



MINISTRY OF LEGAL REFORM, INFORMATION AND ARTS
MALE', REPUBLIC OF MALDIVES

THE THURSDAY BRIEF

Brief Note 24
16 October 2008

MALDIVES REFORM PROCESS

[A WEEKLY UPDATE]

This brief contains updates and new information.

The Constitution	Legal Reform	Media Freedom
No Updates	Updated	No Updates

Elections	Parliament	Politics
Updated	Updated	Updated

Judicial Reform	Law Enforcement	Social Protection
No Updates	No Updates	No Updates

IMPORTANT: Sections on legal reform, elections and politics have been updated and highlighted in red.

THE CONSTITUTION

Some of the Salient Features in the Constitution

SEPARATION OF POWERS

1. The new constitution separates powers between the executive, the judiciary and the legislature. Under the previous constitution, the president had executive powers over the way the country was governed. Constitutional change now distributes some of the executive powers to the relevant legislative and judicial bodies.

Elections

2. Under the old constitution, elections are held under a one-candidate system, with candidates first endorsed by parliament.
3. Political parties were recognised since mid-2005. The new constitution allows multi-party elections for the first time, with requirements that candidates disclose their funding, and political parties hold internal elections.

The Presidency

4. The president will be elected directly by the people through a nationwide poll. The president's term will be limited to two five-year stints, but he/she cannot be prosecuted for civil suits during his/her tenure of office. However, the immunity ends once his/her term ends.

Removal of Gender Bar for President's Office

5. The new constitution removes the gender bar, allowing a woman to head the nation.

The Cabinet

6. The cabinet of ministers will be appointed by the president with approval of parliament, but they are not allowed to be parliamentarians, civil servants, or attached to state entities, judicial, police or armed services.
7. The current cabinet will be allowed to function in the interim period, until the new president takes office on November 11.

The Parliament

8. The new constitution adopts a policy of parliamentary representation based on population – a lawmaker for every 5,000 people.
9. Currently, parliament, also known as People's Majlis, has eight members appointed by president, while two are elected from each of the 20 atolls and two from the capital of Male'. No appointed members will serve in parliament under the new constitution.
10. The new constitution will increase the number of parliamentarians from 50 to about 74.

11. The current legislative assembly will continue to function until the new parliament is formed once parliamentary elections are held under the new constitution – due before 15 February 2009.

INDEPENDENT INSTITUTIONS

12. Under the new system, independent bodies will be created – with prior approval from parliament – to man key institutions like the prosecutor general, auditor general, elections commission, judicial service commission; and several constitutionally created oversight bodies including the human rights commission, civil service commission and anti-corruption commission.
13. While these institutions are being created, the constitution gives timelines to set up interim bodies to ensure a smooth transition of government business before the new president takes office in November. They are:
 - Interim Elections Commission – created within 30 days of introducing the constitution
 - Interim Judicial Service Commission – created within 30 days
 - Interim Prosecutor General – appointed within 30 days
 - A five-member interim Supreme Court – to be created within 45 days.
 - Anti Corruption Commission – created within 60 days.

FREEDOM OF RIGHTS

14. A multitude of new rights and freedoms are enshrined in the new constitution. They include:

Freedom of Expression

15. The new constitution guarantees freedom of speech and allows media organisations to publish information without the prior consent from the state.
16. Defamation is now classified as a civil matter, not a criminal offense like in the past.

Freedom of Association

17. Allows trade unions to be formed and conduct industrial action. Such actions were banned under the previous constitution.

Freedom of Assembly

18. People are allowed to gather and hold public protests without prior permission of the state.

Rights for those Arrested

19. Police have to give victims a reason for the arrest. Those detained have the right to remain silent, have access to legal counsel and be produced before a judge within 24 hours.
20. Those facing trial can also seek legal aid from the state.

Socio-economic Rights

21. The constitution guarantees right for people to have adequate food, water, clothing, shelter and healthcare.
22. It also encourages conservation of the environment and sustainable development.

PUBLIC AWARENESS

23. In the run-up to the constitution's ratification, the President's Office and Information Ministry had conducted group workshops and nationwide awareness programmes through media campaigns, to educate government agencies and the public on the key features of the new constitution.
24. The constitution is available in both Dhivehi and English languages on Information Ministry's website www.maldivesinfo.gov.mv

LEGAL REFORM

First Amendment to the Employment Bill

1. The President ratified the Bill on the first amendment of the Employment Act on October 13. The amendment mainly gives the employment rights to the tourism sector employees who were previously excluded in the bill. When the Employment Act was first passed and ratified the Tourism sector employees expressed their concerns and were followed by threats to strike. Although the tourism employees gain new rights in the amendment, Police and Maldives National Defense Force are excluded from this bill.

Anti-Corruption Commission Bill

1. The President on September 24 ratified the Anti-Corruption Commission Bill passed by the People's Majlis (parliament) on September 23. Thirty three out of the 34 parliamentarians present and voting supported the bill. Six amendments were also passed before the final vote.
2. The Anti-Corruption Commission will be an independent and impartial body whose responsibilities include inquiring into and investigating all allegations of corruption; recommend further inquiries and investigations by other investigatory bodies; and recommend prosecution of alleged offences to the Prosecutor General, where warranted.
3. The Anti-Corruption Commission Act details how the five-member commission can be appointed for their five-year term; their jurisdiction, powers and responsibilities.
4. The Anti-Corruption Commission to be created under the new constitution, which became effective on August 7, should be set up within 60 days from the date the constitution comes into force.

Presidential Elections Regulation

5. The Elections Commission on September 23 introduced the Presidential Elections Regulation formulated under the Presidential Elections Act.
6. The Regulation provides to set up a 15-member National Elections Coordinating Committee to oversee the elections process, a National Elections Advisory Committee to advise the Elections Commission on presidential elections, and also provides to set up elections complaints bureaus at national, atoll and island levels.

7. The regulation also details voter registration and conducting of the polls, while setting out the code of conduct of poll workers, elections observers, and presidential candidates.

Elections Bills

1. The President ratified the two crucial election related bills required to hold the country's first multi-party elections.
2. The Electoral Bill, which details the general procedures on how elections should be held, was ratified on September 15, after the bill was passed by the People's Majlis (parliament) on the same day with support of 30 parliamentarians out of the 33 present and voting.
3. The Act, which covers presidential, parliamentary and local council elections, ensures elections held in the country are free and fair in accordance with democratic principles. It covers a broad range of issues from right to vote, maintaining voter registry, announcing for election, campaigning, polling, vote counting and announcing results, complains and appeal to offences and penalties for those who violate the law.
4. The Presidential Elections Bill, which specifies how a presidential poll should be taken, was ratified on September 16 hours after the parliament passed the bill with 32 out of 42 members present voting in favour.
5. The Act covers announcing and applying to run for president, announcing of candidates, security and protection for candidates, giving equal access to state media and holding a second round of election if no candidate secures above 50 percent in the initial round.

6. Under the Presidential Elections Act, all candidates will have to submit Rf. 40,000 (US\$ 3137) as deposit, while candidates running independently are additionally required to submit signatures of 1500 supporters.
7. The Act gives reduced time periods for the presidential election in the interim period to allow the elections before the October 10 deadline.

Prosecutor General Bill

8. The President ratified the Prosecutor General Bill on September 4, after the People's Majlis (parliament) passed the bill with a unanimous vote of 35 parliamentarians present and voting. Nine amendments to the bill were passed before a final vote was taken.
9. The Prosecutor General Act specifies how the Prosecutor General should be appointed, his/her qualifications, responsibilities and powers.

Judicial Service Commission Bill

10. Parliamentarians voted on September 4, to pass the Judicial Service Commission Bill with 35 out of 36 parliamentarians voting in favour. The Judicial Service Commission Act is now in effect after the President the bill the same day.
11. The Judicial Service Commission is an independent institution created under the constitution to oversee appointment judges and advise the president on the appointment of the chief justice and Supreme Court judges. The Commission will also look into complaints and take action against judges.

12. Members of the Judicial Service Commission will include:
- Speaker of the People's Majlis
 - A Supreme Court judge, except the Chief Justice, elected by the Court
 - A High Court judge elected by the Court
 - A judge elected by lower courts
 - A member of the People's Majlis
 - A People's Majlis approved member from the general public
 - Chief of the Civil Service Commission
 - A presidential appointee
 - Attorney General
 - A lawyer elected by the authorised lawyers of Maldives from among themselves

Elections Commission Bill

13. On August 25, the president ratified the Elections Commission Bill, after it was passed with a unanimous vote by parliamentarians. The bill was passed with 16 amendments out of the 18 proposed amendments.
14. Major amendments included detailing out commission members' code of conduct in the law - specifically commanding unbiased decisions by members and giving power to the commission to revise any decision found to be biased.
15. Electing commission's president and vice president by commission members instead of the president proposing nominations for parliament approval was among other changes.

MEDIA FREEDOM

State Media

1. Presidential candidates are being given free air time on state broadcasters, Television Maldives and Voice of Maldives, as of September 14, to give access to the state media to individual candidates ahead of the polls. Candidates are allocated three 15-minute slots daily on rotation basis while political parties get one 15-minute slot a day.
2. The state media has been giving airtime to political parties since early July under an agreement signed between the state broadcasters, political parties and Information Ministry on June 25.

Private Broadcasting

3. Private television channel, VTV owned by Island Broadcasting Company Private Limited, was officially launched on September 5, making it the third private TV channel to begin operation in the country – Future TV and DhiTV are already on air.
4. Owner of VTV secured a broadcasting license in August last year to go on air nationwide and transmit its signal internationally. VTV is also available through local cable operator MediaNet.
5. VTV's telecasts will be initially for four hours daily starting 2000hrs and will include news, current affairs, entertainment and infotainment programmes.

6. Meanwhile, DhiTV has begun satellite transmission to go on air nationwide after being in operation since July 1.

ELECTIONS

Presidential Elections – Second Round

1. As no candidate received more than 50 percent of votes there is to be a run-off election, previously announced as 29 October. But the date has been brought forward one day, now to be held on 28 October, as the previous date coincided with GCE O level exams.
2. The two candidates who got most votes in the first round are to contest in the second round. They are:
 - a. DRP presidential candidate, Maumoon Abdul Gayoom and his running mate Ahmed Thasmeen Ali., who got the most votes in the first round and,
 - b. MDP presidential candidate, Mohamed Nasheed and his running mate, Dr. Mohamed Waheed Hassan Manik who came second in the first round of elections.
3. On October 9, when the Elections Commission met the media to announce the official results of the first round of elections and to announce the date of the run-off, the Commission explained that they needed time to organize everything and correct the problems they faced in the first round. Hence they had decided that the second round would be held on 29 October, which they believe would give them sufficient time for all the arrangements to be made.

4. On October 13, the Elections Commission announced their decision to hold the election on 28 October, 20 days after the first round. The Commission says, in article 22 of the Presidential Elections Act the dates relating to the elections were shortened to meet the deadline of 10 October as mentioned in the Constitution. Since the date of October 10 has passed, that they believe they should return to acting on Article 111 (a) of the Constitution and Article 19 (a) of the Presidential Elections Act which states that the maximum number of time between the first and second round of elections is 21 days.
5. Local media reports, that the Elections Commission's decision has lead to a case being filed against them by eight lawyers. The lawyers argue that the second round date is against the 10 October deadline set by the Constitution and Article 22 (a) of the Presidential Elections Act, which says gives a maximum of 10 days between the first and second round of elections. The case has been filed at the High Court of Maldives.

Presidential Elections – First Round

Elections Commission officially announced the eligible candidates for the first round of presidential elections and the order in which they will appear on the ballot papers on 28 September 2008.

The official list of Presidential candidates and their order as decided by lots and announced by the Elections Commission is as follows:

1. Jumhooree Party's candidate, Gasim Ibrahim and his running mate, Ahmed Ali Sawaad.
2. Dhivehi Rayyithunge Party's candidate Maumoon Abdul Gayoom and his running Ahmed Thasmeen Ali.
3. Independent candidate, Dr. Hassan Saeed and his running mate, Dr. Ahmed Shaheed.

4. Maldivian Democratic Party's candidate, Mohamed Nasheed (Anni) and his running mate, Dr. Mohamed Waheed Hassan Manik
5. Social Liberal Party's candidate, Ibrahim Ismail and his running mate, Fathimath Nahid Shakir.
6. Islamic Democratic Party's candidate, Umar Naseer and his running mate, Ahmed Rizvee.

Social Liberal Party challenged Gayoom's eligibility for candidacy in the newly established Supreme Court, saying he has exceeded the two term limit set out in the constitution. Gayoom's candidacy was also challenged by Adhaalath Party, alleging that he was not a sunni Muslim, a pre-requisite for presidency. In the two separate cases, on 2 October 2008, the Supreme Court ruled in favour of the incumbent President, supporting the decision of the Elections Commission to allow him to contest the elections.

Similary, on 2 October 2008, the Supreme Court ruled that Maldivian Democratic Party's candidate, Mohamed Nasheed (Anni) did not have any convictions for a "hadd" offence and so was eligible to contest in the Presidential elections. The case was filed by an individual, Moosa Anwar who is the president of the youth wing of Jumhooree Party. Anwar says he filed the case not as a member of the Jumhooree Party but as an individual.

Cut-off period

1. Fierce campaigning from all the candidates were seen as the polling date neared, with political attacks reaching a high as the official cut off time of 6.00 PM on 7 October came. A campaign black out period is mandated in the Election Laws with all campaign materials having to be removed from and nearby the polling stations, any active campaigning from the candidates and parties is also banned, and broadcasters are also banned from broadcasting anything which may promote or be damaging to a candidate during this black out period. The cut off period is till 6.00 AM of 9 October.

Polling Day

1. 8 October, Wednesday was a historic day for Maldives. It was the first time multi-party Presidential Election has taken place in the country. And it was also the first the voters of 18 years and above could participate in a Presidential Election. Previously the voting age was 21 years and above, and Presidential Election was under a one candidate system where the candidate is approved by the Parliament first and is endorsed by the people through a referendum.
2. It is also the first time a person had to register to vote if he/she is going to vote in an island other than his/her own home island. Registration started on 21 September and initially was given a window of 5 days for registration with the closing date set for 25 September, which was later extended by two days. At the end of the registration there were a total of 208,252 voters on the list. A complaints hotline was established and announced to send in any problems with the voters' list.
3. With 395 polling stations setup across the country, polling opened at 9.00 AM on October 8. Although polling starting with pouring rain all stations were busy with people who had showed up for the voting and the stations getting busier as the weather cleared up and more people showing up.
4. However, shortly after polling started, there were reports of problems with the voters list and other difficulties at the polling station coming in from Male' and the islands. The National Elections Complaints Bureau set up to oversee the complaints regarding the elections said on Thursday that they had received over 1000 complaints. Main areas of complaints received were regarding a voters name not being on the list at the polling station despite having registered, and the name being on the online list, names of dead people on the voters list, the indelible ink being able to be removed despite it being the only way for preventing double voting, and the polling stations not having the correct list.

5. With these problems reaching a high around noon on October 8, several people gathered around the area of the former Nasandhura Palace Hotel, where the Registrations and Complaints station of the Election Commission was based. The Elections Commission sat down for an emergency meeting as voting difficulties continued. At the time, there was talk of discontinuing the polls, and this was discussed with all the candidates too at the time, and Elections Commission later said voting will continue as they had discussed about how to overcome the problems they were facing.
6. In a move to solve the voters list, the Elections Commission announced that anyone with valid official identification could register and vote at the polling station.
7. It was also announced that the initial closing time of 8.00 PM will be extended at polling stations facing problems until they are resolved. Stations which finish the voting without any problems were closed at 8.00 PM last night.

Vote Counting and Results

1. Counting of votes started around 9.00 PM on October 8, with each polling station counting its ballot box and announcing the result at the station itself. The process has continued without halt over the night with results coming in from different islands and the four ballot boxes stationed at Colombo of Sri Lanka, Trivandrum of India, Kuala Lumpur of Malaysia and from Singapore. Although the Election Commission is announcing the preliminary results of the poll as the counting is progressing the Commission has announced that the final result of the poll will be announced at 11.30 PM on 9 October.
2. For a candidate to win the elections, they will have to secure more than 50 percent of the votes. Since no candidate got more than 50 percent, a second round of voting has to take place.

Final results of the first round are as follows:

Order No.	Candidate Name	Total Vote	%
1	Gasim Ibrahim	27,056	15.32%
2	Maumoon Abdul Gayoom	71,731	40.63%
3	Hassan Saeed	29,633	16.78%
4	Mohamed Nasheed	44,293	25.09%
5	Ibrahim Ismail	1382	0.78%
6	Umar Naseer	2472	1.40%

Official results can be available at Election Commissions website at www.elections.gov.mv .

Observing Elections

1. On October 10, Commonwealth Observation Group released their report on the elections held on October 8, The group reports that the elections held were highly transparent. However, it also highlights that due to unrealistic deadlines set for the elections, there were a number of problems in voter registration and voters list.
2. The Commonwealth Observers group is to their stay till the completion of the second round. The group informs that a final report will be issued within two weeks of the second round.

PARLIAMENT

Anti-Corruption Commission Members

1. On October 14, the Parliament endorsed the 5th member of the Anti-Corruption Commission. Mr. Ali Rasheed Umar's name was sent to the Parliament by the President when one of the five names previously sent to Parliament was rejected on October 6. The other four members were approved by the Parliament. The five members approved for the Commission are, Ali Rasheed Umar, Abdul Raheem Abdul Rahman, Abdulla Adam, Abdullah Hilmy and Hassan Luthfee.

Governor of Maldives Monetary Authority

1. On October 14, Parliament approves Mr. Fazeel Najeeb as the new Governor of Maldives Monetary Authority (MMA). The new Governor was approved with 20 votes in favour out of 32 members in attendance. 11 members voted against, while one member abstained.
2. The post of Governor was previously held by Abdullah Jihad who was appointed the new Finance Minister on 15 July following former Finance Minister Gasim Ibrahim's resignation. Nomination of MMA Governor and Deputy Governor has to be approved by the Parliament before the President appoints them to the post. Aishath Zahira was recently appointed as the Deputy Governor of MMA.

Party Alliance

1. The Republican Party, Social Liberal Party, Adaalath Party, Maldives National Congress Party and Dr. Hassan Saeed who ran as an independent candidate in the first round of the 2008 Presidential Elections, have all joined in a coalition with the Maldives Democratic Party (MDP). They promise to back MDP's presidential candidate Mohamed Nasheed (Anni) in the second round of voting to be held on the 28 October.
2. On Monday, the coalition launched its new united campaign called "Vathan Edhey Gothah" (As the Nation Wishes) at a function held at Dharubaaruge. The leaders of the six groups have been seen together for the first time since they pledged their support to Mohamed Nasheed in the second round of polls.
3. Local media reports that, on Wednesday night, at a campaign rally held in Seenu Atoll Hithadhoo, Mohamed Nasheed has said that he will hold mid-term elections before his 5 year term is up. It is reported that his intention is to have a free and fair election and give the people a chance to elect a political leader they want. Although the Constitution does not specifically mention that a president can call for an election. But it does say that if both the president and the vice-president resign, elections should be held within 60 days.

New Parties

1. The Elections Commission on October 14 gave the green light to found a party to be named “Maldives National Party”. Dr. Hassan Saeed, former independent presidential candidate who came in third place in the first round of elections, is behind the formation of the Maldives National Party. Also on October 13 gave permission to found a party to be named “*Eh Baeh Vanthakamuge* (Unity) Party”, after 50 signatures were submitted to the Commission.

JUDICIAL REFORM

Interim Supreme Court

1. Justice Abdulla Saeed has been elected to administer the responsibilities of Chief Justice during the interim period after a unanimous decision by justices of the Supreme Court established on September 18. Justice Saeed will remain in office, until the new Chief Justice is appointed with recommendation from the proper Judicial Service Commission and approved by the new parliament convened under the constitution.
2. The five justices in the Supreme Court are; Abdulla Saeed, Ahmed Faiz Hussain, Abdulla Arif, Mujthaz Fahmy and Yoosuf Hussain.

Interim Judicial Service Commission

1. The President has constituted the Judicial Service Commission as provided in the new constitution ratified on August 7. At a ceremony held on September 4, members took their oath and their letter of appointment was presented to them by the President.
2. Members of the Judicial Service Commission are:
 - Mr. Abdul Ghanee Mohamed elected from High Court judges
 - Mr. Mujthaz Fahmy elected from lower court judges
 - Mr. Ahmed Zahir elected from parliamentarians
 - Dr. Mohamed Latheef, chief of Civil Service Commission
 - Mr. Ibrahim Ahmed from the public approved by the People's Majlis
 - Mr. Abbas Shareef appointed by the President
 - Mr. Mohamed Waheed Ibrahim elected from the licensed lawyers of the country.
3. A Supreme Court judge will also be included in the Commission once the court is formed.
4. The Commission on Saturday elected Mr. Ahmed Zahir as its president and Mr. Mujthaz Fahmy was elected vice president.
5. The Judicial Service Commission is an independent institution created under the constitution to oversee appointment of judges to courts and advise the president on the appointment of the Chief Justice and Supreme Court judges. The Commission also has the power to look into complaints and take action against judges.

LAW ENFORCEMENT

Police Rules

1. On September 3, Maldives Police Service introduced six regulations under the Police Act. The regulations relating to police employment, police code of conduct and use of weapons, use of police identification card, and training are among the 17 regulations to be formulated under the Police Act.
2. Two regulations on general rules for police and the rules of using powers and privileges were introduced on August 5, after the Police Act became effective.

Private Security

3. Maldives Police Service (MPS) is conducting a training of trainers programme on private security in Male' under MPS' Private Security Project carried out to improve quality of private security in the country.
4. Fourteen police officers are being trained in the six-week programme which began on August 27 facilitated by experts from the Transguard Security Service of Emirates Group Security. MPS signed a memorandum of understanding with Transguard Security Group in June this year, to give technical assistance for the private security project.
5. The Dubai-based Transguard Group had assisted MPS to draft a bill and regulation for Private Security Industry of Maldives.
6. MPS has also held discussions with Dubai Police on possible areas of cooperation between the two bodies.

SOCIAL PROTECTION

Family and Children Service Centres

1. On August 28, Ministry of Gender and Family opened Family and Children Service Centres (FCSCs) in five atolls - *Kaafu, Alifu Alifu, Alifu Dhaalu, Vaavu* and *Faafu* - which completes the project in the country's 20 atolls.
2. The project started in 2006 aims to provide social protection services within easy access to everyone, which brings under the umbrella services for child protection, domestic violence, disabilities, counselling, helping people with substance abuse, and juvenile delinquency.
3. The need to develop social services was identified due to growing social necessities relating to various issues such as family breakdown, influence of drugs, high youth population and unemployment.
4. The Ministry is currently carrying out programmes to improve FCSCs' services, while building capacity in the area. The FCSCs are planned to be eventually set up in each inhabited island to give equal access across the country.

Forum on Disability

5. The Ministry of Gender and Family is to introduce an action plan to enhance rights for children with disabilities.
6. Issues of children and adults with disabilities are extensively covered in the 7th National Development Plan (NDP) for 2006 – 2010, which includes ensuring the availability of legal means to protect the rights of all people with disabilities by the end of 2010.
7. The six-year action plan covers a number of actions relating to health, education and provision of rehabilitation services to children with disabilities.

For comments and suggestions, please contact Ms. Ashiya Luthfee

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