterprise here I am referring to anything that Maldives has a fifty percent one more. I am not talking about the five percent. Because I know that there legally there is a different definition. I am focusing on those that the Maldives has a majority shareholder position. So, fifty percent more or completely owns it. so, these people are not public officials. So, then we start having the discussion of who investigates what. And off

course, some of the state-owned enterprises at times in the past have had bigger budgets than that of the country. So, you can see that becomes too very appealing risks for Someone that is trying to do something wrong. I should mention because I am a bit specifically, MMPRC case there is a Presidential Commission that has been setup. And I have had the opportunity to meet its President on few occasions. So, Mr. Asad, I have met in February, then April and yesterday. He is aware of my position, that it is unconstitutional. And the reason that supports my argument there is that the constitution establishes three conditions on national issue that has to be investigated in a certain period of time. I think we can all agree that corruption is a national issue, regardless of size. So, national issue is not the concern. My concern is the term investigate. Because what does the constitution mean by investigating there. I would interpret that term investigation in that prevision of the constitution as the national issue has risen. The president requests the commission to investigate and that to reached recommendations. So, that he can form adequate policies to mitigate that issue. The Presidential Commission's Act indicates these commission can have law enforcement powers. I would argue that that is unconstitutional because the presidential commissions do not have any oversight with the exception with the president. I mean technically parliament gets an annual report. But the conclusions, right to rename or close and what are done with these recommendations are fully and solely at discretion of the president's office. So, there is no formal operational oversight mechanism on the activities that they do and all the other law enforcement bodies as per the constitutional or law are afforded some kind of oversight. But more concerning than that is the term temporary. Now I know that the way that the current Presidential Commission, the PCCAR has been set up, it has formally have no time limit. There is a, the people investigated to this matter however long it will takes to reach that conclusion. So, it is not a time bound, but rather activity bound. So, the times will conclude when the activity is reached. Now on a large-scale asset recovery case and Shiyam mentioning, Merkel's, are mentioning. So, for example Merkel's of the Philippines that the president/dictator until 1986 or the former president of the Haiti or the former president of Nigeria or the former president of Indonesia. All of these asset recovery cases have taken on average thirty years. So, my question then becomes is thirty years temporary. I don't know. I mean this is up to the discussion of interpretation of the constitution. But logically one and by the smiles that I am seeing one tends to perceive that as not in line with what the constitution suggests as temporary. So, these are the concerns that I have with the PCCAR. I am not saying that they don't have a purpose to exist. We can sit down here and discuss if there is a duplication of efforts and if that would create a constitutional crisis. But I am pretty sure that, that would not be the best use of your time, since we have to focus on state owned enterprises. My question is as you sir mentioned Mr. Chair, that you have undertaken your own inquiry parliament. This

commission has undertaken its own inquiry and has made recommendations to the PCB to improve governments and transparency of state-owned enterprises. I know that the Ministry of Finance and I have met with them this morning, are also taking steps in that direction. The one earlier one that that I raised is that in this new government I think two SOEs have been established or I am not sure if finance already has been established. But three. I think there are a total of thirty-four or five, consider fifty percent or more. There are thirty-four SOE's with which 18 the government is the majority shareholder. That it seems and this information comes from the Ministry of Economic Development. There is a trend to create sector specific SOE's. So far has, in the past the SOE will be administered by the ministry of finance via the PCB are now certain SOE' s that are not directly under the preview of the ministry of finance but rather by another ministry. Because they are related to a specific sector. So, let's say it is a state own enterprise to reduce child mortal, child mortality during childbirth. Then it was given to the Ministry of Health to deal with that specifically. My question then becomes not disagreeing with this should or should not be done. I think this is policy issue of the country I have no say. My job here is to find problems and risks and propose ways to mitigate them. My question is, how will be the PCB and the Ministry of Finance ensure the governments and the transparency of these sectoral SOEs. Now the ministry of economic development is allusive, they did not specifically indicate to me which SOEs these were and under which Ministries they were and under which purview that the Ministry of Economic Development was concerned from a local government's prospective. Since the Minister sits as the heard of the body of local governance. He was concerned that there might be room for manipulation of the system. How they were enable exactly to tell me. So, that means that I have to read the respective laws and try to understand, that's fine. That's part of my job. But there is a drive. My concern here is and I am going to be a realist. I will be very frank. Well, I am always frank in my meeting. Sometimes, I sometimes convey the message diplomatically, but I always try to be frank. There is a lot of momentum and a lot going on with this current government and with this current parliament. you are trying to improve the systems of governance and accountability of the three equal branches of power and the independent institutions. It is a key in task for which I salute you. Because it is not an easy task that you are all up to that challenge. So, how, but I have to prioritize. At the end of the day, I have to prioritize what goes first and what goes second, what goes third. But I have to anticipate possible risks because my perception has been that local the trust of the people in government institutions is not at its highest point if I may put it that way. I think that there is lot of mistrust of what the public official or the elected official will do. and so, this is an added challenge that you have. I will say what I have mentioned to the Prosecutor General, to many others. I think it was to independent institutions that parliamentary committee to for independent institutions yesterday.

Like I said in the Asset Recovery case like the MMPRC, takes on average thirty years. For the elected official that is an absolute nightmare. Right? because how are you going to serve your program by saying to people, they are doing something for the MMPRC case. Your children will see the results. right? And that is a challenge that you as elective officials have which is how will you be able to manage expectations without having people lose faith in the mandate, they have given you. And I give you one anecdote, I worked with a country, eastern European country whose presidents and we can now have the argument if he resigned or was resigned. But we are not going to have that conversation. But he left the country in 2014. The Prosecutor General of that country then was very quick to say Former President has stolen a hundred billion dollars. Now it's a sexy number. Right? This person has stolen a hundred billion dollars. That's sexy. You catch everybody's attention. The challenge is that at that point in time no financial investigation had been conducted. So, he had invented that number or maybe he had a rough guide and then he just decided to go to the higher end and not the lower end. And that I have told to that Prosecutor General was you just lost. And he said but why. And I said never mind how long this is going to take. The amount that he have given is possible but not probable. Because a hundred billion dollars would have made that man the richest man in the world. first point. The second point is even if you manage to recover ten billion which itself is four times the current record. Nearly five times the current record. People are not going to say hello, you recover ten billion. They are going to say where is the other ninety. Because you made a promise. So, an illegal one is because this is the challenge that asset recovery in combatting the corruption is added soft level for the elected official. Because we are constantly trying to have to balance the promises you have made, the realities of the office that has been given to you. Yes, the sour truths that no one wants to tell. And off course I am in very comfortable position, because I am not an elected official, and I am not here to paint it nice for anyone. I am just saying that I certainly take all of this that I am saying to heart when writing my reports, when issuing my recommendations. Because I have to be realistic. I also have to take into account the budgetary realities of the Maldives. So, easy. I can sit down here and produce the most beautiful thing that you can hang on the wall. But then the no one can pay for it, right? At the end of day we want to ensure prosperity and self-sustainability of the system. And that is done through small steps. My small step is Justice Sector reform and anti-corruption. Keeping back to the initial topic. And more specifically anti-corruption SOEs. So, and I apologize for the very long introduction, but my key interest is on the one hand accountability of SOEs. And I know that goes to the PCB and the PCB will write the reports to you. And you will then review, agree, disagree, issue recommendations, or make determinations. but I would also be interested in your perceptions of risk. Not things that have happened in the past but things that may happen from here to the future. So, together we can try

to mitigate these risks and ensure the I just have to keep talking. So, I look smart while they are taking the picture. But this is a joint effort. In the end of the day I bring the specific skillset but you bring me the reality of the country. You bring me to social reality, the political reality, the budgetary realities. And without those my report is meaningless. So, I have to learn from you as well. Thank you very much, sir.

Chairman Speaking:

Honorable MP Mohamed Nashiz, kinbidhoo constituency.

Kinbidhoo constituency member Mohamed Nashiz speaking:

Thank you chair. All, the regard to. First of all I have listened to what you said. And I think it is a very brief explanation of how and what's on the system at the movement. I believe you and all the aspects. I agree with what you have said even with regard to the Presidential Commission and the conflict and the conflict with the constitution and all I think it's valid. And with regard to anti-corruption, I think our act does not clearly give the mandate to anti-corruption to operate its maximum they, I can, Just the way I can see. Because the bear burden of proof lies a lot on anti-corruption then the one who have performed the corrupt activity. I would say it's up to the commission to proof. But normally some of the countries it's the person who has to proof, prove that the money that he does not come from corrupt activity. So, there is a, this is one of the areas that I found that which is very very important for us to attend. And then the other hand our practice is a parliament in the past had been that seldomly a way looks into what's come around in the system and in SOE's and even in government departments and Ministries with regard to feed financial projects where lot of activities are going. And parliament has a role in the check and balance of the system and this function had never been properly exercised. So, at the end of the day the accountability which is also very important part of the system which has never ever been addressed. laws are there with regard to all aspects, laws are there, regulations are there. But nobody has been held responsible for their acts. At the end of the day the public has been paying dearly for their, for those actions. Even like some of the compensations. Even like some of the contracts' original amount could have been more than double than the contracts obligation is already completed. Like for example there is one tsunami project finance which has been funded by Saudi government. The project cost was 220 million rufiyaa. But at the end of the day when the project was finally completed in about 8 years' time which is originally supposed to complete in 420 days. The public has to pay 382 million dollars instead of 220. So, another story is going on government officials are to blame in some scenario's, contractors are to blame, even consultants also played a part in this. So, it's very important to have a fully functional anti-

corruption agency, auditor general's office and other investigatory bodies which have the expertise to look into these sorts of things, to close the gap that we have. Since this is just an example of one of the contracts. But, there are so many contracts which have gone bad for the government. Even this is really talk about that progress of the PSIP programs. But there are certain agreements which have been done by potential investors regard to lease of island at the MMPRC which we are already, Public Accounts committee is investigating at the moment. We have been lot of challenges with regard to the proper documentation and getting the right pieces together to make a conclusion. But at least the current parliament, we are trying to, we are trying our best to come up with solution or that would be a very long way down the way. But at least we are trying to show the public and show the people we are in charge in this important cause that we are going to look into whatever you do. We are not going to sit around and do nothing. So we, even if they unlike in SOE if a SOE is, state owned enterprises is having something some transaction we have information that this particular transaction contributes to corruption and it could have done and saved a lot of money, if could have done properly we could have saved a lot of money to the government. So, these cases we immediately bring in and we deliberate, and we try to get the proper documentation and come up with a conclusion. If there is an activity like that we try to come up and directly stop this and you should go with what has been stated in the financial act and the regulation as per the regulations. But there is a conflict in there because under the company act company have to operate on board of directors' instructions. And the board of directors sets the, the board will set the directions to the company to, and some of these would have been uniform set of rules for all these places. Some have different sets with regard to procurement or with regard to making major decisions and some will have another set of. So, it's very difficult for someone to monitor when you have different different requirements with those regard. So, yes, I agree with you, there is a big, very very big challenge for us as a party who is overlooking all these anyways. one of the highest sitting body in terms of check and balance and those, it's very difficult for anti-corruption agency and also for auditor general. Because auditor general mandate actually he has a mandate to be overlooking to wherever the government public funds are being utilized. But due to the past culture there are not very clear lines or not very clear practices that have been followed back in the past. So, I think that's a very brief way of saying how I understand what's going on and what are the challenges that we have in the future. Thank you very much.

Chairman Speaking:

Honorable MP Mohamed Nihad for Feydhoo constituency.

Feydhoo constituency Member Mohamed Nihad speaking:

Thank you. Well, there are so many challenges as you said. Like, we as SOE invers (7.19) who oversee all the SOEs or as MP Nashiz also said, there is no uniform policy for procurement, hiring, firing or projects' bidding. Then Also for us, we don't consider, we consider all SOEs as SOEs under the PCB. Under us and we actually in the beginning we have called the PCB, the previous PCB. And since they were not following, they were not doing their right jobs we have send them out. And we have advised the government to put new PCB board members. So, now the new people have started working. well, so what I believe is all these SOE's goes under PCB, and we have the right to evaluate and monitor them through SOE. And then, now there are certain, since we are in the coalition government there are certain challenges within the SOEs. SOE, the managing director comes from MDP, and the chairman comes from the Jumhooree Party or MRM. And then they both doesn't work together. One tries to do something, the other one tries to stop that. So, in functionally, some of the SOEs are not operating well. and then the people who are there with us they always question us. They actually want us to control the corruption, the illegal hiring and firing, transfers and promotions. Actually, all these are SOEs they have these chances of hiring, firing, promoting people since there is no uniform policy in which we can monitor and evaluate easily. And then as a member of parliament, since you said I also just came to know about these Presidential Commissions. I believe it is important to give them a date to give a time limit for certain projects like the Presidential Commission for Asset Recovery or whatever. So, that is very good, and I really want to have the, your findings, I want to get your findings for us to sit down, discuss and to do what we can do to stop corruption. Thankyou.

Chairman Speaking:

Thank you. Yeah, what we have observed from SOEs that they don't have proper internal audit functions established so far. And as a way they don't have audit committees established. So, we found it is very difficult for us to identify the, like they don't have proper procedures that is currently MD, and all the powers are under him. So, now because of the inefficient or inactive of audit committee we have that challenges. Like for example, what we found is mostly corruptions in SOEs goes through like urgent purchasing or emergency purchasing like for these utility companies they buy spare parts and stuff so then they don't have proper procurement policy for these emergency and urgent purchases. So, it will be very hard for us to like, give an idea of how we can go with that emergency or urgent purchases policy or something like that. And how the Audit Committee functions they have established in other countries and now currently PCB they have developed a CG code, corporate governance codes they have originate with the help of

world bank if I am not mistaken. So, they have already adopted, and they have distributed it to the SOEs. Still, they are not like following that properly. So, like as a oversight Committee what our Committee Members, we would like to know how we can make, improve or how we can assist these SOE companies for audit committees, establishing Audit Committees, internal audits and how to accountable them like in a better way. like in investigative or right, a better way like how we can encounter they them in a. like what we do is currently as Nashid says we are bringing them, and we ask questions regarding the procurement policies and their projects. So, like we want to learn in other countries how do they practice these things. Thank you.

Kinbidhoo constituency member Mohamed Nashiz speaking:

With regard to the budget, you said during your introduction, with regard to budget to independent institutions, other government bodies actually parliament has, we have a window where we could deliberate and bring the institution to the parliament and hear them out and see whether they have enough budget for them to execute whatever the laws and regulations has put upon them. So, we go through those steps in order to make sure that enough budget has been provided. But we could not give them as per their wish list. Always when they come they have a huge even to replace all the computers, they want to have nice and grand furniture's and all these. But we make sure that we give them enough budget to make sure that they have enough for them to execute their obligations even with the case of auditor general and anti-corruption commission to give them some increments that they requested just to make sure that they could do their day to day I mean obligations, they have enough resources for them to execute those. So, in a way parliament intervenes and parliament actually, during the budgetary process we account for that and we bring whatever adjustments that need to be done into the budget to make sure that the part is taken care of. For its, for me when I look into it with through the limited experience that I have with the political system, I think It's not about the budget or its not I mean maybe there' small segment where there is a small percentage for it. But It's not about the budget or it's not about having the proper laws or investigated by producing plates (00:16) it's about the will to do. So, I think with this parliament once we started to do our function as a barrier I think, the people who has been involved in these kinds of activities made it. This time around we will not be just looking and sitting back. We will come after them. So, that is itself physiological message that have been going around. Which is good in a way, but still as a chair I just suggested that many of these things are like the emergency purchasing like we found that one memo and transcript just speaks to travel. Overall, they need to purchase it and this challenge sits very conveniently in one of the parking lot in one of the houses. And we just go and buy it for three or four times more than the market price. This isn't required for the emergency because there are huge island and

communities without power. So, when we look into it in investigative manner, we could find that these units has been not properly serviced and the issues has been registered two, three, four months where nothing has been done. So, its sort of creating a situation where we they have to increase expenses. So, that this is a very common practice which has been flagged too in the past so yeah this is a very challenging task.

Mr. Pedro Gomes Pereira Speaking:

Thank you very much I should put it like this. Thank you very much. It is very really refreshing to hear all of this and be open as in frankness that you have spoken about the issues. I just took QNS 1, 2, 3, 5 points. I agree with you that the key to anything is accountability. How do we ensure that accountability, how do we ensure the transparency, to build the necessary trust and then people will start doing that automatically? I also take note that one of the issues that the Auditor General's office has had or still has to curtain extent is that yes it conducts its audits, and it has its different categories of audits which include of course the SOEs. But it has no teeth. The issue of recommendation and this is where the internal audit function to be so important. Because then the internal auditor will be able to implement that recommendations or something similar to what happens to the National Integrity Commission with the disciplinary bureaus of the law enforcement bodies. They issue recommendation, it is up to the disciplinary bureau. There are challenges there, are there risks? yes off course. But a good way to start is by having the body that on the one hand will day to day monitor to make sure that you are following procedure that also the one that is responsible for implementing the recommendations of the external auditor. So, I also agree with you that and so you mentioned exactly the issue of the MMPRC case and the inquiry that this Committee itself has been doing in relations to the MMPRC case. It is difficult to obtain evidence. It is difficult to understand the evidence and It is difficult to operate under the rules of indirect evidence. The case in the financial investigation you are not going to, I mean you do sometimes. But it is very rare to see the person receiving the Manila folder full of \$100 bills and signing the bill and do something. I mean normally corruption works or fraud works with the agreement between both parties to keep themselves silent. So, it becomes much harder to investigate. So, that is compounded by the fact the criminal procedure code is very new. All of the practitioners involved are still trying to better understand to implement that procedure code. And the fact that they all have to operate under legal uncertainty, which is the current evidence act, which I know the government is working trying to re-introduce to parliament. But this is the status quo at the moment. You have a two-page law that determines how evidence needs to be produced. It's a little bit hard. So, all of these issues compound and you are having the opportunity firsthand to see how difficult that can be, right. Especially if you have never looked

like me, you are a lawyer and you don't like numbers and you have to look in excel spreadsheets and understand what the hell it's saying to you. So, I think that is an important element but this issue as in evidence takes me to your first point sir, which is the issue of who proves what? And here I know you did not directly mention to it. But what you are talking about is illicit enrichment legislation. The problem you are faced is illicit enrichment is that no one will help you. Because illicit enrichment is not a criminal offence in 95 percent if not more of the countries of the world. So, commonly that is here your able to get. But if the person is smart, they are not going to keep their money in Ruyiyaa. They want to make a safe investment after all you are stealing to make an investment. So, this is going to end up either in the Gulf States, Qatar or the Emirates or Singapore or Seychelles or Mauritius or the Caribbean, BVI and so forth. None of these countries all the illicit enrichment is a common well facts. And the rules for international corporation for evidence gathering and for seizing of proceeds of criminal requires what we call due criminality. Which means that the criminal offence in the requesting country needs to find an equivalent not an equal but in equivalent in the requested country. And a illicit enrichment is not found in those countries but even when they are, we unfortunately have a misperception that illicit enrichment means he have an account which clearly has more money than you would ever make in your life, demonstrate how he got it. That is not how illicit enrichment investigations work. See that you have to do an illicit enrichment investigation is to exhaustedly prove that you cannot determine the legality of the asset. So, you still have to conduct the financial investigation. The only difference is you are not trying to determine its criminal. You are trying to determine that its legal. So, the burden will still continue with the anti-corruption authority. The angle will change but the burden will remain. So, I am not discouraging a illicit enrichment legislation. I am just presenting the risks and the challenges that you have once you have that legislation. But some countries, and off course this will be even harder with the two-page evidence act. What some countries do to try to mitigate that risk is what is known as non-conviction based or civil forfeiture. So, we generally have three main forfeiture mechanisms in criminal law around the world. The asset-based forfeiture, so if this coke is the proceed of crime I will confiscate this coke, my bottle of coke. Even have that is known as the value-based confiscation, in which we determine that the amount of the damage or the amount of proceeds of crime. So, what has been generated by that crime is and reject an order to that amount with the court. And then we start going after all the assets of the criminal that is legal or illegal until we satisfy the amount in that order. Before one which is a media trend is what we call extended confiscation. In extend confiscation the court is authorized under certain guidelines to presume that the asset is criminal. So, you will say yeah, this person has always had a criminal lifestyle, has been convicted multiple times for these kinds of offences. We can there for

presume that these assets also originated from a criminal asset, even when they are in the name of family members or closed associates. And then we have what is known as the non-conviction-based forfeiture, which has existed since the 17th century. But only maybe restarted being used again in the 1980s. Which is at its purest form non-conviction-based forfeiture is a proceeding against a thing. So, now that we know that President Yameen has been convicted for 5 years. Let's say that he stole this bottle of coke, but that's a fine. That's not proceeds of crime. That's a different thing. Let's say that he stole this bottle of coke, I initiate a proceeding against the bottle of coke not the president. Ok? and magically that thing always manages to hire a lawyer. But that's a separate question. That's a separate point but so, at its purest form non-conviction-based forfeiture is not criminal in nature because you are going against the thing and not the person. You are simply having to demonstrate that thing is criminally tainted through the civil rules of evidence. And it becomes a similar threat as a simplest threshold to meet. But again, not all countries recognize non-conviction-based forfeiture. So, you might be stopped with a problem, a pair of victory in which you have the order, but you can't enforce the order. Again, I am here to manage expectations. I don't, everything is possible you just have to understand what the possible risks are. On monitoring and different structures of state-owned companies and their budgets in their expenditures, I agree and specially will be talking about coalition governments. Here how many parties do we currently have? It's about seven, eight, nine in parliament.

Feydhoo constituency member Mohamed Nihad speaking:

in parliament there are four.

Mr. Pedro Gomes Pereira Speaking:

Four. Okay. In Brazil, five. Yes, we have to be careful because it's a coalition government. If you forget the fifth one that's not going to work. But anyway, there is a multiple city, multiplicity of government parties.

Feydhoo constituency member Mohamed Nihad speaking:

parliament is not a coalition. government is a coalition.

Mr. Pedro Gomes Pereira Speaking:

The parliament is separate. Yeah. But what I am saying is in Brazil, we have in parliament, 4 to 7 different parties at the same time. Okay. So, you can imagine that the level of negotiation that the government has to undertake to be able to get a majority to pass the law. And it is the speed of overall things like the car wash investigation. Now my joke in Brazil is that Brazilians don't

invent. We perfect. So, the brits, they invented football we perfected it. Some somebody invented corruption, we perfected it. So, the carwash investigation is an investigation into mismanagement, fraud, tendering fraud, money laundering, corruption, committed by Petrobras which is the state-owned oil company. Don't see if you are seeing parallels here. That started in 2012 and investigation is it in on its 87th face. It has taken down one former president. It has impeached another president in Brazil. In Peru, neighboring country, Peru has had 5 presidents since 1980. All of them had been implicated in this case. one is arrested, one has fled, one has committed suicide and the other one has been in peached. And the 5th one is also in jail. Again, Colombia, Venezuela. So, all of these countries are investigating the accounts were in Switzerland. The private servers of the company that they, the intermediary company that they used to launder the money, its, the servers were also in Switzerland. For better rights to information. Okay, you have terror, we have something after terror, and then you have Peta. So, if Giga is nine, Tera is twelve we have to add six mores zeros that is 20, 18. So, that's why its five with 18 zeros after that base of information. Okay. This Swiss prosecutor's office had to hire 20 new prosecutors. Because 90 percent of their of their prosecutors were stuck with one case, which wasn't even theirs. It was a Brazilian case. So, I fully understand what the risk and the impact of lack of governments may result in a state-owned enterprise when you are dealing with a coalition government. I am not suggesting that this happens to you, but that is and a huge risk. So, you do need to have internal auditing functions. You do need to have not necessarily regulated, but you need to at least have a clear rule of engagement of the collision on how they are going ensure governance in the state-owned enterprises. And that is something that you can ask. Because I am sure that this commission is a multi-party coalition. And amongst yourselves can agree that this needs to be asked the government and ask. And budget, because earlier mentioned you are part of the budget committee, president of the budget committee and so on. This has been, I have had two central themes these last two weeks. One is what is independence? Because the judiciary understands independence in one way. Parliament understands it in another way. Government understands it in a third way and the Independent Institution will understand it in the fourth fourth, sixth and seventh way. And for us to ensure that governance, transparency, accountability, bounce of power and so on. We need to at some point. At least agree on a journey of framework under which independence needs to be understood. Does independence mean lack of accountability? Does independence mean political but not financial? Does it mean political and financial but not administrative? We need to have a clear guidance or at least a clear framework under which we can set this discussion. Because otherwise we risk having the situation that happened in 2010 and 2011 and onwards with the supreme court. But you can also have the counted risk. And I have mentioned this to the colleagues at the president at the

Parliamentary Committee on judiciary. See, when I came to male' always something fun is happening. Today was Yameen. When I arrived, it was the recommendation to dismiss a Chief Justice. And when I came in February it was the MMPRC report with the recommendation to remove certain members of the Anti-Corruption Commission. So, I always to come there is always something fun to happen. And people tell me that Male' is boring. It's not boring, something fun is always happening. Something interesting is always happening. What I, because when I am, there is this communicate from the judicial service commission. The next day actually going to meet them. Then I said, oh! So, interesting that you have conducted an inquiry and determined, or report issued a recommendation that was submitted to parliament. The letter (6.07) was like hey it's already been decided. He is out. And I said to him in less than 24 hours, and I said okay. But and again those who are appointed that I said Well, what if he does not agree with that decision? what is the recourse he has to the administrative decision that is the recommendation of the Judicial Service Commission. The parliament is sovereign. It decided, decides that's it. That is what the constitution says. But there is preliminary step which is Judicial Service Commission issue recommendation. That is administrative. If I don't agree with that decision, how do I appeal. Let's hope that you can have the perception that now the executive is trying to do exactly what the Supreme Court did 10 years ago. And I am not suggesting that they are. I am just saying that the risk is there. But on the budget, the question that I have on budget is that it's very executive centric for a reason. Because it's the executive that makes the money. So, there are two discussions that need to be had when creating a budget. One which is the fiscal frameworks. So, that the general expenditures that they have and that is based on the previous fiscal framework, and we expected expenditures of the following year. And then they are the MPIs. The new project initiatives. Or new something initiatives. Let's just look at the MPI's. Because what happened with the MPI's is that I negotiate with the Ministry of Finance. The Ministry of Finance then submits all these MPI's to the President's Office. Who's then naturally prioritizes them and submits them into the Parliament. Now previous Parliaments were not as active in dealing with the budget as the institutions. Yet again, what if I disagree with the prioritization that the President's Office has given.

#### Chairperson Speaking:

we submitted these initiatives, and this is what happened that suggesting team next year, he said that the anticorruption they asked about the that they need to invest out preventive measures at least until next year. So, we asked them what was the amount and then we deliberated to the committee and then we decided to legislate and give that. it is, we have to have a balance between the three powers. So, to make sure I mean like judiciary they were asking for seventy

million rufiyaa in their budget. And within that we negotiated, and we looked into areas and then we decided that we are going to renegotiate and we agreed. We at least agreed that we come up with thirty-two million Rufiyaa for that, half of that. But they are based on certain projects and activities that they. So, we have never given any increment to any of the institution just ad hoc. We just cave to certain programs. It could be for prevention, it could be for training or technical, whatever activities they are trying to execute. So, it is very productive sessions that we have and we decided on what they, and we decide and we discuss with them and we established during our meetings that this is their first priority, this is their second priority and so forth. And from there the Committee decided that okay we at least need to feed them this and this but then that's it. So...

Mr. Pedro Gomes Pereira Speaking:

But you have, you still have to prioritize in the end of the day.

Chairperson speaking:

Then there is good exercise that we had. It was a cross party universal, effort everybody was we got everybody's consent to go...

Mr. Pedro Gomes Pereira Speaking:

To go forward, yeah. Because I think the issue and I from what I understood the Ministry of Finance is piloting as of 20, for the 2021 budget, a problematic budget. Because part of the problem here is that you get an institution, we get a figure. But you don't really know why how we got to that figure. So, and that also is a problem for transparency and accountability also for state-owned enterprises we don't know what their program is and how that is allocated to the budget. But then there is an additional problem which is the actual disbursement. and that you are not parted to. Because ultimately what many institutions then claim, and I have no ways of confirming that. But they then claimed is that they then asked for MPI budget. But it doesn't come or takes too long. And then they have to start getting creative on how they start getting the money to pay bills. Right? I mean the Judiciary was telling me, while I need to pay the bills, D.J.A here in Male' needs to pay the bills on the island. But the fiscal framework program that they have is only available in Male' and not in the islands. So, that means that they still need to give the money. They are not getting the money from the Ministry of Finance. So, they have to find it from somewhere else to pay. And then they have to creatively say something on the program to say why this money went out. Which is...

Chairperson speaking:

I was a sitting member at least by second term. I was sitting on the proactive parliament as well. In Maldives there is a culture which has been established to...

Mr. Pedro Gomes Pereira Speaking:

Generation, gen...

Chairperson Speaking:

So, the culture...

Feydhoo constituency member Mohamed Nihad speaking:

Mr. Pedro, in April you have made a report. Even in March you have made a report?

Mr. Pedro Gomes Pereira Speaking:

Yes. No there is just one. Because so let me just explain. The EU wanted me to be here two weeks in February to deliver a report in April. And I said to them that is irresponsible because I can give you all the verifications during this with the government. But if they lose the parliamentary elections, they can have all the willingness in the world, their program is meant to be based on the realities with that become. So, I have said, let me come in February and then verify that right after the elections. And that's why it was I came in February and then in April and through court I finalize then June and there was a revision process that ended in October.

Feydhoo constituency member Mohamed Nihad speaking:

So, in EU you have job is to make reports and give government suggestions? are you giving technical support?

Mr. Pedro Gomes Pereira Speaking:

So, in February report project the first part, that was a back stopping. So, I was hired to verify the feasibility of the project that had been proposed by transparency Maldives in the anti-corruption sector. To us identify if there is willingness on corruption. But the base is suppose; I mean the chunk of the work was in contributing. And now on this hybrid project anti-corruption and justice after reform, I have four tasks. The first one is assess the situation. This is what I have been doing the last two weeks. and I deliver three products. One is concept note. The concept note is in European union is speak That the loophole Document for diplomatic document is four or five pages long. In which indicate the convergence of the European union with the Maldives

and this case that is specific topic or topics in this case. Anti-corruption which is this. The second document only to produce as a term of reference. That is the hard to begin. Just like you have a hard task with asset recovery 30 years in 7th year electorate. My hard task is the terms of reference. Because I have to be able to please everyone while maintaining my independence for a document that has at least two purposes. So, the terms of reference is the document that the delegation in Colombo tries to convince Brussels to dispose money. Came to that is the administrative document that they say, give me money to this amount? For those and this reason, because we want to do this, these actions. If Brussels is convinced and says okay, they will stretch funds to delegation. And the terms of reference will then used as the baseline for the implementor of the action to develop their passion for it. So, we can see that the challenge there is the bank tried to convince everyone and trying to please everyone, because I am taking the needs from one side and that the delegation wants and what Brussel funds for that we want. It has to be sufficiently specific so that Brussels has a technical act that only comes through Maldives on holidays and has no idea our multi-political realities or the structural realities of the country. Is, has been sufficiently specific to convince that person. Or these persons because it is crucial. But it has to be sufficiently broad, so it's not stifled throughout the passage of about the action. That so, in a nutshell the attention is to develop a Multiview, how long I don't know, for how much money I don't know. Yeah, I am the terms of reference, and I don't have any perceived allegations with delegation of what the range would be. But the idea is to get and understanding of what some actions could look like. And very very would be strengthening the accountability in government systems. These things that we talked, have you ensured independence and so forth. Capacity building on investigation of corruption, by corruption here I mean ethical and judicial investigations. So, how the Judicial Service Commission, how National Integrity Commission, how the Anti-Corruption Commission, how the Prosecutor General's office. How me or provide assistance to combat to improve the capacities in judiciary. To also support on simple things that ensure transparency and accountability of judges. And by that, I mean there needs to be some form of examination or something that they need to pass to become eligible or that the President may be able to nominate them for content. There needs to be continuous training, there needs to be performs reviews, there needs to be all of these things. And one thing that I will suggest also is periodical annual report reviews. We are of those. some countries have those. That is a judge from one per (4.35) island goes to another court, and they are the second pair of eyes. So, they go, and they review the procedure of the content that they review the procedure of every single case in that particular court, to identify if there are shortcomings or issues to make sure that they are always in line. Why I think that is important, one because it's the judge reviewing the judge. So, it doesn't, it's not as imposing on them as

having to force them to be in training on performance reviews and so on. But they can already start seeing what their problem was. Second one is a human rights consideration. If it starts with the rotational eight years and their people of managing justice imprisoned for eight to ten, thirteen years. So, we can already see these cases the statues of wrong is forever not. And free the prisons, reduce the cost of bad economy off course you then have pay damages to those people that at least it frees up your budget to invest in other things. So, it has this to make sure another thing that I was saying is we need desperately to have publicity of court decisions. And I am not just talking about the supreme court, I am not just talking about the superior courts or high court. I am talking about 185 islands have courts, the magistrate courts. Because sometimes the magistrate may not know how certain matter is being interpreted and if its public. You reduce the possibility for our corruption because if it's something off the chart, you can say wait everybody have been deciding apples while you are deciding oranges. Right? So, it's a transparency issue. So, the elephant in words another important thing which is predictability, that which is ultimately the predictable systematic, predictable judiciary, trustworthy judiciary means that people who want to invest. Because if it they come in with the money and invest they need to know that if there is a problem, the judge will be impartial to analyze the cases. More money means more taxes which means more investment which is a self-sustainable cycle. which is what I would be interested in. And I am sure you would also be interested.

Feydhoo Constituency Mohamed Nihad constituency Speaking:

Yeah, yeah Mr. Pedro. still, it was too regular and very interesting to know that you are going to do all this like making reports. So many NGOs are coming to the Maldives. We have seen these these pictures, TVs and all these and they are making the reports, several reports. But, actually we are in need of expertise. Not reports. We need support in training our people. We need support in like even today our PCB, the new board, they need support, technical expertise, international expertise to make uniform policies in all the areas. Even the parliamentarians. So, if by making, I don't believe by making reports we will get any result. So, from European Union what I request is to help us in giving like trainings or I don't know, human resource development in Maldives. And to work on all these areas. You can make 2000 reports every single time you come here. But at the end of the day there won't be any result. Even if you send the report to us, we may not be able to read it. We may not even read it. That is how it happens you know. So...

Mr. Pedro Gomes Pereira Speaking:

Yeah, yeah. Absolutely.

Central Fuvahmulah constituency member Hussain Mohamed Didi Speaking:

Mr. Pedro, we have got valuable information and we will use those information like in practically in the committee while oversighting and we hope to see you again.

Mr. Pedro Gomes Pereira Speaking:

Thank you very much. And I can send contact details in case there are questions.

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