



Statement on the Recommendation of the Judicial Service Commission of the Maldives for the Dismissal of Maldives Supreme Court Justices, Dr Azmiralda Zahir and Mahaz Ali Zahir

The Commonwealth Lawyers Association (CLA) is highly concerned by the recommendation by the Judicial Service Commission (JSC) of the Maldives to its Parliament on 4 May 2025 that Supreme Court Justices Dr Azmiralda Zahir and Mahaz Ali Zahir (“the Judges”) should be dismissed.

The CLA is informed that unspecified allegations were made to the JSC on 26 February 2025 against the Judges, and another Judge of the Supreme Court, Justice Husnu Al Su’ood. All three Judges were immediately suspended and served with notices of disciplinary proceedings by the JSC on 26 February 2025.

The CLA is aware that on 26 February 2025 the three Judges were to hear an application for a stay of the enforcement of an amendment to the Constitution of the Maldives (“the Constitution”).

Due to their suspension, the application for the stay could not proceed and it has yet to be heard by the Supreme Court.

The application for the stay was in respect of a constitutional challenge to the amendment, which was to be determined by the Supreme Court. The constitutional challenge has also not been heard yet by the Supreme Court.

Subsequently, Justice Su’ood resigned in protest and reportedly said that the disciplinary action against the three Judges was an attempt by the executive to influence the Supreme Court on the outcome of the pending constitutional challenge.

The Judges have raised similar concerns and have contended that the allegations against them are baseless and that the investigations by the JSC were tainted by the denial of due process to them. They have disputed the recommendation of the JSC for their removal.

Article 154(a) of the Constitution states:

A Judge shall not be removed from office during good behaviour and compliance with judicial ethics.

Article 154(b) of the Constitution states:

A judge may be removed from office only if the Judicial Service Commission finds that the person is grossly incompetent, or that the Judge is guilty of gross misconduct, and submits to the People’s Majlis

a resolution supporting the removal of the Judge, which is passed by a two thirds majority of the members of the People's Majlis present and voting.

The JSC's recommendation that the Judges be dismissed is under review by the Parliament Judiciary Committee ("the Committee"). The Judges have requested to be heard by the Committee before it decides on the JSC's recommendation. The Committee has not yet acceded to the request.

CLA notes the concerns issues by the Bar Council of the Maldives¹ with regard to the JSC's recommendation and agrees that the Committee must ensure that the JSC was informed by the constitutional requirements in Articles 154(a) and 154(b), as well the provisions for procedural fairness under the Judicial Services Commission Act², in conducting its investigations into the allegations against the Judges and arriving at the recommendation.

The removal of judges is a very serious form of judicial accountability. It should not be resorted to unless it is based on grounds and process that are clearly discernible from the legal framework under which they serve and further meet the requirements of international standards.

Article 18 of the United Nations Basic Principles on the Independence of the Judiciary and the Commonwealth (Latimer House) Principles on the Three Branches of Government) ("Latimer House Principles") provide that Judges should only be subject to suspension or removal for reasons of incapacity or (mis) behaviour that renders them unfit to discharge their duties.

Further, the security of tenure of judges should be guaranteed, in order to *"shield judges from external pressures and conflicts of interest when they hold powerful individuals or government bodies legally to account, and thereby contribute to sustaining an independent judiciary, which is an essential element of the rule of law."*³

The Privy Council emphasised in **Re Chief Justice of Gibraltar**⁴ that "[s]o important is judicial independence that removal of a judge can only be justified where the shortcomings of the judge are so serious as to destroy confidence in the judge's ability properly to perform the judicial function", underscoring that the bar for removal of judges is high.

In this regard, it is imperative that the Committee is satisfied that the recommendation of the JSC is founded on cogent and incontrovertible evidence. If the Committee finds that the findings of the JSC are grounded on evidence that has been contrived or distorted or misinterpreted, the recommendation must be rejected.

It is further critical that judges facing removal are accorded due process. In this relation, the Latimer House Principles provide

" [A]ny disciplinary procedures should be fairly and objectively administered.

[W]here a judge is at risk of removal, the judge must have the right to be fully informed of the charges, to be represented at a hearing, to make a full defence and to be judged by an independent and impartial tribunal."

¹ ["Bar Council requests SC judges to be allowed to respond in Parliament"](#), *The Edition*, 5 May 2025.

² Law No 2008/10.

³ Bingham Centre for the Rule of Law, Commonwealth Secretariat, 2015, p. xviii.

⁴ *Re Chief Justice of Gibraltar* [2009] UKPC 43

The Committee must therefore ascertain , *inter -alia* , whether the Judges were given due notice and particulars of the allegations against them; whether they were given sufficient time to prepare their rebuttal to the allegations; whether they were given the opportunity to present their evidence and where relevant to cross-examine witnesses; the right to legal representation; and the reasons for the decision of the JSC. ⁵

A denial of any of these rights constitute a violation of fundamental principles of procedural fairness, and a breach of the rule of law. On this basis also, the Committee should reject the JSC's recommendation.

The Commonwealth Charter recognises:

"...the importance of maintaining the integrity of the roles of the Legislature, Executive and Judiciary. These are the guarantors in their respective spheres of the rule of law "

The CLA urges the Committee and the Parliament to ensure that the independence of the judiciary of the Maldives is not eroded and compromised by disciplinary action against judges that are based on unsubstantiated or arbitrary grounds and /or which is contrary to due process.

The CLA also urges the Committee and Parliament to be mindful of its own constitutional and statutory requirements for the removal of judges, and further respects and adheres to the stringent international standards to protect judicial independence.

The CLA further urges the Committee and Parliament to carefully scrutinize the recommendation by the JSC and reject the recommendation if it fails to meet the substantive procedural and evidentiary requirements.

The CLA will continue to monitor the matter and engage with the Bar Council of Maldives, international and regional law organisations, the Commonwealth Secretariat and United Nations Special Rapporteur on the Independence of the Judiciary in promoting and defending the rule of law in the Maldives.

Commonwealth Lawyers Association (CLA)

10th May 2025

The **Commonwealth Lawyers Association** is an international non-profit organisation which exists to promote and maintain the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession, with the highest standards of ethics and integrity, serves the people of the Commonwealth. commonwealthlawyers.com

⁵ The Appointment, Tenure and Removal of Judges under Commonwealth Principles: A Compendium and Analysis of Best Practice, Bingham Center For the Rule of Law, 2015.