



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

THE THURSDAY BRIEF

Brief Note 14

31 July 2008

MALDIVES REFORM PROCESS

[A WEEKLY UPDATE]

This brief contains updates and new information.

The Constitution	Legal Reform	Media Freedom
Updated	Updated	Updated

Elections	Parliament	Politics
No Updates	Updated	Updated

Judicial Reform	Law Enforcement	Social Protection
No Updates	No Updates	Updated

IMPORTANT: Sections on Elections, Judicial Reform and Law Enforcement have no updates for the week. All other sections have been updated and highlighted in red.

THE CONSTITUTION

1. The President on Tuesday, announced that he would ratify the new constitution on 7 August, Thursday, which would mark the culmination of the work started in July 2004. The landmark legislation endorsed by the People's Special Majlis (constitutional assembly) on 26 June was sent to the President for ratification on 2 July.
2. Reflecting on issues identified by the Attorney General and cabinet ministers' committee convened to scrutinise the constitution, the government has been carrying out the necessary work to ratify the new constitution.
3. Key legislations including the Police Bill and the enabling legislation for some regulations that needed legal authority have been passed by the People's Majlis (parliament). The Criminal Procedure Code which was also marked as crucial to be enacted before ratification has now been included in one of the schedules of the enabling legislation. The President's Office has also begun informing government institutions to prepare to assume work those agencies should undertake when the constitution is introduced.
4. Prior to the announcement to ratify the constitution next week, the President had written to the Speaker of the Special Majlis to clarify as to certain matters such as editorial errors and language inconsistencies in the document can be rectified. Another clarification asked was on the difference in the text between certain provisions as adopted by the Special Majlis and the text sent for ratification.
5. Ratification of the new constitution will enable the government to send before parliament, key legislations to hold the country's first multi-party elections and set up the independent institutions that should come into being before the elections.

6. People are being identified to head the following key independent institutions that are to be created:
 - parliament has to approve five names nominated by political parties to run the interim Elections Commission, which is to be created within 30 days of introducing the constitution.
 - Interim Judicial Service Commission will be created within 30 days of introducing the constitution.
 - lawmakers have to approve an interim Prosecutor General nominated by the government within 15 days and appointed within 30 days of introducing the constitution.
 - parliament has to approve names to set up a five-member interim Supreme Court that will be created within 45 days of the constitution becoming effective.
 - an Anti Corruption Commission will come into force within 60 days of the constitution being enacted to combat graft issues.
7. Meanwhile, 45 new bills are being drafted and some of them are being circulated for comments among parliamentarians. The bills, which form part of the 87 new bills that were announced this year, are crucial to enact provisions in the new constitution.
8. Key areas of the new constitution includes separating powers between the executive, the judiciary and the legislature.
9. The president's term will be limited to two five-year stints under the new constitution, but he/she cannot be prosecuted for civil suits during his/her tenure of office. However, the immunity ends once his/her term ends.
10. 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.

11. The new constitution increases the number of parliamentarians, from 50 to about 74 and allows a lawmaker to represent a population of 5,000. The current parliament, also known as People's Majlis, has eight members appointed by president, while two are elected from each atoll and two from the capital of Male'. No appointed members will serve in parliament under the new constitution.

12. Giving legal effect to democratic reforms, the upcoming constitution allows:
 - freedom of expression
 - freedom of association (allows trade unions to be formed and conduct industrial action),
 - freedom of assembly (people can hold public protests without prior permission)
 - rights for those arrested (police have to give a reason for the arrest and allow those detained to remain silent, have access to legal counsel and be produced before a judge within 24 hours)
 - those facing trial can seek legal aid from the state
 - guarantees right for people to have adequate food, water, clothing, shelter and healthcare
 - fosters conservation of the environment and sustainable development

13. In the run-up to the constitution's ratification, the President's Office and Information Ministry has 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.

Umbrella Legislation

1. Parliament on Tuesday, passed the bill to create an umbrella legislation for regulations to cover a gamut of ongoing regulations that will cease to exist once the new constitution becomes effective next week. Under the new constitution, regulations cannot be created or enforced, if they don't come under a law made by parliament.
2. The bill contains in two schedules, those regulations that are crucial to state governance, provide public services and enforce regulations that do not come under an enabling act. The law will enable the regulations to be in effect for one year from the date it becomes effective or would be repealed if a statute is passed by the parliament on a subject of that particular regulation. The bill gives authority to the parliament's regulation committee (one of parliament's standing committees) and the courts, to repeal any regulation or part of a regulation given in the schedules, if they find it to be in conflict with the constitution or a law of the country. The bill also gives the regulation committee authority to make additions to the schedules.
3. Eighty three regulations will be given legal protection under the law. All the regulations listed in the schedules are to be published to make them available to the public.

Armed Forces

4. The Armed Forces Act will become effective on Friday, August 1. The Act which specifies the responsibilities, duties, powers, privileges and rules to be followed by armed forces was ratified on 30 April.

5. The Armed Force is the authority entrusted with protecting the state, its constitution and its independence and sovereignty.
6. The Maldives National Defence Force (MNDF) is currently formulating the 17 regulations relating to ethics and code of conduct of armed forces, their employment, using of weapons, looking into complaints against armed forces and taking action. The regulations should come into effect within three months from the date the Act comes into force.

Key Legislations

7. Comments have been received from the Core of Parliamentarians (CGP), political parties and stakeholders for drafts of some key legislations that should be put in place under the new constitution.
8. These include bills to set up independent institutions such as the Elections Commission, Judicial Service Commission, Anti-Corruption Commission and the post of Prosecutor General. Other bills are those required to hold the elections like Presidential Elections Bill, Electoral Bill, Political Parties Bill and Freedom of Expression Bill.
9. The comments will now be discussed with the CGP and relevant parts from those comments will be incorporated into the drafts before they are finalised and sent to parliament.

Public Finances

10. The government is carrying out a programme of financial management reforms under the Public Finances Act passed in January 2006. The Act sets out a number of changes leading to overall improvements in financial management.

11. Setting up of Public Accounting System (PAS) is seen as the key enabler for both complying with the Act and for promoting effective macroeconomic policy and fiscal operations; public sector efficiency, accountability and transparency; and expenditure control and monitoring.
12. The hardware for a central PAS server will be made operational by mid August and a new chart of accounts has been designed to accommodate a progressive move from the current cash-basis reporting to accrual reporting for the 2009 budget formulation.
13. The PAS project executed by the Finance Ministry is funded by an EU grant and managed by the World Bank as capacity of trustee.

Land Act

1. The President last week, ratified the second amendment to the Land Act which parliamentarians approved in late June.
2. The amendment proposed by member of Lhaviyani Atoll constituency allows land to be leased up to 35-years from the previous 15 years.

Labour

3. A parliamentary committee is looking into the amendments to the Employment Act, which is in effect since 9 July, before parliament passes the amendments.
4. The amendments were proposed to detail out how the employment tribunal will be formed. The second issue gives rights to workers in resorts, emergency services, ports, airports, industrial islands and executive positions as given to all other workers, however, exempting those employees from a maximum 48-hour

working week, 30-minute breaks every five-hours and a 15-minute break for prayers or every four hours. The rule for exemption has been a point of contention, with resort workers forming a union and petitioned the president to be given equal rights.

5. In May, the government approved the Employment Bill that details minimum age limit, basic pay, working hours, training, leave procedures, creation of a labour tribunal and methods on how employment could be terminated. While it details rights and rules of employers and employees, the law for the first time, gives equal recognition to local and foreign workers.

Economic (Tax)

6. The government has drafted two bills on Tax Administration and Business Profit Tax, to replace the present form of generating revenue through import duties. A policy paper giving a snapshot of the bills have been sent to the cabinet of ministers for their approval.
7. All firms whose profits exceed 100,000 rufiyaas (7,800 US dollars) will be taxed between five percent to 15 percent, under the Business Profit Tax Bill.

Economic Zones

8. The government plans to create special economic zones to facilitate large scale industrial development in designated areas of the country. The Special Economic Zone Bill, that is currently before parliament, also provides to create a Special Economic Zone Authority to oversee licensing for investments.

Civil Service

9. Lawmakers passed amendments to the Civil Service Act, to give retirement benefits to state employees who were forced into retirement when the law came into effect on May 1. The law caps civil service age limit at 65.
10. The amendment is stop gap measure until the government adopts the Pension Bill, which is currently before parliament.

Green Papers

11. Green papers on bills related to the new constitution and key legislations in the Legislative Agenda 2008 have been published and will be made available in the local Dhivehi language on www.oblique.gov.mv for public comments.

Core Group of Parliamentarians

12. A six-member core group of legislators representing different political parties, was formed to agree on concepts, policies and give inputs during drafting stages of key bills, before they are finalised and sent to parliament for approval, to ensure easy passage of bills.

MEDIA FREEDOM

AIBD General Conference

1. Maldives was elected president of the Asia-Pacific Institute for Broadcasting Development (AIBD) general conference at its 7th general conference in Bali,

Indonesia, last week. Maldives will chair the AIBD general conference the next two years.

2. State broadcasters Television Maldives and Voice of Maldives are members of AIBD. Private broadcasters DhiFM and Atoll TV were given AIBD's affiliate membership last year during the 6th AIBD General Conference held in Maldives in July.

Training

3. State-run Television Maldives (TVM) has concluded a training programme for news casters, who will be posted to the TVM bureaus in the atolls. Seventeen participants, who will now report from the islands, completed the two-month programme which began in May.
4. Opening of TVM bureaus in the country's all twenty atolls has increased coverage of news from islands and serves as a means of connecting the island communities while showing their life style and island development. TVM has a 10:00am daily bulletin specifically focusing on news from the islands.
5. During the month of July, BBC World Service Trust conducted a five-day training for 11 journalists on parliamentary reporting, while Professor Mark Feldstein, Associate Professor of Media and Public Affairs of Georgetown University of the US, trained reporters on investigative journalism.

Private Broadcasting

1. DhiFM 95.2, the first private broadcaster to begin operations in the country, marked its first anniversary. Since opening up the country's media landscape for private broadcasters, seven private broadcasters have entered into the scene –

- DhiFM 95.2, Capital Radio 96.5, Faraway.FM 96.9, HFM 92.6, Radio Atoll, Future Television; and DhiTV.
2. DhiTV owned by Broadcasting Maldives Private Limited, officially launched the station early this month making it the country's third television station – state-run Television Maldives being the first broadcasting since 1978; and second, Future TV that went on air in June.
 3. Picture Land FM Private Limited, owners of Sun FM radio station that is yet to begin operations, secured permission to erect transmission towers in the northern Haa Dhaalu Atoll region and the southern Gnaviyani and Seenu atoll regions.
 4. Telecom regulator, the Telecommunication Authority of the Maldives, and the Housing Ministry allow companies to erect transmission towers on condition they share it with other operators for a fee.

Elections

5. Political parties have been allotted four 15-minute free slots daily – two slots in prime time - on state-run TV and radio respectively, as part of a plan mooted by the Information Ministry to give equal access to political parties and presidential candidates ahead of the nation's presidential polls.
6. Under the agreement inked between state broadcasters, political parties and Information Ministry recently, news, interviews and political meetings will be covered by Television Maldives (TVM) and Voice of Maldives (VOM).
7. The deal, which came into effect from July 3, allows political parties and independent candidates, to buy airtime to promote their message to the public, while a team of independent arbitrators will oversee the agreement.

8. A three-member team of US consultants – Terry Anzur, Gary Ponticiello and Catherine Toledo– are here on a one-month stint to coach TVM journalists on elections coverage, and assist the Information Ministry do a voter education programme ahead of the nation's first presidential poll.
9. The trio specialises in news gathering, production, presentation; and covering and communicating political campaigns.

Journalism Handbooks

10. A handbook on campaign and elections reporting penned by US consultant Robert Andresen, was released in Dhivehi language to local journalists, school libraries and other stakeholders.
11. A book on disaster and emergency reporting written by US consultant Terry Anzur, is also due to be published in Dhivehi language next month.

Media Accreditation

12. The Information Ministry has finalised guidelines to facilitate foreign journalists to work and seek employment with local organisations in the country.
13. While the Immigration and Emigration Department have amended their regulations to facilitate foreign journalists to apply for a business visa, the Employment Ministry is amending the Expatriate Employment Regulation to accommodate foreign reporters to work here.
14. Once the Foreign Media Entry Guidelines are wrapped up, the Information Ministry will introduce the Maldives Media Accreditation card to allow overseas reporters and local journalists to seek accreditation which would facilitate them access to special events such as VIP and VVIP visits.

Information Officers

15. Keeping in line with the Regulation on Rights to Information, the government is in the process of appointing information officers to facilitate public to access state institutions. The Information Ministry has begun programmes to educate state agencies, media and public on their rights and how they can access records stored in government departments.
16. The Right to Information rules become fully operational from January 1, 2009.

ELECTIONS

Public Lecture

1. An international consultant and scholar in political science, Mr. Eric M. Uslaner held a series of public lectures on “2008 Election and American Politics” to the media and political party members.
2. The lectures organised by the Fulbright Alumni Association in collaboration with the Open Society Association of Maldives with assistance from the American Center in Colombo were given to create awareness and let the people know about elections processes in the US.

Legalising Campaigning

3. Presidential hopefuls, who have already announced their candidacy, can now legally conduct their election campaign after the bill amending the current Presidential Elections Act was ratified on 10 July. The Presidential Elections Act

was amended to freeze the section of the Act, which barred candidates from campaigning before the Elections Commissioner gives the go ahead.

Voter Education

4. Information Ministry's voter education campaign was launched last week under the slogan, "Vote to DECIDE, Decide to VOTE".
5. The primary means of giving messages to educate the public on different aspects of voting will be through the broadcast medium to reach out to a wider population.
6. Catherine Toledo, an independent US consultant, is assisting in designing and running the campaign. The Ministry is also consulting with three other parties who are running their own voter education programmes, which includes the Commissioner of Elections Office, the Maldives Human Rights Commission and a group of non-governmental organisations (NGOs).
7. The 'Go Vote' campaign of the NGOs funded by the British, Dutch and Australian governments, aims to educate people of their democratic rights to vote and polling procedures through a series of posters, leaflets, public debates, open forums, music concerts targetting young people and radio and television programmes.

Elections Bills

8. The Elections Commission Bill details how the five-member independent Elections Commission is to be formed, the powers, rights and jurisdiction of its members.

9. The Commission will be reconstituted every five-years, and will also oversee areas ranging from organising and ensuring polls are free and fair; compiling voter lists and enacting the laws related to political parties.
10. The Electoral Bill details the general procedures on how elections should be conducted. The bill covers presidential, parliamentary and local council elections. It covers a broad range of issues ranging from rights of voters, campaigning, announcing election results to offences and penalties for those who violate the law.
11. The new Presidential Elections Bill specifies how a presidential poll should be held.

Observing Elections

12. The government has invited independent observers from the European Union, the Commonwealth and United Nations to observe the upcoming presidential poll. The agencies are currently in the process of assisting various government agencies to build capacity in the run up to the poll.

PARLIAMENT

Income and Assets of Ministers, Ambassadors, Presidential Advisors and Parliament Members

1. Parliamentarians on Monday supported the Bill on Property and Economic Interests of Ministers, Ambassadors, Presidential Advisors and Parliament Members, which proposed to disclose information on their income and assets to

the public. However, the MPs noted that changes should be made to certain provisions like disclosure be made to the income tax authority rather than the public.

2. The bill comes from private member, Ahmed Nashid, who said it aims to reduce cases of corruption by senior state officials.

Equal Protection to Candidates

1. The Bill on Equal Protection to Candidates failed in parliament for the want of one vote.
2. The bill was proposed by private member Ahmed Nashid to give equal protection to candidates running for elections.

Broadcasting Bill

3. The parliamentary committee on social affairs has begun work to make changes to the Broadcasting Bill.
4. The law will allow private broadcasters to operate in the country and create a national broadcasting corporation to manage state television and radio stations. The law will be regulated by a seven-member broadcasting commission appointed by the president.
5. Private broadcasters currently operate under a memorandum of understanding issued by the Information Ministry.

Defamation

6. Parliament accepted the defamation bill, which changes defamation from being a criminal offence to that of a civil offence. Pending formal laws, the government suspended prosecution since mid-2006, and introduced the regulations by way of a presidential decree.

7. The bill details how people can seek compensation and exempts the following areas from being held responsible for defamation:
 - parliamentary proceedings
 - complaints lodged to the parliament
 - trials of a judicial court, or an investigation by the parliament, or a lawfully executed or government authorised investigation
 - reports produced after a lawfully executed or government authorised investigation
 - fair and just criticism
 - stating a fact

POLITICS

New Kids

1. People's Alliance (PA) has elected Abdulla Yameen as party president at their first meeting. The meeting also elected Moosa Rameez as vice president and seven members to its council. MP Ahmed Nazim was appointed as the party's parliamentary group leader.

2. Mr. Yameen has said PA will decide to contest in the upcoming elections after extensive deliberations among members, the media reports. Yameen had earlier said he intended to run in the elections on a party ticket.
3. Jumhooree (Republican) Party also held their first meeting on 25 July in Kudahuvadhu Island in Dhaalu Atoll. According media reports, Republican Party will hold their congress within the next month to elect their leadership. Meanwhile, eleven members were elected to the interim executive committee. Parliamentarian Ibrahim Shaheed Zaki was elected president of the interim committee.
4. MP Ahmed Nashid who led the formation of the party had earlier said they hope to field a candidate for the upcoming presidential elections and also field candidates for parliamentary and atoll council elections.
5. Parties get 30 days from the date of their first meeting to submit to the Commissioner of Elections for registration.

Presidential Hopefuls

1. Candidates who have already announced they would contend in the country's first multi-party elections are President Gayoom from Dhivehi Rayyithunge Party, Maldivian Democratic Party's Mohamed Nasheed (Anni), Social Liberal Party's Ibrahim Ismail, Umar Naseer from Islamic Democratic Party, and independent candidates Dr. Hassan Saeed and Idham Muizz Adnan.

New Cabinet Ministers

2. On July 15, the President appointed Abdulla Jihad as Minister of Finance and Treasury and Dr. Abdulla Mausoom as Minister of Tourism and Civil

Aviation, following resignation of Qasim Ibrahim (Finance) and Dr. Mahmood Shaugee (Tourism).

3. Dr. Shaugee has now been offered to take the post of vice chancellor of Maldives' first university. He has been put in charge of overseeing the university's establishment.

Dhivehi Rayyithunge Party

4. Dhivehi Rayyithunge Party (DRP) elected Mr. Hamdhoon Hameed as vice leader of the party. During the three-day party congress, which concluded on 12 July, members were elected to six posts including Ms. Dunya Maumoon as vice president of women's wing.
5. DRP has also to decide on filling the vice leader's post made vacant after Qasim Ibrahim's resignation from the party.

Maldivian Democratic Party

6. Maldivian Democratic Party (MDP) is to seek assistance from the Indian government to ensure the upcoming presidential election is free and fair. After returning from a seven-day visit to Indian cities of Chennai and New Delhi during the month, MDP presidential candidate, Mohamed Nasheed (Anni) revealed to media that talks were held with Indian government and MDP had requested for an independent team to assist in elections observation.

JUDICIAL REFORM

Access to Justice Assessment

1. Ministry of Justice is to conduct a survey to assess the level of access the public have to the country's justice system. The survey to be conducted with a human rights-based approach will also assess the level of public confidence in the system and seek to create awareness on the judiciary.
2. The preliminary work of the UNDP-assisted survey, to be conducted in November/December this year, will begin later in the month. The assessment will be carried out in selected locations through island/atoll level workshops, focus group discussions and individual interviews with people.
3. The outcome of the survey will be a workshop held with participation of relevant government departments and stakeholders to sensitise them on issues with regard to access and realising human rights. The survey will also provide inputs to formulate access to justice policies.

Maldives Arbitration Bill

4. Modelled on the lines of the United Nations Commission on International Trade Law, the Maldives Arbitration Bill will allow firms and individuals to settle their disputes outside courts. The bill defines what an arbitration agreement is, the creation of an Arbitral Tribunal, its members, conduct of proceedings.
5. Dr. Peter Binder, an international consultant specialising in commercial arbitration based in Austria, is drafting a new chapter to the current Maldives

Arbitration Bill, to set up an Arbitration Centre. Dr. Binder also had discussions with the government to train arbitrators.

6. Meanwhile, the Foreign Affairs Ministry is making preparations to ratify the UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which is widely recognised as a foundation for international arbitration.

LAW ENFORCEMENT

Police Law

1. The parliament last week, unanimously passed the Police Bill, with all 42 lawmakers present voting in favour.
2. The Police Law provides the necessary legal authority for the Maldives Police Service to function as an independent institution.
3. The Maldives Police Service is currently formulating regulations that should come into effect once the Police Bill is enacted. These include crucial regulations to deliver its services to the public and rules for procedures and police conduct.
4. The Maldives Police Service is also orienting its officers to the regulations.

Prisons

5. The Singapore Prison Service has shown interest to give technical expertise to reform the Maldives prisons.

6. During a five-day visit to the country by Singapore Prison Service, the four-member team toured the country's prison facilities and discussed ways to strengthen and modernise the islands' prison systems. A team of Maldives Police Service officers also made a visit to Singapore in May to see security measures and facilities in Singapore prisons.

SOCIAL PROTECTION

Forum on Disability

1. The Ministry of Gender and Family is to introduce an action plan to enhance rights for children with disabilities. The Ministry convened a forum of stakeholders on Tuesday, to agree on the action plan that it will be later approved by the cabinet of ministers.
2. 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. The move to introduce the Action Plan for Children with Disabilities was made within the context of the 7th NDP and in light of requests from the UN Committee on the Rights of the Child.
3. The six-year action plan, beginning 2008 has been formulated with a number of actions relating to health, education and provision of rehabilitation services to children with disabilities. The actions have resulted from individual and group consultations conducted by the Child and Family Protection Authority with parents, children, staff, other concerned ministries and non-governmental organisations, since May last year.

Domestic Violence

1. The Ministry of Gender and Family is consulting with relevant government departments and stakeholders to create a framework to deal with domestic violence issues.
2. Domestic violence - usually defined as physical, sexual, emotional, psychological or verbal abuse; and intimidation and harassment - remained an unaddressed concern, but a survey by the Ministry has brought the issue to the forefront and prompted them to introduce laws against domestic violence.
3. The draft Domestic Violence Bill proposes to recognise domestic violence within interpersonal relationships and within family as a crime. The bill seeks to protect victims of violence and setup an institutional mechanism to work against domestic violence.

Gender Equality

4. The Gender and Family Ministry has drawn up a three-year action plan to promote women's rights and gender equality in the Maldives.
5. Other areas include to prevent violence against women, give opportunities for economic development and vocational training for girls and improve women's reproductive healthcare.
6. Maldives has been slow to promote gender equality but the new constitution has removed the gender bar of a president.

Shelter

7. The Housing and Urban Development Ministry revealed its national housing plan to provide affordable, environmentally-friendly houses for Maldivians.
8. The policy envisages building 500 units in Male's urban region of Hulhumale until 2010. A further 250 units will be added annually from 2011 onwards.
9. The plan also looks at providing housing for the poor, vulnerable, women, single-headed households and those displaced by disasters.

For comments and suggestions, please contact Ms. Ashiya Luthfee

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