National Integrity System Assessment
MALDIVES 2014

Transparency Maldives, national contact of Transparency International (TI), is a non-partisan organization that promotes collaboration, awareness and other initiatives to improve governance and eliminate corruption from the daily lives of people. Transparency Maldives views corruption as a systemic issue and advocates for the institutional changes that will punish and prevent corruption

Transparency International is the global civil society organisation leading the fight against corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we raise awareness of the damaging effects of corruption and work with partners in government, business and civil society to develop and implement effective measures to tackle it.

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I Introductory Note

Transparency Maldives is pleased to release the 2014 National Integrity System Assessment Maldives report. The report describes the status of the 12 pillars of the Maldivian National Integrity System in terms of their capacity, governance and specific roles in fighting corruption. These aspects are analysed in relation to the strength of the Maldivian legal framework and the institutional practices in place in the country.

The results of the National Integrity System Assessment shows the striking difference between the theoretical legal framework and the practical application of law in the Maldives and highlights the overall weak efforts of all institutions in fulfilling their role to fight corruption.

Transparency Maldives believes that the assessment report can be an important tool in engendering improvements within all Maldivian institutions in refining their own institutional practices or developing better oversight of other bodies. We hope the report will be instrumental in starting a coordinated effort to work together to ensure the most efficient use of resources to serve the nation as a whole.

Transparency Maldives would like to thank the research team, S&R Associates, for the time and attention given to the project. Transparency Maldives also appreciates the effort of all stakeholder agencies and individuals who provided valuable information to both the research team and Transparency Maldives for inclusion in the report. We also acknowledge the efforts of the Law Student Society of Maldives National University for their contribution to the report in completing the libel check. The Advisory Group convened specifically for the NIS report was instrumental in providing guidance, and we thank them for their time and discussions.

Mariyam Shiuna

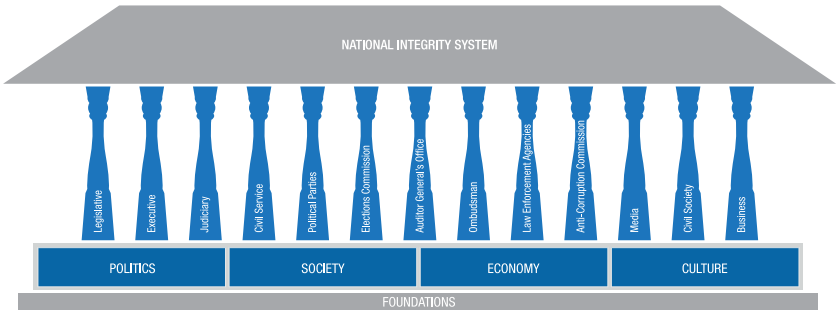
Executive Director

Transparency Maldives

II About the National Integrity System Assessment

The National Integrity System assessment approach used in this report provides a framework to analyse both the vulnerabilities of a given country to corruption and the effectiveness of national anti-corruption efforts. The framework includes all the principal institutions and actors that form a state, including all branches of government, the public and private sector, the media, and civil society (the 'pillars' as represented in the diagram below). The concept of the National Integrity System has been developed and promoted by Transparency International as part of its holistic approach to fighting corruption. Whilst there is no blueprint for an effective system to prevent corruption, there is a growing international consensus about the salient institutional features that work best to prevent corruption and promote integrity.

A National Integrity System assessment is a powerful advocacy tool that delivers an holistic picture of a country's institutional landscape with regard to integrity, accountability and transparency. A strong and functioning National Integrity System serves as a bulwark against corruption and as a guarantor of accountability, while a weak system typically harbours systemic corruption and produces a myriad of governance failures. The resulting assessment yields not only a comprehensive outline of reform needs but also a profound understanding of their political feasibility. Strengthening the National Integrity System promotes better governance across all aspects of society and, ultimately, contributes to a more just society.



Definitions

The definition of 'corruption' used by Transparency International is as follows:

'The abuse of entrusted power for private gain. Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.'[1]

1. The Anti-Corruption Plain Language Guide, Transparency International, 2009, p.14. http://www.transparency.org/whatwedo/pub/the_anti_corruption_plain_language_guide [accessed 21 December 2012].
2. Ibid., p.23.
3. Ibid., p.33.
4. Ibid. p.35.

'Grand corruption' is defined as 'Acts committed at a high level of government that distort policies or the functioning of the state, enabling leaders to benefit at the expense of the public good.'[2] 'Petty corruption' is defined as 'Everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.'[3] 'Political corruption' is defined as 'Manipulation of policies, institutions and rules of procedure in the allocation of resources and financing by political decision makers, who abuse their position to sustain their power, status and wealth.'[4]

Objectives

The key objectives of the National Integrity System assessment are to generate:

- An improved understanding of the strengths and weaknesses of the Maldives' National Integrity System within the anti-corruption community and beyond;
- Momentum among key anti-corruption stakeholders in Maldives for addressing priority areas in the National Integrity System.

The primary aim of the assessment is therefore to evaluate the effectiveness of Maldivian institutions in terms of preventing and fighting corruption, and fostering transparency and integrity. In addition, it seeks to promote the assessment process as a springboard for action among the government and anti-corruption community in terms of policy reform, evidence-based advocacy, or further in-depth evaluations of specific governance issues. This assessment should serve as a basis for key stakeholders in the Maldives to advocate for sustainable and effective reform.

Methodology

In Transparency International's methodology, the National Integrity System is formed of 13 pillars representing all key public and private institutions in a country.

CORE GOVERNANCE INSTITUTIONS	PUBLIC SECTOR AGENCIES	NON-GOVERNMENTAL ACTORS
Legislature	Public sector	Political parties
Executive	Law enforcement agencies	Media
Judiciary	Electoral management body	Civil society
	Ombudsman	Business
	Supreme audit institution	
	Anti-corruption agency	

Each of the 13 pillars is assessed according to three dimensions that are essential to its ability to prevent corruption:

- Its overall capacity, in terms of resources and independence;
- Its internal governance regulations and practices, focusing on whether the institutions in the pillar are transparent, accountable and act with integrity;
- Its role in the overall integrity system, focusing on the extent to which the institutions in the pillar fulfil their assigned role with regard to preventing and fighting corruption.

Each dimension is measured by a common set of indicators. The assessment examines for every dimension both the legal framework of each pillar and the actual institutional practice, thereby highlighting any discrepancies between the formal provisions and the reality.

DIMENSION	INDICATORS (LAW & PRACTICE)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	Pillar-specific indicators

The assessment does not seek to offer an in-depth evaluation of each pillar. Rather, it seeks breadth, aiming to examine all relevant pillars across a wide number of indicators in order to gain a view of the overall system. The assessment also looks at the interactions between pillars, as weaknesses in a single institution could lead to serious flaws in the entire system. Understanding the interactions between pillars helps to prioritise areas for reform.

In order to take account of important contextual factors, the evaluation is embedded in a concise analysis of the overall political, social, economic and cultural conditions – the 'foundations' – in which the 13 pillars operate.

POLITICS	SOCIETY	ECONOMY	CULTURE

The National Integrity System assessment is a qualitative research tool. It is guided by a set of 'indicator score sheets' developed by Transparency International. These consist of a 'scoring question' for each indicator, supported by further guiding questions and scoring guidelines. The following scoring and guiding questions, for the resources available in practice to the judiciary, serve as an example of the process:

PILLAR	Judiciary
INDICATOR NUMBER	3.1.2
INDICATOR NAME	Resources (practice)
SCORING QUESTION	To what extent does the judiciary have adequate levels of financial resources, staffing and infrastructure to operate effectively in practice?
GUIDING QUESTIONS	Is the budget of the judiciary sufficient for it to perform its duties? How is the judiciary's budget apportioned? Who apportions it? In practice, how are salaries determined (by superior judges, constitution, law)? Are salary levels for judges and prosecutors adequate or are they so low that there are strong economic reasons for resorting to corruption? Are salaries for judges roughly commensurate with salaries for practising lawyers? Is there generally an adequate number of clerks, library resources and modern computer equipment for judges? Is there stability of human resources? Do staff members have training opportunities? Is there sufficient training to enhance a judge's knowledge of the law, judicial skills including court and case management, judgment writing and conflicts of interest?
MINIMUM SCORE (0)	The existing financial, human and infrastructural resources of the judiciary are minimal and fully insufficient to effectively carry out its duties.
MID-POINT SCORE (50)	The judiciary has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.
MAXIMUM SCORE (100)	The judiciary has an adequate resource base to effectively carry out its duties.

The guiding questions,used by Transparency International worldwide for each indicator were developed by examining international best practices, as well as by using our own experience of existing assessment tools for each of the respective pillars, and by seeking input from (international) experts on the respective institutions. These indicator score sheets provide guidance for the Maldives assessment, but when appropriate, the lead researcher has added questions or left some questions unanswered, as not all aspects are relevant to the national context. The full toolkit, including information on the

methodology and score sheets, is available on the Transparency International website.[5]

5. *www.transparency.org/policy_research/nis/methodology.*

To answer the guiding questions, the research team relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts. Secondary sources included reliable reporting by national civil society organisations, international organisations, governmental bodies, think tanks and academia.

To gain an in-depth view of the current situation, a minimum of two key informants was interviewed for each pillar – attempts were made to interview at least one representing the pillar under assessment, and one expert on the subject matter but external to it. In addition, more key informants - that is people 'in the field' - were interviewed. Professionals with expertise in more than one pillar were also interviewed in order to get a cross-pillar view. A list of interviewees is contained in Appendix 2.

The scoring system

Whilst this is a qualitative assessment, numerical scores are assigned in order to summarise the information and to help highlight key weaknesses and strengths of the integrity system. Scores are assigned on a 100-point scale in 25-point increments including five possible values: 0, 25, 50, 75 and 100. The scores prevent the reader from getting lost in the details, and promote reflection on the system as a whole, rather than focusing only on its individual parts. Indicator scores are averaged at the dimension level, and the three dimensions' scores are averaged to arrive at the overall score for each pillar, which provides a general description of the system's overall robustness.

VERY STRONG	100
STRONG	75
MODERATE	50
WEAK	25
VERY WEAK	1

The scores are not suitable for cross-country rankings or other quantitative comparisons, due to differences in data sources across countries applying the assessment methodology, and the absence of an international review board tasked with ensuring the comparability of scores.

NIS MALDIVES

The NIS for the Maldives was prepared using the same methodology described above. Given the need to have a clear deadline for research updates and to commence with preparing the report, the cut-off date for developments and practices is considered as May 2013. It is expected that other major developments that warrant attention by Transparency Maldives will be addressed in subsequent reports, such as the elections observation report for general elections of 2013. Furthermore, as there is no ombudsman office in the Maldives, this pillar was not reviewed.

PILLAR REPORT	INSTITUTIONS COVERED
Parliament	Majlis
Executive	President Cabinet
Judiciary	All Courts, Department of Judicial Administration, Judicial Services Commission
Civil Service	Civil Service Commission
Law Enforcement Agencies	Prosecutor General's Office Maldives Police Service Police Integrity Commission
Elections Commission	Elections Commission of the Maldives
Ombudsman*	(NO CHAPTER)
Auditor General's Office	Auditor General's Office
Anti Corruption Commission	Anti Corruption Commission
Political parties	Political parties Elections Commission (regulatory function)
Media	Maldives Media Council Maldives Broadcasting Commission Maldives Broadcasting Corporation Private Media Outlets
Civil society	Ministry of Home Affairs (CSO regulatory function) Civil Society organisations in general
Business	Businesses Regulatory bodies (mainly Ministry of Economic Development, Capital Market Development Authority)

Consultative approach and Validation of findings

The assessment process in Maldives had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate evidence, and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives. The consultative approach had many stages: a high level Advisory Group, external review process, libel check and a National Stakeholder Forum.

The high level Advisory Group comprised the following members:

1. *Mohamed Rasheed Bari, Chairperson of TM board*
2. *Hussain Siraj, previous TM Board Member*
3. *Fathmath Shafeeqa, Board Member of TM*
4. *Dr. Simad Saeed, Managing Director, CDE Consulting Pvt. Ltd*
5. *Shahindha Ismail, previous member of Police Integrity Commission*
6. *Hussain Shameem, previous Deputy Prosecutor General*

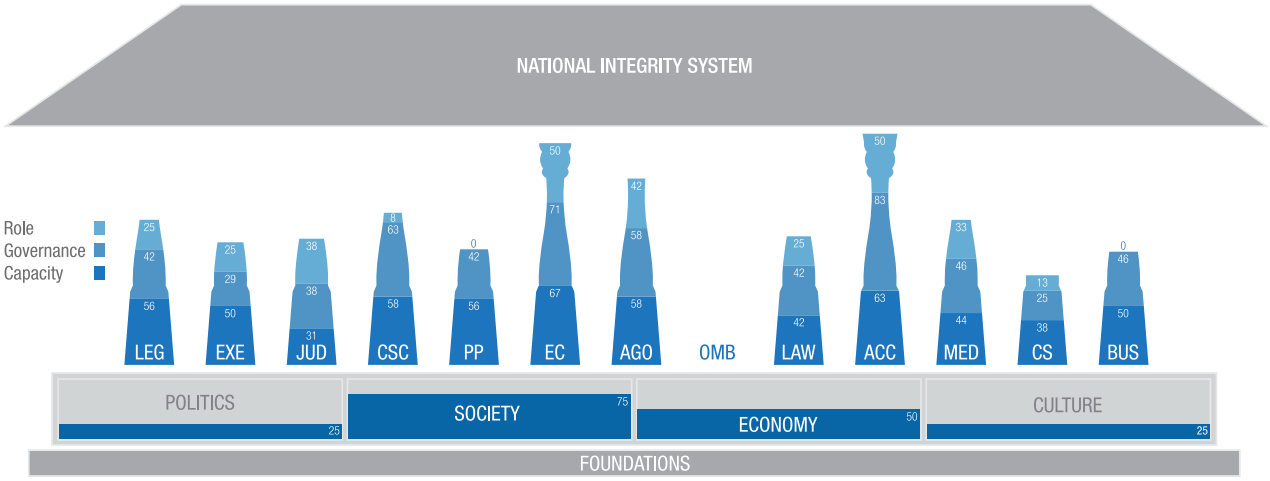
The Advisory group's meetings were held a total of six times, and were attended by the members available at the time. Transparency Maldives received comments from some members separately, and two advisory group members attended the stakeholder workshop as well. Final discretion over scores remains with Transparency Maldives. An external review of the research was also conducted by a separate consultant, to review that the cases and examples cited in the report were non defamatory, and to analyse whether any major developments had been overlooked, and whether the report was in general consistent and referenced sufficiently. The report was also subject to a libel check, which was carried out by the Law Students Society of the Maldives National University.

On 17 June 2014, Transparency Maldives convened a National Stakeholder Forum to present the methodology and key findings of the NIS assessment conducted in the Maldives. The Forum was attended by participants from key governmental agencies and public bodies as well as relevant agencies. Draft reports of the pillars were made available to the participants, and participants took part in working group discussions to provide feedback on the assessment findings and recommendations formulated from the draft reports. The discussions were strong, and the feedback received was generally in agreement with the findings. The list of participants at the NIS Stakeholder forum and a list of other invitees are provided in Appendix 1. Following this Forum, the stakeholders were given an opportunity to provide more feedback to the draft report before the report was finalised.

III Executive Summary

The National Integrity System of the Maldives is based on the following key institutions: the core government agencies of **Legislature**, the **Executive** and the **Judiciary;** the public sector agencies, the **Civil Service** and **law enforcement agencies;** the **Elections Commission, Anti-Corruption Commission, and Auditor General's Office**; the **media**, **Civil Society Organisations, political parties** and private sector **businesses**.

Whilst there are strengths associated with some of the institutions intellectually, the interconnectedness in their formation and functioning entails a considerable number of institutional shortcomings that weaken the overall National Integrity System of the Maldives. Most importantly, political bias created through intermingled political thinking and practices embedded in key political institutions, including the legislature and the Executive, reduces the capacity of other institutions to function independently. Moreover, political bias embedded in the institutional framework further reduces the level of accountability, transparency and integrity functions of almost all the institutions.



LEG. Legislative
EXE. Executive
JUD. Judiciary
CSC. Civil Service
PP. Political Parties
EC. Elections Commission
AGO. Auditor General's Office
OMB. Ombudsman
LAW. Law Enforcement Agencies
ACC. Anti-Corruption Commission
MED. Media
CS. Civil Society
BUS. Business

Note: The final scores presented in the graph reflect the overall performance of the pillars and are based on average scores for three dimensions: capacity (resources, independence), governance (transparency, accountability, integrity), and role (pillar-specific).

NIS Pillars

The key foundation of the National Integrity System is the Constitution. The Constitution of the Maldives enacted in 2008 established, for the first time, a mechanism for separation of powers by creating independent branches of the **Legislature**, **Executive** and **Judiciary**. The **Legislature** is endowed with full independent authority to undertake its political and legislative functions. However, the high level of inherent political bias, which became even more aggravated following the enactment of a multi-party system that created **political parties** closely associated with certain dominant personalities, often compromises the capacity of the Legislature to function with any effective independence.

Political parties were first formed under a regulation that came into being through a Presidential decree in 2006, with the Political Parties Act being ratified only in 2013. Legislation continues to lack mechanisms to ensure adequate transparency of political parties' financing, and political parties are not effectively made accountable, especially in terms of their financial activities. This increases their capacity to promote individual goals and interests, contributing to the perpetuation of a much-personalized multi-party political system. The persistence of political practices, both in the Legislature and by political parties, that are perceived to be self-serving and appear to promote self-interest rather than the broader national interest, has led to a considerable loss of confidence in politicians and the institution of the Parliament by the general public.

One of the key roles of the Parliament is to hold the **Executive** accountable. However, the functional capacity of the Parliament to hold the **Executive** accountable effectively is often compromised by the disproportionate powers vested in the Executive. The unlimited powers vested in the Executive originate from the historical institutionalism of the Maldives, which was very comprehensively incorporated in the pre-2008 Constitution. The pre-2008 Constitution gave unlimited powers to the Executive to control all functions of the Parliament and Court systems in the Maldives. The historically transmitted weak politico-institutional practices have been embedded in the current politico-institutional framework, limiting its overall capacity to establish an adequate check and balance mechanism in the Maldives. That said, rather than holding the **Executive** accountable with respect to its activities conducted for the overall development of the society, both the **Legislature** and the **Judiciary** have acted in ways that have gradually curtailed the powers of the Executive. The challenges to **Executive,** in this respect, were further exacerbated when the first democratically elected President resigned from his post in February 2012, and the Vice President who succeeded him decided to govern with a coalition comprising opposition political parties.

On the other hand, there are ways in which the Parliament can maintain a check on the Executive's decision-making process. For example, the Government is subject to checks by the Parliament in the processes of national budget formulation, the appointment of cabinet ministers, ambassadors, and High Commissioners accredited to foreign countries, and members of independent statutory institutions. The **Executive** is also made accountable to the Parliament through being required to attend and respond to questions raised by members of the Parliament, either in committee proceedings or in parliamentary sessions. These provisions merely affect the independence of the **Executive** in theory; in practice, it depends on the level of support enjoyed by the President's political party in the Parliament. The **Parliament** is also mandated to maintain oversight of all independent bodies

by reviewing annual reports or special reports of these bodies, and calling upon these bodies to attend and respond to questions raised by members of the parliamentary committee dedicated to independent bodies. However, the extent of the review of annual report submissions, and Parliament's support for the enforcement of recommendations issued by these independent agencies, is not evident.

A key role of the **Executive** is to maintain the highest integrity in the provision of public service, mainly via the **Civil Service** or other public sector agencies. The NIS focuses on the Civil Service Commission as the key body responsible for ensuring the smooth administration of the civil service, and it does not assess all the bodies of the public sector, and it does not assess all the bodies of public sector. Whilst these sectors are of course crucial, they are beyond the scope of the NIS. The independent **Civil Service Commission** (CSC) is the umbrella institution of the Maldives' Civil Service or public service. The CSC has been mandated by legislation to govern **Civil Service** activities in the Maldives. However, the political biases in the **Executive's** functions as well as in the party politics system limits the CSC to undertaking its functions independently. More importantly, the lack of resources limits the CSC's capacity to execute its functions in order to ensure effective **Civil Service** delivery. Although the number of convictions related to public service corruption has been very low, there appears to be a strong public perception of the public service as being corrupt. The absence of criminal sanctions for violations, limitations in law to ensure adequate transparency, and the lack of protection for whistleblowers are areas that need to be addressed to ensure the growth of a robust Civil Service that can act with freedom, integrity and independence, and with the confidence of the general public.

Another important powerful branch of the National Integrity System is the **Judiciary,** or the court system of the Maldives. The 2008 Constitution established the **Judiciary** as a separate and independent branch of the State governing system, with the independent Judicial Services Commission (JSC) entrusted to oversee the justice system in the Maldives. Despite these reforms, and pursuant to the way in which the political system has evolved historically, allegations of political influence in the **Judiciary** persist. For example, the appointment of the Supreme Court Justices in 2010 was seen as a political deal made among the political parties. Concerns have been raised regarding the qualifications and suitability of many of the judges currently serving on the bench. International experts have also stated that the **Judiciary** has been misinterpreting the concepts of judicial independence afforded under the new Constitution.

The check and balance functions mandated by the Constitution also relate to the roles undertaken by the **Law Enforcement Agencies**. The lack of a sufficient resource base and other institutional shortcomings experienced by these institutions limits their capacity to ensure integrity among the **Legislature**, the **Executive** and the **Judiciary**. In assessing the Maldives Police Service (MPS) as the key Law Enforcement Agency of the Maldives, it was identified that the MPS experienced challenges in adjusting to the newly-imposed restrictions on its powers, and to the demands for greater transparency and accountability in its actions, with the newly established Police Integrity Commission (PIC) acting as an independent watchdog body. On the other hand, an independent Prosecutor General (PG) is granted excessive powers of discretion in determining the prosecution of all criminal cases brought before him, including corruption cases. It is also evident that law enforcement agencies have not had much success in the prosecution of major cases of alleged corruption in the country.

The Maldives does not have a dedicated Ombudsman agency, and instead this function is spread across various bodies, most of which are developed specifically for particular institutions. Some of these oversight bodies are independent, such as the Police Integrity Commission, and some are not, such as the Elections Commission, which itself receives complaints regarding the conduct of elections. In the absence of a dedicated Ombudsman, some of the institutions that are already covered under another pillar often address this to an extent, such as the Anti-Corruption Commission. The Human Rights Commission of the Maldives plays the important role in addressing abuses of rights, but is not mandated to cover ethical standards and good practices, or to investigate corruption cases. Not having an independent Ombudsman can hinder the level of reviewing and acting on public concerns, as well as burdening other institutions with these issues.

The electoral management functions in the Maldives are vested with the independent **Elections Commission** (EC) of the Maldives . The independence and impartiality of the EC is ensured in law and practice. The EC was established as an independent body by the Constitution and by legislation. Although the EC is allocated an adequate budget to administer and conduct elections, it faces resources constraints in the exercise of its other functions such as voter education and political party regulation. Campaign regulation also lacks an adequate legal framework, and this is coupled with lack of effective enforcement of campaign financing and political party financing measures. Transparency in the activities of the EC is not sufficiently ensured, leading to some inadequacy in the legislative provisions aimed at ensuring its accountability.

The Constitution also created an **Auditor General's Office**, an independent statutory body, as the country's supreme audit institution. Effective implementation of the Auditor General's mandate is constrained by limitations of financial independence and human resource capacity. The law provides a high degree of autonomy and independence for the Auditor General to carry out his mandated responsibilities. The Auditor General is hampered in his work by cooperation and coordination difficulties with the institutions being audited, which often lack necessary information and practice poor book-keeping. There is no overt political or judicial interference in the work of the Auditor General, and he is generally free to follow his own agenda in auditing Government ministries and public institutions.

Similarly, the **Anti-Corruption Commission** (ACC), established by the Constitution as an independent and impartial statutory body, has been endowed with wide investigative powers to prevent and combat corruption in State institutions. However, legislation does not confer upon it formal guarantees of financial independence, and as such its access to resources is subject to compromise, limiting its independent authority to investigate and prevent acts of corruption in the public sector. The property of political bias in the institutional function in the Maldives puts further pressure on ACC's ability to execute its function effectively. For example, a Supreme Court judgement in September 2012 which limited the Commission's powers to halt projects or issue binding orders or injunctions, has limited some of the ACC's powers to carry out corruption prevention activities. Despite such challenges at political and practical levels, the ACC has shown a high degree of transparency and accountability in carrying out its functions since its establishment.

One of the key democratic achievements of the Constitution is the creation of a free **media** in the Maldives. The **media** comprises print newspapers,

televisions and radio, and online news. With recent legislative reforms having created an environment highly conducive to the creation and registration of media outlets, independent private media has flourished, and private media has been less constrained by the dictates of the Government. However, owing to a lack of access to independent resources, much of the media is extremely susceptible to being subverted to pursue private causes funded by rich entrepreneurs and political parties. Regrettably, there still seems to be a significant dearth of media organisations committed to the cause of journalism, and most expound editorial views beneficial to their particular owner's political affiliations or business interests. It is also evident that although adequate accountability provisions do exist in law, these are not being effectively enforced. Similarly, mechanisms for transparency in the activities of the media are also lacking in both law and practice.

Finally, the institutional network forming the National Integrity System comprises the **Civil Society Organisations** (CSOs) and **business** institutions in the Maldives. CSO functions have expanded in the Maldives over the past few decades, especially in the area of governance. Although there are no significant legal obstacles to the formation of civil societies, CSOs can be constrained in their activities by a lack of funding, and by financial dependence on a small number of sources. The transparency and accountability of CSOs needs to be strengthened through improved legislation as well as better internal procedures. However, CSOs lack adequate resources and the professionalism necessary to effectively influence Government policy for the betterment the society. On the other hand, the **business** sector is dominated by a handful of public and private companies, and a few individual entrepreneurs mainly engaged in the tourism industry. The meteoric growth of the tourism industry since the 1970s, along with an increasing presence of and need for attracting foreign investments, the legal framework to conduct business has been improving. There is presently a high degree of transparency regulations, though these have not always been very effectively implemented in practice. A number of legislative proposals aimed at strengthening business practices in the country have been pending in the Parliament for quite some time. Businesses and businessmen are usually reluctant to sever useful connections with the State, and have not often engaged with CSOs in anti-corruption activities.

NIS Foundations

Over the decades, the Maldives has experienced political reform, democratic change, constitutional transformation, and economic development. The historical institutional properties, as well as the political and social practices embedded in the current politico-institutional framework, become impediments or challenges to the ability of the institutions established by the Constitution of 2008 to function effectively. Along with the political developments associated with the election of the first ever democratically elected President in 2008, the Maldives was confronted with a number of systemic political challenges, including an unexpected shift of power in early 2012 resulting from the resignation of the newly-elected President.

The Maldives is a homogenous society comprising one race, one ethnicity and one nationality. The country's remoteness and unique geography has kept it relatively insulated from external influences that fundamentally affected its neighbouring South Asian countries. The country retains a unique cultural identity, with Dhivehi being the national language used in all official

communications and spoken throughout the country. Maldivians have been following one religion, Islam, which is declared as the State religion, as now enshrined in the country's Constitution. The Maldives' culture is generally enforced by Islamic beliefs, practices and laws.

The Maldives has achieved an impressive level of economic growth over the last few decades, graduating from the group of Least Developed Countries (LDC) on the UN list in 2011. However, despite the substantial tourism revenue flowing into the country, a number of developmental challenges continue to persist, especially in the outlying islands. Many of the developmental benefits experienced have been concentrated on the capital island, Male', due to policy choices that have neglected to adequately account for the socio-economic needs of the island populations. Although the Maldives may be able to boast the highest per capita GDP in the region, living standards and access to many basic human services remain a major issue for those living outside the capital.

The fundamental problem of development in the Maldives is the geographical spread of the country, which comprises small, far-flung islands and pockets of populations on islands, some of which are inhabited by fewer than 500 people. This has lead to significant diseconomies of scale in terms of the provision of infrastructure and social services, as a result of attempts to provide each and every island with at least some degree of these services. The resultant disparities in the levels of development are reflected in the uneven distribution of wealth and socio-economic opportunities between different communities living in the capital, Malé, and the atolls (or island communities). As a result of this, the social and economic opportunities, including education and health benefits, employment and public services, are concentrated in Male', and are considerably better here than they are in the island communities. Income inequality between the capital and the islands testifies to these assertions. The prime beneficiaries of the tourism industry, for example, in terms of job security and wealth, have been members of a small, interconnected economic and political elite. A welcome policy initiative by the Government in recent years has been the introduction of social benefits to the less advantaged in society, and attempts to enable the private sector to operate affordable ferry services connecting all islands.

Policy Recommendations

The Maldives should undertake a review of broader institutional mechanisms and make the necessary amendments to existing laws, regulations, and political functions undertaken by State authorities, including Executive branches, to ensure that sufficient financial and human resources are provided for the efficient functioning of all political, economic and social institutions in the Maldives.

The Government must develop a policy plan by prioritising anti-corruption as a key area of governance focus, and must conduct reviews to ensure that Government resources are being used most efficiently by all State agencies.

A lack of adequate mechanisms for ensuring transparency and integrity is an issue common to all relevant sectors of the Maldives. The Government should initiate policy discussions to formulate processes and procedures to be adopted by state institutions, including statutory institutions, to enable them to become more transparent and accountable, thereby enhancing their integrity.

IV Country Profile

Politics

To what extent are the political institutions in the country supportive to an effective national integrity system?

Score: 25/100

Minimum score (0)

In general, the political institutions are extremely weak, civil and political rights of citizens are frequently violated and/or absent.

Mid-point score (50)

While there is a certain protection of civil and political rights of citizens in law and the basics of a democratic political process are guaranteed, violations of these rights and processes are frequent so that democracy is far from consolidated.

Maximum score (100)

In general, democracy is consolidated and stable, all main political institutions function effectively, and the political and civil rights of citizens are assured.

Whilst there are mechanisms in place for protecting the civil and political rights of citizens in law, and the basics of a democratic political process are guaranteed, systematic failures in political institutions means that democracy is far from consolidated.

After being a protectorate of the British colonial rule for over 70 years, the Maldives achieved independence in 1965. It became a Presidential Republic in 1968 from a Sultanate, following the enactment of its first post-independence Constitution in 1968. Since then, the Maldives has developed as a constitutional democracy.[1] However, it was only in the late 2000s that the Maldives established a modern form of democratic political system, with the ratification of its first ever democratic Constitution in 2008. The newly enacted Constitution espouses democratic governance, the separation of powers, respect for the rule of law, and a comprehensive bill of rights, enabling the country to hold its first multi-party democratic elections in 2008. The President is elected by a secret ballot of the entire voting population, constituting adult suffrage. The President is elected for a term of five years and is limited to serving a maximum of two terms. Members of the Parliament are elected by a general election, from constituencies determined by the Elections Commission.

Since the political reforms in the 2000s, major socio-political changes have taken place in the country, when Maldivians, for the very first time, begun to experience political freedoms such as freedom of expression, freedom of assembly and freedom of political association. The political party system was introduced in 2005 with the enactment of the Political Parties Regulation,[2] permitting the formation of political parties in the Maldives for the very first time. Comprehensive legislative provisions on the practices that should accompany party system within the concerned groups actively taking part in party politics, were not developed until late 2013.[3] Following the enactment of the Regulation, the Maldives has seen the formation and establishment of several political parties.

Political processes for electing public officeholders are generally free, fair and highly competitive in a budding politically active environment.[4] All elections are administered by an independent Elections Commission, which has since 2008 administered three major elections: the Presidential elections in 2008, the Parliamentary elections in 2009, and the Local Council elections in 2010, all considered free and fair by both local and international observers.[5]

Civil liberties are a cornerstone of the Constitution. Chapter 2 of the Constitution guarantees individual rights and liberties, and provides that no right or freedom may be restricted in any manner other than by a Statute enacted by the Parliament.[6] Judicial recourse is available to all persons for

1. *Freedom House at http://www.freedomhouse.org/report/freedom-world/2009/maldives*
2. *Regulation on Political Parties, 2005.*
3. *Maldives Country Review. (2013). Political condition. Retrieved August 22, 2013, CountryWatch database.*
4. *See Political Parties Pillar.*
5. *Commonwealth Secretariat (2008), 'Maldives Presidential Election First Round of Voting'. Retrieved from http://www.thecommonwealth.org/files/185267/FileName/FINALREPORTMALDIVESCOG2008PRINTVERSION.pdf); the Commonwealth (2009 elections): http://www.thecommonwealth.org/files/210207/FileName/CommonwealthSecretariatMaldivesPeople›sMajlis(Parliamentary)ElectionsReportoftheCommonwealthExpertTeam-9May2009.pdf. A human rights baseline survey conducted by the HRCM also reveals that the general population is content on the conduct of elections in the country – see Human Rights Commission of the Maldives, The "Rights" Side of Life: A Baseline Human Rights Survey (August 2013) p 69. See also, Electoral Management Body pillar.*
6. *Constitution, Article 16.*

redress on infringement of rights,[7] which in itself is a major development considering that the previous Constitution of 1998 barred individuals from filing civil suit in court against the Government.[8] Major legislative reforms have since taken place, including those introducing laws on the right to information,[9] freedom of peaceful assembly,[10] prohibition of torture,[11] and prohibition of human trafficking.[12]

Freedom of expression and freedom of the media have also experienced major reforms, resulting in the establishment and operation of several media outlets including broadcast media, radio and newspapers. Media outlets are regulated by an independent Maldives Broadcasting Commission and a self-regulatory mechanism of the Maldives Media Council.[13]

Systems in place for the redress of violations of individual rights and freedoms are far from complete and effective. Despite the establishment of several statutory bodies for the oversight of governmental action, including an independent Human Rights Commission, a Police Integrity Commission, and an Anti-Corruption Commission, individuals generally have to resort to the judicial process, which is time consuming and costly. Moreover, the Judiciary is the subject of constant criticism for its failure to deliver justice amid allegations of corruption.[14]

The Constitution of 2008 enshrines, for the first time ever, separation of powers amongst the three branches of Government: the Executive, legislature and the Judiciary.[15] A number of checks and balance mechanisms are established by the Constitution, including an independent Auditor General, a Prosecutor General, and a Judicial Services Commission. The Parliament is vested with wide powers to check the conduct of the Executive and statutory institutions, and to make them answerable to the public. Due to the infancy of these mechanisms and institutions, conflicts between some of the institutions are evident. Constant legislative reforms are existent, including the reform of the Police Act, and a revised Anti Corruption bill presently being deliberated in Parliament.

Although the Constitution declares a presidential system of government, many of the powers of the Executive are curtailed or restricted by the Constitution, and are subject to parliamentary consent. Moreover, legislative enactments have sought to further restrict Executive authority in several aspects. For example, the amendment of the Public Finance Act in 2010 curtailed many of the Executive's powers with regard to public finance management and dealing with State assets.[16] This also means in effect that a Parliament dominated by an opposition could prevent governmental policy from being exercised. For example, the then-Government's initiative to introduce an income tax regime faced major criticism from opposition parties, and the Income Tax Bill proposed in 2011 is still pending in parliamentary committees.[17]

Despite significant politico-institutional reforms in the past few years, the overall political system of the Maldives lags far behind in establishing the democratic practices envisaged by the Constitution. The Maldives ranks relatively low in the World Bank's Worldwide Governance Indicators, reflective of the failures of political institutions and systems. The country scored a 40 per cent rank in the political stability and absence of violence indicator, and a 30 per cent rank in the control of corruption indicator. The Maldives also received below 50 per cent ranks for the Government effectiveness indicator and the rule of law indicator.[18]

The controversial change of Executive administration in 2012 is a key event testifying to weaknesses in the broader political system in upholding

7. *Constitution, Article 43.*
8. *Constitution 1998; Law No. 81/78 (Law on Filing Cases to Court by Persons other than the Government)*
9. *Right to Information Act, Law No. 1/2014.*
10. *Freedom of Peaceful Assembly Act, Law No. 1/2013.*
11. *Anti Torture Act, Law No. 13/2013*
12. *Anti Human Trafficking Act, Law No. 12/2013.*
13. *See generally, Media pillar.*
14. *See generally, Judiciary pillar.*
15. *Constitution, Articles 5, 6, 7.*
16. *First Amendment to the Public Finance Act, Law No. 25/2010.*
17. *Website of the People's Majlis, http://www.majlis.gov.mv/di/%20komitee_maruhalaa_gaivaa_kankan?wpfb_list_page=7 (accessed 15 March 2014)*
18. *World Bank, Worldwide Governance Indicators – Country Data Report for Maldives, 1996-2011.*

democratic institutionalism. On 7 February 2012, the first democratic Government of the Maldives was replaced by a new Government, following the resignation of the incumbent President under questionable circumstances.[19] This change of Government, or transfer of power – the legitimacy of which is the subject of much debate both locally and internationally – has created unremitting public unrest, especially among supporters of the outgoing government, and has led to the creation of doubt about the political system's ability to guarantee the democratic governance set by the Constitution.[20]

Such weaknesses in the political system are rooted in the traditionally transmitted undemocratic political practices embedded in the present constitutional system of the Maldives. Despite the successful establishment of a new Constitution and democratic politico-institutional infrastructure, the political system of the Maldives still suffers from those historical political practices acquired from past authoritarian governments. This creates uncertainty in the political system, and the chance for systematic failure of the kind seen in February 2012.[21] There is always room for politicians to manipulate political decisions to promote their own interests and those of clients. There is also room for political efforts to establish good governance mechanisms through the democratic institutions introduced by the 2008 Constitution.

Society

To what extent are the relationships among social groups and between social groups and the political system in the country supportive of an effective national integrity system?

Score: 75/100

In general, the country lacks significant social conflicts and divisions and has a rather vibrant civil society, and an open and inclusive political culture. While there are no ethnic and linguistic divisions, class, religious and political divisions do exist.

The Maldives is an homogenous society comprising one race, one ethnicity and one nationality. Its remoteness and unique geography has kept the Maldives relatively insulated from external influences that fundamentally affected its neighboring South Asian countries. The country retains a unique cultural identity, with Dhivehi being the national language used in all official communications and spoken throughout the country.[22] The State does not recognise any religion other than Islam,[23] making it impossible, at least from the outset, for religion-based social divisions within the population.[24]

Historically, the Maldives is known to have class divisions based on family hierarchy and political interests. Foundations of class divisions rooted in historical socio-political practices have been embedded in recent socio-political practices and belief systems of the Maldivian communities.[25] Despite such class divides, the Maldives has not encountered any serious conflicts, such as civil wars, that could have damaged the broader socio strata of the communities. Ideological controversies have started to grow since the new millennium with the development of political democratic ideologies that have broadened the mind-set of the overall civic and civil society of the Maldives.[26]

19. *For an account of the circumstances leading to the transfer of power on 7th February 2012, see, Commission of National Inquiry, Report of the Commission of National Inquiry, Maldives, 30 August 2012, <http://www.maldivesculture.com/pdf_files/CONI-Report-2012.pdf>; Anita Perera, Senany Dayaratne & Shibly Aziz, A Legal Review of the Report of the Commission of National Inquiry [CONI], Maldives, 6 September 2012, <http://minivannews.com/files/2012/09/CONI-A-Legal-Analysis.pdf>; Anders Henriksen, Rasmus Kieffer-Kristensen & Jonas Parello-Plesner, Arrested Democracy: The legality under International Law of the 2012 transfer of power in the Maldives and alleged human rights violations perpetrated by Maldivian security forces, 16 July 2012 <http://mdp.org.mv/wp-content/uploads/2012/08/Report-on-the-Maldives-July-16-2012.pdf>; Hassan Latheef, Resignation Under Duress, 23 August 2012 <http://mdp.org.mv/wp-content/uploads/2012/08/Resignation-Under-Duress.pdf>; Fathimath Dhiyana Saeed, Silent Inquiry: A Personal Memoir on the Issue of the Transfer of Powers on the 7th February 2012, (2013) <http://mdp.org.mv/wp-content/uploads/2012/08/SILENT-INQUIRY.pdf>; MDP, Information Note, 22 January 2013 <http://mdp.org.mv/wp-content/uploads/2012/08/Information-note-by-the-MDP-22-Jan-2012.pdf>; Amanda Hodge, 'Commonwealth to probe Maldives coup', The Australian (Australia), 14 February 2012, 4, 5, <http://www.theaustralian.com.au/news/world/commonwealth-to-probemaldives- coup/story-e6frg6so-1226270142188>.*
20. *Amanda Hodge, 'Commonwealth to probe Maldives coup', The Australian (Australia), 14 February 2012, 4, 5, <http://www.theaustralian.com.au/news/world/commonwealth-to-probemaldives-coup/story-e6frg6so-1226270142188>.*
21. *Rasheed, R (2012), 'An institutionalist approach to understand the recent political change in the Maldives', LAWASIA. pp. 159-180.*
22. *UNDP & Ministry of Planning and National Development, Maldives Human Development Report: Challenges and Responses (2000) page i.*
23. *Constitution, Article 10.*
24. *Maldives Country Review. (2008). People history and culture. Retrieved July 22, 2013, CountryWatch database.*
25. *Manik, A. H. H. (Ed.). (1997). Iyye [Yesterday]. Male': Novelty Bookshop.*
26. *Ibid.*

Minimum score (0)

In general, the country is characterized by deep social conflicts, a weak civil society, ineffective party system and a closed political elite.

Mid-point score (50)

While there are some divisions/conflicts among social groups, civil society and political parties/actors are mostly able to overcome them in the political sphere. However, a number of deep conflicts which are not successfully integrated into the political sphere exist.

Maximum score (100)

In general, the country lacks significant social conflicts and divisions and has a rather vibrant civil society and an open and inclusive political culture.

Newfound rights and freedoms have led to the development of socio-political groupings, creating a more vocalised civil society. Although the Maldives has political parties, these have not yet developed to produce the best and most effective socio-political solutions to the problems faced by the broader society. This has had a negative effect on the broader socio-political infrastructure of the country.[27] The split along party lines or colours has created political instability and uncertainty among the ruling and opposition parties and supporters. The government that won the first ever multi-party elections, fell in February 2012, three years after being elected. The political turmoil created as a result of this unexpectedly encountered political change has continued, and has since been threatening the peace and stability of the Maldives.

Gang violence and crimes have increased in the recent years,[28] and a study on gangs in the Maldives showed a direct link between politicians and political parties financing groups to carry out crimes, start riots and harm properties and specific persons[29].

Despite the Constitutional and legislative provisions permitting the right to form and operate non-governmental organisations, much of the evolution of civil society organisations (CSOs) in the country has been influenced by political interests. For example, the majority of CSOs are fully or partially linked to some politician or political interests – with only a handful of them perceived to have no local political links.[30] CSOs have public support in the Maldives and their activity is mostly welcomed by the general public and interest groups.[31]

Economy

To what extent is the socio-economic situation of the country supportive to of effective national integrity system?

Score: 50/100

Significant social inequality and major developmental challenges exist. The country has a moderately developed social safety net, but there are important gaps in its coverage. The country's economy and business sector have proven to be very sustainable, but prone to vulnerabilities.

The Maldives witnessed significant gains in human development during the last few decades. Since modern development began to take place in the 1970s with the advent of tourism, the country's life expectancy at birth has increased to 70 years, and the adult literacy rate has risen to 98%.[32] Since 1990, infant mortality rates have fallen significantly and the country has maintained almost universal coverage for all vaccines for preventable childhood diseases.[33] Maldives has also achieved MDG Goal 1 to eradicate extreme poverty and hunger.[34] As of 2011, less than 1 per cent of the population lives below $1 PPP per day, which is often related to hardship or the remoteness and lack of services in the rural islands.[35] Maldives ranked 109 ("Medium Human Development") in the UNDP's Human Development Index 2011, comparatively high among Asia-Pacific countries.[36]

With the growth of population by about 57% in the past 25 years, the Maldives faces inevitable development challenges including regional development challenges. With most economic activities centered in and around the capital city, Male', inward migration of a major population

27. *Maldives Country Review. (2013). Political condition. Retrieved August 22, 2013, CountryWatch database.*
28. *The Guardian (22 October 2012), 'Maldives› political instability allows gang violence to 'flourish' at http://www.theguardian.com/world/2012/oct/22/maldives-political-instability-gang-violence.*
29. *Asia Foundation, 2012, " Rapid situation of gangs in Male'" <www.asiafoundation.org/publications/pdf/1150>*
30. *FJS Consulting Pvt Ltd, Comprehensive Study of the Maldivian Civil Society (UNDP Maldives; Government of Maldives, 2011), p59.*
31. *Ibid.*
32. *UNDP & Ministry of Planning and National Development, Maldives Human Development Report: Challenges and Responses (2000) page i.*
33. *State of the Environment 2011, page 37*
34. *State of the Environment 2011, page 41*
35. *State of the Environment 2011, page 41*
36. *UNDP, Human Development Report 2011, p 126-128.*

Minimum score (0)

In general, the country is characterized by widespread poverty and/or high levels of social inequality. Social safety nets are absent and the country's economy and business sector are underdeveloped.

Mid-point score (50)

Significant poverty and/or social inequality exist. The country has a moderately developed social safety net, which however has important gaps in coverage. Its economy and business sector are rather instable.

Maximum score (100)

In general, the country is rather rich without major social inequalities. Social safety nets for the poor exist and are generally effective. The country's economy and business sector have proven to be very sustainable.

segment from rural islands to the capital city for better livelihood is an alarming concern.[37] One third of the Maldives' population lives in the capital Male' of about 2 square kilometers. With the rest of the population scattered across close to 200 islands, with an average of about 1,000 residents per island, social and economic inequality between the capital and rest of the country is inherent and is a cause for great concern. The majority of the population, about 56 per cent, is comprised of children and youth, and youth unemployment is on the rise against a backdrop of low levels of labour force participation.[38] There are also an estimated 111,000 expatriate workers in the Maldives, out of which 44,000 were estimated to be undocumented in a report published in 2013[39].

The Maldives has achieved impressive economic growth in recent years. From the 1980s to the 2000s, the Maldives has seen substantial development in terms of its GDP per capita growth rate. The national GDP (at basic prices) grew from MVR 1,615.2 million (approx. US$ 125.7 million) in 1984,[40] to MVR 23,744 million (approx. US$ 1,534 million) in 2013.[41] The GDP per capita (at current market prices) was US$ 4,684.5 in 2010.[42] The economy is largely dependent on tourism, which contributes to more than a quarter of the country's GDP. Construction, fisheries and commerce are some other sectors that contribute to the GDP and are susceptible to external factors, indicating the vulnerability of the economy.[43]

The Maldives has done better economically than most middle-income countries and its South Asian neighbors during the late 2000s.[44] However, despite the substantial tourism revenue in the Maldives, the overall development flowing from the country was not particularly impressive. Actual growth in the Maldives appears low when development in other areas of the economy is considered. Moreover, the financial and economic benefits of tourism are necessarily concentrated within that industry and in the capital city. The GDP measures may not reflect the overall development and the real improvements made to society overall.[45] Due to disproportionate policy choices, development achieved through tourism may not be shared equally by all elements within the communities of the economy[46] Moreover, the expansionary fiscal and monetary policies of previous administrations have had a significant burden on the public debt, which doubled from 55 percent in 2004 to an estimated 97 percent in 2010, as a percentage of GDP.[47] The IMF has classified the country as "at high risk" of debt distress.[48]

Major challenges are faced by the Government in terms of ensuring social protection for its citizens. The average population growth rate of 1.76%, ranked as the 70th fastest growing population in the world,[49] coupled with the challenges posed by the geography of the country, mean that the Government has no easy task with regard to ensuring food and nutrition security, basic health care, housing, employment and education for its nationals, who are scattered across 193 islands.

A fundamental problem of development in the Maldives is reflected in the uneven distribution of wealth and socio-economic opportunities between different communities living in the capital, Male', and the atolls (or island communities).[50] Social and economic opportunities, including education and health benefits, employment and public services, are concentrated and better in Male' than in the island communities. As a result of this, a large portion of the Maldivian population lacks adequate access to most of the tangible and intangible socio-economic benefits in its economy.

As a result of this, Income inequality between the capital and islands is also evident. The UNDP has reported that income inequality indicator, the

37. *State of the Environment 2011, page 35*
38. *State of the Environment 2011, page 13.*
39. *"Gilded Cage in an Ocean Paradise: Maldives" Law and Society Trust (LST), December 2013*
40. *DNP, (2013) at ttp://www.planning.gov.mv/publications/25yearsstats/25_yrs_stats/15_NationalAccount/15.1.htm*
41. *DNP, (2013) at http://planning.gov.mv/publications/GDP/2011/Publication%20-%20GDP-prod-constant-2003Rebased%20series.pdf*
42. *UNdata (2013) at http://data.un.org/CountryProfile.aspx?crName=MALDIVES*
43. *State of the Environment 2011, page 13.*
44. *Permanent Mission of Maldives. (n.d.). UNDP pays special tribute to President Gayoom. Retrieved from http://www.un.int/maldives/press8.htm; World Bank. (2009b). Retrieved from http://docs.google.com/viewer?a=v&q=cache:PL8BxFJwQwEJ:devdata.worldbank.org/AAG/mdv_aag.pdf+Malidves+GDP+world+bank&hl=en&gl=au&pid=bl&srcid=ADGEESjyDCS1f1WZ3-nBaMLonL8lEodmMfUQmD-7gO7PMViEKEW1Q1GpZxiwBstXudMHiUNfqYW7_jGKaLWFVkPdPs-_gEd5aLKuOumoy3gGABT-S8eDgemrvExo4VTIPkgNhUg2Q1Kz&sig=AHIEtbR07orku9DgL9tv1rCnJ8Li1AfaNg.*
45. *Anand, S. & Sen, A. K. (2000). Human development and economic sustainability. World Development, 28(12), 2029–2049; North, D. C., Acemoglu, D., Fukuyama, F. & Rodrik, D. (2008). Governance, growth and development decision-making. Retrieved from http://siteresources.worldbank.org/EXTPUBLICSECTORANDGOVERNANCE/Resources/governanceandgrowth.pdf; Sachs, J. D. (2005). The end of poverty: How we can make it happen in our lifetime. London: Penguin Books; Seers, D. (1969). The meaning of development. International Development Review, 11(2), 2–6; Sen, A. K. (1985). Well-being, agency and freedom: The Dewey lectures 1984. Journal of Philosophy, 82(4), 169–221.*
46. *North, D. C., Acemoglu, D., Fukuyama, F. & Rodrik, D. (2008). Governance, growth and development decision-making. Retrieved from http://siteresources.worldbank.org/EXTPUBLICSECTORANDGOVERNANCE/Resources/governanceandgrowth.pdf; Teskey, G., Schnell, S. & Poole, A. (2012). Getting beyond capacity – Addressing authority and legitimacy in fragile states. Paper presented at the Conference of the International Research Society for Public Management, Rome. http://siteresources.worldbank.org/EXTGOVANTICORR/Resources/3035863-1289428746337/Irspm_FCS_ACL.pdf.*
47. *State of the Environment 2011, page 45*
48. *State of the Environment 2011, page 45*
49. *State of the Environment 2011, page 35*
50. *Maldives Country Review. (2008). Economic overview. Retrieved July 22, 2012, from CountryWatch database.*

Gini-Coefficient, widened between the capital and the atolls 'grew from 0.12 in 1997 to 0.18 in 2004 while more than 50 per cent of the poor are "transient poor"'.[51] Such an imbalance can be represented by development and underdevelopment in socio-economic areas having a direct impact on the general population. Also the prime beneficiaries of the tourism industry, in terms of job security and wealth, have been members of a small, interconnected economic and political elite.[52]

The Government has in recent years introduced policies aiming to provide social assistance for the aged, the disabled, and single mothers. A retirement pension scheme was established in 2009 with the enactment of the Pensions Act.[53] Moreover, a number of subsidies are available to the population, such as an electricity subsidy and subsidized controlled rates for rice, flour and sugar, though it is questionable whether such measures are administered in the most effective manner.

51. *UNDP. (2011). Country programme for Maldives (2011–2015). Retrieved from http://web.undp.org/asia/country_programme/CP/CP_MDV_2011-2015.pdf*
52. *Ibid, p. 59.*
53. *Pensions Act, Law No. 8/2009.*
54. *Transparency Maldives (2013), Democracy at the Crossroads*
55. *Maldives Country Review. (2010). Social overview. Retrieved July 22, 2013, CountryWatch database.*
56. *Maldives Country Review. (2006). Social overview. Retrieved July 22, 2013, CountryWatch database.*

Culture

To what extent are the prevailing ethics, norms and values in society supportive of an effective national integrity system?

Score: 25/100

Society is characterized by low levels of trust, low public-mindedness and lack of support for norms and ethical conduct, although there is a high regard for family relations.

In the Democracy Survey completed by Transparency Maldives in 2013, 93 percent of respondents said that they had complete trust in family members while only 43 percent said they trust Maldivians in general. The trust in other nationalities was even less[54].

Cultural strata of Maldivians are based on historical cultural and ethical foundations built since the very beginning of the Maldivian population. Cultural and ethical foundations comprise a blend of Indian, Arab, African and European cultures joined by religious beliefs and practices.[55]

Today's, culture in the Maldives is generally enforced by Islamic beliefs, practices and laws. Studies indicate the Islam has, kept the society peaceful, and supported close community relationships, most of which are observable in the island populations.[56]

Minimum score (0)

Society is characterized by widespread mistrust, public apathy and lack of support for norms of integrity and ethical conduct. Almost nobody in society seeks to change the prevailing norms.

Mid-point score (50)

Society is characterized by average levels of trust, public-mindedness and support for norms of integrity and ethical conduct. While mistrust, public apathy and lack of personal integrity is not uncommon, it is being challenged in the public.

Maximum score (100)

Society is characterized by high levels of interpersonal trust, public-mindedness and support for norms of integrity and ethical conduct. The majority of the population strongly condemns public apathy and unethical behaviour.

V Corruption Profile

Corruption indicators show that the Maldives experiences problems with corruption in the public sector's activities. Problems with corruption are strongly linked to weaknesses or shortcomings in the ability of the country's broader legal framework and political system to effectively address abuses of power and the misuse of public resources for private gains.[1] According to international corruption perception surveys, there is a high level of corruption perceived in public offices in the Maldives, and this belief has increased over the past two years. According to the *Global Corruption Perception Index* (CPI) 2011, published by Transparency International, the Maldives was ranked amongst the most corrupt countries in the Asia Pacific region. Whilst the top scoring, New Zealand and Singapore, had scores of 9.5 and 9.2 respectively, the Maldives obtained a score of 2.5 on a scale of 1 to 10, indicating a high level of perceived corruption in the public service of the Maldives, despite the fact that this is a slight improvement from 2010, when the country was ranked 143rd.[2] Regrettably, since then the country has not figured in the *CPI* in 2012 and 2013, for lack of data.

The largest cross-country survey carried out by Transparency International to collect the general public's views on, and experiences of, corruption was Transparency International's *Global Corruption Barometer* (GCB) survey, which found that the perceived level of corruption in the Maldives had increased during the 2009-2011 period[3] Accordingly, 56 per cent of the people who took part in this survey in 2011 thought that corruption increased over the preceding three years. The top three areas in which most perceived corruption existed were in the Parliament (74 per cent), political parties (71 per cent) and the Judiciary (64 per cent).[4] In terms of committing acts of bribery, the total perceived level of bribery in public offices was six per cent. Looking at acts of bribery in public institutions, three per cent of the people surveyed thought that there was bribery in the education sector, three per cent perceived it in the Judiciary, three per cent in medical services, two per cent in the Police, and six per cent in registration services.[5]

The *GCB 2013* also identified the Parliament, along with political parties, as the most corrupt institutions in the Maldives, closely followed by the Judiciary. More than 55 per cent of those surveyed believed these three institutions to be extremely corrupt, with more than 70 per cent of those surveyed having the view that these institutions were corrupt. The least corrupt institutions were seen to be NGOs, the education sector, and the health sector, with about 25 to 32 per cent holding the view that these institutions were corrupt, respectively. These results indicate a lack of faith and confidence in the political system and the people engaged in politics, and show that members of the public believe them to be ineffective in curbing acts of corruption in the highest authorities in the public service.[6]

One very positive aspect of the *GCB 2013* results was that Maldivians appear to believe very strongly in their ability to make a difference in combating corruption, with 84 per cent having a positive attitude towards the ordinary person's ability to make a difference. The survey also indicated that 89 per cent would report an incidence of corruption, indicating a positive view towards anti-corruption mechanisms.[7]

1. *See Rose-Acherman, Susan (1999), Corruption and Government: Causes, Consequences, and Reform (Cambridge: Cambridge University Press). Aidt, Toke S (2003), 'Economic analysis of corruption: A survey', The Economic Journal, 113, 632–52.*
2. *See Transparency International at http://www.transparency.org/cpi2011/in_detail.*
3. *See Transparency Maldives at http://www.transparency.org/gcb201011/results*
4. *Transparency International at http://www.transparency.org/gcb201011/in_detail*
5. *Transparency International at http://www.transparency.org/gcb201011/in_detail.*
6. *Transparency Maldives, Global Corruption Barometer Survey (2013).*
7. *Transparency Maldives, Global Corruption Barometer Survey (2013).*

In the Maldives, since the establishment of the Anti-Corruption Commission (ACC) in 2008, there is a widespread belief that combating corruption, whether it be in the public sector or the private sector, is the sole responsibility of the ACC. As such, little, if any, work is done by the Government in terms of educating or raising awareness among the public about the ill effects of endemic corruption in society in both social and economic terms. The ACC, for its part, has expressed serious concerns about the high levels of corruption that appear to be systemic, based on the surveys conducted by international bodies as well as the cases filed with the body. It has lamented the lack of a comprehensive nationwide survey on corruption in the country to date, citing the lack of resources available at its disposal to carry out such a survey, which it believes is an urgent necessity that deserves priority attention. Similarly, despite the seemingly "open knowledge" of corruption that appears to be permeating throughout the political and socio-economic life of the country, curbing corruption has still not become a priority area of engagement for civil society as a whole.

An interesting disconnection that appears between the public perceptions of corruption prevalent in the country and the actual cases of corruption that get reported to the ACC is the very low number of cases of corruption filed against those institutions that are deemed to be most corrupt. As noted earlier, political parties, the Parliament and the Judiciary have been consistently identified as the most corrupt institutions by the surveys conducted by international bodies to date. Despite this, the ACC's *Annual Report 2012* reveals that the large majority of corruption cases reported to it related to government administration – (Island Councils - 355; Other Government Agencies - 302) – while there were only three cases relating to political parties, seven cases relating to the Parliament, and the number of cases filed against the Judiciary was only 50. On the other hand, the education sector, perceived by the public to be among the least corrupt institutions in the country, recorded 142 cases lodged with the ACC.[8]

Geographically, the large majority of corruption cases filed with the ACC in 2012 were in relation to government departments in the capital Male' (512 cases out of a total of 1,294 cases nation-wide), while in the atolls, Gaafu Dhaalu Atoll recorded the highest number, with 127 cases. According to the ACC's *Annual Report 2012*, the Commission sent a total of 145 cases for prosecution to the Prosecutor General's Office, of which 91 cases were related to 'extending undue advantage' to others, while three cases related to 'taking undue advantage' by self. Only one case each of fraud and bribery were sent for prosecution in 2012.[9]

Perception of corruption needs to be addressed. The visibility of acts of corruption depends on the level of transparency and accountability within public institutions, and the readily available mechanisms for reporting corruption, which in turn also depend on the political system of the country. Therefore, the perception of corruption in the Maldives can only be an indication of a greater problem of corruption, and a legitimate claim that the overall political and legal institutional framework has weaknesses in its ability to address corruption.

8. *ACC, Annual Report 2012, pages 23.*
9. *ACC, Annual Report 2012, pages 24-25*

VI Anti-Corruption Activities

The first ever corruption-related legislation in the country was enacted in the year 2000. The *Prohibition and Prevention of Corruption Act 2000* (the *Anti-Corruption Act*) criminalizes corruption offences such as bribery and the misuse of public authority and resources, and establishes certain codes of conduct for public officials.[1] The Maldives acceded to the *United Nations Convention against Corruption* in March 2007.[2] The treaty entered into force for the Maldives on 22 April 2007, which was hailed by the then Foreign Minister Dr Ahmed Shaheed as the beginning of a new chapter in the consolidation of democracy in the country.[3]

The first dedicated institution with a mandate to fight against corruption in the Maldives, the Anti-Corruption Board, was established on 12 April 1991. The Anti-Corruption Board, which ran under the President's Office, was not an independent institution, and was therefore subject to much criticism, especially from the Parliament.[4] On 26 July 2008, an Advisory Council to the Anti Corruption Board was also established by the President, with the mandate of advising the President on matters being presented to the President by the Anti Corruption Board.[5] The Board continued to operate until the establishment of the Anti Corruption Commission (ACC) upon the ratification of the Constitution of 2008, and the enactment of the *Anti-Corruption Commission Act 2008* (the *ACC Act*), whence it was dissolved and all matters relating to the fight against corruption came under the domain of the newly established ACC.

The ACC is established as an independent institution, with a dedicated mandate to fight against corruption. The ACC is responsible for the prevention and curbing of all acts of corruption in public offices and the private sector. Statutory powers are available to the ACC allowing it to take necessary measures, within the law, on matters related to anti-corruption activities, including investigation and prevention measures.[6] Functions of the ACC include undertaking investigation on alleged cases of corruption, advising other public institutions on anti-corruption measures, conducting research on anti-corruption activities, and conducting public awareness programmes related to anti-corruption activities.[7] However, the Commission lacks powers to prosecute cases of corruption; that power lies with the Prosecutor General.

Prior to the enactment of the *ACC Act* in 2008, the Maldives lacked effective mechanisms to curb acts of corruption in the country,[8] Due to the excessive powers vested in the Executive, the institutional mechanisms lacked the adaptive efficiency to stop, reduce or prevent acts of mis-governance or the misuse of authority for political and private economic gains in the public sector. This is evident from growing disparities in the living standards experienced by the general public in the Maldives, despite the economic development achieved over the past 20 years of tourism development.[9] The rules governing the Constitutional system that includes the ACC and other bodies which can prevent abuse in public offices encompass weak historical institutional characteristics that limit the ACC's ability to undertake anti-corruption activities in the most efficient and effective manner.

In addition to the existing legal framework, anti-corruption efforts in the country encompass a wide array of institutions and other area-specific

1. *Prohibition and Prevention of Corruption Act, 2000 (Law No. 2/2000).*
2. *UNODC, https://www.unodc.org/unodc/en/treaties/CAC/signatories.html*
3. *"Anti Corruption Convention enters into force in Maldives" Haveeru Daily (web) 22 April 2007 <www.haveeru.com.mv/dhivehi/news/46052>.*
4. *See for example, "Powers of Anti Corruption Board greater than Majlis" Haveeru Daily (web) 25 November 2007 <www.haveeru.com.mv/dhivehi/opinion/55063>; "New efforts needed to improve Anti Corruption Board to curb corruption from the Country" Haveeru Daily (web) 12 December 2007 <www.haveeru.com.mv/dhivehi/report/55771>.*
5. *"President established Advisory Council to the Anti Corruption Board and appoints Ismail Fathy as Chairman" Haveeru Daily (web) 26 July 2008 <www.haveeru.com.mv/dhivehi/news/65196>.*
6. *Anti-Corruption Commission Act, 2008 (Law No. 13/2008) (ACC Act).*
7. *ACC Act, section 21.*
8. *The political system ran under the Constitution 1968, which lacked democratic legal and political provision to create good governance of political and socio-economic resources - see "The Maldives Joins the Commonwealth" (1982) 8 Commonwealth Law Bulletin 1548-1555).*
9. *See Athaulla A. Rasheed, "Insitutionalist approach to understand the recent political change in the Maldives", (2012) in LAWASIA; Athaulla A. Rasheed, "The relationship between economic transition and constitutional government: The experience of the Republic of Maldives" (2006) Lawasia Journal, pages 227-45; Institutions, institutional change and economic performance (Cambridge: Cambridge University Press).*

legislation that have come about in recent history, with the aim of identifying, taking action against, and prosecuting acts of corruption within the public sector. These include, inter alia, the *Public Finance Act 2006* which deals with public finance management,[10] and the *Civil Service Act 2007* which sets out provisions to prohibit and prevent acts leading to corruption within public service delivery.[11] The *Civil Service Act* also brought in much needed changes by creating a distinction between the public service regulated by the independent Civil Service Commission, and the political designations within the Government machinery appointed and regulated at the discretion of the Executive. A number of other institutions were also established, which previously came under the direct supervision and ambit of the Executive. These include the Police Integrity Commission (PIC), which deals with complaints against the Maldives Police Service and its staff, an independent Auditor General to conduct audits of all public institutions, and an independent Prosecutor General who institutes all criminal prosecutions on behalf of the State. The Judiciary was also established as a separate and independent branch of the State, and adjudicates all cases, criminal and civil, brought before it. An independent Judicial Service Commission (JSC) was created to regulate conduct of judges.

Whilst these laws have set out provisions to curb corruption in the Maldives, the specific legal mandate for the implementation of the *Anti Corruption Act* is vested with the ACC. In his introductory note to the 2012 Annual Report, the President of the ACC raised concerns that anti-corruption activities conducted by the Commission do not proceed as efficiently as they should. He attributed this to challenges incurred as a result of institutional weaknesses that hamper the ability of law enforcement mechanisms to address the increasing number of criminal activities,[12] including acts of corruption, in the Maldives. The *ACC Act* falls short of implementing an effective institutional mechanism to effectively conduct anti-corruption activities. The Act falls short of creating an efficient institutional framework to curb corruption in practice, thereby limiting the institutional capacities of the Commission to carry out its statutory functions of anti-corruption efforts. Moreover, the *Anti-Corruption Act* is archaic, and covers only basic forms of bribery and other petty corrupt practices, whilst failing to cover modern forms of corrupt practices and activities and the purview of all institutions of the State. To a large extent, these shortcomings rest with practical weakness in the broader Constitutional Government in the Maldives.[13]

More crucially, the lack of efficiency in prosecuting corruption, due to institutional weaknesses, reduces public confidence in the anti-corruption activities of the Maldives. In addition, the lack of political will in public offices to curb corruption further limits the level of support extended by those public offices for the Commission's efforts to run anti-corruption activities.[14] Such domestic institutional weaknesses have also prevented the domestic legal system from meeting international best practice requirements, as mandated by international anti-corruption conventions.[15]

Despite these broader politico-institutional shortcomings, the ACC has undertaken a number anti-corruption activities, including the investigation of alleged corruption cases, and activities to promote preventative measures, such as reaching out to the public to support its corruption-fighting efforts. In 2012, the ACC decided to investigate 842 cases and commenced investigation on 156 new cases, out of which it successfully concluded the investigation of 49 cases that were sent for prosecution. The Commission also investigated cases related to a wide range of institutions.

10. *Public Finance Act, 2006 (Law No. 3/2006).*
11. *Civil Service Act, 2007 (Law No. 5/2007).*
12. *See Maldives Police Service, Annual Report 2012.*
13. *The 'Constitutional Government' is the sum of all political and legal as well as socio-economic and cultural institution formed under the Constitution of the State - see Rasheed, Athaulla Ahmed, "The relationship between economic transition and constitutional government: The experience of the Republic of Maldives" (2006) Lawasia Journal, 227–45; Suri Ratnapala, "Securing Constitution Government: The Perpetual Challenge" (2003) 8(1) Independent Review: A Journal of Political Economy 5-22.*
14. *ACC, Annual Report 2012.*
15. *ACC, Annual Report 2012.*

Notwithstanding the efforts made to conduct investigations into cases of corruption, the number of cases in which investigation was successfully completed remains insignificant. More crucially, the level of success in prosecuting corruption cases that are presented to the Prosecutor General is insignificant, as the law enforcement mechanisms have their own limitations in terms of their ability to execute criminal charges.[16]

In addition to investigations, the efforts of the ACC to educate the public, especially through training public service officials to take necessary measures to prevent and curb corruption, remain a new but a promising endeavour in the Maldives. Despite the weaknesses in the broader institutional framework, educating the public about the negative social and economic impacts of corruption on the society can make a difference in the long run, alongside effective preventive anti-corruption measures. Activities of the public service sector afford great significance to the promotion of anti-corruption activities through education within the public sector. The CSC's efforts to create mechanisms that could reduce the level of corruption in the delivery of civil service, through activities such as the Civil Service Excellence Conference in 2011,[17] strategic plans for job evaluation, the establishment of the Civil Service Training Institute, and the general strengthening of the civil service are noteworthy in accounting for the role of public education in promoting anti-corruption activities. Similarly, the creation of such independent statutory bodies as the PIC, the JSC and the Customs Integrity Commission under the new Constitution of 2008 and recent legislation represent important milestones in curbing corrupt behavior in public institutions for the future. However, their efficacy in checking abuse and encouraging ethical behavior by the officials whom they are entrusted to oversee will also depend on systemic improvements as well as the resources granted to these bodies to undertake their responsibilities effectively.

As evidence suggests, public education mechanisms for anti-corruption activities have only long-term effects to prevent and curb corruption in the Maldives, as they involve a learning-by-experience process.[18] The Maldivian society is yet to mature in terms of its ability to function effectively under the anti-corruption mechanisms established by the new democratic system, which is yet to be fully realised by the average person, whose mental construct is encompassed by weak historical rules. The same institutional factor poses a greater challenge to the ACC's ability to undertake anti-corruption activities such as the effective investigation of corruption cases, to produce more desirable results for the society. This can in turn weaken the broader mechanisms to prevent and curb corruption in the Maldives, while giving people in power, especially political leaders and policymakers, greater room to avoid strengthening the governance system through anti-corruption activities at a national level.

As has been noted elsewhere in this report, with the establishment of the ACC in 2008, it has come to be regarded that fighting corruption is primarily the responsibility of this new institution. Political leaders on special occasions make sanctimonious speeches on the evils of corruption and its high cost to society, but do little to actually change the system of governance in such a way as to encourage or promote public behavior that would enhance integrity or penalize ethically questionable behavior. The concept of conflict of interest is more often than not compromised or ignored even, in the execution of public duties by officials in powerful posts. Nor has civil society in the Maldives, in general, taken up the issue of corruption with much vigor. An exception to this is the work being done by the few NGOs with dedicated anti-corruption objectives, such as Transparency Maldives, which is itself a body only recently established in the country. Allegations of corruption often

16. *See Transparency International at <www.transparency.org/gcb201011/in_detail>. See also, Law Enforcement Agencies Pillar.*
17. *See CSC, Civil Service Excellence: Way forward for Innovation & Change (2011) pages 1-2, at <www.csc.gov.mv/wp-content/uploads/Civil-service-excellence-29062011.pdf>.*
18. *See Douglass C North, Institutions, institutional change and economic performance (1990; Cambridge: Cambridge University Press).*

fly rampantly but have been difficult to be substantiate or prove in court, especially with regard to persons in positions of power.

On a more positive note, recent legislative developments point to a new anti-corruption bill currently being deliberated by the Parliament. The revised anti-corruption bill, submitted in November 2012 by MP Mohamed Nasheed, aims at modernizing the current legislative framework with regard to the powers and role of the ACC; criminalizing all forms of corruption, especially by covering those not already covered by the *Anti Corruption Act*; and enacting other new provisions aimed at the disclosure of assets for all public sector employees, asset recovery and confiscation powers, and new evidence rules.[19]

19. *Mohamed Nasheed, "A new bill to stop corruption", Mohamed Nasheed's Blog (web) 11 November 2012 <www.mnasheed.com/2012/11/%DE%86%DE%AE%DE%83%DE%A6%DE%95%DE%B0%DE%9D%DE%A6%DE%82%DE%B0-%DE%80%DE%AA%DE%87%DE%B0%DE%93%DE%AA%DE%88%DE%AA%DE%89%DE%AA%DE%8E%DE%AC-%DE%87%DE%A7-%DE%84%DE%A8%DE%8D%DE%AC%DE%87%DE%B0/>*

VII 1. Legislature

Summary

The Legislature is endowed with many powers and full independence under the new democratic Constitution of 2008, but it has been less than effective in the exercise of its role, which has been greatly influenced by the turbulent politics of recent times. There is a high degree of transparency in the work of the Parliament. However, a worrying aspect is the low level of integrity reflected in the institution. Although legal provisions exist to ensure adequate access to resources, the Parliament suffers from a dearth of human and physical resources at present. Rightly or wrongly, there is a strong perception of the Parliament as being a very corrupt and inefficient institution, its members more interested in pursuing personal political interests than protecting the national interest. This is despite the fact that the legislative output of the 17th Parliament has been far greater than that of any other parliament in the country's history.

Average Score = 41/100

The table below presents the indicator scores that summarise the assessment of the Legislature of the Maldives in terms of its capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	100	25
	Independence	75	25
Governance	Transparency	75	75
	Accountability	25	0
	Integrity Mechanisms	50	25
Role	Executive Oversight	50	
	Legal Reforms	0	

Structure & Organization

The People's Majlis (Parliament) is, ostensibly, the most powerful institution of the three branches of governance established by the new democratic Constitution of 2008. Although, the Maldives has had a long parliamentary history that precedes its independence, it has only been since the promulgation of the new Constitution that the Legislature has become a truly independent body, separate from and independent of the Executive.

The unicameral Parliament at present comprises 77 members representing

With the lack of adequate staff, much of the committee system is dependent on lawyers from the Attorney General's Office

single constituencies, elected for a period of five years. As the constituencies are based on population size (5000 inhabitants per constituency),[1] the number of constituencies and thus the number of parliamentary members is likely to increase with every election.[2] The Speaker and the Deputy Speaker, elected by secret ballot,[3] along with the Majority and Minority Leaders, constitute the leadership of the Parliament. The leader of the political party that has the highest number of seats in the Parliament is appointed the Majority Leader, whilst the leader of the political party that has the second highest number of seats is appointed the Minority Leader.[4]

Much of the Parliament's work is divested to its committees. There are 13 standing committees in the Parliament, and select committees are convened for specific purposes or issues. Members of the committees are appointed by and from amongst parliamentarians. Standing committees meet regularly to study bills, petitions and various other issues referred to them by the Parliament floor. Select committees, which are ad-hoc committees, cease to exist upon the completion of their respective mandates.[5] The functions and roles of the parliamentary committees are detailed in the Regulation of the *People's Majlis 2010.*

The Parliament is served by an independent permanent secretariat, headed by a Secretary General, who is appointed by the Parliament.[6] The Secretary General is responsible for the smooth administration and management of the affairs of the Parliament.[7] The conduct of parliamentary staff is governed by the *Regulation of Parliamentary Service' Staff 2010*, enacted under section 6(b) of the *Regulation of the People's Majlis.*

Minimum score (0)
No such provisions exist.

Mid-point score (50)
While a number of provisions exist, they do not cover all aspects of resources and/ or some provisions contain loopholes.

Maximum score (100)
There are provisions in place to ensure that the legislature receives adequate resources to effectively carry out its duties.

Assessment

1.1 Capacity

1.1.1. Resources (Law)

To what extent are there provisions in place that provide the Legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

Score: 100/100

There are significant legal provisions in place to ensure that the Legislature receives adequate resources to effectively carry out its duties.

The Parliament is vested with powers to decide matters relating to its business and procedure. These include the power to determine its own budget, which is formulated by the Parliamentary Committee on General Matters, and the Government is required to release such funds to the Parliament.[8]

The Constitution and legislation prescribes that members be provided adequate remuneration, as determined by the Parliament, including medical insurance and diplomatic passports for members and their families.[9] Legislation further prescribes retirement benefits for members, including 30 per cent of salary upon completion of a single term and 45 per cent of salary upon completion of two terms, as well as health insurance and an official passport.[10]

1. *Constitution, 2008, article 71.*
2. *The number of parliamentarians for the 18th People's Majlis elected in March 2014 was numbered at 85 - see Elections Commission website at <www.elections.gov.mv/ indexc806.html>*
3. *Constitution, article 82.*
4. *Regulation of the People's Majlis 2010, section 32.*
5. *Regulation of the People's Majlis 2010, chapter 25.*
6. *Regulation of the People's Majlis 2010, chapter 3.*
7. *Regulation of the People's Majlis 2010, chapter 5.*
8. *Constitution, article 88(a); Parliamentary Privileges and Immunities Act, 2013 (Law No. 5/2013) sections 2, 28.*
9. *Constitution, article 102; Parliamentary Privileges and Immunities Act, section 7.*
10. *Parliamentary Privileges and Immunities Act, section 8. Retirement benefits entitlements are not due if they continue to serve as members, after 55 years of age, or if serving in a position of the State or Government.*

The Secretary General of the Parliament is appointed by the Parliament members themselves.[11] The Constitution also mandates State security services to afford due protection and safety to all members and the Parliamentary offices.[12]

Minimum score (0)
The existing financial, human and infrastructural resources of the legislature are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)
The legislature has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)
The legislature has an adequate resource base to effectively carry out its duties.

1.1.2. Resources (Practice)

To what extent does the Legislature have adequate resources to carry out its duties in practice?

Score: 25/100

Although the Parliament is empowered to determine its own budgetary requirements under the Constitution, significant resource gaps related to infrastructure and human resources capacity cause some level of ineffectiveness in terms of the Parliament's ability to carry out its duties.

In a survey conducted by Transparency Maldives in 2010, 52 per cent of respondents indicated that the expertise, parliamentary support staff, and research, information and other facilities available to Members of Parliament were inadequate[13] Most of the MPs interviewed for the study noted the insufficiency of the human resource and infrastructure capacities of the Parliament. They noted the need for more resources, such as office space for committee sittings and external professional and technical expertise to enable better functioning.[14] Former MP Ibrahim Ismail and sitting MP Mohamed Nasheed both expressed the need to enhance the capacity of parliamentary staff in the areas of drafting, research and legal support. As a result of the lack of adequate staff, much of the committee system is dependent on lawyers from the Attorney General's Office (AGO), which places additional constraints on an already overburdened office. Although the legislative output of the current Parliament (the 17th Majlis) has been far greater than that of the preceding parliaments, the shortfall has impacted negatively on parliamentary functions.[15]

Overall, the management structure incurs organisational deficiencies, which are exacerbated by poor leadership at the policy levels that renders the management of the Parliament Secretariat weak. Meeting room space for committee sittings is inadequate, making it impossible to conduct several committee proceedings simultaneously, although much of the work of the Legislature takes place in the committee stages. At present there are no MPs' quarters in which MPs can conduct meetings with relevant stakeholders or interest groups.[16] However, the Parliament is in the process of constructing a new 13-storey building, which should help solve the current space difficulties.[17]

11. *Constitution, article 104; Parliamentary Privileges and Immunities Act, section 30.*
12. *Constitution, article 105; Parliamentary Privileges and Immunities Act, section 6.*
13. *Transparency Maldives, Parliament Watch: An Evaluation of the Parliament of Maldives 2010 (2011), page 14, 16.*
14. *Transparency Maldives, Parliament Watch: An Evaluation of the Parliament of Maldives 2010 (2011), page 22-23.*
15. *Interview of Mohamed Nasheed, Member of Parliament for Kulhudhuffushi South constituency and former Secretary General of the Parliament, with lead researcher, Male', 16 April 2014; Interview of Ibrahim Ismail, former Member of Parliament for Male' constituency, with lead researcher, Male', 16 April 2014.*
16. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014; Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
17. *See Isles' website at <http://isles.egov.mv/Project/Index.aspx?lid=1&pid=1176>.*

Minimum score (0)
There are no laws which seek to ensure the independence of the legislature.

Mid-point score (50)
While a number of laws/provisions exist, they do not cover all aspects of legislative independence and/or some provisions contain loopholes.

Maximum score (100)
There are comprehensive laws seeking to ensure the independence of the legislature.

1.1.3. Independence (Law)

To what extent is the Legislature independent and free from subordination to external actors by law?

Score: 75/100

There are comprehensive laws in place which seek to ensure the independence of the Legislature. The Parliament is vested with extensive powers and immunities with respect to the functioning of the Legislature.

The Parliament is free to decide matters relating to its business and procedure, including the determination and control of all its administrative arrangements, the hiring of employees, and the remuneration of its employees.[18]

Privileges and immunities are granted to Parliament Members by the Constitution and through the recently enacted *Parliamentary Privileges and Immunities Act 2013*. Members are exempted from liability in any court proceedings. They are also exempted from being subject to inquiry, arrest, detention or prosecution with respect to the views expressed or produced before, or submitted to, the Parliament or any of its committees, or with respect to any vote given if the same is not contrary to any tenet of Islam.[19] Staff at the Parliament's Secretariat are also granted immunity from criminal or civil suit, in the exercise of their lawful functions.[20] Except in the case of a crime having been committed, a Member is immune from being arrested except with a court warrant obtained by the Prosecutor General.[21] Neither a court nor any institution may summon a Member in a manner that may prevent the Member from attending any sessions of the Parliament, its committees, or its official functions.[22]

However, the powers of the Parliament were weakened when the Supreme Court repealed many of the provisions of the *Parliamentary Privileges and Immunities Act* in November 2013.[23] Both former MP Ibrahim Ismail and current MP Mohamed Nasheed believe that the decision of the Supreme Court exceeded its constitutional mandate in striking down Members' immunities. They opined that Members of the Parliament should be entitled to privileges and immunities in their capacity as elected members, in order for them to be able to independently and adequately carry out the functions of the Legislature.[24]

The Parliament is also vested with powers to summon and question persons or to request information, and a refusal or breach is punishable by imprisonment of three to six months or a fine not exceeding MVR 3,000 (approx. US$ 200).[25]

Unless otherwise stipulated in the Constitution, no Court of Law may question the validity of any proceedings in the Parliament.[26]

1.1.4. Independence (Practice)

To what extent is the Legislature free from subordination to external actors in practice?

Minimum score (0)
Other actors regularly and severely interfere with the activities of the legislature with consequences for the behaviour of the legislature.

Mid-point score (50)
Other actors occasionally interfere with the activities of the legislature. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the legislature.

Maximum score (100)
The legislature operates freely from any interference by other actors, particularly the executive

Score: 25/100

Parliamentarians are, in principle, free and independent in exercising their law-making functions. Individual MPs can introduce draft bills, and generally, half of all bills presented to the Parliament are introduced by individual MPs.[27] However, the Parliament is not free from the interference of other branches of the State.

The former MP and Chair of the Constitutional Drafting Committee of the People's Special Majlis (Constitutional Assembly) that drafted the present Constitution noted that although the Parliament is the most powerful branch of the State, as foreseen in the Constitution, it is today the most powerless organ of the State.[28] This view was reiterated by sitting Member Mohamed Nasheed MP, who opined that constant interference by both the Judiciary

18. *Constitution, article 88(a); Parliamentary Privileges and Immunities Act, section 2.*
19. *Constitution, article 90(a); Parliamentary Privileges and Immunities Act, section 3.*
20. *Parliamentary Privileges and Immunities Act, section 21.*
21. *Parliamentary Privileges and Immunities Act, section 13.*
22. *Parliamentary Privileges and Immunities Act, section 11.*
23. *State, ex parte, Supreme Court, 28 November 2013 (2013/SC-C/12).*
24. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014; Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
25. *Parliamentary Privileges and Immunities Act, section 18.*
26. *Constitution, article 88(b).*
27. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
28. *Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*

and the Executive has eroded many of powers that enable the Legislature to carry out its functions effectively.[29] The ability of the Parliament to act with independence in undertaking its legislative and oversight functions has frequently been compromised by regular and often severe political interference in its work, often by its own members, in the extraordinarily tumultuous political environment that has been prevalent in recent years.

The passage of bills through Parliament is dependent on the parliamentary majority prevalent on the floor, and there are examples of bills being passed against the explicit will of the Executive. In 2010, when the then-President refused to ratify the *Amendment to the Public Finance Act 2006 Bill*,[30] passed by the Parliament for a second time by the 2/3 majority as required by the Constitution to force the President to sign the bill into law, the matter was referred to the Supreme Court by opposition parliamentarians. The Supreme Court ruled that the President must abide by the Constitutional requirement to sign the bill into law. [31]

Judicial interference in the affairs of the Parliament has been evident in many cases over the recent years. One such example is that of the dismissal of the Chair of the Civil Service Commission (CSC) by the Parliament in November 2012. The Constitution provides that a Court of Law may not question the validity of any proceedings in the People's Majlis.[32] Regardless, when the dismissed CSC Chair went to court against the parliamentary dismissal, the Supreme Court decided it had jurisdiction and competence to hear the matter, and ruled that the Parliament had, in the impeachment motion, utilised procedures in contravention of laws, rendering the impeachment null and void.[33]

Minimum score (0)

There are no provisions to ensure that the public can access the parliament and obtain relevant information on the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the legislature and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place to ensure that the public can access the parliament and obtain information on the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made..

1.2. Governance

1.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the Legislature?

Score: 75/100

Legal provisions are in place to ensure that the public can obtain information about the organisation and functioning of the Legislature, in relation to decisions that concern them and the process behind these decisions. However, some shortfalls are evident.

All parliamentary proceedings, including committee sittings, are required to be open to the public, unless the Parliament determines, by a majority of those present and voting, to exclude the public and the press from any part of the proceedings in the interests of public order or national security.[34] All proceedings, including voting records, are required to be published in the minutes and made available to the public.[35] Regulation further prescribes that audio and video recording of all sessions, and audio recordings of all committee sittings, be archived at the secretariat.[36] Minutes of all sessions are required to be made available to the public online within 36 hours.[37] Regulation does not, however, require the minutes of committee sittings to be made available to the public.[38] There is also no requirement for the agenda to be published ahead of time, or for draft bills to be published during parliamentary deliberations. Moreover, the regulation does not address a mechanism for the Legislature to receive citizens and respond to

29. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
30. *Constitution, article 88(b).*
31. *Mohamed Fahmy Hassan v. the State, Supreme Court, 14 March 2013 (2012/SC-C/35).*
32. *First Amendment to the Public Finance Act, 2010 (Law No. 25/2010)*
33. *Abdul Raheem Abdulla & Others v. the State, Supreme Court, 10 December 2010 (2010/SC-C/27).*
34. *Constitution, article 85; Parliamentary Privileges and Immunities Act, section 19(b).*
35. *Constitution, article 89.*
36. *Regulation of the People's Majlis, sections 185, 190*
37. *Regulation of the People's Majlis, section 180(a).*
38. *Regulation of the People's Majlis, section 187.*

There is no provision in law affording the members of a constituency dissatisfied with their member in Parliament to recall a sitting member of the Parliament

their queries.

The *Regulation of the People's Majlis* specifies procedures for the broadcast of video and audio footage of all parliamentary sittings and committee proceedings.[39] Media companies are allowed to broadcast parliamentary sessions and committee proceedings, live or recorded, free of charge.[40]

MPs are required to submit to the Secretary General of the Parliament annual statements of all property and monies owed and business interests and liabilities, including details of any other employment and the obligations of such employment.[41] However, there is no specific requirement to make this information public.

1.2.2. Transparency (Practice)

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the Legislature in practice?

Score: 75/100

The public is able to access the Legislature and to obtain relevant information about most aspects relating to the organisation and its functioning, on decisions that concern them and how these decisions were made. However, asset disclosures of parliamentarians are not made available to the public.

Comprehensive information about the activities of the Legislature is made available to the public via its website, including the agendas of parliamentary sessions, transcripts of the minutes of parliamentary sessions, voting records, and copies of bills, declarations or other reports being deliberated by the Parliament. The Parliament also publishes on its website drafts of all bills that have been presented to the Parliament; reports of parliamentary committees following the deliberation of bills by the respective parliamentary committees; and any amendments proposed to the bills, as well as the final draft of the bill passed by the Parliament. Information about the work of parliamentary committees is also made available online. This includes a schedule of committee proceedings, reports of deliberations on any matter, audit reports of Government Ministries and independent institutions, and reports about inquiries into any affair of the State.[42]

Moreover, the media is free to report on and broadcast parliamentary sessions and committee proceedings with no cost.[43]

Budgetary information of the Parliament is public record, and is readily available to the public via the website of the Ministry of Finance and Treasury from the time the budget is first presented to the Parliament for approval.[44] The audit report of the Parliament, including expenditure reports, is made available by the Auditor General once the audit is completed.[45]

According to both interviewees, the Parliament Secretariat generally responds to citizens' queries, or requests for information. Any delays or burdensome bureaucratic procedures are the result of a lack of resources, including human resources.[46] Furthermore, any member of the public can visit and watch legislative sessions, subject to seating availability, and any member of the media can freely attend any parliamentary session or committee proceeding, except those sessions deemed confidential, in accordance with the Regulation on People's Majlis.

Public disclosure of MPs' assets, expenditure and income is lacking in both

Minimum score (0)

The public is in general not able to access the legislature and obtain any relevant information on the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can access the legislature and obtain relevant information on the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily access the legislature and obtain relevant information on all aspects related to the organisation and functioning of the legislature, on decisions that concern them and how these decisions were made.

39. *Regulation of the People's Majlis, sections 22-23.*
40. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
41. *Constitution, article 76.*
42. *See the website of the People's Majlis at <www.majlis.gov.mv>.*
43. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014; Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
44. *See for example, website of the Ministry of Finance and Treasury at <www.finance.gov.mv/v1/uploadedcontent/posts/Post977-2013.zip>, <www.finance.gov.mv/v1/uploadedcontent/posts/Post976-2014.zip*
45. *See for example, Auditor General, Report of the Audit of the People's Majlis for the year 2011 (January 2013, No. FIN-2013-05) available at the website of the Auditor General's Office at <www.audit.gov.mv/v1/en/download/Audit%20Report%20Published%202011/Peoples%20Majlis%20Audit%20Report%202011.pdf>; Auditor General, Report of the Audit of the People's Majlis for the year 2010 (November 2012, No. FIN-2012-29) <www.audit.gov.mv/v1/en/download/Audit%20Report%20Published%202011/Peoples%20Majlis%20Audit%20-%20Report%202010.pdf>.*
46. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014; Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*

law and practice. Relevant state bodies such as the ACC are able to access assets declarations filed by MPs with the Secretary General, as part of their investigation functions, with a court warrant.[47] Existing legal requirements for the submission of statements of assets, income and expenditure to the Secretary General of the Parliament are generally complied with by all MPs.[48]

In an evaluation into the work of the Legislature conducted by Transparency Maldives in 2010, the Parliament scored 66 per cent in the area of transparency and accessibility, and 82 per cent in the sub-area of the openness and accessibility of parliamentary proceedings and committee sittings to the media and public.[49]

1.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that the Legislature has to report on and be answerable for its actions?

Score: 25/100

Legal provisions aiming to ensure that the Legislature is answerable for its actions are not fully conducive to an effective accountability mechanism.

Some mechanisms for public consultation are present in law. For example, the Legislature can decide to hold public referendums on issues of public importance.[50] The *Regulation of the People's Majlis* also makes provisions to entertain petitions by citizens, lodged through a Member of Parliament, on any bill or matter being deliberated by the Parliament, or on any issues of public interest.[51] Other than these, no other mechanisms to hold public consultation are established by the Legislature.

Regulation further establishes a complaints mechanism whereby anyone can lodge a complaint against any Member of Parliament, or any officer or staff member of the Secretariat, with the Parliamentary Committee on Professional Conduct. The Committee is vested with powers to investigate such complaints and to take administrative action to rectify any wrongdoing, by a decision of the committee members.[52]

The Judiciary is granted the authority to rule on the constitutionality or otherwise of any legislation passed by the Parliament, queries about which can be lodged by any person.[53]

There is no provision in law affording the members of a constituency dissatisfied with their member in Parliament to recall a sitting member of the Parliament. Moreover, there is no Parliamentary Ombudsman in the Maldives, and this role and function is retained by the *Regulation of the People's Majlis*, as determined by the Members themselves. A draft of Rules of Practice of MPs, which establishes penalties for violations of conduct by MPs, has been pending for years, due to the lack of political willingness of members to enact any mechanisms to subject themselves to penalties.[54]

1.2.4. Accountability (Practice)

To what extent do the Legislature and its members report on and answer for their actions in practice?

Score: 0/100

Minimum score (0)
No provisions are in place to ensure that the legislature has to report and be answerable for its actions.

Mid-point score (50)
While a number of laws/provisions exist, they do not cover all aspects of legislative accountability and/or some provisions contain loopholes.

Maximum score (100)
Extensive provisions are in place to ensure that the legislature has to report and be answerable for its actions.

47. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
48. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
49. *Transparency Maldives, Parliament Watch: An Evaluation of the Parliament of Maldives 2010 (2011), page 14, 18.*
50. *Constitution, article 70(b)(6).*
51. *Regulation of the People's Majlis, sections 198-201.*
52. *Regulation of the People's Majlis, sections 193-197.*
53. *Constitution, article 143.*
54. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*

Minimum score (0)
No provisions are in place/existing provisions are not effective at all in ensuring that members of the legislature have to report and be answerable for their actions in practice.

Mid-point score (50)
While members of the legislature have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)
Existing provisions are effective in ensuring that members of the legislature have to report and be answerable for their actions in practice.

Despite the existence of adequate legal provisions, effective accountability of members of the Legislature to report and to be answerable for their actions in practice is absent.

Any public consultation that takes place is selective, and covers issues decided upon by the Parliament itself.[55] Transparency of information on the activities of the Legislature is present, but not necessarily supportive of a public consultation function or oversight mechanism.

Moreover, there are no effective mechanisms in place to allow action to be taken against MPs in response to public complaints made against members of the Legislature. The absence of a Parliamentary Ombudsman function, and the lack of any penalties for violations of conduct by MPs in effect mean that Parliament members' conduct goes unchecked, and they appear to enjoy a high degree of impunity, with no possibility of being penalized for their wrongdoings.

Minimum score (0)
There are no provisions in place to ensure the integrity of members of the legislature

Mid-point score (50)
While a number of laws/provisions exist, they do not cover all aspects related to the integrity of legislators and/or some provisions contain loopholes.

Maximum score (100)
There are comprehensive provisions in place to ensure the integrity of members of the legislature.

1.2.5. Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the Legislature?

Score: 50/100

Although some provisions in law seek to regulate the conduct of MPs, adequate legal provisions to ensure the integrity of members of the Legislature are absent. No requirement exists for the public disclosure of Members' assets.

In carrying out their functions, members of Parliament are required by the Constitution to be guided in their actions primarily by considerations of national interest and public welfare. They must refrain from exploiting their official positions in any way for personal benefit, or for the benefit of those with whom they have special relations. Members are also required to represent not only their constituencies, but also the country as a whole.[56]

Some aspects of ethics and conduct are addressed in Legislature and regulation, including the prohibition of the misuse of information for personal gain, conflict of interest rules, confidentiality of information, and gift rules. Legislation provides that Parliament members and parliamentary staff may not use their position or information entrusted to them to improperly benefit themselves or any other person.[57] Breaches of these provisions are punishable by imprisonment of three to six months, or a fine not exceeding MVR 5,000 (US$ 324). Members are barred from participating in voting on matters that pose a conflict of interest.[58] Moreover, the Regulation prescribes that, except as permitted by the Parliamentary Committee on General Matters, members are restricted from earning any income from public lectures or authorships in newspapers and magazines.[59] The Regulation also specifies that members must not disclose any confidential information.[60]

Furthermore, the Regulation outlines provisions for recording the attendance of members, including provisions for members taking leave and sick leave. However, no penalties are prescribed for non-compliance by members.[61] A comprehensive code for members' conduct during parliamentary sessions is outlined in Annex 1 of the Regulation.

Legislation prohibits members and staff from accepting any gifts in return for exertion of any influence on any matter being deliberated in Parliament, and breaches are punishable by imprisonment of three to six months, or a fine

55. *Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
56. *Constitution, article 75.*
57. *Constitution, article 103; Parliamentary Privileges and Immunities Act, section 23(a).*
58. *Parliamentary Privileges and Immunities Act, section 23(b); Regulation of the People's Majlis, section 51(f).*
59. *Regulation of the People's Majlis, section 55(d).*
60. *Regulation of the People's Majlis, section 55(j).*
61. *Regulation of the People's Majlis, sections 212-213.*
62. *Parliamentary Privileges and Immunities Act, section 26.*

not exceeding MVR 3,000.[62]

Asset declaration provisions are half-hearted. Members of the Parliament are required to prepare annual declarations of assets and to file them with the Secretary General before the end of October each year,[63] though as has been noted earlier, there is no requirement for these declarations to be made publicly available. No penalties are prescribed for non-compliance.

There are no provisions in law to address post-employment restrictions, or to record or disclose contact with lobbyists.

1.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of legislators ensured in practice?

Score: 25/100

There is a complete absence of actions that would aim to ensure the integrity of legislators, so misbehaviour goes mostly unsanctioned.

In practice, the existing integrity mechanisms prove to be toothless, and are not effective in ensuring the integrity of members of the Legislature. The Draft Rules of Practice which seek to address issues such as the ethics and codes of conduct of the members, as well as penalties for violation, has stagnated at the deliberation stage for many years, reflecting members' reluctance.[64]

The existing legal requirement for the submission of statements of assets, income and expenditure to the Secretary General of the Parliament is generally complied with by all MPs.[65] However, as noted earlier, this information is not made available for public scrutiny. There is no legal requirement for contact with lobbyists to be recorded or disclosed, and there is no practice of such disclosure.

There have not been reports of any violations of the existing codes provided for in legislation and regulation, nor reports of any sanctions or penalties imposed on Parliament members or staff.

Minimum score (0)
There is a complete absence of actions which would aim to ensure the integrity of legislators, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)
There is a piecemeal and reactive approach to ensuring the integrity of legislators, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)
There is a comprehensive approach to ensuring the integrity of legislators, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of legislative staff on integrity issues.

63. *Regulation of the People's Majlis, section 56. Annual statements are required to be prepared for the financial year from 28th May to 27th May of each year.*
64. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
65. *Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
66. *Constitution, article 96(b).*
67. *Constitution, article 96(c).*

1.3. Role

1.3.1. Executive Oversight

To what extent does the Legislature provide effective oversight of the executive?

Score: 50/100

Whilst the Legislature is vested with adequate powers to hold the Executive to account, its ability to carry out this function effectively often depends upon the prevailing political environment on the floor of the Parliament.

The Parliament is vested with wide powers with which to influence and scrutinize the national budget. The national budget is presented to the Parliament by the Finance Minister, but it is up to the sole discretion of the Parliament to pass the budget, with or without amendments.[66] The Constitution further provides that expenditures included in the budget shall be applied solely for the specified purposes, and that no supplementary

Minimum score (0)
The legislature is rather inactive and entirely ineffective in providing oversight of the executive.

Mid-point score (50)
While the legislature is somewhat active in seeking to hold the executive to account, the effectiveness of its actions is limited) e.g. due to limited competencies and/or failure to implement existing provisions).

Maximum score (100)
The legislature provides effective oversight of the executive and holds members of the executive to account.

expenditures shall be added to an approved budget without further approval of the Parliament.[67]

The Parliament is also vested with great authority to investigate Executive misbehaviour and to oversee Executive actions. The Parliament has the power to summon and question Cabinet Ministers in relation to the performance of their obligations and responsibilities, and both the Parliament and its committees have the power to summon and question any person, and to require any person or institution to report to them.[68] The Parliament also has powers to impeach the President or the Vice President from office, by a resolution of a two-thirds majority of its total membership, on the grounds of violation of a tenet of Islam, the Constitution or law, serious misconduct unsuited to the office, or inability to perform the responsibilities of office.[69] Moreover, the Parliament may express its no confidence to a Cabinet Minister by a resolution of the majority of the membership.

The Parliament is also the institution that determines remuneration for President, Vice President, Cabinet Ministers, Parliament members including the Speaker and Deputy Speaker, the Judiciary and members of the independent institutions.[70]

Despite the great extent of powers granted by the Constitution and legislation, the effective exercise of these powers is subject to the approval of a majority of the Members of the Parliament, and has therefore depended in the past on whether the governing party held a majority on the floor, or on which party controlled the parliamentary committees. Any incumbent majority of the Parliament exercises its powers of majority to further its political interests.[71]

According to statistics of the 17th Parliament, the Parliamentary Committee on Executive Oversight was only able to complete a mere 24 per cent of the matters referred to it, compared to the 42 per cent completed by the Parliamentary Committee on Public Finance. This reflects either the ineffectiveness or the reluctance of the former in exercising its mandate.[72]

68. *Constitution, article 99.*
69. *Constitution, article 100.*
70. *Constitution, article 102.*
71. *Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
72. *Secretariat of the People's Majlis, Work of the Parliamentary Committees of the 17th People's Majlis, 28 April 2014, page 30 <http://www.majlis.gov.mv/di/wp-content/uploads/17-vana-majleehuge-comity-thakuge-massakai.pdf> [accessed 1 May 2014].*
73. *Prohibition and Prevention of Corruption Act, 2000, (Law No. 2/2000).*
74. *General view shared by both interviewees - Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014; Interview of Mohamed Nasheed with lead researcher, Male', 16 April 2014.*
75. *Mohamed Nasheed, "A new bill to stop corruption", Mohamed Nasheed's blog (web) 11 November 2012 at <www.mnasheed.com/2012/11/%DE%86%DE%AE%DE%83%DE%A6%DE%95%DE%B0%DE%9D%DE%A6%DE%82%DE%B0-%DE%80%DE%AA%DE%87%DE%B0%DE%93%DE%AA%DE%88%DE%AA%DE%89%DE%AA%DE%8E%DE%AC-%DE%87%DE%A7-%DE%84%DE%A8%DE%8D%DE%AC%DE%87%DE%B0/#more-1151>.*

Minimum score (0)
The legislature does not pay attention to the promotion of public accountability and the fight against corruption.

Mid-point score (50)
While there are a number of legal reforms to counter corruption and promote integrity, they are piecemeal efforts, which are considered largely ineffective in achieving their goals.

Maximum score (100)
Comprehensive, concrete and effective legal reforms to counter corruption and promote integrity have been enacted by the legislature.

1.3.2. Legal Reforms

To what extent does the Legislature prioritise anti-corruption and governance as a concern in the country?

Score: 0/100

The current research finds that the Legislature does not pay special attention to the promotion of public accountability and the fight against corruption.

The *Prohibition and Prevention of Corruption Act* was enacted in 2000 and criminalizes corruption offences such as bribery or the misuse of public authority and resources. It also establishes certain codes of conduct for public officials.[73] With the enactment of the *Anti-Corruption Commission Act* in 2008, the first ever independent and dedicated institution to investigate and fight against corruption was established. There are no examples of anti-corruption legislation having been passed by the Parliament in recent years, or of any comprehensive legal reforms agenda to counter corruption having been taken up by the Parliament, though anti-corruption policy rhetoric is heard from politicians from time to time.[74] A revised bill on anti-corruption was drafted in consultation with the ACC and other state bodies, and submitted to the Parliament in 2012 by MP Mohamed Nasheed.[75]

In the context of international legal instruments, the Parliament is only vested with limited powers; those of approving before entry into force any treaties entered into by the Executive.[76] It is almost always the Executive that formulates foreign policy,and initiates the joining of any international treaties or conventions. The Maldives acceded to the *United Nations Convention against Corruption* in March 2007.[77] No recent ratifications of other international treaties on anti-corruption are evident.

The Parliament is, however, active in its law-making functions. According to statistics of the 17th People's Majlis, it enjoys a 75 per cent completion rate of all bills that have been submitted during its five year term. A total of 266 bills were submitted to the Parliament, out of which 115 bills were passed by the Parliament. 14 bills were rejected, 36 bills were recalled, and 31 were rejected after the first hearing and before committee stages. A total of 70 bills remain with deliberations not completed, either in committees or in debate.[78]

Recommendations

1. A comprehensive Code of Conduct for members of Parliament needs to be established and publicly disclosed as a matter of urgency, and should be enforced with penalties for non-compliance.

2. Parliamentary resources, both in terms of skilled human capacity and physical space, need to be strengthened.

3. A review of the asset declarations of parliamentarians should be conducted and publicly disclosed.

4. Legislation should be enacted to limit party cross-over of members after being elected.

5. Measures need to be taken to encourage and improve public consultations on the legislative agenda.

76. Constitution, article 93(a).

77. UNODC, <www.unodc.org/unodc/en/treaties/CAC/signatories.html>.

78. Secretariat of the People's Majlis, Statistics of Bills, Matters and Declarations submitted to the 17th People's Majlis(2014) <http://www.majlis.gov.mv/di/wp-content/uploads/17-vana-majleeha-hushahelhunu-kankamuge-thafaashisaab.pdf> [accessed 1 May 2014]

VII 2. Executive

Summary

A disproportionately powerful Executive was a cornerstone of the Maldives' political system pre-2008, with an all-powerful President having extensive powers to appoint Cabinet Ministers and a portion of members of Parliament, who was also responsible for the appointment and removal of judges.[1] A key feature of the reform process in the late 2000s focused on removing a large part of these powers from the Executive, and under the Constitution of 2008, many of these powers and functions are subject to the scrutiny and oversight of the legislature, and independent bodies. Furthermore, persistent political unrest, along with an opposition-controlled legislature, has posed serious challenges to the authority of the President in fulfilling his Executive responsibilities. Both the legislature and the Judiciary have acted in ways that have gradually curtailed the powers of the President. However, the President exercises the independence and freedom that is granted. Checks need to be strengthened against the State use of resources for gains of the ruling political party, and to ensure that decision-making is considerably more transparent than it is now. Efforts need to be made to increase the public's confidence that the Executive is taking action against corruption, for example by addressing issues in audit reports proactively, and increasing collaboration with civil service to improve procedures.

Average Score = 35/100

The table below presents the indicator scores that summarise the assessment of the Executive in terms of its capacity, internal governance and role within the integrity system of the Maldives.

Dimension	Indicator	Law	Practice
Capacity	Resources	-	75
	Independence	50	25
Governance	Transparency	25	25
	Accountability	50	25
	Integrity Mechanisms	50	0
Role	Executive oversight	50	
	Legal Reforms	0	

Structure & Organization

Presently, the Executive branch of the Maldives is headed by the President, Vice President, and the Cabinet of Ministers. The President is the Head of State, the Head of Government and Commander in Chief of the Armed Forces.[2] The President, together with his vice presidential nominee, is elected by direct vote of the people, for a term of five years.[3] Under the

Constitution promulgated in 2008, the term of the presidency is limited to a maximum of two terms of five years each.[4] In the event of the Presidency becoming vacant for any reason whatsoever, the Vice President is to succeed the President.[5] The Speaker of the Parliament is deemed successor to the office in case of vacancies in both the President and the Vice President's office,[6] and is required to hold a fresh election for the office of the President within a period of 60 days in such a situation.[7]

The Cabinet of Ministers is appointed by the President and is subject to the consent of the Parliament.[8] Cabinet Ministers are responsible, individually and collectively, to the President and to the Parliament.[9] The members of the Cabinet individually preside over the management of their respective Ministries, including auxiliary departments, and advise the President on matters of policy. Prior to the Constitution of 2008, Ministers were allowed to have dual roles and often sat in the Parliament representing various constituencies. However, with the adoption of the new Constitution in 2008, which established the separation of powers among the various branches of the State, members of the Executive are prohibited from concurrently serving in another branch of governance.

The powers of the President and the Executive are stipulated in the Constitution of 2008, which confers extensive executive powers to the President. The President is entrusted with the formulation of national and governmental policies of the State and foreign policy. He can also appoint and remove Cabinet Ministers, other State and Deputy Ministers, Ambassadors, and High Commissioners[10]. Other responsibilities of the President that contribute to the role of the Executive in terms of strengthening national integrity are the powers to submit policies and recommendations to appropriate agencies and institutions; to appoint and dismiss Cabinet members for proper functioning of offices; to appoint necessary temporary commissions where needed, either to advise the President or for special investigations; and to hold public referendums on issues of national importance.[11] The President, as the Head of State, also nominates members to the independent statutory bodies, who are then appointed following the approval of the Parliament.[12] Furthermore, the President has wide powers for the formation of state-owned companies.[13]

The Vice President does not have any specific powers or functions, but is expected to fulfil responsibilities of the President as and when they are delegated by the President.[14]

Remunerations for the President, Vice President and Cabinet Ministers are determined by the Parliament.[15] The President is also entitled, upon the expiration of his term of office, to the highest honour, dignity, protection, and financial privileges.[16]

Although the Executive is, by and large, the most powerful branch of government (including control of the coercive powers of the State), the Government is nevertheless subject to the necessary checks by the Parliament for approval of the national budget and legally defined political appointments. Similarly, the Executive is made accountable to the Parliament through being required to attend and respond to questions raised by members of the Parliament, either in committee proceedings or parliamentary sessions. These provisions can affect the independence of the Executive, depending on the level of support enjoyed by the President's political party in the Parliament.

1. *Constitution 1998.*
2. *Constitution 2008, article 106.*
3. *Constitution, articles 107(a), 108.*
4. *Constitution, article 107.*
5. *Constitution, article 112(d).*
6. *Constitution, article 124(b).*
7. *Constitution, article 125.*
8. *Constitution, article 129.*
9. *Constitution, article 134(a).*
10. *Cabinet ministers are subject to approval by Parliament (Constitution 2008, Article 129 c)*
11. *Constitution, article 115.*
12. *Under the Constitution, President is authorized to nominate names to the position of Prosecutor General (article 221), Auditor General (article 210), members of the Elections Commission (article 168(b)), members of the Human Rights Commission (article 190(b)), and members of the Anti-Corruption Commission (article 200(b)).*
13. *Companies Act, 1996 (Law No. 10/96), section 95.*
14. *Constitution, article 117.*
15. *Constitution, articles 118, 135.*
16. *Constitution, article 128.*

Assessment

2.1 Capacity

2.1.1. Resources (Practice)

To what extent does the executive have adequate resources to effectively carry out its duties?

Score:75/100

The Executive has significant control over State resources and a wide array of options for garnering resources to effectively carry out its duties in practice, albeit with the necessary checks and some limitations.

The Executive branch, consisting of the President, the Vice President and the Cabinet of Ministers, is assisted by State Ministers, Deputy Ministers and various other officials appointed by the President. The President is afforded by the Constitution the power to appoint whomsoever he deems necessary to assist him in the discharge of his duties,[17] and can also hire foreign nationals to senior advisory positions.[18] These appointments are made at the President's discretion and do not have to meet any requisites either in terms of qualification, skill level or experience. There is no predefined limit to the number of such appointments either. This has occasionally raised concern among oversight bodies and opposition parties, primarily in terms of budgetary pressures. However, these positions are not governed by clear employment guidelines, nor are the roles and responsibilities always clearly defined between the appointed officials of the same institution.[19]

The Executive is responsible for formulating the national budget, and thus enjoys considerable discretion in the allocation of state resources. However, the budget submitted by the Executive is subject to parliamentary approval, and the latter may in fact bring amendments to the proposed budget. The annual state budget of the Executive has in fact increased from year to year. Although fiscal difficulties have at times led to some austerity measures being taken by the Government, the Executive has also relied on borrowed resources to operate the machinery of government, including the financing of foreign travel for Government officials.[20] The introduction of a more comprehensive tax regime in recent years has also given the Executive an additional source of revenue generation, though admittedly, such taxes can only be imposed after parliamentary approval.

Table 2.1 below shows the Government's total revenue and expenditure during the last decade, indicating an average annual deficit of MVR 2 billion (US$ 131 million), amounting to an average of 7.6% of the GDP.

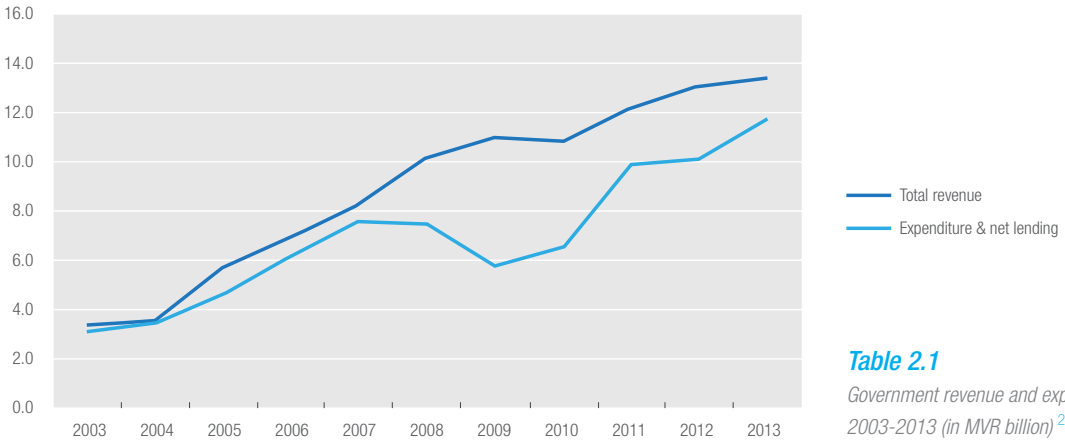


Table 2.1

Government revenue and expenditure, 2003-2013 (in MVR billion) [20]

Minimum score (0)

The existing financial, human and infrastructural resources of the executive are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)

The executive has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties

Maximum score (100)

The executive has a fully adequate resource base to carry out its duties.

17. *Constitution, article 115(f).*
18. *"President appoints Mike Mason as Energy Advisor" Office of the President, 5 December 2010 (Press release Ref 2010-861) http://www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=1670, "President appoints an Advisor on Climate change", Office of the President, 08 November 2009 (Press release Ref 2009-844) http://www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=691*
19. *The current number reaches nearly 90 appointees in total. A code of conduct for these political appointees also only came into effect only in July 2012, and this is not publicly disclosed "Code of ethics for Political Appointees comes into effect" Office of the President, 1 July 2012, Ref 2012-442), < http://www.presidencymaldives.gov.mv/?lid=11&dcid=7608>, "Over 90 state and deputy ministers in new government" Haveeru News online (January 14 2014) <http://www.haveeru.com.mv/news/53279>*
20. *See "Budget deficit 'substantially' underestimated while spending still unaddressed: IMF" Minivan News (web) 22 April 2012 at <www.minivannews.com/politics/budget-deficit-substantially-underestimated-while-spending-still-unaddressed-imf-35950>; "Additional political designations and appointments would breach the Public Finance Act: Finance Ministry" Haveeru News (web) 31 December 2011 at <www.haveeru.com.mv/dhivehi/polical_post/114984>.*

Although the Executive does have access to adequate resources, implementing the Government's proposed programmes of action has been a costly business. As such, the Government has often had to rely on other sources such as loans, overseas grants and other revenue raising measures.[22] Specific recommendations given by the IMF in 2011 to curtail the budget include revising the national health insurance scheme, and revising the pay structure of the civil service[23].

The major human resource available to the Executive in implementing its programme of action lies with the civil service, which is staffed and regulated by the Civil Service Commission (CSC).[24] Government Ministries are free to increase or reduce their civil service staff force, subject only to budgetary limitations.

2.1.2. Independence (Law)

To what extent is the Executive independent by law?

Minimum score (0)

There are no laws which seek to ensure the independence of the executive.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of independence of the executive and/ or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the executive.

Score: 50/100

Although a number of constitutional and legislative provisions exist to ensure the independence of the Executive, some of these provisions are susceptible to abuse and exertion of influence by other actors.

Many of the powers of the President are, however, subject to the necessary checks by the legislature, which can limit the otherwise unfettered independence of the Executive. The President's discretion in the appointment Cabinet Ministers, Ambassadors and High Commissioners is subject to parliamentary approval,[25] thus allowing for parliamentary checks in some key executive appointments. This means, however, that an opposition-dominated Parliament can block ministerial and ambassadorial as well as some other Presidential nominees to executive posts, and indeed it has done so in the past. Moreover, the offices of the President and Cabinet Ministers are subject to motions of impeachment[26] and no confidence,[27] respectively, by the Parliament, the resolution of which could result in vacancies of the offices.

The President is vested with the authority to submit bills to the Parliament, and has the power to assent bills passed by the Parliament into law. The President's discretion to refuse assent to a bill may be overcome by the constitutional requirement for the President to ratify any bill that is returned to him a second time by the Parliament, having been approved by a majority of the total membership of the Parliament. In such instances, the President is required to sign the bill into law.[28]

The President is entrusted with the function of formulating policies of the State, including the formulation and execution of the country's foreign policy.[29] Whilst the decision to establish diplomatic relations and the day-to-day execution of foreign policy remains the exclusive preserve of the Executive, ratification of treaties (including financial ones) requires consent from the Parliament.[30] The President is empowered to create various ministries and Government departments and to determine their areas of jurisdiction, though such decisions are to be referred to the Parliament for approval.[31]

The formulation of the national budget is one area in which the Executive enjoys relative discretion compared to other institutions. The final budget of nearly all State institutions, including independent statutory bodies,

21. *Maldives Monetary Authority, Monthly Statistics (December 2013, Vol XIV., No. 12).*
22. *Interview of Husnu Al-Suood, former Attorney General with lead researcher, Male', 16 January 2013.*
23. *http://www.imf.org/external/np/sec/pr/2012/pr12439.htm*
24. *See Public Sector pillar.*
25. *Constitution, article 115.*
26. *Constitution, article 100.*
27. *Constitution, article 101.*
28. *Constitution, article 91.*
29. *Constitution, article 115.*
30. *Constitution, 93(a).*
31. *Constitution, article 116.*

is vetted and submitted to the Parliament by the Finance Minister, who has considerable leeway in terms of the allocation of financial resources, though these discretionary powers are subject in entirety to parliamentary oversight.[32] However, the Parliament has the power to "approve or amend the budget…in its discretion as it deems fit".[33]

The enactment of amendments to the Public Finance Act in 2010,[34] the Privatization and Corporatization of State Businesses Act[35] and the Fiscal Responsibilities Act also curtailed the Executive's powers in relation to the management of State resources.[36] The Amendment to the Public Finance Act established provisions for requiring prior parliamentary approval when obtaining loans or issuing sovereign guarantees by the Government, leasing or parting with any State assets or resources, or issuing subsidies,[37] whilst the Privatization Act subjects the Government's policies of privatization and corporatization to the approval of a Privatization Committee.[38]

Moreover, the actions of the Executive, including any public office holders, are subject to deliberation by the Court, on the grounds of fair administrative action.[39] There are no limits to the type or extent of Executive action that can be challenged in court.

The encroachment into the powers of the Executive by the Parliament through the introduction of a number of legislative measures during the period 2009–2011 reflected the dominance of the opposition political parties in the Parliament, who sought to restrict Presidential discretionary powers for short-term political gain.

32. *Constitution, article 96(a).*
33. *Constitution, article 96(b).*
34. *First Amendment to the Public Finance Act, 2010 (Amendment. 25/2010).*
35. *Privatization and Corporatization of State Businesses Act, 2013 (Law No. 3/2013).*
36. *Fiscal Responsibilities Act, 2013 (Law No. 7/2013).*
37. *Public Finance Act, 2006 (Law No. 3/2006), sections 5, 7, 10.*
38. *Members to the Privatization Committee are appointed by the President and subject to approval of the Parliament – Privatization and Corporatization of State Businesses Act, section 4.*
39. *Constitution, article 43.*
40. *"Government proposes a budget of 16.9 billion Rufiyaa" Haveeru News (web) 27 November 2012 at <www.haveeru.com.mv/dhivehi/news/130603>.*

2.1.3. Independence (Practice)

To what extent is the executive independent in practice?

Minimum score (0)

Other actors regularly and severely interfere in the activities and decisions of the executive.

Mid-point score (50)

Other actors occasionally interfere with the activities and decisions of the executive. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the executive.

Maximum score (100)

The executive operates freely from any interference by other actors.

Score: 25/100

The Executive is not able to operate freely and independently in practice. However, the freedom that is granted by law is fully exercised by the executive. Presidential or Cabinet decisions are rarely publicly challenged by other bodies, but Executive action and decision-making is prone to undue influence by other actors, such as the legislature.

Executive decision-making is subject to scrutiny by both the legislature and the Judiciary under the legal system established by the Constitution of 2008. For example, although the Executive is responsible for the formulation and execution of the national budget, the approval of the budget can be withheld by the Parliament, or the budget can be modified at the Parliament's discretion. The President, if he does not enjoy a majority support in the Parliament, may be subjected to pressures by the Members of Parliament seeking specific resource allocations for their particular constituencies. Indeed, a Parliament at odds with the President can even refuse to approve the budget wholly, potentially leading to a complete halt of the functioning of the State. Although no Parliament has ever refused to approve the State budget, the Parliament exercises its powers to revise budgetary allocations and amounts, including by increasing or reducing the overall State budget. In 2012, for example, the Parliament endorsed a revised budget, reducing the proposed budget of MVR 16.9 billion (US$ 1.1 billion) to MVR 15.3 billion (US$ 992 million).[40] At other times, the Parliament has in fact approved a budget in excess of the budget proposed by the Finance Minister.

Assets disclosure by executive is weak in practice, and is not enforced, nor made public

Minimum score (0)

There are no regulations which allow the public to obtain relevant information on the organisation and functioning of the executive, on decisions that concern them and how these decisions were made

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the executive and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive regulations are in place which allow the public to obtain relevant information on the organisation and functioning of the executive, on decisions that concern them and how these decisions were made.

The Parliament also exercises many of its powers to scrutinize government policies, including its powers to question Ministers and government officials in parliamentary committees, and its role in granting approval to Cabinet Ministers and Ambassadors. In the chaotic political environment of recent years, which has seen the Executive and the Parliament in a combative and non-cooperative mood, rejection of Presidential nominees to the Cabinet and other Executive posts and submissions of motions of no confidence against Cabinet Ministers have become a common practice.

In February 2012, the Executive faced a unique situation whereby the democratically elected President resigned from office in response to a series of public protests, which were in their final hours supported by police and military, and opposition political parties. Combined with accusations of a coup from the party of the previous President, and the unrest and violence that ensued for subsequent months, the situation revealed a number of constitutional shortcomings which allowed for the exertion of undue influence and interference in the powers and functions of the Executive by other powers of the State, including even the military.[41]

2.2. Governance

2.2.1. Transparency (Law)

To what extent are there regulations in place to ensure transparency in relevant activities of the Executive?

Score: 25/100

With the exception of a handful of recent legislative developments, including the Right to Information Act and the Fiscal Responsibilities Act, most of the legislative framework for ensuring transparency in the activities of the Executive is relatively weak, with much of it appearing in archaic laws. Proper mechanisms for enforcement are also weak.

All Government offices are required by law to maintain minutes of all official communications,[42] and copies of all official communications are required by law to be kept on record.[43] All regulations and procedures with which the public is required to comply are required by law to be submitted in writing and made available to the public.[44] The Regulation on Right to Information also mandates institutions to make publicly available annually certain information relating to the individual institutions, including details of their the structure, mandate, responsibilities and budgetary information, services provided to the public, complaints mechanisms and records of complaints, and important policies and decisions relating to the public.[45]

There are, however, no specific legal provisions that require the publication of the minutes of Cabinet meetings, or other government-related communications. Moreover, the Regulation on Right to Information exempts Cabinet records and papers submitted to Cabinet meetings from the purview of the Regulation, and from disclosure to the public.[46] The Regulation provides further criteria for the exemption of certain types of official records, on the grounds of official secrecy, public interest, or economic necessity.[47]

The President, Vice President and the Cabinet of Ministers are required to submit to the Auditor General annual statements of all property and monies owed by them, business interests, and all assets and liabilities.[48] There is no legal requirement to make this information available to the public, nor does the law prescribe any penalties for non-compliance with this requirement,

41. *For an account of the circumstances leading to the transfer of power on 7th February 2012, see, Commission of National Inquiry, Report of the Commission of National Inquiry, Maldives (30 August 2012); Anita Perera, Senany Dayaratne & Shibly Aziz, A Legal Review of the Report of the Commission of National Inquiry [CONI], Maldives (6 September 2012) <www.minivannews.com/files/2012/09/CONI-A-Legal-Analysis.pdf>; Anders Henriksen, Rasmus Kieffer-Kristensen & Jonas Parello-Plesner, Arrested Democracy: The legality under International Law of the 2012 transfer of power in the Maldives and alleged human rights violations perpetrated by Maldivian security forces (16 July 2012) <www.mdp.org.mv/wp-content/uploads/2012/08/Report-on-the-Maldives-July-16-2012.pdf>; Hassan Latheef, Resignation Under Duress (23 August 2012) <www.mdp.org.mv/wp-content/uploads/2012/08/Resignation-Under-Duress.pdf>; Fathimath Dhiyana Saeed, Silent Inquiry: A Personal Memoir on the Issue of the Transfer of Powers on the 7th February 2012, (2013) <www.mdp.org.mv/wp-content/uploads/2012/08/SILENT-INQUIRY.pdf>; MDP, Information Note, 22 January 2013 <www.mdp.org.mv/wp-content/uploads/2012/08/Information-note-by-the-MDP-22-Jan-2012.pdf>; "Commonwealth to probe Maldives coup" The Australian (web) 14 February 2012, 4, 5, at <www.theaustralian.com.au/news/world/commonwealth-to-probemaldives- coup/story-e6frg6so-1226270142188>.*

42. *Official Business Act, Chapter 2, 1968 (Law No. 2/68), section 2.*

43. *Official Business Act, Chapter 2, section 12*

44. *Official Business Act, Chapter 1, 1968 (Law No. 1/68), section 12.*

45. *Regulation on Right to Information, section 36; The Regulation on Right to Information has since been repealed and replaced by the Right to Information Act, 2014 (Law No. 1/2014) ratified in January 2014.*

46. *Regulation on Right to Information, section 32.*

47. *Regulation on Right to Information, section 22.*

48. *Constitution, articles 120, 138.*

leading to a systematic weakness in ensuring transparency in Executive functions.

2.2.2. Transparency (Practice)

To what extent is there transparency in relevant activities of the executive in practice?

Score: 25/100

The public is able to readily obtain some relevant information on the organization and functioning of the Executive, in relation to decisions that concern them, and the way in which these decisions were made. However, major gaps exist in practice, including in the issuance of timely reports on audited financials, and the public disclosure of the assets of officials of the Executive.

Certain information relating to the functioning of the Executive is readily available to the public. The State budget is made publicly available by the Finance Ministry on its website, both in the form in which it was presented to Parliament and as the parliamentary-approved budget.[49] Important decisions of the Cabinet are published in the Government Gazette, while information on cabinet proceedings and decisions is almost always communicated via news releases by the President's Office.[50] Important and notable activities of the Government Ministries, including regulatory requirements and procedures, procurement notices and training opportunities are published in the Government Gazette. All laws and regulations are published in the Government Gazette in the local Dhivehi language.[51] The President's Office also publishes news on the activities of the President, the Vice President and the Cabinet, including important declarations, decisions and appointments.[52]

The State auditing system, although not very efficient,[53] provides information on the budgetary activities of the Executive and its branches.[54] Annual reports of the Government Ministries and offices are published on their respective websites by about half of the ministries.[55]

Assets disclosure by the Executive is weak in practice, and is not enforced or made public. The filing of assets by public officials to the Auditor General as required under the Constitution is relatively uncommon. Disclosure to the public of information about officials who fail to comply with these requirements is almost entirely absent.[56] In July 2013, the Auditor General stated in the Parliamentary Committee on Public Finance that compliance with these requirements was weak, owing to the lack of legislative provisions for enforcement.[57]

Minimum score (0)

The public is not able to obtain any relevant information on the organisation and functioning of the executive, on decisions that concern them and how these decisions were made. The government is not active at all in disseminating information on its activities.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of the executive, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the organisation and functioning of the executive, on decisions that concern them and how these decisions were made. The government proactively disseminates key information on its activities to the entire citizenry and particularly to those groups, which are most affected by the respective activities.

49. *See website of the Ministry of Finance & Treasury at <www.finance.gov.mv>.*
50. *Interview of Husnu Al-Suood with lead researcher, Male', 16 January 2013; Interview of Abdulla Muizzu, former Attorney General, with lead researcher, Male', 31 January 2013. See the Government Gazette at <www.gazette.gov.mv>.*
51. *Interview of Husnu Al-Suood with lead researcher, Male', 16 January 2013; Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
52. *See President's Office website at <www.presidencymaldives.gov.mv>*
53. *See SAI pillar.*
54. *Audit reports of Government Ministries are available from the website of the Auditor General's Office, at <www.audit.gov.mv>.*
55. *See for example, Ministry of Home Affairs, Annual Reports 2013 <http://homeaffairs.gov.mv/?p=4489>, Annual Report 2012 <http://homeaffairs.gov.mv/?p=3962>; Ministry of Health & Gender, Annual Report 2013 <http://health.gov.mv/publications/16_1395553585_Annual_report_2013_Final_final.pdf>; Ministry of Fisheries & Agriculture, Annual Report*

2.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

Score: 50/100

While a number of legal provisions are in place to ensure that members of the Executive are accountable for their actions, they do not cover all aspects of Executive accountability. The legal requirement for public consultation on policy aspects is largely absent.

Minimum score (0)

There are no checks and balances with regard to the activities of the executive.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of executive accountability and/or some provisions contain loopholes

Maximum score (100)

Comprehensive legal checks and balances are in place. Regular reporting on relevant executive activities to other state bodies is required.

2012 <http://fishagri.gov.mv/images/download/Annual%20Report%202012%20MOFA1.pdf>; Attorney General's Office, Annual Report 2013 <http://agoffice.gov.mv/pdf/annualReport/annual2013.pdf>, Annual Report 2012 <http://agoffice.gov.mv/pdf/annualReport/annualreport2012.pdf>; Ministry of Tourism, Annual Report 2012 <http://tourism.gov.mv/?wpdmact=process&did=NDcuaG90bGluaw==>; Ministry of Housing & Infrastructure, Annual Report 2012 <www.housing.gov.mv/v1/download/448>; Ministry of Environment & Energy, Annual Report 2012 <www.environment.gov.mv/v1/publications/ministry-annual-report-2012/>. Reports were not available for download from the websites of the Ministry of Finance & Treasury, Ministry of Education, Ministry of Foreign Affairs, Ministry of Defence & National Security, Ministry of Transport & Communication, Ministry of Economic Development and Ministry of Islamic Affairs,

56. Interview of Husnu Al-Suood with lead researcher, Male', 16 January 2013.
57. "Government officials refusing to file assets declarations" CNM (web) 27 July 2013 at <www.cnm.mv/scnm/f/?id=15173>.
58. Public Finance Act , Section 44
59. "Auditor General advises against political appointees as financial controllers" May 17 2012 Haveeru news online < http://www.haveeru.com.mv/financial_controller_/42087>
60. Constitution, article 134(a).
61. Constitution, article 134(b).
62. Constitution, articles 98, 99.
63. Public Finance Act, section 35(a).
64. Public Finance Act, section 37.
65. Prevention and Prohibition of Corruption Act, 2000 (Law No. 2/2000).
66. Abdul Raheem Abdulla & Others v. the State, Supreme Court, 2010 (2010/SC-C/27).
67. Ali Waheed & Others v. the State, Supreme Court, 2010 (2010/SC-C/26).

The political system established under the Constitution of 2008 envisages an Executive branch subject to oversight by both the legislature and the Judiciary. The mechanism to ensure accountability for members of Executive is laid down in constitutional and legislative provisions. Independent statutory bodies such as the Human Rights Commission of the Maldives (HRCM), the Anti-Corruption Commission (ACC), and the Audit Office provide additional measures of accountability. The financial controller is currently by law a political appointee,[58] although the Auditor General called for this position to be a civil service appointment to increase accountability.[59]

The Constitution requires that members of the Cabinet are answerable individually and collectively to the President and to the Parliament for the proper exercise of the responsibilities and duties assigned to them.[60] Cabinet members are required to provide information about matters under their jurisdiction to the Parliament, when requested to do so.[61] They are also subject to the parliamentary questioning of Ministers, and to the parliament's powers to summon any person, to provide documents, or to ask questions in the parliamentary committees.[62] Cabinet minsters are also required to declare assets and are bound by the Prevention and Prohibition of Corruption Act 2000.

With the exception of the defined clauses in the Constitution that require public referendums to be held to bring amendments, and the obligation of local councils to conduct general public meetings, there are no other requirements in law to conduct consultations with the public.

Recently enacted amendments to the Public Finance Act require all Government offices and departments to submit to the Auditor General annual reports of their activities, including income and expenditure statements, within three months of the end of each year.[63] They also require these annual and audit reports to be submitted annually to the President and the Parliament.[64] Accountability for wrongdoing as evident in the Audit Reports is usually investigated by the ACC for corruption offences specified in the Prevention and Prohibition of Corruption Act 2000, as a result of which cases are either sent to the Prosecutor General for prosecution or closed with administrative recommendations.[65] However, no mechanism is in place to monitor and sanction violation of the provisions of the Public Finance Act and its Regulation as evident from audit reports unless it falls under the heading of corruption offences.

2.2.4. Accountability (Practice)

To what extent is there effective oversight of executive activities in practice?

Score: 25/100

Minimum score (0)

No oversight of the executive of any consequence take places.

Mid-point score (50)

While members of the executive have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

There is effective oversight of the executive, such as regular and robust reporting with justification of decisions. The checks and balances provisions for oversight by e.g. the legislature and the judiciary are effectively implemented.

The accountability provisions in law are not effective in practice, primarily due to political resistance, and the ineffectiveness of the legal system in general.

With the enactment of the new Constitution in 2008, numerous powers previously held by the Executive were constrained, or made subject to scrutiny by other branches of the State. An area of intense resistance by the Executive was in complying with the oversight functions granted to the legislature, which resulted in a number of issues being referred to the Courts for adjudication. In 2010, the Executive refused to ratify the First Amendment to the Public Finance Act Bill despite it having been passed by

the Parliament a second time with the constitutionally required majority, thus sanctioning the President to sign the bill into law.[66] On another occasion, the Executive refused to acknowledge the Parliament's non-consent for Ministerial appointments made by the President.[67] In 2010, the entire Cabinet of Ministers resigned in protest against the lack of cooperation from the Parliament.[68] It was not until both matters were passed to the Supreme Court and its ruling was issued that the Executive was compelled to comply with the constitutional requirements.

The Executive has also shown resistance to judicial oversight of its activities. In December 2010, Parliament sought an advisory opinion from the Supreme Court on the interpretation of the constitutional requirements, when the Executive declared that its officials would not attend when summoned for questioning by parliamentary committees. However, even after the Supreme Court issued its opinion clarifying the constitutional requirements,[69] the successive Government declared again in 2013 that its officials would not attend the Parliamentary Committee on Executive Oversight.[70] The Government had also refused to comply with court injunctions ordering the release of a Judge who was arrested and detained unlawfully.[71]

Moreover, in 2012, the Government was accused of meting out preferential treatment to media outlets sympathetic to it, whilst denying access to television stations with a different editorial stance. A court ruling was issued declaring such conduct by the President's Office to be unconstitutional and unlawful.[72]

The prosecution of a former President, the Chief of the Defence Force, the Commissioner of Police, and senior officials of the security forces for the detention of the Chief Judge of the Criminal Court is pending in court. The case is considered by one interviewee to be a test of the accountability and sanctioning of Executive officials, and the outcome of this case may answer numerous questions about the effectiveness of existing legal mechanisms and their capacity to hold the Executive accountable.[73]

The Auditor General conducts audits of institutions of the Executive, albeit with challenges[74], and his findings are both publicly disclosed and also scrutinized by the parliamentary public finance committee. Allegations of corruption are investigated by the ACC. Although numerous audit reports show a large number of incidences of malpractice in public accounting regulations, and there allegations of corruption have been made, only a few cases have been successfully investigated, prosecuted or sanctioned.

The State audit system itself lacks adequate resources to conduct regular auditing of all institutions within the Executive in order to to ensure accountability in practice. Overall, the oversight mechanisms lack the capacity to prosecute or sanction officials of the Executive effectively.[75]

Even though there are no legal requirements to conduct consultations with the public on policy aspects, the Executive branch has from time to time sought advice from the general public on important policy matters.[76]

2.2.5. Integrity (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

Score: 50/100

68. *"Cabinet resigns in protest over opposition MPs "scorched earth" politics", Haveeru News online June 29th 2010 <http://minivannews.com/politics/cabinet-resigns-in-protest-over-opposition-mps-scorched-earth-politics-8736>*
69. *Supreme Court, Advisory Opinion, 10 March 2011, (2010/SC-AD/28).*
70. *President's Office, "President decides that Cabinet Ministers, members of the security services, and senior official of the Government will not attend the Parliamentary Committee on Executive Oversight" 20 January 2013 at <www.presidencymaldives.gov.mv/Index.aspx?lid=68&dcid=8511>.*
71. *Supreme Court, Order, 17 January 2012 (2012/SC-SJ/01); High Court, Order, 17 January 2012 (95-CR/2012/2).*
72. *Raajje Television Pvt Ltd v. the State, Civil Court, 14 April 2013 (1459/Cv-C/2012).*
73. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013. Abdulla Muizzu served as the Attorney General from 21 March 2011 to 7 February 2012, during the time when the judge in question was detained.*
74. *See Auditor General's report for challenges faced by the AGO in getting information and cooperation from government offices in conducting audits.*
75. *Interview of Husnu Al-Suood with lead researcher, Male', 16 January 2013.*
76. *An example is the call for public comments to bills drafted by the AGO or a Government Ministry, prior to being submitted to the Parliamant - Interview of Husnu Al-Suood with lead researcher, Male', 16 January 2013; Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*

Minimum score (0)

There are no regulations in place to ensure the integrity of members of the executive.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of members of the executive and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive regulations in place to ensure the integrity of members of the executive. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality and post-employment restrictions.

The legal framework contains some rules for ensuring the integrity of members of the Executive. However, these rules are not comprehensive, and they do not cover all aspects of integrity. The requirement for public disclosure of assets is wholly absent.

The Constitution and legislation make adequate provisions in law to ensure the integrity of senior officials of the Executive. The President and Vice President, as well as Cabinet Ministers, are prohibited from holding any other public office or from actively engaging in a business, or any other income-generating employment.[77] The President and the Vice President are also answerable by law for any alleged criminal offences, whether committed before or during their terms in office, although this is subject to a determination by the Parliament, the proceedings of which may be postponed until after expiration of their terms in office.[78]

A code of conduct for Cabinet Ministers which governs matters such as the execution of ministerial responsibilities, accountability to the President, dealing with issues of conflict of interest, participation in organisations and societies, and the delegation of Cabinet functions, was approved by the Cabinet in 2010.[79] A code of ethics for officials appointed by the President was only adopted in 2012, and outlines the principles and behaviours expected from political appointees in the performance of their duties, including matters such as attendance, leave, and conflict of interest rules.[80] These codes, however, do not have the force of law. Sanctions for breaches are prescribed at the discretion of the President, and neither of these codes is publicly disclosed.

Anti-corruption legislation imposes further restrictions, including those prohibiting Ministers and senior officials of the Executive or their spouses from engaging in any form of business venture with a foreigner, punishable by imprisonment, banishment, or house arrest for up to three years.[81] Officials of the Executive are also subject to other prohibitions in anti-corruption legislation, including a prohibition on conduct deemed to constitute a conflict of interest, bribery, undue gain, and other corruption offences. The legislation further provides for gift and hospitality rules.[82]

Members of the Executive, including the President, Vice President, and the Cabinet of Ministers, are required to submit annual statements to the Auditor General,[83] listing all property and monies owed by them, their business interests, and all assets and liabilities. Requirements for filing assets declarations are absent for other members of the Executive, including State ministers, deputy ministers and ambassadors. Moreover, there are no restrictions on ministers or other senior officials of the Executive engaging in post-ministerial employment, and no regulations exist to prevent "revolving door" appointments.[84]

77. *Constitution, articles 119(a), 136(a).*
78. *Constitution, article 127.*
79. *President's Office, "Cabinet Approves its Code of Conduct" Press Release (28 September 2010) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=1513>.*
80. *President's Office, "Code of Ethics for Political Appointees comes into effect" Press Release (1 July 2012) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=7608>.*
81. *Prohibition and Prevention of Corruption Act, section 15.*
82. *Prohibition and Prevention of Corruption Act, section 15.*
83. *Constitution, articles 120, 138.*
84. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the executive, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the executive, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issue

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the executive, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues

2.2.6. Integrity (Practice)

To what extent is the integrity of members of the executive ensured in practice?

Score: 0/100

There is little information available about the implementation of the existing rules and codes enacted to ensure integrity of the members of the Executive. Adequate mechanisms to monitor or implement integrity rules are absent.

The implementation of legislative restrictions in relation to the conduct of Cabinet Ministers and other senior officials rarely comes to the forefront of media reporting, although it is difficult to say whether this is the result of a lack of infringements or a lack of monitoring. This may be due to the particular sociology of politics in the Maldives, where actors are often interconnected and those in power can usually use their influence to avoid any form of censure.

On the one hand, monitoring and implementation of corruption offences falling under the mandate of the ACC, in relation to members of the Executive, is to some extent visible. Recently, a case regarding the spouse of the Minister of Islamic Affairs allegedly conducting business with a foreigner in contravention of anti-corruption legislation was, upon investigation by the ACC, sent to the PG for prosecution.[85] A further case of the Islamic Minister and the Finance Minister conducting business with a foreigner in contravention of the same laws is pending investigation by the ACC.[86]

Most of the corruption cases investigated in 2011 were found in the executive branch

However, adequate mechanisms to monitor or implement other legislative and constitutional provisions aimed at ensuring integrity are absent. For example, constitutional provisions prohibit a member of the cabinet from actively engaging in a business or income-generating activity, but there are no dedicated institutions or mechanisms to monitor compliance, or to sanction non-compliance. The code of ethics applicable to Executive officials appointed by the President does not adequately address issues such as conflict of interest rules to ensure the integrity of its members,; nor is it effectively implemented. Moreover, the code of conduct applicable to Cabinet Ministers is not publicly available, and is arguably never enforced.

Constitutional requirements for the filing of assets and income details by members of the Executive have never been effectively implemented, owing to the absence of effective legislation and a mechanism for imposing sanctions. As recently as in July 2013, the Auditor General stated in parliamentary committees that not all Executive Officials were in compliance with this requirement.[87]

According to the annual report of the ACC, most of the 1,002 administrative corruption cases investigated in 2011 were related to the Executive branch and among officials of the Executive.[88] There are no formal mechanisms in place for sanctioning or penalizing senior executive officials while they are being investigated, either for corruption charges by the ACC or for criminal charges by the Police. It is almost always left to the discretion of the President to sanction such officials.

85. *"ACC sends case of Shaheem's wife forming company to PG" Haveeru News (web) 9 August 2013 at <www.haveeru.com.mv/dhivehi/sheikh_shaheem/142046>; ACC website at <http://acc.gov.mv/details/1810>.*
86. *"Case concerning Shaheem and Jihad forming company with a foreigner surfaces" CNM (web) 18 August 2013 at <www.cnm.mv/scnm/f/?id=15810>.*
87. *"Government officials refusing to file assets declarations" CNM (web) 27 July 2013 at <www.cnm.mv/scnm/f/?id=15173>.*
88. *See ACC, Annual Report 2011, p. 24.*

2.3. Role

2.3.1. Public Sector Management (law and practice)

To what extent is the Executive committed to and engaged in developing a well-governed public sector?

Score: 50/100

The Executive plays a limited role in developing a well-governed public sector. There is some commitment by the Executive to improving coordination between the two institutions.

Regulation of the public sector is mandated solely to the independent CSC,

Minimum score (0)

The executive is inactive and unsuccessful in developing a public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness

Mid-point score (50)

The executive is somewhat active, but rather unsuccessful in developing a public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness

Maximum score (100)

The executive is very active and successful in developing a public sector which is governed by high levels of transparency, accountability, integrity and inclusiveness.

The fight against corruption does not appear to be a priority of the Executive

and it is the CSC that organises activities and incentives for civil servants. However, the Executive has a vested incentive in ensuring that the relevant employees meet accountability measures – such as meeting financial reporting deadlines, addressing audit report recommendations, and enacting proper procedures – as the responsible cabinet minister is criticized in the media over these issues[89]. The Executive, for its part, has initiated efforts to improve coordination and resolve matters arising between Executive officials and civil service employees. In September 2010, the President formed a joint committee of senior government officials and members of the CSC to hold discussions between the two institutions on matters regarding civil service.[90] The successive administration also formed in September 2012 a new committee for improving coordination between the Government and the CSC, and improving coordination between civil service employees and Executive officials.[91] As these are new developments in an infant system, it remains to be seen whether any substantial developments arise from these coordination efforts, and concrete actions are needed to gain public confidence.

Other than these coordination efforts, the research did not reveal that the Executive carries out any programmes or activities specifically aimed at incentivising activities of the public sector.

Minimum score (0)

The executive does not pay attention to the promotion of public accountability and the fight against corruption

Mid-point score (50)

While there are a number of reforms, initiated and promoted by the executive, to counter corruption and promote integrity, they are piecemeal efforts, which are considered largely ineffective in achieving their goals

Maximum score (100)

Comprehensive, concrete and proactive steps are taken by the executive to promote public accountability and the fight against corruption.

2.3.2. Legal system

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?

Score: 0/100

The top leadership of the Executive does not pay much attention to the promotion of public accountability, and the fight against corruption does not appear to be a priority of the Executive except in rhetoric.

The Executive does acknowledge the fight against corruption as a serious concern in the country. There have been several announcements and public statements issued by the Executive over the years about its commitment to fighting corruption.[92] However, any concrete commitment on the part of the Executive is absent. This is demonstrated by reports on corruption that have been created by international organizations and NGOs, which reveal a high level of political corruption in the Maldives, including within the Executive branch.[93] With the independent ACC having the mandate to investigate allegations of corruption, as well as to work on prevention, no real effort is seen to be made on the part of the Executive or any other body of the State to effectively fight corruption. One commentator observed that the existing chaotic political environment and the ongoing "power struggle" amongst the different branches of State have placed the fight against corruption in the backseat.[94]

The establishment of an independent statutory body such as the ACC to fight against corruption means that most anti-corruption activity takes place outside the Executive. Whilst there is nothing to prevent the Executive from running its own anti-corruption campaigns, there is a general feeling that such tasks are outside the scope of the Executive, and falls within the competence of the ACC.

89. *See for example, "Qaumee Party calls for "immediate" resignation of Finance Minister", Haveeru News online, September 29 2009 http://www.haveeru.com.mv/news/27554,*
90. *President's Office website at <http://presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=1501>; <http://presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=1505>.*
91. *President's Office website at <http://presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=7739>.*
92. *See, President's Office, "Maldives President Committed to Zero Tolerance on Corruption" (2012) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=7470>; President's Office, "President Calls for Prioritised Investigation of Corruption Allegations against Former and Current Government" (2011) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=6381>; President's Office, "Cabinet decides to address Corruption Allegations against Government" (2011) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=6407>; President's Office, "Weekly Radio Address: Government to Continue Fight against Corruption" (2010) at <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=1336>.*
93. *See Minvan News, at http://minivannews.com/politics/systemic-failure-to-address-corruption-transparency-maldives-28970.*
94. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*

Recommendations

1. Political appointments by the Executive need to be guided by selection criteria of professionalism, and a predetermined need for each institution.

2. Comprehensive codes of conduct for all public officials, and Standard Operating Procedures for issues that concern the public or finances, need to be drawn up where lacking. These Codes and SOPs need to be made publicly available, and penalties for non-compliance must be clearly stated and enforced.

3. There should be greater transparency in the activities of the Executive; legislation on transparency in the activities and decision-making of the Executive needs to be reviewed, revised and enforced.

4. The submission of declarations of the income, assets, and business interests of the President, Vice President, Cabinet Ministers and other senior officials of the Executive should be better enforced by the AG, and made publicly available.

5. More independence should be granted to the Executive in determining public spending, but with strong measures in place to ensure integrity and transparency in the decision-making criteria and process.

VII 3. Judiciary

Summary

The Judiciary, which had hitherto been an integral part of the Executive, became an independent branch of the State governing system with the promulgation of the new Constitution in 2008, with the independent Judicial Services Commission (JSC) being responsible for its oversight. However, allegations of political influence in the Judiciary persist due to the questionable way in which almost all the judges serving prior to the Constitution 2008 were made permanent en masse by the JSC. The appointment of the Supreme Court Justices in 2010 was seen as a politicised move among the political parties. The country's political upheavals in recent years, resulting sometimes in political deadlocks between the Executive and the Legislature due to intransigence, have contributed to the Judiciary becoming more powerful than had been envisaged under the Constitution. Concerns have been raised regarding the qualifications and suitability of many of the judges currently serving on the bench. International experts have also stated that the Judiciary has been misinterpreting the concepts of judicial independence afforded under the new Constitution.

There does appear to be a wide gap between the law and practice in the affairs of the Judiciary with regard to its independence and integrity. Moreover, mechanisms that have been established to ensure its accountability appear to be inadequate.

Average Score = 35/100

The table below presents the indicator scores that summarise the assessment of the Judiciary in terms of its capacity, internal governance and role within the integrity system of the Maldives.

Dimension	Indicator	Law	Practice
Capacity	Resources	50	25
	Independence	50	0
Governance	Transparency	50	75
	Accountability	25	0
	Integrity Mechanisms	75	0
Role	Executive oversight	75	
	Legal Reforms	0	

Structure & Organization

Until the promulgation of the Constitution of 2008, the Judiciary had been an integral part of the Executive, with the Head of State being the final arbiter in the propagation of justice in the country. Furthermore, it had been

described by some as "a mere mail forwarding service for a politicised police and prosecution".[1] The President retained all powers to appoint and remove judges.[2]

The Constitution of 2008 established the Judiciary as one of the three separate branches of government, independent of the Executive and Legislature.[3] The judicial branch comprises a three-tier system, consisting of the Supreme Court, the High Court, and the superior and lower courts.

The Supreme Court, headed by the Chief Justice along with six other justices, is the highest authority for the administration of justice, and the final authority on the interpretation of the Constitution.[4] The second tier comprises the High Court, which is the court for the first instance of appeal, although the appellate process is only exhausted with the Supreme Court. Depending on its nature, a case may be submitted to the High Court in the first instance. The third tier of the Judiciary consists of the superior courts and the lower courts. The superior courts consist of the Civil Court, Criminal Court, Family Court, Juvenile Court, and the Drug Court based in the capital, Male'.[5] The lower courts comprise the Magistrate Courts in each of the other 194 inhabited islands.[6]

An Employment Tribunal was established under the Employment Act 2008, with the jurisdiction to deliberate on employment-related, issues including unfair dismissals,[7] and a Tax Appeal Tribunal was set up under the Tax Administration Act 2010.[8] These specialist tribunals do not necessarily come under the ambit of the Judiciary, and they are governed by their respective legislations. A bill on establishing a mercantile court specialising in trade-related disputes, and a bill on the establishment of an arbitration centre in the Maldives, were submitted by the Government to the Parliament in 2012, and are being deliberated in parliamentary committees.[9]

The newly promulgated Constitution of 2008 also established the Judicial Service Commission (JSC) as an independent and impartial body, empowered to regulate the conduct of the Judiciary. It is vested with powers to appoint, promote and transfer judges, to investigate judges' misconduct, to issue recommendations for dismissal, to enact rules for recruitment and appointment, and to institute ethical standards.[10] The JSC consists of ten members, comprising the Speaker of the Parliament, the Attorney General, the Chair of the Civil Service Commission (CSC), a justice from the Supreme Court and one from the High Court, a judge from the superior courts, elected by judges of those courts, a member of parliament (MP) appointed by the Parliament, a Presidential appointee, a member of the general public appointed by the Parliament, and a lawyer elected from amongst licensed lawyers.[11]

The Department of Judicial Administration (DJA), established by the Judicature Act 2010, is mandated with all administrative functions of the Judiciary, including the management of human resources and finances, internal auditing, and the establishment of mechanisms for judicial reporting and archiving. The DJA is headed by the Chief Judicial Administrator, and functions under the direct supervision of the Chief Justice.[12]

A Judicial Council which was established by the Judicature Act and entrusted with enacting the necessary regulations and procedures of the courts, and harmonizing procedures amongst the courts,[13] was repealed by the Supreme Court on 2 December 2008, and its functions were then taken over by the Supreme Court.[14]

1. *International Commission of Jurists (ICJ), Attacks on Justice 2005: Republic of Maldives (11 July 2008) page 3 <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/04/Republic-of-Maldives-Attacks-on-Justice-2005-Publications-2008.pdf> [accessed 2 November 2012].*
2. *Constitution 1998, article 4(2), provides that the administration of justice is vested with the President and the Courts. Under article 39, President is the head of the Judiciary.*
3. *Constitution, 2008, chapter VI.*
4. *Constitution, articles 141 (b), 145(c).(a), Judicature Act (Law No.22/2010) Section 5*
5. *Constitution, article 141 (a); Judicature Act Section 2, 53 (b), 2010 (Law No. 22/2010).*
6. *Constitution, article 141 (a); Judicature Act Section 62*
7. *Employment Act, 2008 (Law No. 2/2008) Section 84(a), Employment Tribunal Regulations 3(2)*
8. *Tax Administration Act, 2010 (Law No. 3/2010), chapter 5*
9. *Mercantile Court Bill, 17 July 2011; Arbitration Bill, submitted in April 2012. The Arbitration bill has since been passed by the parliament and enacted into law in 2013 – Arbitration Act, 2013 (Law No. 10/2013).*
10. *Constitution, articles 157 (a), (b), (c)1,2,, 159; Judicial Service Commission Act, 2008 (Law No. 10/2008) (the JSC Act) Section 21*
11. *Constitution, article 158; JSC Act, section 3.*
12. *Judicature Act, Section 90(a), 91, 92(a)*
13. *Judicature Act, Section 81,82*
14. *Supreme Court, Ruling, 2 December 2008 (No. 2008/SC-RU/01).*

Assessment

3.1 Capacity

3.1.1. Resources (Law)

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the Judiciary?

SCORE: 50/100

The legal framework ensures effective mechanisms for the determination of judges' remuneration. However, there exist no mechanisms for ensuring that adequate resources are allocated to the Judiciary to ensure the efficient functioning of the institution. Nor is the Legislature required to apportion a particular percentage of the annual State budget for the Judiciary.

The remuneration for judges and members of the JSC is determined by the Legislature.[15] However, those members of the JSC who are also members of the Executive, Judiciary or Parliament are not entitled to remuneration for their membership of the JSC. The Judges Act 2010 provides that, in determining remuneration for judges, Parliament must consider allocating adequate amounts commensurate to family maintenance as well as ensuring the independence and impartiality of judges,[16] although no specific mechanism is provided in law to secure salary adjustments with regard to inflation. It should also be noted that the Judicial Service Commission Act 2008 (the JSC Act) prohibits income reduction for JSC members during their term of office.

The law does, however, ensure that other amenities for judges, including medical insurance for family members and a living allowance in proportion to the respective island's living standards, are provided.[17] The Judges Act mandates the State to provide necessary professional training for judges.[18] Legislation further seeks to ensure the security and safety of judges, with the State security services mandated to provide necessary security for judges,[19] as well as to provide for the maintenance of security of the courthouses.[20]

The Judiciary is not empowered to submit its own budget directly to the Parliament.

Minimum score (0)

There are no laws which seek to ensure appropriate judicial salaries, working conditions and tenure policies..

Mid-point score (50)

While a number of provisions exist ,they do not cover all aspects of resources and/ or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure appropriate judicial salaries, working conditions and tenure policies.

15. *Constitution, articles 152, 164; JSC Act, section 16(b).*
16. *Judges Act, 2010 (Law No. 13/2010), section 8 (b)*
17. *Judges Act, section 39 (a),(b)*
18. *Judges Act, section 11 (a)*
19. *Judges Act, section 13.*
20. *Judicature Act, section 95.*
21. *See, "Court system may be halted during the year due to budgetary shortcuts: Judiciary" Haveeru News (web) 7 January 2013 at <www.haveeru.com.mv/dhivehi/news/132429>; "Judiciary requests Parliament for additional budget" Sun Online (web) 6 January 2013 at <www.sun.mv/25861>; "14 storey building to be constructed to house the courts" Haveeru News (web) 5 February 2013 at <www.haveeru.com.mv/dhivehi/news/133904>.*

3.1.2. Resources (Practice)

To what extent does the Judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

Score: 25/100

There have been numerous instances of concern being raised with regard to the severe budgetary constraints faced by the Judiciary, which lead to inefficiencies in many respects. In early 2013, the senior management of the Judiciary raised serious concerns over budget cuts causing major challenges to the effective functioning of the court system. The challenges included shortages of office space and human resources. as well as in the training and development of judges.[21]

The annual budget formulated by the Judiciary, including the budget of

Minimum score (0)

The existing financial, human and infrastructural resources of the judiciary are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)

The judiciary has some resources. However ,significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)

The judiciary has an adequate resource base to effectively carry out its duties.

the JSC, is proposed to the Ministry of Finance and Treasury, and is then submitted to the Parliament as part of the State budget, with or without modification as may be determined by the Finance Minister.[22]

Furthermore, the structuring of the judicial system creates additional challenges in terms of the efficacy of the allocated budget[23] such as the Supreme Court[24] undertaking similar administrative functions relating to the whole Judiciary to those undertaken by the DJA.[25] This duplication of functions by DJA and the Supreme Court creates further complications in the budget formulation and allocation processes.

Remuneration for judges is determined by the Parliament, independent of the Executive. Justices of the Supreme Court are paid a monthly remuneration of MVR 71,000 (US$ 4,604), while the Chief Justice is paid a monthly remuneration of MVR 73,125 (US$ 4,742). Justices of the High Court are paid a monthly remuneration comparative to that received by a cabinet minister, of MVR 54,300 (US$ 3,521), whilst the Chief Justice of the High Court is paid a monthly remuneration of MVR 56,300 (US$ 3,651). Judges of the superior courts are paid a monthly remuneration comparable to a minister of state, amounting to between MVR 46,375 (US$ 3,007) to MVR 49,300 (US$ 3,197). A phone allowance of MVR 1,000 (US$ 65) is also allocated to justices of the Supreme Court and the High Court, and judges of the superior courts.[26]

Whilst this remuneration is generally sufficient, no allowances are made for the different costs of living standards in different islands. In this respect, remuneration for judges in the capital Male' may be considered comparatively low relative to the high cost of living in Male', and compared to living costs on other islands. On the other hand, remuneration is much lower for prosecutors compared to even the most junior of judges.[27]

A major concern of the Judiciary is the weak human resources framework and infrastructure, which hamper its ability to undertake its functions effectively.[28] The judicial system lacks a robust cadre of administrative staff due to structural problems resulting from decades of neglect in instituting an effective staff development programme.[29] Even though some training opportunities are made available, the Judiciary is unable to realise the full benefits of such training due to additional structural problems, including procedural shortcomings, which tend to limit the opportunity to have a focused training system.[30]

The oroblem of shortages of office space is not unique to the Judiciary. In a country with a severely scarce land area, this is a problem shared by all other state institutions as well. In fact, the Judiciary is comparatively well housed in the capital, Male', especially in comparison with other government offices.[31] It is also worth noting that in early 2013, the Government commenced work on a new building to house all the courts in Male'.[32]

3.1.3. Independence (Law)

To what extent is the Judiciary independent by law?

SCORE: 50/100

The independence of the Judiciary is guaranteed by the Constitution of 2008 but the provisions regarding the judicial watchdog, the JSC, are weak in

22. *See for example, JSC Act, section 35(a).*
23. *Interview of Abdulla Muizzu, former Attorney General and Vice Chair of JSC, with lead researcher, Male', 31 January 2013.*
24. *See Supreme Court website at <www.supremecourt.gov.mv/~supreme/mediafolder/images/sc-org-chart.jpg>.*
25. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
26. *Parliamentary Committee on Public Finance, Report on Remunerations of State Officials Determined by the People's Majlis under Article 102 and Section 100(a)(10) of the Regulation of the People's Majlis, 25 December 2012.*
27. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
28. *Commission of National Inquiry, Report of the Commission of National Inquiry, Maldives, 30 August 2012, page 61.*
29. *"Major cases in courts pending" Haveeru News (web) 17 September 2011 at <www.haveeru.com.mv/dhivehi/report/110206>.*
30. *For example, training for judges is determined by JSC members, while training for administrative staff is determined by the DJA. This limits the opportunity to have a focused training system – see JSC Act, section 21; Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013; Interview of Husnu Al-Suood, former Attorney General and former member of JSC, Male', 20 January 2013.*
31. *See for example, "Former STO building to house Criminal Court" Haveeru News (web) 8 September 2012 at <www.haveeru.com.mv/dhivehi/news/126857>; "Judicial Administration provides building to Juvenile Court" Haveeru News (web) 8 December 2010 at <www.haveeru.com.mv/dhivehi/news/97057>; "High Court also moved to Theemuge" Haveeru News (web) 2 January 2010 at <www.haveeru.com.mv/dhivehi/news/85010>; "Drug Court opens its new building" Haveeru News (web) 12 November 2012 at <www.haveeru.com.mv/dhivehi/news/129868>.*
32. *"14 storey building to be constructed to house the courts" Haveeru News (web) 5 February 2013 at <www.haveeru.com.mv/dhivehi/news/133904>.*

Minimum score (0)

There are no laws which seek to ensure the independence of the judiciary.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of judicial independence and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the judiciary.

ensuring this independence.

The Constitution prohibits anyone, including public officials, from interfering with and influencing the functions of the courts. It further imposes a duty on public bodies to assist and protect the courts to ensure the independence, eminence, dignity, impartiality, accessibility and effectiveness of the courts.[33] Judges are deemed independent and subject only to the Constitution and the law. They are required to exercise their functions impartially, without fear, favour or prejudice.[34]

The Judges Act provides that no judge may be questioned or made accountable by anybody in respect of any orders or judgments pronounced in the exercise of their functions, except in the exercise of the right of appeal provided for in law.[35] Legal protection is also afforded to judges against arbitrary arrests. The Judges Act stipulates that no judge may be arrested, except while in the process of committing a criminal offence, without an order of a court higher than that of the court in which the judge being arrested sits, sought by the Prosecutor General.[36] Similarly, members of the JSC are afforded immunity from prosecution or civil suit for acts conducted in good faith, in the exercise of functions within the legal powers of the JSC.[37]

The responsibility for appointing and removing judges does not reside with any single branch of government. The Chief Justice and justices of the Supreme Court are nominated by the President, in consultation with the JSC, and appointed upon receiving the consent of the Parliament through a simple majority vote of those present and voting.[38] The justices of the High Court and judges of the other courts are appointed by the JSC.[39] All judges are appointed for life, with a retirement age of seventy years.[40] A judge may only be removed from office following a finding by the JSC of gross incompetence or misconduct, and a determination by the Parliament for removal of the judge.[41] Whilst the appointment of justices to the Supreme Court requires a simple majority vote of the Parliament,[42] a resolution of a two third majority of the members present and voting is required for removal of a justice from the bench.[43] However, there are no legislative restrictions on removing judges from the bench through effecting amendments to the Judges Act or the Judicature Act, which requires only a simple majority resolution of the Parliament. Constitutional provisions that pertain to the Judiciary may be amended through an Act of Parliament passed by a three quarters majority.[44]

Whilst numerous provisions exist in law to ensure the independence of judges from the other branches of the Government, and judges are subject only to the judicial watchdog body, the JSC, the composition of the JSC tends to weaken the whole mechanism established to ensure judicial independence. The composition of the JSC, a number of whose members are appointed by virtue of their political affiliation and others of whom are sitting judges,[45] tends to contribute to an unfortunate politicisation of the work of the JSC and consequently ineffective oversight, both in its process and in the decisions taken with regard to the various issues brought before the JSC.

3.1.4. Independence (Practice)

To what extent does the Judiciary operate without interference from the government or other actors?

SCORE: 0/100

33. *Constitution, article 141(c), (d).*
34. *Constitution, article 142; Judges Act, sections 4, 7.*
35. *Judges Act, section 9.*
36. *Judges Act, section 12 (a)*
37. *JSC Act, section 18.*
38. *Constitution, article 147, 148(a); Judicature Act, section 16(b),(c)*
39. *Constitution, article 148(b); Judges Act. 16(c)*
40. *Constitution, article 148(c); Judges Act, section 6(a), 21(a).*
41. *Constitution, article 154(b)., Judges Act Section 22(b)*
42. *Constitution, article 148 (a), Judges Act Section 19 (b)*
43. *Constitution, article 154(b); Judges Act, section 22 (b)*
44. *Constitution, article 261. Any amendments to a provision in the bill of rights in chapter 2, term of the People's Majlis in article 79(a), presidential term in article 107, and form of electing the President in article 108, require further approval in a public referendum – Constitution, article 262. No amendment to the Constitution can be made during a state of emergency – Constitution, article 267.*
45. *Constitution, article 158; JSC Act, section 3.*

Minimum score (0)

Other actors regularly and severely interfere with the activities and decision-making of the judiciary.

Mid-point score (50)

Other actors occasionally interfere with the activities of the judiciary .These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the judiciary.

Maximum score (100)

The judiciary operates freely from any interference by other actors.

Whilst the legal framework does endeavour to uphold the constitutional guarantee of judicial independence, a number of deficiencies exist, both in institution and in practice, which could potentially negatively affect the impartiality of the Judiciary, and thus contribute to compromising its independence. This is evident in the current composition of the Supreme Court as well as other superior and lower courts. Similarly, although criteria in terms of qualifications, experience and general conduct exist for the appointment of judges, there are numerous instances in which such criteria have been ignored or bypassed.

The current justices of the Supreme Court were appointed in a highly politically charged atmosphere when the Interim Supreme Court became defunct in 2010, as provided for in the 2008 Constitution. The number of justices to be appointed to the Supreme Court and the final composition of the bench were the result of intense political bargaining and pressures between the various political parties which gave rise to the notion that the appointments finally made by the President, upon receiving consent from the Parliament, were based more on their political leanings than their qualifications and integrity. In fact, there have been allegations that some members on the Supreme Court bench do not satisfy the constitutional criteria required, but were nevertheless appointed to appease certain political parties. Similar allegations have dogged the appointment of justices to the High Court as well.[46]

The composition of the JSC itself poses a major challenge to the body's ability to function as an independent, impartial body dispensing decisions regarding the Judiciary. The presence of a number of members who hold political affiliation and are in fact appointed to the body based on the political post held by them makes it exceedingly difficult for these members to be impartial in their decisions. This has been further exacerbated by the intensely adversarial partisan politics that have pervaded the country ever since the elections in 2008. Their political biases tend to impinge on who gets appointed as a judge, who gets censured, who gets demoted or transferred, and who gets disciplinary action taken against them. This results in JSC members being susceptible to innumerable external influences that go beyond the principles of justice and fairness when making the decisions regarding judicial appointments and censures and/or performing other functions that are entrusted to them. Thus, it would appear that the JSC itself is the single biggest factor affecting the independence and impartiality of the Judiciary, both in theory and in practice.[47]

Another major criticism levelled against the JSC has been for its failure to fulfil its constitutional mandate in properly vetting and reappointing the judges.[48] Whilst the Constitution requires judges to hold certain minimum levels of qualifications, and to be persons of moral and ethical integrity, the JSC "automatically" reappointed, in a hastily-organised ceremony, all the sitting judges who had been serving under the previous regime prior to the promulgation of the new Constitution.[49] In November 2012, the Chief Justice himself also expressed discontent with the performance of the JSC, expressing that the majority of the issues and challenges faced by the Judiciary would be resolved if the JSC functioned effectively.[50] The International Commission of Jurists (ICJ) has also observed that JSC decision-making has been perceived as being inappropriately influenced by a polarized political environment.[51]

Public perception of the Judiciary, by both the local population and by international bodies that have studied the functioning of the Judiciary in the Maldives, is worrisome. In 2011, the ICJ observed that the decisions of

46. *See for example, MDP, A Legacy of Authoritarianism: A Dossier on the Maldivian Judiciary (2012); Aishath Velezinee, Democracy Derailed: The Unconstitutional Annulment of Article 285 and its Consequences for Democratic Government in the Maldives (2010).*

47. *See "Maldivian courts failing to serve the public impartially: ICJ report" Minivan News (web) 21 February 2011 at <www.minivannews.com/politics/maldivian-courts-failing-to-serve-the-public-impartially-icj-report-16377>.*

48. *ICJ, Maldives: Securing an Independent Judiciary in a Time of Transition (February 2011), page 3 at <www.icj.wpengine.netdna-cdn.com/wp-content/uploads/2012/08/Maldives-independent-judiciary-fact-finding-mission-2011.pdf> [accessed 2 November 2012].*

49. *See for example, Amnesty International, Maldives: The other side of paradise: A human rights crisis in the Maldives, 5 September 2012, page 10 at <http://www.amnesty.org/en/library/asset/ASA29/005/2012/en/6d93c0bb-67f0-4688-b22a-b8c115e83f52/asa290052012en.pdf> [accessed 10 October 2012].*

50. *"Major Challenges would be resolved if JSC functioned effectively: Chief Justice" Channel News Maldives (CNM) (web) 13 November 2012 at <www.cnm.com.mv/beta/news/8363>.*

51. *ICJ, Maldives: Securing an Independent Judiciary in a Time of Transition (February 2011), page 4.*

the Judiciary have been perceived as being politicised, and that members of the Judiciary are subject to threats and intimidation, as well as improper inducements by both the governing and opposition political parties.[52] More recently, in 2013, the UN Special Rapporteur on the Independence of Judges and Lawyers noted that the concept of the independence of the Judiciary had been misconstrued and misinterpreted in the country, including by judicial actors, and that many challenges to the independence of judges, prosecutors, court officials and lawyers remained, affecting the delivery of justice. These challenges need to be assessed as a matter of urgency.[53]

The selection of applicants for judges does not follow best practices

3.2. Governance

3.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the Judiciary?

SCORE: 50/100

The legal framework seeks to ensure transparency in the activities of the Judiciary, but is not without certain gaps and shortfalls.

Legislation prescribes the conduct of fair and public hearings, requires judicial proceedings to be conducted with justice, transparency and impartiality, and prescribes limited circumstances under which an exception may be made to the conducting of public hearings.[54] An exception to a public hearing may be made by the presiding judge (i) in the interests of public morals, public order or national security; (ii) where the interest of juveniles or the victims of a crime so requires; or (iii) under other special circumstances where publicity would prejudice the interests of justice.[55]

The JSC, vested with the power to appoint and dismiss judges in all courts except the Supreme Court, and to regulate the conduct of judges, is mandated to prescribe regulations on procedures for the recruitment of judges, codes of conduct, and conflict of interest rules applicable to judges.[56] Accordingly, the JSC has formulated regulations on, inter alia, the recruitment and appointment of judges to superior courts and the lower courts, and the moving of judges to other courts.[57]

Detailed regulations about procedures of the courts are, however, lacking. Whatever documents exist in this regard are out-dated, incomprehensive and inadequate. The current Civil Procedure Code dates back to 2003, and does not address the provisions and requirements of the Constitution of 2008. A revised Civil Procedure Code and a Criminal Procedure Code are currently being deliberated in the Parliament.

The Constitution requires that all judgments and orders of the courts are pronounced publicly, and made available to the public.[58] A detailed report of the judgment must also be made available to respective parties within 14 days of judgment being pronounced.[59] All decisions of the courts are required to be made by the majority of judges presiding over the matter.[60] A requirement for each judge to pronounce his/her decision in the Judicature Act was pronounced unconstitutional and repealed by a ruling of the Supreme Court.[61]

Judges are required to submit to the JSC annual statements of property and

Minimum score (0)

There are no provisions which allow the public to obtain relevant information on the organisation and functioning of the judiciary ,on decisions that concern them and how these decisions were made.

Mid-point score (50)

While a number of laws/provisions exist to allow the public to obtain relevant information of the organisation and functioning of the judiciary ,they do not cover all aspects related to the transparency of the judiciary and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the judiciary ,on decisions that concern them and how these decisions were made.

52. ICJ, Maldives: Securing an Independent Judiciary in a Time of Transition (February 2011), pages 3-4.
53. Office of the High Commissioner for Human Rights (OHCHR), The Maldives: UN expert warns of major challenges ahead to ensure independence of the judiciary (26 February 2013) at <www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13047&LangID=E> [accessed on 27 February 2013].
54. Constitution, article 42; Judicature Act, sections 14, 41, 71.
55. Constitution, article 42(c), Judicature Act Section 71
56. JSC Act, section 21(c).
57. Regulation on Appointment of Judges to Superior Courts, 2011; Regulation on Appointment of Judges to the Drug Court, 2012; Regulation on Appointment of Magistrates to Magistrate Courts, 2012; Regulation on Moving of Judges from One Court to Another on their Request, 2013.
58. Constitution, article 42(d); Judicature Act, section 71(c).
59. Judicature Act, section 15(b).
60. Judicature Act, section 34.
61. Judicature Act, section 6(a) and part beginning with second sentence of section 34 was repealed by Supreme Court, Ruling, 8 November 2010 (No. 2010/SC-RU/01).

monies, business interests and assets and liabilities.[62] No requirement to publicly disclose assets declarations exists in legislation for any member of the Judiciary. The JSC is also required to prepare and submit reports to the Auditor General after auditing, who in turn must formulate a financial report and submit the report to the President and the Parliament.[63]

3.2.2. Transparency (Practice)

To what extent does the public have access to judicial information and activities in practice?

SCORE: 75/100

The courts based in the capital have an adequate information dissemination system, whilst no information is available regarding the island courts. Public reporting of judicial activities is carried out through an information dissemination system in the official websites of judicial bodies including the JSC, Supreme Court, High Court, and other courts. The information available to the public is generally found in annual reports, statistical and other reports, which are mainly published online. These reports include information about members, the appointment of judges, complaints lodged to the JSC, judicial regulations, and administrative activities.[64] Courts have also published on their websites information on proceedings, regulations, judicial statistics and administrative activities.[65] As far as public access to information on court cases is concerned, in practice, only a very small number of cases have closed door hearings and are not open for public access. Whilst there is public access to court hearings in general, hearings on the extension of detention of suspects, for example, are not made public.[66] In some instances, public access to cases may be limited due to space constraints in the courts.

Information on the appointment and removal of judges conducted by the JSC, including information on the numbers of judges appointed, promoted, and retired, is included in JSC annual reports.[67] Vacancies for judgeships are advertised publicly and anyone who qualifies can apply. However, the selection of applicants for judges does not follow best practices; hence, the best applicant for the post is not always appointed. For example, academic qualifications are not interpreted in the most efficient manner, and the requisite past experience criterion is sometimes ignored.[68]

The media also plays a key role in disseminating information about the court system. Apart from public media reports, the courts themselves have a media reporting mechanism by which to disseminate news to the public, but this is restricted to courts based in the capital. For example, the courts publish on their websites news stories about court activities and decisions.[69]

3.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that the Judiciary has to report and be answerable for its actions?

SCORE: 25/100

The legal mechanisms set up for ensuring accountability of the Judiciary are flawed and do not adequately ensure accountability.

Minimum score (0)

The public is not able to obtain any relevant information on the organisation and functioning of the judiciary, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of the judiciary, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the organisation and functioning of the judiciary, on decisions that concern them and how these decisions were made.

62. *Constitution, article 153.*
63. *JSC Act, sections 35(c), 36.*
64. *See JSC, Annual Report 2011.*
65. *See for example, Supreme Court website at <www.supremecourt.gov.mv>; Supreme Court, Annual Report 2011; High Court website at <www.highcourt.gov.mv>.*
66. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
67. *See JSC, Annual Report 2011, page 9.*
68. *For example, qualifications from international institutes such as the International Islamic University of Malaysia acquire a lower accreditation than a much shorter course done at a local institute – Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
69. *See for example, Supreme Court website at <www.supremecourt.gov.mv/news.php>; High Court website at <www.highcourt.gov.mv/dhi/news.php>.*

Minimum score (0)

No provisions are in place to ensure that judges have to report and be answerable for their actions.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of judicial accountability and/or some provisions contain loopholes.

Maximum score (100)

Extensive provisions are in place to ensure that judges have to report and be answerable for their actions.

The JSC is the watchdog body mandated to regulate conduct of judges, and has authority to prescribe disciplinary or administrative measures, including issuing advice or warnings, demotions, transfer to different courts, or make an application to parliament for dismissal.[70] The JSC is required to conduct a proper investigation, and is empowered with same powers as a court in respect of summoning persons or collecting evidence.[71] The JSC may also suspend the accused judge, during any such investigation.[72] The actions and decisions of the judicial watchdog body, however, can be questioned or challenged in a court of law by the very subjects it seeks to regulate, thus rendering this role of the JSC ineffective.[73].

Judges are required to give reasons for their judgments, and all decisions of the courts are required to be made by the majority of judges presiding over the matter.[74] However, as noted above, the requirement for each judge to pronounce his/her decision in the Judicature Act was pronounced unconstitutional and repealed by a ruling of the Supreme Court.[75]

Corruption offences, whether conducted by judges or other public officials, come within the mandate of the Anti-Corruption Commission (ACC). In 2012, however, the JSC challenged the competency of the ACC to investigate corruption allegations relating to judges, and maintained that only the JSC had this authority.[76] In a letter addressed to the ACC, the JSC declared themselves the sole competent and legitimate authority to investigate corruption allegations against judges. Their reasoning was that the Judiciary was a separate branch of government and they retained the mandate to regulate such matters. The ACC had, in turn, responded that they were well within their legal mandate to investigate corruption matters involving judge and has continued to do as as evident from further cases being forwarded to PG by the ACC after this exchange.

Holding judges accountable, is challenging due to the high level of politicisation in the broader judicial system

3.2.4. Accountability (Practice)

To what extent do members of the Judiciary have to report and be answerable for their actions in practice?

SCORE: 25 /100

The issue of holding judges accountable has remained a major cause of concern, with the oversight body, the JSC, being highly ineffective.

Generally, judges provide reasoning for their decisions. Whilst there is no adequate mechanism to impose sanctions on those judges who do not comply with this,[77] there is no discernible evidence of penalties being imposed on judges who fail to provide the rationale behind a particular legal judgment

The issue of holding judges accountable is challenging due to the high level of politicisation in the broader judicial system.[78] The JSC, as the main regulatory body of the Judiciary, has a complaints mechanism to receive complaints against conduct of judges,[79] yet a majority of the complaints lodged do not result in any considerable action being taken in a timely manner in terms of ensuring accountability. For example, out of 77 complaints investigated by the JSC as of 2011, 67 complaints cases were resolved, and none of them found any ground to hold the respective judge accountable for any of the alleged issues.[80] This outcome gives rise to the impression that the JSC is more concerned with providing an avenue of

Minimum score (0)

No provisions are in place/existing provisions are not enforced at all.

Mid-point score (50)

While members of the judiciary have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that members of the judiciary have to report and be answerable for their actions in practice

70. Judges Act, section 35.
71. Judges Act, section 37; JSC Act, section 22.
72. Judges Act, section 37(d).
73. JSC v. Abdulla Mohamed, High Court, 20 November 2013 (2013/HC-A/10); Abdulla Mohamed v. JSC, Civil Court, 25 July 2012 (2253/Cv-C/2011).
74. Judicature Act, section 34.
75. Judicature Act, section 6(a) and part beginning with second sentence of section 34 was repealed by Supreme Court Ruling (No. 2010/SC-RU/01) dated 8 November 2010.
76. "Will investigate corruption allegations of judges without hesitation: ACC" Haveeru News (web) 22 September 2012 at <www.haveeru.com.mv/dhivehi/news/127558>.
77. Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013
78. See 3.1.4, independence indicator above.
79. JSC website at <www.jsc.gov.mv/complaints>; JSC, Complaints Application Form at <www.jsc.gov.mv/docs/Shakuvaa_form.pdf>.
80. See JSC, Annual Report 2011, pages 11-13, 25.

Complainants are not protected effectively in practice

protection for the judges than with holding them to account for their alleged misdeeds. Furthermore, there is also an impression of selectivity by the JSC in taking up complaints against judges lodged with the body.

The independent judicial watchdog body, the JSC, is constantly criticized for being ineffective and/or selective in its role of overseeing complaints about judges. The Bar Human Rights Committee of England and Wales has observed that complaints lodged with the JSC about certain judges built up and were not investigated. One prominent example is the case of the Chief Judge of the Criminal Court, who had 14 pending complaints lodged against him, on allegations of holding up cases involving opposition figures, barring media from corruption trials, ordering the release of suspects detained for serious crimes "without a single hearing", and maintaining "suspicious ties" with family members of convicts sentenced for dangerous crimes", among others.[81] While the JSC failed to deliberate on the majority of complaints lodged against this particular judge, the single complaint that was upheld and upon which sanctions imposed was overturned by the Civil Court when the Judge who was being censured lodged a case and obtained an interim injunction against the JSC.[82]

Moreover, the composition of the JSC, which permits politicians to sit in the body, increases the likelihood of judges forming political alliances, especially along lines of political parties with whom a member of that party is included in the JSC membership. Such unsavoury alliances may be used to quell, manipulate or interfere with disciplinary or other matters relating to those judges that come before the JSC.

Complainants are not protected effectively in practice. Although complaints can be submitted anonymously, given the close-knit nature of Maldivian society, it is impossible to afford complainants the anonymity and protection they require.[83]

Overall, given the political imbroglio, the Judiciary has managed to attain a vice-like grip on the Legislative and Executive branches of government. To this end, the Judiciary is vested with wide powers and jurisdiction over actions of the Executive. Similarly, the political impasse in Parliament has resulted in the Legislature ignoring the Judiciary overstepping their bounds and expunging provisions from the statute books at will. This practice has taken to such a level that many describe the justice system as "judicial tyranny".[84]

81. *Bar Human Rights Committee of England & Wales, A Report on Hearing in the Case of Former President Mohamed Nasheed, and Meetings with Lawyers, Politicians, and Journalists (November 2012) page 7 at <www.barhumanrights.org.uk/sites/default/files/documents/news/bhrc_trial_observation_report_-_mr_mohammed_nasheed_dec_2012.pdf> [accessed 14 December 2012].*
82. *Bar Human Rights Committee of England & Wales, (November 2012) page 8.*
83. *Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.*
84. *See for example, Mohamed Nasheed, "Decisions of the Supreme Court" Mohamed Nasheed's Blog (web) 2 December 2012 at <www.mnasheed.com/2012/12/decisions-of-supreme-court>; "MP Nasheed criticises the own initiative actions of the Supreme Court" Haveeru News (web) 2 December 2012 at <www.haveeru.com.mv/dhivehi/news/130805>; Supreme Court's judgements without trial should be stopped: MP Nasheed" Sun Online (web) 2 December 2012 at <www.sun.mv/24755>.*

3.2.5. Integrity Mechanism (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the Judiciary?

SCORE: 75/100

Minimum score (0)

There are no provisions in place to ensure the integrity of members of the judiciary.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of members of the judiciary and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of members of the judiciary. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality and post-employment restrictions.

The legal framework to address the integrity of members of the Judiciary exists, and seeks to effectively ensure the integrity of judges, though minor gaps exist that need to be addressed in law.

The Judicature Act provides principles of professional conduct for judges to ensure their integrity, and judges are required to maintain independence and impartiality. The Judges Act requires all judges to maintain their independence, eminence, dignity, impartiality and accessibility, and to exercise their functions impartially and without fear, favour or prejudice.

Moreover, judges are prohibited from using any information acquired in the exercise of functions for personal gain; from disclosing confidential information; from holding any office of profit; from actively engaging in a business or in the practice of any profession, or any other income-generating employment; from being employed by any person; from actively participating in political events; and from expressing political opinions.[85] The legislation also stipulates provisions for conflict of interest rules, gift and hospitality rules, and non-discrimination.[86] The JSC is mandated to enact detailed rules on codes of conduct.[87]

Members of the JSC are subject to the professional codes of conduct stipulated in the JSC Act, which require members to exercise their functions impartially, maintaining independence and integrity, and prohibits the disclosure of confidential information.[88] Furthermore, judges and JSC members are subject to the provisions of the Prevention and Prohibition of Corruption Offences Act, which prohibits conduct deemed to constitute a conflict of interest, bribery, undue gain, and other conduct deemed to amount to corruption offences. The Act also established gift and hospitality rules, and prohibits the conducting of business ventures with foreigners.[89]

The Judges Act also establishes a mechanism for performance appraisal of judges, biennially, by the JSC. The JSC has discretion to make an application to the Parliament recommending the removal from office of any judges not performing to required standards.[90] Any grievances citizens may have with regard to the impartiality of a judge must be submitted through the JSC.

Judges are required to disclose and file statements of income, assets, liabilities and business interests to the JSC annually.[91] Members of the JSC are required to file statements of income and assets to the Auditor General annually.[92]

There are no restrictions prescribed in law to prevent judges from taking public office, taking a political appointment, or entering the private sector immediately after leaving judgeship.

The Global Corruption Barometer Survey 2013 identifies the Judiciary to be the third most corrupt institution, followed closely by political parties and the Parliament. Fifty-five per cent of those surveyed considered the Judiciary of the Maldives to be corrupt.[93]

3.2.6. Integrity Mechanism (Practice)

To what extent is the integrity of members of the Judiciary ensured in practice?

SCORE: 0/100

Although the legal framework has provisions to ensure the integrity of judges, the overall organisational framework, including the judicial framework established under JSC, has significant shortfalls in upholding such provisions to ensure integrity of judges in practice.

The judicial system, overall, lacks the adequate institutional capacity to remove 'bad' judges, because it fails to establish moral or ethical standards of practice for judges.[94] Although the code of conduct established by JSC makes provisions to guarantee the independence, impartiality, modesty and

85. Judges Act, sections 29(a), 42.
86. Judges Act, sections 29(a), 42.
87. Judges Act, section 29(b).
88. JSC Act, section 17(a).
89. Prevention and Prohibition of Corruption Offences Act, 2000 (Law No. 2/2000) section 15.
90. Judges Act, section 56.
91. Constitution, article 153; Judges Act, section 65
92. JSC Act, section 17(d).
93. Transparency Maldives, Global Corruption Barometer 2013.
94. See "Former President Nasheed's trial politically motivated: Bar Human Rights Committee" Minivan News (web) 15 December 2012 at <www.minivannews.com/politics/former-president-nasheeds-trial-politically-motivated-bar-human-rights-committee-48959>.

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the judiciary, such that misbehaviour goes mostly unsanctioned

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the judiciary, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the judiciary, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

integrity of judicial practices,[95] the lack of capacity in terms of both human and financial resources within the Judiciary proves a significant obstacle to its ability to exercise its functions impartially and independently.

The judicial watchdog body, the JSC, has presumably failed to ensure the integrity of the Judiciary in practice.[96] It has been ineffective in ensuring that judges meet the professional requirements for their appointment by failing to investigate judges' misconduct. For example, the JSC has occasionally overlooked allegations of misconduct before appointing a number of judges for permanent tenure, and has on other occasions failed to take disciplinary actions against misconduct.[97] Job stability is guaranteed for judges in principle. Moreover, instances of judges being removed from office or voluntarily leaving are almost non-existent; there is no substantial evidence of any post-employment restrictions that they may encounter.[98]

More alarmingly, the Judiciary has rejected the authority of the ACC to investigate allegations of corruption within the Judiciary, including those of judges, and has attempted to establish this as a function of the JSC, a body more aligned with the judges themselves and the subject of much criticism.[99]

This behaviour of the Judiciary is, more importantly, linked to the broader political culture of the Maldives.[100] Inevitably, political bias and activism (i.e. going beyond the requisites of merely interpreting the law to determining what is construed as law) is strongly embedded in the judicial system of the Maldives. As a result, judicial organisations, including the JSC as a key governor of the Judiciary, experience institutional and organizational shortcomings with regard to ensuring and maintaining the integrity of the Judiciary, by failing to establish judicial best practices in the Maldives.[101] Observably, the negative public perception about the integrity of the Judiciary raises serious concerns. The Global Corruption Barometer Survey 2013 identifies the Judiciary to be the third most corrupt institution, with over fifty-five per cent of those surveyed considering the Maldives' Judiciary to be corrupt.[102]

3.3. Role

3.3.1. Executive Oversight

To what extent does the Judiciary provide effective oversight of the executive?

SCORE: 75/100

The legal framework established by the Constitution places great significance on the independence of the three branches of Government with a check and balance system. The Judiciary is vested with wide powers and jurisdiction over the actions of the Executive. However, with weak mechanisms in place to ensure the effective accountability of the Judiciary itself, the unrestrained exercise of judicial power over the Executive as well as the Legislature through judicial activism has led to serious concerns of "judicial tyranny".[103]

The Constitution espouses the right to administrative action that is lawful, procedurally fair and expeditious. Anyone adversely affected by any administrative action has right of redress through the courts,[104] although no clear definition of "administrative action" has been developed. The Courts have expansively used this provision to scrutinize a plethora of actions brought before them, not just by the Executive, but also by the Legislature,[105]

Minimum score (0)

The judiciary is rather inactive and entirely ineffective in providing oversight of the executive.

Mid-point score (50)

While the judiciary is somewhat active in seeking to oversee the actions of the executive, the effectiveness of its actions is limited (e.g. due to limited competencies and/or failure to implement existing provisions).

Maximum score (100)

The judiciary is effective in providing oversight of the executive.

95. JSC, Code of Conduct for Judges at <http://en.jsc.gov.mv/docs/JudgesCodeFinal.pdf>.
96. See for example, MDP, A Legacy of Authoritarianism: A Dossier on the Maldivian Judiciary (2012); Aishath Velezinee, Democracy Derailed: The Unconstitutional Annulment of Article 285 and its Consequences for Democratic Government in the Maldives (2010).
97. See UNHCR (2012) at <www2.ohchr.org/english/bodies/hrc/docs/ngos/HLA_Maldives_HRC105.pdf>.
98. Interview of Abdulla Muizzu with lead researcher, Male', 31 January 2013.
99. See for example, "Will investigate corruption allegations of judges without hesitation: ACC" Haveeru News (web) 22 September 2012 at <www.haveeru.com.mv/dhivehi/news/127558>; "Judges should also be summoned to ACC on corruption investigations: MDP" Haveeru News (web) 19 September 2012 at <www.haveeru.com.mv/dhivehi/news/127449>. A similar stance was established in the judgement of Nexbiz Ltd v. Anti-Corruption Commission, Supreme Court, 2 September 2012 (2012/SC-A/21).
100. See political foundations chapter.
101. See for example, "Major issue with some judges" Haveeru News (web) 7 May 2012 at <www.haveeru.com.mv/dhivehi/report/120792>; "A case relating to a justice of the Supreme Court sent to ACC" Haveeru News (web) 27 September 2011 at <www.haveeru.com.mv/dhivehi/news/110677>.
102. Transparency Maldives, Global Corruption Barometer 2013.
103. See for example, Mohamed Nasheed, "Decisions of the Supreme Court" Mohamed Nasheed's Blog (web) 2 December 2012 at <www.mnasheed.com/2012/12/decisions-of-supreme-court>; "MP Nasheed criticises the own initiative actions of the Supreme Court" Haveeru News (web) 2 December 2012 at <www.haveeru.com.mv/dhivehi/news/130805>; Supreme Court's judgements without trial should be stopped: MP Nasheed" Sun Online (web) 2 December 2012 at <www.sun.mv/24755>.
104. Constitution, article 43.
105. Mohamed Fahmy Hassan v. People's Majlis, Supreme Court, 14 March 2013 (2012/SC-C/35); Ahmed Siddeeq & Ors. v. People's Majlis, Supreme Court, 14 March 2013 (2012/SC-C/36).

and the judicial watchdog body, the JSC.[106]

Nonetheless, the powers and jurisdictions of the courts are comprehensively set out in legislation. Courts generally have the jurisdiction to rule on the constitutionality of any statute or regulation and to declare such legislation invalid, and to rule on the constitutionality of any order, decision or action of any person or body exercising a public function.[107] Under constitutional provisions, courts also possess the inherent power to protect and regulate their own process, in accordance with law and in the interest of justice.[108] Both the Supreme Court and the High Court act as appellate courts, with jurisdiction to hear appeals against any decisions made by a lower court or tribunal.[109] Furthermore, jurisdiction for certain specific matters is granted to the Supreme Court, including determination on questions concerning the qualifications or removal of an MP,[110] disputes concerning the qualification or disqualification, election, or status of a presidential or vice presidential candidate, or the removal of the President by the Parliament,[111] and issues regarding the validity of declarations of state of emergency made by the President.[112] The Supreme Court also has the jurisdiction to issue advisory opinions on questions of law, to and upon request of the Parliament.[113]

All judgements or orders made by the Supreme Court are binding for all other lower courts, as well as all public officials, including the Executive, Legislature, security forces and citizens.[114] A doctrine of precedent is established through hierarchy of the courts, with courts having the jurisdiction to overturn the decisions of lower courts, and lower courts being required to follow the decisions of higher courts.[115] However, questions exist with regard to independence within the court hierarchy – the Supreme Court exercises what it terms implicit powers, and frequently "takes over" matters being deliberated by lower courts.[116]

The Executive, for its part, generally adheres to orders and judgements of the courts. However, a highly polarised, politically charged and hectic environment in the past few years has witnessed rare occasions of overt refusal by the Executive, including the security forces, to comply with orders of the court.[117] For example, following the arbitrary arrest of a political party member, the Criminal Court declared that arrest to have been unconstitutional, and issued a ruling for the release of that member. However, the Government failed to comply effectively. Following the arbitrary arrest of a judge of the Criminal Court, the Supreme Court and High Court declared that arrest to be unlawful, and issued a ruling for the release of that judge, with which the government failed to comply.[118]

The tussle between the Executive and the Judiciary with regard to the arrest of the Chief Judge of the Criminal Court culminated eventually in the resignation of the then-President in February 2012, beginning a period of intensely partisan and combative rivalry between the political parties aligned with the new Government and the party of the former President. With no single party enjoying an absolute majority in the Parliament, the governing coalition parties and the opposition party both vied for the favour of the Judiciary in achieving their political aims, aided and abetted by a politicised JSC and the courts - in particular, the Supreme Court. Consequently, by allowing for judicial interference in the political system for short-term political gain, the Executive conceded considerable powers to the Judiciary. In fact, current political activism occasionally limits the executive oversight functions of the Judiciary in practice; overall, the Judiciary, given its ability to affect who is appointed to the Executive, as well as who gets to sit in Parliament, appears to have greater control over the Executive, as well as over the Legislature.

106. *JSC v. Abdulla Mohamed, High Court, 20 November 2013 (2013/HC-A/10); Abdulla Mohamed v. JSC, Civil Court, 25 July 2012 (2253/Cv-C/2011).*

107. *Constitution, article 144.*

108. *Constitution, article 156.*

109. *Judicature Act, section 31.*

110. *Constitution, article 74; Judicature Act, section 10(a).*

111. *Constitution, article 113; Judicature Act, section 10(b).*

112. *Constitution, article 258; Judicature Act, section 10(c).*

113. *Constitution, article 95.*

114. *Judicature Act, sections 20, 77.*

115. *Constitution, articles 143(c), (d).*

116. *See for example, Supreme Court, Writ of Prohibition, 23 January 2011 (No. 2011/SC-SJ/01); Ismail Wisham v. JSC, 5 December 2012 (No. 2012/SC-S/31); and Supreme Court, Order, 13 October 2011 (No. 2011/SC-SJ/08). See also, Bar Human Rights Committee of England & Wales (November 2012), page 14.*

117. *One example of non-compliance of a Court Order by the Executive is the case of the arrest of Chief Judge of the Criminal Court Abdulla Mohamed, when the MNDF refused to release from its custody despite an order of the Supreme Court - Supreme Court, Order, 17 January 2012 (No. 2012/SC-SJ/01). The ICJ also observed "the apparent extra constitutional use of the Maldives National Defence Force, the police, at times in defiance of court orders" - ICJ, Maldives: Securing an Independent Judiciary in a Time of Transition, February 2011, page 3.*

118. *See Democracy House at http://democracyhousemaldives.com/wp-content/uploads/2012/01/DH-brief-on-the-current-political-events-final.pdf.*

Minimum score (0)

The judiciary is inactive in the fight against corruption and it is unsuccessful in seeking to penalize offenders in corruption-related cases.

Mid-point score (50)

While the judiciary does seek to penalize offenders in corruption-related cases, its efforts are limited and often unsuccessful. It is largely reactive in its contribution to the fight against corruption and does usually not suggest any anti-corruption reforms.

Maximum score (100)

The judiciary is proactive in suggesting anti-corruption reforms and is generally very active and successful in penalizing offenders in corruption-related cases.

3.3.2. Corruption Prosecution

To what extent is the Judiciary committed to fighting corruption through prosecution and other activities?

SCORE: 0/100

Whilst the issue of corruption has become a serious cause for concern in the Maldives' society, based on available information, it is difficult to state that the Judiciary has shown any firm commitment or effectiveness in combating corruption in society through prosecution.

Admittedly, the courts face serious resource constraints in combating corruption, and this shortcoming in fighting corruption is further aggravated by the strong perception amongst the general public that there is a degree of complicity between the Judiciary and certain political quarters when it comes to prosecuting corruption cases. Other public institutions, such as the Police, the Prosecutor General's Office (PGO), and the ACC also play an integral part in combating corruption, and any shortcomings of the Judiciary in this area must be considered in concert with the work of all these relevant stakeholders.

There appears to be some evidence available to support the public perception that the Judiciary is highly selective in the exercise of its functions. For example, an order for the Police to present to Court a senior official of the former Government on pending corruption charges, including an order to withhold his passport and two arrest warrants, has been pending, with no hearings able to be conducted, since 2009.[119] Only one major corruption case has thus far resulted in a successful conviction, leading to the removal of an MP from his post. It would seem that the majority of rulings result in indictment, or are pending in the courts system.[120] The judicial sector does not maintain specific statistics on the prosecution of corruption related charges. However, general statistics are made publicly available via its websites, as well as in annual reports.[121]

119. *"Police ordered to arrest and present Abdulla Hameed to court" Haveeru News (web) 13 September 2011 at <www.haveeru.com.mv/dhivehi/abdulla_hameed/110061>; "Trial pended for failure to present former minister Hameed to court" Sun Online (web) 25 October 2010 at <www.sun.mv/2998>; "Shaheen Hameed's press release: Hameed ready to answer to the case" Sun Online (web) 26 October 2010 at <www.sun.mv/3013>; "Police ordered to arrest and present Abdulla Hameed to Criminal Court" Sun Online (web) 13 September 2011 at <www.sun.mv/10780>.*

120. *"Corruption cases expectant of a judgement" Haveeru News (web) 21 June 2012 at <www.haveeru.com.mv/dhivehi/report/123019>.*

121. *See for example, DJA, Annual Report 2013; DJA, Justice Sector Statistics 2010; DJA, Justice Sector Statistics 2009; DJA, Justice Sector Statistics 2008, at <www.justice.gov.mv>*

Recommendations

1. A code of conduct for judges and code for criminal proceedings needs to be established and enforced.

2. The composition of the Judicial Services Commission needs to be reviewed to minimise the influence of sitting judges and political influences, and its proceedings must be made more transparent.

3. The qualification and experience requirements of judges stipulated in legislation need to be enforced.

4. There should be greater judicial restraint by the Supreme Court in the interpretation of its constitutionally granted powers.

5. The appointment of judges for life should be reviewed to ensure that the calibre of sitting judges continues, after thorough vetting according to professional criteria.

6. The Judiciary needs to be more transparent in terms of making its decisions publicly available.

7. Members of the Judiciary, including judges and judicial staff, need to be provided with more and wider training opportunities.

VII 4. Civil Service

Summary

An independent civil service came into being in the Maldives only recently, and it is still in its infancy. The public sector had been an integral part of a strong Executive before the current Constitution of 2008. The subsequently established Civil Service Commission (CSC) continues to encounter significant external influences on the civil service through shortcomings in legislation and resource control. The civil service in the Maldives is still very much a work in progress, and while mechanisms exist to ensure the independence and integrity of the civil service, there is much scope for improvement. There are limited efforts to ensure effective resource management and utilization in civil sector. The number of largely self-regulated state public agencies outside the civil service is growing. The number of convictions related to public service corruption has been very low, although there is strong public perception of the public service being corrupt. Challenges to addressing this include the absence of criminal sanctions for violations; limitations in laws to ensure adequate transparency, particularly in terms of public procurement; few checks to ensure limited influence of the Executive, political parties or businesses; and the lack of protection for whistleblowers. These are areas that need to be addressed to ensure the growth of a robust civil service that can act with freedom, integrity and independence, with the confidence of the general public.

Average Score = 43/100

The table below presents the indicator scores that summarise the assessment of the civil sector of the Maldives in terms of its capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	-	25
	Independence	75	75
Governance	Transparency	50	75
	Accountability	75	50
	Integrity Mechanisms	75	50
Role	Public education	0	
	Cooperate with public institutions, CSOs in preventing/addressing corruption	0	
	Reduce corruption risks by safeguarding integrity in	25	

Structure & Organisation

The idea of an independent civil service is a fairly new concept in the Maldives. The Civil Service Commission (CSC) was established in 2007[1]

as an independent statutory body unde the constitution and Civil Service Act 2007. The civil service, under the purview of the CSC, is specifically responsible for regulating and governing civil service.[2] The definition of civil service was introduced under the CSC, and a distinction was made for the first time between civil service and political service. Revisions were made to the existing performance appraisals and the standardization of personnel procedures.[3]

The CSC comprises five members appointed by the President upon approval of the Parliament.[4] Members are appointed for a term of five years, and are subject to renewal of term by the Parliament.[5] The *Civil Service Act* also introduced the concept of the permanent secretaries, who advise and assist the Minister on the policies and administration of the Ministry or Department. Permanent secretaries are appointed by the CSC for a term of five years.[6]

A discussion about the civil service will not be complete without an acknowledgement of the structure of the broader public sector, which is composed of state bodies responsible for various public services in the Maldives. Firstly, the Government Ministries and departments are established by the President of Maldives under Executive authority provided for in the Constitution.[7] The Ministries are headed by a Cabinet Minister,[8] with a senior management tier of political appointees consisting of Ministers of State and Deputy Ministers appointed by the President.[9] The staff of the Ministries and the departments are civil service employees regulated by the CSC. Secondly, the local government bodies, comprising island councils, atoll councils and city councils established under the *Decentralised Governance of Administrative Regions Act 2010*, are headed by councillors elected by a direct vote in each administrative region, and staffed by civil service employees. Thirdly, various independent statutory bodies, established by statute and independent of the Executive branch, are headed by officials appointed by the President, upon approval of the Parliament. However, to ensure the independence of their functions, staff of these independent bodies are not selected from the civil service, but are appointed by the heads of the respective institutions, and governed by regulations enacted by that institution or employment contracts.[10]

Assessment

4.1 Capacity

4.1.1. Resources (Practice)

To what extent does the civil sector have adequate resources to effectively carry out its duties?

Score: 25/100

The budget allocated to the civil service appears inadequate for the effective delivery of services.[11] In interviews conducted with experts of the sector, they remarked that the public sector, represented by a combination of Executive authorities and the newly-established civil service, has not been fully developed as an independent sector.[12] It lacks adequate resources, including fiscal and human resources, to provide an effective services professionally, and is thus vulnerable to interference from State and governmental politics.[13] This weakness in the system can be explained by the way in which the financial system has been managed or governed by the State. Weaknesses in the management of State public finances have had negative impacts on socio-economic activities including the management of the public

1. *Constitution, 2008, article 179; Civil Service Act, 2007 (Law No. 5/2007). Civil Service Commission (CSC), website at <http://en.csc.gov.mv/history/>.*
2. *Constitution, article 182.*
3. *Constitution, article 182.*
4. *Constitution, article 180.*
5. *Constitution, article 183.*
6. *Civil Service Act, chapter 5.*
7. *Under section 116(a) of the Constitution, the President has discretion to establish all ministries required within the Government, and the functions and mandate assigned to the Ministries are subject to parliamentary approval.*
8. *Constitution, section 140.*
9. *Constitution, section 115(f).*
10. *They include the Civil Service Commission (CSC) established under the Civil Service Act; the Maldives Monetary Authority (MMA) established under the Maldives Monetary Authority Act, 1981 (Law No. 6/81); the Maldives Inland Revenue Authority (MIRA) established under the Tax Administration Act, 2010 (3/2010); the Maldives Pension Administrative Office (MPAO) established under the Pension Administration Act, 2009 (Law No. 8/2009).*
11. *Interview of Ahmed Hassan Didi, Vice President of Civil Service Commission (CSC), with lead researcher, Male', 17 December 2013.*
12. *Interview of Ahmed Salih, Permanent Secretary at the Ministry of Tourism, with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
13. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*

Minimum score (0)

The existing financial, human and infrastructural resources of the public sector are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)

The public sector has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)

The public sector has an adequate financial, infrastructural and human resource base to effectively carry out its duties

resources.[14] On the other hand, civil service salaries have been increased for a number of reasons, including to retain qualified people in the civil service, and possibly to account for the increase in working hours. This has led to an unsustainable fiscal situation in this area.[15] However, due to a weak public financial system, despite the increase in salaries, the civil service has encountered difficulties with sustaining a qualified civil service workforce in the long-run, as these salary increases do not necessary meet the economic requirements of the population.[16] Qualified professionals in the civil service are also moving to independent statutory institutions such as the Elections Commission (EC) or the Anti Corruption Commission (ACC), presumably for the higher salaries.[17]

There is a lack of research undertaken by respective state authorities to assess and ascertain whether or not civil service wages and expenditure are meeting the general living standards and socio-economic situation of the Maldives. The International Monetary Fund (IMF) also notes that the Maldives needs to re-evaluate its civil service salaries in order to meet needs of a sustainable economy.[18] Thus, the Maldives is in need of a comprehensive study of the civil service's wages and their impact on the economy. Whilst there is not enough information based on adequate research and evidence to determine whether the civil service wage bill and other resources are sufficiently structured, some experts agree that the structure is not adequate, based on rising inflation, an increasing standard of living, and the overall economic condition of the country.[19]

Whilst the civil service in the Maldives is fairly underdeveloped, it is also observed that some of the foundations of a strong public service sector established under the central Government pre-2008 – such as the standardization of qualifications, pay grades, classification of posts and promotional procedures for civil service posts by the then Public Service Division – come into play as important institutional assets enabling the present civil service to undertake its functions in the most effective manner within the newly established political system in the Maldives.[20]

Additionally, not much research has been conducted into whether or not public service delivery in the Maldives is effective. Despite the mandate of the Auditor General to conduct performance or institutional audits of Government Ministries and departments, no performance audits have been recorded to date.[21]

14. *"IMF will work with us to reduce expenditure, says President's Office', Minivan News (web) 28 March 2012 <http://minivannews.com/politics/imf-will-work-with-us-to-reduce-expenditure-says-presidents-office-34300>.*
15. *See UNDP, Discussion Paper: Achieving Debt Sustainability and the MDGs in Small Island Developing States: the Case of the Maldives(2010)pages 16, 12.*
16. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
17. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013.*
18. *See IMF, website at <www.imf.org/external/np/sec/pr/2010/pr1013.htm>;<http://english.irib.ir/subcontinent/news/economy/item/82777-imf-raises-grave-concerns-for-maldives-economy>.*
19. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
20. *See CSC, Civil Service Excellence: Way forward for Innovation & Change(2011)pages 3-4, at < http://www.csc.gov.mv/wp-content/uploads/Civil-service-excellence-29062011.pdf>.*
21. *See Auditor General pillar.*
22. *Constitution, article179.*
23. *Constitution, article182.*
24. *Constitution, article182; Civil Service Act, section 5.*

4.1.2. Independence (Law)

To what extent is the independence of the civil sector safeguarded by law?

Score: 75/100

The Constitution provides for an independent civil service in the Maldives.[22] In this respect, the CSC has been established under the Constitution and the *Civil Service Act* as an independent statutory body, with the primary functions of governing matters related to the recruitment, appointment, promotion, transfer and dismissal of civil service staff; establishing and maintaining uniform standards of organisation and codes of professional conduct; and ensuring effectiveness and efficiency of performance.[23] The Constitution and the *Civil Service Act* set a clear legal framework for the CSC to function, independent of Executive authority, as a key oversight body for civil service employees and activities.[24]

The *Regulation on Civil Service 2010* sets out guidelines for civil service

Minimum score (0)

There are no laws which seek to ensure the independence of the public sector.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of independence of the public sector and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the public sector.

There is a lack of regulatory provisions on active participation in political activities by civil servants

functions, establishing guidelines on requirements and procedures for civil service and the formulation of organisational structures;[25] for the determination of remuneration structures;[26] and for the recruitment and appointment of civil service staff based on merit.[27] On the latter, the Regulation stresses independent and transparent recruitment procedures via public advertisements.[28] The Regulation guarantees that the civil service will function independently in terms of the management and administration of human resources, including with regard to awarding promotions based on performance appraisals, and dismissing civil service staff, according to clear guidelines, free of external (political) interference.[29]

Civil service employees are protected from unfair dismissals under the *Employment Act 2008*, and they can challenge any arbitrary dismissals in an Employment Tribunal.

Certain challenges are posed to the effective implementation of legal provisions by shortcomings in law. Legislative mechanisms to ensure the independence of appointments and promotions were inadequate when the 2008 administration formulated privatization policies to corporatize various government institutions, such as the health institutions and utility offices. Implementation of these policies resulted in civil service employees being "converted" to contracted staff of the corporate body, and subject to political and other interference and manipulation.

The *Civil Service Act's* prohibition of civil service employees actively participating in political activities was repealed by the High Court in 2008, and hence, presently, civil servants are free to actively participate in political activities.[30] The resulting lack of regulatory provisions on active participation in political activities by civil servants poses obvious difficulties in ensuring independence in the exercise of the civil service's functions and within its organisations, as highlighted by one CSC member.[31] Amendments to legislation to provide for effective mechanisms to ensure such independence are vital.

25. *Regulation on Civil Service, Chapter 4.*
26. *Regulation on Civil Service, Chapters 5-6.*
27. *See Regulation on Civil Service, section 84.*
28. *See Regulation on Civil Service, section 99.*
29. *Regulation on Civil Service, Chapters 7-8.*
30. *Mohamed Hanim v. State, High Court, 2008 (2008/HC-DM/12), and upheld by the Supreme Court in State v. Mohamed Hanim, Supreme Court, 2011 (2009/SC-A/09).*
31. *Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
32. *"Supreme Court repeals Finance Ministry's directive to prepare salary sheets for reduced wage rates" Haveeru News (web) 16 February 2012 at <www.haveeru.com.mv/dhivehi/civil_service/117179>.*

4.1.3. Independence (Practice)

To what extent is the civil sector free from external interference in its activities?

Score: 75/100

The public sector or civil service is considerably free from external (political) interference in terms of appointment, promotions, transfers within institutions and dismissal, as ensured by law. However, certain challenges are evident.

Employees of the civil service have signed contracts and are not subject to transfer or dismissal with a change of government. Attempts by the new Government to direct civil service staff to comply with an Executive decision to reduce civil staff remuneration in 2010 were thwarted by a Supreme Court ruling in 2012 deeming the Finance Ministry's then directive invalid.[32] Appointments to civil service posts and promotions within the civil service sector have remained the domain of the respective Permanent Secretaries, the highest civil service officers in each Ministry, who are answerable to the CSC with regard to the affairs of civil service staff within the Ministry.

Tensions and disagreements between the Executive and the CSC began to emerge when the newly-elected Government in 2008 tried to reduce the size of the civil service and its remunerations as part of an austerity drive, citing

Minimum score (0)

Other actors regularly and severely interfere in the activities of the public sector .

Mid-point score (50)

Other actors occasionally interfere with the activities of the public sector. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the public sector.

Maximum score (100)

The public sector operates freely from any interference by other actors.

exceptional economic hardship at the time.[33] This tension was exploited by the opposition parties to drive a wedge between the Executive and the civil servants, even though the issue may have been a genuine concern, given the prevailing economic situation both nationally and internationally in 2008. These tensions have been less marked since 2012, with the MDP losing power and the then opposition parties forming a government of national unity following the resignation of President Nasheed on 7 February 2012.

4.2. Governance

4.2.1. Transparency (Law)

To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the civil sector?

Score: 50/100

Both the *Civil Service Act* and the *Regulation on Civil Service* set out a broad range of provisions to guarantee the transparency of civil service activities undertaken by the public sector agencies. However, adequate provisions to ensure transparency in public procurement rules are absent.

The *Civil Service Act* specifically gives the CSC discretion to publish research it carries out and other information as required by law.[34] It also guarantees professional and merit-based employment.[35] Likewise, the Regulation guarantees transparency of the functions undertaken by civil service agencies, including an open and transparent recruitment process requiring public advertisement for vacancies,[36] to ensure a selection process based on open and fair competition, free from external influences,[37] and an appointment process based on merit.[38] The legislation, however, fails to require civil servants and CSC members to file declarations of assets and financial interests.

Human resource management and the development of Government ministries are primarily undertaken by the respective Ministries. The Department of Higher Education (DHE) established under the Ministry of Education is mandated to formulate national-level policies on human resources training, including tertiary educational and vocational training. In this context, the DHE is also responsible for the administration of scholarships and vocational training opportunities.[39]

Requirements relating to public procurement are set out in the *Regulation on Public Finance* and are applicable to the civil service and all other governmental agencies. The Regulation specifies some provisions to ensure transparency, including the requirement for public advertisements in cases of the procurement of goods or services exceeding MVR 25,000 (US$ 1,621);[40] the evaluation of bids in a fair and transparent manner by a separate committee; a written agreement with the service provider; and the requirement to publicly advertise, receive and evaluate bids by the Tender Evaluation Board in case the amount of goods or services exceed MVR 1.5 million (US$ 972,763).[41] The Tender Evaluation Board, operating under the Ministry of Finance and Treasury, is composed of eight members, including two from the private sector. Members are appointed and removed at the discretion of the President,[42] leaving room for political manipulation. There are also no comprehensive regulatory rules or procedures in place to ensure that the functioning of the board ensures transparency in the procurement process. Furthermore, there is no dedicated internal mechanism to monitor public procurement by government agencies, and any violation of public

Minimum score (0)

There are no provisions which allow the public to obtain relevant information on the activities of the public sector, on decisions that concern them and how these decisions were made

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the public sector and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place which allow the public to obtain information on relevant activities of the public sector, on decisions that concern them and how these decisions were made.

33. "Civil servants association condemns government's decision to cut down salary and size of civil service" Haveeru News (web) 22 December 2009 <www.haveeru.com.mv/dhivehi/news/84670>.
34. Civil Service Act, section 9.
35. Civil Service Act, section 38.
36. Regulation on Civil Service, section 99.
37. Regulation on Civil Service, sections104-107.
38. Civil Service Act, section 38.
39. President's Office, "Functions of the Ministry of Education", at <www.presidencymaldives.gov.mv/Index.aspx?lid=133>.
40. Regulation on Public Finance, section 8.15.
41. Regulation on Public Finance, section 8.25.
42. World Bank, website at <www.google.mv/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CEgQFjAI&url=http%3A%2F%2Fwww.worldbank.org%2Fcontent%2Fdam%2FWorldbank%2Fdocument%2FSAR%2Fpakistan%2Fppra-conference-2014%2FMaldives-PPRA-presentation-2014.ppt&ei=ZFGdU-66HIf-8QWI94HoBg&usg=AFQjCNFn06Pi3d5wEncLX07cfXqFG97pgA&bvm=bv.68911936,d.dGc>

finance rules would need to be investigated by the ACC if reported.

Amendments to the *Regulation on Public Finance* in 2009 and 2012 sought to improve the accounting standards of all governmental agencies, to comply with the International Federation of Accountants' (IFAC) Financial Reporting under the Cash Basis of Accounting Standards of the International Public Sector Accounting Standards.[43]

Legislation does not entail a comprehensive system for public information management within the civil service. By virtue of the archaic *Official Business Act 1968*, certain information is required to be disclosed to the public. Under the Act, all government offices are required to maintain minutes of official communications, and to keep all official communications on record.[44] All regulations and procedures with which the members of the public are required to comply are required by law to be set out in writing, and made available to the public.[45] The *Regulation on Right to Information* also mandates institutions to make publicly available annually certain information relating to the individual institutions, including details of their structure, mandate, responsibilities and budgetary information; services provided to the public; complaints mechanisms and records of complaints; and important policies and decisions relating to the public.[46]

4.2.2. Transparency (Practice)

To what extent are the provisions on transparency in financial, human resource and information management in the civil sector effectively implemented?

Score: 75/100

The research finds that adequate mechanisms are in place in the civil service agencies, including the CSC, to ensure some level of transparency in their work although not always in a comprehensive form or manner.

All Government Ministries maintain websites, which are usually the principal form of dissemination of information to the public. Information available in this context includes laws, regulations, policies and procedures, functions, mandates and services, annual reports and other published materials, as well as application forms and procedures for services.[47] Information about vacancies in civil service positions is advertised publicly in the Government Gazette. The CSC website contains information about regulations underpinning civil service activities, including some level of information on employment processes. Such mechanisms enable the public to access regulations, reports and records relating to civil service activities. The CSC's annual reports are also made available via its website, which includes relevant information on the civil service's activities.[48] Both interviewees were of the view that the existing mechanisms provide for a fair level of competition in the civil service recruitment process.[49]

Adequate information about public procurements undertaken by civil service agencies is also made available. Public procurement processes are almost always undertaken according to guidelines set in the *Public Finance Act* and the *Regulation on Public Finance* (see 4.2.1), a failure or breach of which is usually identified in the institution's audit reports.[50] According to the CSC, civil service providers follow the guidelines strictly, providing relevant information on procurements in a timely and comprehensive manner.[51] Procurement notices are regularly published in the Government gazette. The

43. *Regulation on Public Finance (Amendment) 2009; Regulation on Public Finance (Amendment) 2012.*
44. *Official Business Act, Chapter 2, 1968 (Law No. 2/68), section 2, 12*
45. *Official Business Act, Chapter 1, 1968 (Law No. 1/68), section 12.*
46. *Regulation on Right to Information, section 36; The Regulation on Right to Information has since been repealed and replaced by the Right to Information Act, 2014 (Law No. 1/2014) ratified in January 2014.*
47. *See also, Executive pillar, section 2.2.2*
48. *CSC, website at <www.csc.gov.mv/category/annualreport>.*
49. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
50. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; See generally, audit reports of Government Ministries, available from the website of the Auditor General at <www.audit.gov.mv>.*
51. *Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*

Minimum score (0)

The public is not able to obtain any relevant information on the activities of the public sector, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of the public sector, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the activities of the public sector, on decisions that concern them and how these decisions were made.

gazette plays a key role in this regard, in providing information on public procurements, public sector vacancies and job advertisements for public viewing.[52]

Information on civil service sector employees' salaries and wages is included in the budget reports which are available to the public.[53] Civil Service employees do not file assets or financial declarations to any agency or institution, due to the lack of any legal requirements to do so.

There is a lack of provisions and incentives for whistleblowers

4.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that civil sector employees have to report and be answerable for their actions?

Score: 75/100

The *Civil Service Act* and its Regulation provide sufficient provisions to hold the civil service accountable for its actions. Annual reporting requirements for public sector offices are established in the *Public Finance Act*. Moreover, public sector agencies and their employees are subject to the purview of other investigatory and oversight bodies such as the ACC, Auditor General and the Human Rights Commission of the Maldives (HRCM).

The *Civil Service Act* requires the civil service to be managed as a service accountable to the Government.[54] It requires staff to be accountable to their senior in the civil service sector,[55] and stipulates that the permanent secretaries are to assist the Minister in charge on matters for which he/she is held accountable to by the Parliament.[56] The *Regulation on Civil Service* also addresses more specific matters relating to the accountability of civil service activities, including those concerning staff conduct, public complaints mechanisms, and the responsibilities of the permanent secretaries as the key individuals responsible for activities in specific civil service agencies.[57]

Whilst the Regulation provides a broad range of provisions to guarantee a responsible civil service, it also has certain limitations. For example, although the Regulation requires any violations by employees of the codes of conduct to be reported to the permanent secretary of that institution, there are no provisions for the protection of whistleblowers. Complaints must be investigated through mechanisms to be formulated and enacted by the permanent secretary in each institution or civil service agency.[58] Any disciplinary or administrative action taken against any employee can be appealed, and complaints against the permanent secretary can be lodged directly with the CSC.[59] The Regulation outlines a complaints investigation mechanism, which seeks to follow due process whilst ensuring justified redress to complainants. Decisions of the CSC regarding any complaint can be appealed, and questions of unfair dismissals of civil service employees are addressed through a semi-judicial process in an Employment Tribunal, the decision of which can be appealed to the High Court.[60]

Detailed rules for public procurement are set out in the *Regulation on Public Finance* (see section 4.2.1 above), although no complaints mechanism is available specific to public procurement. The ACC is legally mandated to receive complaints and to investigate allegations of violations of public procurement rules as constituting corruption offences.[61] Moreover, civil service employees, together with all other governmental employees, are subject to the *Prohibition and Prevention of Corruption Act 2000*. This act

Minimum score (0)

No provisions are in place to ensure that public sector employees have to report and be answerable for their actions.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of accountability of public sector employees and/or some provisions contain loopholes.

Maximum score (100)

Extensive provisions are in place which ensure that public sector employees have to report and be answerable for their actions.

52. See Government Gazette at <www.gazette.gov.mv/v2/home>.
53. See Ministry of Finance and Treasury, website at <www.finance.gov.mv>.
54. Civil Service Act, section 5(d).
55. Civil Service Act, section 27(a).
56. Civil Service Act, section 55(b).
57. See Regulation on Civil Service.
58. Regulation on Civil Service, section 10(a).
59. Regulation on Civil Service, section 11; chapter 28
60. Regulation on Civil Service, section 12.
61. See Anti Corruption Agencies pillar.

62. See Anti Corruption Agencies pillar.
63. See Ombudsman pillar.
64. See Auditor General pillar.
65. Public Finance Act, section 35.
66. Public Finance Act, section 37.
67. Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.
68. CSC, Annual Report 2012, page 18.
69. CSC, Annual Report 2011, page 25.
70. Transparency Maldives, Global Corruption Barometer Survey 2013.
71. See Auditor General pillar and the Anti Corruption Agencies pillar.

sets out the charges applicable for corrupt practices, including bribery, undue and personal gain in relation to public procurement, negligence in relation to state assets and monies, and the concealment of state information.

The mechanisms for citizens to complain against civil service agencies or their employees are established through functions of various statutory bodies. The principal bodies that deal with such public complaints are the ACC in relation to any acts deemed corruption under the *Prohibition and Prevention of Corruption Act 2000,*[62] and the HRCM in the context of any alleged human rights violations.[63]

Auditing of public sector agencies is mandated to the independent Auditor General under the *Audit Act*.[64] Annual reporting requirements are stipulated for all offices of the State, including public sector agencies, under the *Public Finance Act*. An annual report comprising financial records of income and expenditure from the State budget, and information on the activities of the office during the year, is required to be submitted to the Auditor General, within three months of the end of each year.[65] Upon completion of the audit of that institution by the Auditor General, and within one month of the receipt of the Auditor General's report, the public sector agencies are required to file the annual report, together with the audit report, to the President and the Speaker of the Parliament.[66]

Minimum score (0)

No provisions are in place/existing provisions are not effective at all in ensuring that public sector employees have to report and be answerable for their actions in practice.

Mid-point score (50)

While public sector employees have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that public sector employees have to report and be answerable for their actions in practice.

4.2.4. Accountability (Practice)

To what extent do civil sector employees have to report and be answerable for their actions in practice?

Score: 50/100

Research finds that the civil service oversight body, the CSC, is active in ensuring the accountability of civil service practices. Limitations in ensuring accountability are however evident, and result from the ineffective implementation of a broader framework of accountability mechanisms.

According to the views of some public sector experts, the CSC plays a main role in holding civil servants accountable for their actions, and is, in practice, effective in ensuring that civil servants uphold the laws and regulations of their respective functions.[67] The CSC is seen to be active in addressing complaints and cases regarding misbehaviour and malpractice of civil servants. According to statistics, the CSC dealt with 348 out of 608 cases submitte to it in 2012.[68] In 2011, it resolved 1,165 of the 1,238 cases submitted.[69]

The general perception of the broader is, however, a cause for concern. Transparency Maldives' *Global Corruption Barometer Survey 2013* identifies that 97 per cent hold the view that corruption is an issue in the public service.[70] Although it is difficult to relate this perception of the public sector to the civil service alone, such views might well be the result of the ineffective implementation of oversight mechanisms established through other statutory agencies. These issues include a lack of successful prosecutions of corruption cases after investigation by the ACC, as well as a lack of adequate monitoring and follow-up of recommendations prescribed by the Auditor General in the audit reports of ministries and government bodies.[71]

Need for more efficient internal auditing mechanisms is a concern

The need for more efficient internal auditing mechanisms is a concern raised by the civil service experts as well.[72] Despite the legal requirement, the annual financial audits of government agencies conducted by the Auditor General are not timely.[73] Moreover, no institutional or management audits of government agencies have been conducted to date, although efforts are underway to develop the necessary tools and procedures for systematic management audits[74].

Annual financial audits of government agencies are not timely

4.2.5. Integrity Mechanisms (Law)

To what extent are there provisions in place to ensure the integrity of civil sector employees?

Score: 75/100

Minimum score (0)

There are no provisions in place to ensure the integrity of civil servants.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of civil servants and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of civil servants.

With the noticeable exception of public procurement rules, the integrity of civil service employees is guaranteed by the *Regulation on Civil Service*, which stipulates comprehensive codes of conduct for all its employees.[75]

Civil servants are legally bound to comply with the codes, which outline provisions for high standards of professionalism and service delivery; the requirement to refrain from conduct that poses a conflict of interest; the prohibition of the use of work resources and time for personal use or other employment; the confidentiality of information; and the promotion of integrity and transparency in the course of employment.[76]

Moreover, the *Prevention and Prohibition of Corruption Act* specifies corruption offences applicable to civil service employees as well as all other employees of the State. Corrupt practices such as bribery are deemed, by law, to be criminal offences punishable by a sentence of imprisonment, banishment or house arrest, for up to seven years.[77]

The existing public procurement system reveals certain limitations. For example, although detailed rules for public procurement are set out in the *Public Finance Regulation* (see section 4.2.1 above), there is no requirement for special anti-corruption clauses to be incorporated into bidding documents. This may limit the capacity of the legal framework to ensure the integrity of civil service employees in undertaking public procurement activities.

72. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
73. *See Auditor General pillar.*
74. *Email correspondance with Civil Service Commission and Transparency Maldives, 22 June 2014*
75. *Regulation on Civil Service, section 9(c), 23, chapter 2.*
76. *Regulation on Civil Service, chapter 2.*
77. *Prevention and Prohibition of Corruption Act, section 2(b).*
78. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
79. *See Anti Corruption Agencies pillar and Law Enforcement Agencies pillar.*
80. *See for example, US Dept of State, 2011 Investment Climate Statement: Maldives*

4.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of civil sector employees ensured in practice?

Score: 50/100

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of public sector employees, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of public sector employees, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of public sector employees, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

In general, public perception is that corruption in the public sector is a concern in the Maldives.[78] Although the number of successful convictions for public sector corruption is low,[79] surveys conducted by media sources and international organisations have so far demonstrated that public sector corruption is a key issue. For example, such perception is evident from international surveys that indicate high level of corruption in the Maldives – Transparency International has such surveys indicating high level of corruption in the Maldives.[80] Since the Maldives has not yet established an effective centralised system to assess public sector or civil service corruption, it is difficult to assess the actual degree of corruption in this area.

(2011) at <www.state.gov/e/eb/rls/othr/ics/2011/157319.htm>; Transparency International, "South Asia: Corruption plagues daily lives" Press Release, 16 January 2012 at <www.transparency.org/news/pressrelease/20120116_south_asia>; Transparency Maldives, Global Corruption Barometer 2013.

81. Regulation on Civil Service, chapter 2.
82. Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013. See also, footnotes 71 and 72 above.
83. Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.
84. CSC, Annual Report 2011, pages 35-37.
85. Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.
86. See CSC, Maldives Civil Service Strategic Plan 2011–2015 (2011); Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.
87. See CSC, Civil Service Excellence: Way forward for Innovation & Change (2011) pages 1-2 < www.csc.gov.mv/wp-content/uploads/Civil-service-excellence-29062011.pdf>

In order to ensure ethical behaviour by civil service employees, the CSC has formulated a code of conduct under its Regulation, which covers the main themes of making the government and the public responsible, specifying the type of relationship employees have with the public, the type of relationship among civil service employees, the duties and responsibility of civil service employees, procedures with which to handle personal matters, and accountability to the government and the public.[81] According to the Vice President of the CSC, the CSC is fairly effective in upholding the guidelines set out by this code of conduct, and sanctions are administered for misbehaviour.[82] Experts in the civil service are of the view that civil servants in practice do not accept any gifts, the acceptance of which could violate the law and regulations included in the code of conduct.[83]

Apart from its efforts to maintain the integrity of the civil service via disciplinary mechanisms and measures, the CSC conducts regular training programmes for employees, to strengthen the capacity of civil service providers, broadly aimed at strengthening integrity, responsibility and the quality of service. For example, in 2011 a total of 2,587 staff working in Malé and 1,559 staff working in the atolls received general staff training organised by the CSC. In 2011, familiarising with Dhivehi language in official work, time management, supervisory schemes, customer care and telephone skills and administrative skills programmes were conducted for civil service.[84] Moreover, the CSC ensures that the core values of the CSC, as prescribed by law and regulation, are effectively communicated to employees by means of employment contracts and official notices. In many occasions, wrongdoers with bad behaviour were given notices, warnings or reminders to correct themselves and to follow the core values of civil service.[85] Recently, the CSC, in association with all civil service providers, has formulated a strategic plan for the years 2011–2015, which specifically establishes a number of practical steps to be taken by civil service providers, including a main vision for quality service, quality performance and quality people[86].

Civil service has not initiated any specific programmes on anti-corruption in association with external organisations or agencies

4.3. Role

4.3.1. Public Education

To what extent does the civil service inform and educate the public on its role in fighting corruption?

Score: 0/100

The research did not find credible evidence to indicate that the civil service system of the Maldives conducts specific programmes to educate the public on its role and successes in fighting corruption, although long-term programmes aimed towards strengthening governance and curbing corruption are evident. For example in March 2011 the CSC, in collaboration with the UNDP, held a Civil Service Excellence Conference, the "Civil Service Excellence: Way Forward for Innovation and Change", to address and find possible solutions to the issue of corruption within civil service. Its main objective was to publicise the performance of the five projects of the CSC, namely the Strategic Plan 2011-2015, job evaluation system, training needs assessment and establishment of the Civil Service Training Institute, decentralisation of HRM software and management audit.[87] Although such projects do not directly address the prevalent issue of corruption in the civil sector, they demonstrate the CSC's commitment to the fight against corruption, and its role in working to curb corruption and create an efficient

Minimum score (0)

The public sector does not educate the public on corruption and on citizens' roles in fighting corruption.

Mid-point score (50)

While the public sector is somewhat active in educating the public on corruption and on citizens' roles in fighting it, its efforts are generally limited, reactive piecemeal and/or considered to be ineffective.

Maximum score (100)

Comprehensive, concrete and proactive steps are taken by the public sector to educate the public on corruption and on citizens' roles in fighting corruption.

civil service in the long term.[88]

Public education or awareness programmes are beyond the mandate of CSC, the general understanding being that the ACC is the central mechanism in place to address public complaints and the fight against corruption.[89] Nevertheless, adequate programmes and initiatives specifically aimed at preventing corruption are mostly absent within the civil sector itself.

88. *Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
89. *Interview of Ahmed Salih with lead researcher, Male', 23 December 2013; Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
90. *Interview of Ahmed Hassan Didi with lead researcher, Male', 17 December 2013.*
91. *See CSC website at <http://en.csc.gov.mv/2012/09/19/civil-service-training-institute-and-capital-market-development-authority-signs-mou/>.*
92. *Regulation on Public Finance, section 8.15.*

4.3.2. Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption

To what extent does the civil sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

Minimum score (0)

The public sector does not engage other stakeholders on working on anti-corruption initiatives.

Mid-point score (50)

While the public sector does cooperate with other stakeholders on anti-corruption initiatives, its role is generally reactive and these initiatives are given neither much prominence nor support by high-level public sector officials.

Maximum score (100)

The public sector is a leading force in multi-stakeholder anti-corruption initiatives. These initiatives enjoy high prominence and full support of high-level officials within the public sector.

Score: 0/100

Acording to key civil service professionals, there is not much success in the area of collaboration by the CSC with other watchdog agencies, businesses and civil society, particularly in relation to activities against corruption.[90] However, a few general training programmes and projects to promote the transparency and accountability of civil service activities are evident. For example, a Memorandum of Understanding was signed between the Capital Market Development Authority (CMDA) and CSC in 2012, as an initiative to conduct training programmes for civil servants.[91] Whilst acknowledging that there has been some attempt made by the broader civil service to collaborate jointly with other organisations involved in anti-corruption activities, the research finds that the civil service has not initiated any specific anti-corruption programmes anti-corruption in association with external organisations or agencies.

4.3.3. Reduce corruption risks by safeguarding integrity in public procurement

To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?

Minimum score (0)

No provisions are in place to ensure that the public sector performs its public procurement responsibilities in a lawful and ethical manner.

Mid-point score (50)

While some provisions are in place with regard to procurement, they are piecemeal and/or largely disregarded in practice.

Maximum score (100)

Extensive provisions are in place to ensure that the public sector performs its public procurement responsibilities in a lawful and ethical manner.

Score: 25/100

Rules on public procurement provide stringent mechanisms for employees to comply with in public procurement works. Adequate implementation of the relevant rules and effective sanctioning is primarily absent.

The general requirement for public advertisement is applicable to all procurements for goods or services whose values exceed MVR 25,000 (US$ 1621).[92] Evaluations of bids are required to be conducted in a fair and transparent manner by a separate committee constituted for that purpose. No uniform bidding documentation is required or adopted among the various civil service offices, and no special qualifications are required for staff sitting on the evaluation board. The *Regulation on Public Finance* details step-by-step requirements, including the requisite information to be included in the public advertisement, as well as the contract with the vendor or service provider. Much stricter requirements are applicable for the procurement of goods or services valued at MVR 1.5 million (US$ 97,276) and above, for

Lack of an effective complaints mechanism and internal investigation system increases the potential for the risk of corruption and greater risks

which it is compulsory to publicly advertise, and for the Tender Evaluation Board constituted by the Finance Ministry to receive and evaluate bids.[93] Additional requirements exist for re-advertisement in the case of changes in bidding requirements, the clarification of matters not stated in advertisement, and the cancellation of bidding. Legislation does not require the public advertisement of procurement award decisions, and there is no such practice, except for major development projects which the Government or relevant public sector agency may announce through media.

Legal mechanisms also fail to require the maintenance of a registry of statistics on contracts. Financial records of the civil sector agencies, however, account for all income and expenditure, including procurement awards. Non-compliances with public procurement rules are identified in the audit reports, which reveal the names of vendors and recipients of procurement awards.[94]

In the absence of a central procurement agency, detection of improper conduct within the civil service sector is usually weak, and left to either the Auditor General in his annual audit, or to an investigation by the ACC, which may be carried out either on its own initiative or in response to a complaint lodged by a member of the public. Effective sanctioning following such detection is slow and cumbersome, with a lack of administrative or corrective measures, and the ability only to resort to penal measures through applicable law. The CSC does not have a legal mechanism, or the initiative, to take sanctions against alleged offenders, such as suspension or leave without pay for employees pending investigation for alleged misconduct of procurement rules.[95] A lack of effective sanctions may lead to the lack of an effective deterrence mechanism for future misconduct, and fails to provide an incentive for potential whistleblowers to report any wrongdoing. In 2012, the Parliamentary Committee on Public Finance raised concerns on the issue of the lack of corrective measures against civil servants alleged to have been involved in procurement-related wrongdoings which resulted in losses to the State amounting to MVR 36 million (US$ 2.3 million).[96] Successful criminal prosecution is relatively weak on corruption charges across sectors, with the number of criminal convictions on corruption charges at a low level.[97]

Additionally, as no specific complaints mechanism exists in relation to public procurement complaints by prospective bidders or service providers, complainants are left to pursue the matter in civil suit, police investigation or through the submission of complaints to ACC on allegations of corruption. The lack of an effective complaints mechanism and investigation system increases the potential risk of corruption, and poses greater risks to the safeguarding of the integrity of civil service.

93. *Regulation on Public Finance, section 8.25.*
94. *See audit reports of Government Ministries and departments at Auditor General's website at <www.audit.gov.mv>.*
95. *See for example, "Law to be amended to suspend civil service staff accused of fraud" Haveeru News (web) 4 May 2012 <www.haveeru.com.mv/dhivehi/civil_servants/120692>*
96. *See "Concern regarding civil servants' involvement in fraud cases" Haveeru News (web) 17 May 2012 <www.haveeru.com.mv/dhivehi/civil_servants/121267>*
97. *See Anti Corruptions Agencies pillar and Judiciary pillar.*

Recommendations

1. Ensure that mechanisms are in place for effective resource utilization within the civil service.

2. Review remuneration provided to civil servants to ensure that it is adequate compared to living standards and other economic indicators.

3. Improve legislation to better define the engagement of civil servants in political activities, to better ensure the independence of the civil service and gain public confidence.

4. Provide incentives and legal protection for whistleblowers.

5. Strengthen internal oversight mechanisms within the civil service such as internal mechanisms to monitor public procurement and ensure implementation of the Auditor General's recommendations.

6. Establish greater collaborative efforts with other institutions and conduct programmes to raise public awareness and curb corruption in the civil service and increase public knowledge of any efforts undertaken within civil service to combat corruption.

VII 5. Law Enforcement Agencies

Summary

Law enforcement agencies in the Maldives, though usually adequately resourced, face human resource constraints in terms of both numbers and qualified personnel. The Maldives Police Service, which was only recently made a civilian body, is still in the process of adjusting to the newly imposed restrictions on its powers, and demands for greater transparency and accountability in its actions. The control of the Police by the Executive is compounded by the Executive's discretion in the appointment of the Police Commissioner. The Police Integrity Commission acting as an independent watchdog body is constrained in its powers to implement and monitor its directives. It also experiences financial constraints to its ability to effectively monitor police personnel across the country. The independent Prosecutor General is granted excessive powers of discretion in determining the prosecution of all cases brought before him, including corruption cases and there is a need for more checks to be in place to ensure candid decision-making. Overall, it is also evident that law enforcement agencies have not had much success in the prosecution of major cases of alleged corruption in the country.

Average Score = 36 /100

The table below presents the indicator scores that summarise the assessment of the law enforcement agencies of the Maldives in terms of its capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	-	50
	Independence	50	25
Governance	Transparency	25	50
	Accountability	50	50
	Integrity Mechanisms	50	25
Role	Corruption Prosecution	25	

Structure & Organisation

The law enforcement agencies in the Maldives comprise the Maldives Police Service (MPS) and the Prosecutor General's Office (PGO). The functions and role of the police oversight body – namely the Police Integrity Commission (PIC) – are also assessed in this chapter.

A Police force was first established under a law enacted in 1933, and became part of the military during the mid-1900s. A separate administration

for police was established in 1972. A civilian national police force, separate from the military, was formally established in 2004, as the MPS under the Ministry of Home Affairs (MOHA).[1] A *Police Act* was first enacted in August 2008, which establishes the MPS as a separate body, exempt from the civil service, conferred with powers and duties as stipulated in the *Police Act*.[2]

The principal responsibilities of the MPS include enforcing criminal law, enhancing public safety and security, maintaining civil order and peace, and preventing and investigating criminal offences throughout the territory of the Maldives.[3] The MPS also can and does instigate the investigation of corrupt activities, and extend assistance to the Anti Corruption Commission (ACC) and the PG in the conduct of their investigations as and when required. Even though the MPS is a civilian force, the Police force may request military assistance with the exercise of its functions. The Home Minister is vested with the decision to grant such requests.[4]

In addition to oversight by parliamentary committees, the MPS has a dedicated oversight body, the PIC, which was established as a separate legal entity under the *Police Act* in 2009.[5] The objectives of the PIC are to promote respect for law among Police personnel, to independently investigate unlawful activities within and by the police, to provide necessary legal protection to police personnel, and to raise public awareness of the role of the Police, as well as confidence in their upholding of the law.[6]

Prior to the ratification of the Constitution in 2008, there was no centralised prosecution authority independent of the Executive. The Attorney General, as the chief law officer of the State, exercised the functions of conducting all criminal prosecutions and civil litigation on behalf of the State. In 2004, Professor Paul Robinson, in his comprehensive report on the reform of criminal justice system in the Maldives, identified as a key proposal for reform the creation of a centralized and independent prosecution authority, where prosecution decisions are made free of political influence and based solely upon the demands of justice and uniformity.[7] The office of an independent PG was first established as part of key criminal justice reforms upon the ratification of the Constitution in 2008.

The PG is the chief law officer of the State responsible for criminal prosecution by the State. The Constitution provides for an independent and impartial PG to institute, conduct, and supervise criminal prosecution in the Maldives on behalf of the State, which necessitates travel to outlying islands.[8] The PG is also empowered to direct the MPS to investigate criminal offences or activity, either in response to a complaint lodged with the PG or on his own initiative.[9] The Prosecutor General's Office (PGO) is established under statute as a separate legal entity.[10]

The PGO was first established on 7 August 2008 upon ratification of the new Constitution. The first ever PG was appointed on 4 September 2008.[11]

1. *Maldives Police Service (MPS), Police Performance Review 2012, page 2.*
2. *Police Act, 2008 (Law No. 5/2008), section 5.*
3. *Police Act, sections 2, 6; Constitution 2008, articles 236-237, 244.*
4. *Police Act, section 71.*
5. *Police Act, section 18.*
6. *Police Act, section 19.*
7. *Paul H. Robinson, Report on the Criminal Justice System of the Republic of Maldives: Proposals for Reform (July 2004) p 10.*
8. *Constitution, articles 220, 223.*
9. *Prosecutor General's Act, 2008 (Law No. 9/2008), section 15(f).*
10. *Prosecutor General's Act, section 2(b).*

Assessment

5.1 Capacity

5.1.1. Resources (Practice)

To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

Score: 50/100

Law enforcement agencies are generally provided with adequate financial resources and infrastructure to operate effectively in practice, although the PIC faces budgetary constraints in respect of undertaking investigation visits to the atolls. Human resources shortages exist for the PGO.

Both the MPS and the PGO are equipped with comparatively adequate resources, especially compared to other statutory bodies and institutions.[12] Police posts are established in all 20 atolls across the country, operating under seven administrative divisions and headquartered in the capital Malé.[13] The PGO maintains branches in a total of seven atolls as of 2013.[14] Occasionally, budget cuts made at the discretion of the Minister of Finance and Treasury, or as a means of austerity during the mid-year, pose challenges for some of these institutions.[15] The PIC also faces budgetary shortfalls especially in respect of undertaking investigation trips to the atolls.[16] The PIC, however, receives adequate office space and human resources to undertake its functions effectively.[17] The state budget allocated to the law enforcement agencies is generally adequate to the extent none of these institutions has to resort to seeking out-of-budget funding, for example from donations or service charges.

The PG is assisted by a Deputy Prosecutor General (DPG), appointed and removed by the PG.[18] Staff at the PGO are appointed by the PG, and removed by the PG in accordance with the *Prosecutor General's Act 2008*.[19] However, the PGO faces the challenge of human resources shortages. The PGO employs 81 staff, of which 30 are engaged as prosecutors. Prosecutors at the PGO are mostly recent graduates, forming the largest collection of lawyers in the country.[20] Despite the salary scales and other benefits at the PGO being attractive compared to the civil service, they are relatively low compared to remunerations received by lawyers in the private sector.[21] The PGO maintains staff training scholarship schemes. According to the PGO, six staff underwent training under staff scholarship schemes in 2013, and nine staff underwent training in 2012.[22]

The MPS does not maintain a special unit dedicated to investigating corruption-related offences, primarily because a dedicated statutory body, the ACC, functions as the principal body investigating corruption offences in the country.[23] However, the MPS is often asked to extend investigative assistance to the cases being looked into by the ACC.[24] No shortages of human resources are evident within the MPS.[25]

5.1.2. Independence (Law)

To what extent are law enforcement agencies independent by law?

Score: 50/100

Minimum score (0)

The existing financial, human and infrastructural resources of law enforcement agencies are minimal and fully insufficient to effectively carry out their duties.

Mid-point score (50)

Law enforcement agencies have some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out their duties.

Maximum score (100)

The law enforcement agencies have an adequate resource base to effectively carry out their duties.

11. *Prosecutor General's Office (PGO), Annual Report 2008, page 2.*
12. *Interview of Ahmed Muizzu, Prosecutor General (from 2008 till November 2013) with lead researcher, Male', 23 December 2012; MPS, Police Performance Review 2012.*
13. *MPS, Statistics of Criminal Offences 2011-2012 (2013) page 21.*
14. *PGO, Annual Report 2013, page 7.*
15. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
16. *Police Integrity Commission (PIC), Annual Report 2013, page 26*
17. *PIC, Annual Report 2013, page 27*
18. *Prosecutor General's Act, section 7.*
19. *Prosecutor General's Act, section 16.*
20. *International Monetary Fund (IMF), "Maldives: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism", IMF Country Report No. 12/1 (January 2012), page 80.*
21. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
22. *PGO, Annual Report 2013, page 6; PGO, Annual Report 2012, page 3.*
23. *Interview of a former police officer with lead*

Minimum score (0)

There are no laws which seek to ensure the independence of law enforcement agencies

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the independence of law enforcement agencies and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of law enforcement agencies.

researcher, Male', 15 January 2013.

24. See Anti Corruption Agencies pillar.

25. Interview of a former police officer with lead researcher, Male', 15 January 2013.

26. Constitution, articles 220, 223.

27. Prosecutor General's Act, section 15(f).

28. Prosecutor General's Act, 12(a)(6).

29. Constitution, article 223.

30. Constitution, article 221; Prosecutor General's Act, section 3.

31. Prosecutor General's Act, section 3.

32. Constitution, article 222.

33. Police Act, section 18.

34. Police Act, section 22.

Legislation provides for a centralised and independent state prosecutor, appointed subject to parliamentary consent, and for mechanisms to prevent political interference during function but not necessarily for appointment process. The police watchdog body PIC is established as an independent institution, to function independently from political interference. The MPS, however, is not established as an independent body; its senior officials are appointed by the President, and are subject to the direction and control of the Executive.

The PG derives independence from the Constitution and the Prosecutor General's Act, which provides for an independent and impartial PG to investigate, conduct, and supervises the prosecution of all criminal offences in the Maldives.[26] The PG is also vested with powers to issue orders to the MPS to investigate any criminal activity or offence.[27] In the exercise of his functions, the PG is independent, and subject only to the Constitution, law and the prosecutorial policy directives that are publicly prescribed by the Attorney General.[28] No institution or authority can instruct the PG to prosecute or not to prosecute in any specific case. The Constitution and legislation confer upon the PG a wide range of powers, including the power to oversee the legality of any inquiries or investigations of criminal activity; to monitor and review the circumstances and conditions under which any person is arrested, detained or otherwise deprived of freedom prior to trial; to order any investigation into complaints of criminal activity; to review or revert any decision to prosecute or not to prosecute any alleged offender; and to appeal any judgement, verdict or decision in any criminal matter.[29]

The PG is appointed for a fixed term of five years by the President, upon approval by the majority of the total membership of the Parliament, and may be renewed for a further term if approved by the Parliament.[30] The President submits names for parliamentary approval, selected from candidates who have responded to public advertisements.[31] Although the Constitution provides that the candidate for the post of PG shall possess the "educational qualifications, experience and recognized competence necessary to discharge the responsibilities",[32] no clear guideline exists to ensure that professional standards are met in the appointment. The complete discretion enjoyed by the President in selecting a nominee for the post, as well as the lack of a mechanism to appeal the decision of the President, make the appointment susceptible to political patronage. This is further exacerbated if the President enjoys majority support in the Parliament, which then approves the President's choice regardless of any other factors.

The dedicated police oversight body, the PIC, is also established as an independent and separate legal entity, governed by the *Police Act*.[33] Members of the PIC are appointed by the President upon approval by the Parliament. The *Police Act* specifies that the President may nominate for the post of membership of the PIC such names as he sees fit from those selected by public advertisement. The Act directs the President to propose names from a variety of sectors or fields. Persons whose names are submitted by the President and granted approval by the Parliament are required to meet the qualification criteria specified in the Act.[34] As was noted earlier with regard to the appointment of the PG, similar concerns of political favouritism in the selection of members by the President to the PIC and in the granting of approval by the Parliament can be raised.

Wide powers in the conduct of the independent investigation of police misconduct are conferred upon the PIC. These include powers to gather evidence; to summon witnesses; to enter any government offices or private premises and to inspect and make copies of documents and

records; to request information or reports from governmental agencies; and to undertake visits to detention centres and prisons.[35] The PIC is not, however, empowered to prosecute cases. The PIC can send cases to the PG for prosecution, and/or make a recommendation to the Home Minister on possible disciplinary actions that may be executed against officers who transgress the law.[36] Any directive to the Home Minister for corrective action is required to be complied with, although the Home Minister may decide not to accept the directive or recommendation of the PIC, in which case the Home Minister is only required to notify the PIC of the same, alongside reasons for non-compliance.[37]

The nomination of PG is susceptible to influence.

The MPS, on the other hand, is not established as a body independent of the Executive. Under the Constitution and the *Police Act*, the MPS is established as a civilian force, separate from the military and exempt from the civil service, but operating under a Ministry designated by the President – currently the Ministry of Home Affairs (MOHA).[38]

The Minister of Home Affairs is vested with wide powers and responsibilities in relation to the exercise of functions by the MPS. The Home Minister is responsible for formulating policies relating to the operation of the MPS, as well as for maintaining standards of service, determining the ranks and positions of Police officers, and appointing, promoting, and demoting Police personnel.[39] Remuneration for Police personnel is determined by the Home Minister, in consultation with the Finance Minister.[40] The Home Minister is also conferred with powers similar to those of senior officers of the Police, including the power to give direct orders to individual police officers, and to issue regulations and directions in furtherance of the Act.[41]

The MPS is headed in their day-to-day operation by the Commissioner of Police, assisted by one or more Deputy Commissioners of Police. The Police Commissioner and Deputy Commissioners are appointed from amongst senior Police officers, by the President, and may be removed from their posts by the President.[42] The Police Commissioner is answerable, in respect of the exercise of the functions of the MPS, to the Home Minister, who is constitutionally accountable to the Parliament and is the Minister responsible for the activities and conduct of the Police. The total discretion granted to the President in the appointment and removal of the Police Commissioner, and the powers granted to the Home Minister in influencing the activities of the Police personnel, leaves the MPS highly prone to being politicised and under the direct control of the Executive or the ruling party.

35. *Police Act, section 35(a).*
36. *Police Act, sections 23, 42*
37. *Police Act, section 44*
38. *Police Act, sections 3(c), 5.*
39. *Police Act, section 55.*
40. *Police Act, section 64.*
41. *Police Act, section 16.*
42. *Police Act, sections 52, 54.*
43. *President's Office, "President appoints Commissioner of Police", Press Release (Ref. 2013-526), 19 November 2013; "Abdulla Riyaz appointed as Commissioner of Police legally - PIC», MPS website, 4 September 2013 at <www.policelife.mv/page/46197>; "President appoints officials to senior Police, MNDF positions" Haveeru News (web) 19 November 2008at <www.haveeru.com.mv/news/24667>.*

5.1.3. Independence (Practice)

To what extent are law enforcement agencies independent in practice?

Minimum score (0)

Other actors regularly and severely interfere in the activities of law enforcement agencies.

Mid-point score (50)

Other actors occasionally interfere with the activities of law enforcement agencies. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of law enforcement agencies.

Maximum score (100)

Law enforcement agencies operate freely from any interference by other actors.

Score: 25/100

The law enforcement officials face major challenges to their ability to operate independently in practice, due to institutional weaknesses in the appointment and removal processes. Furthermore, outside actors occasionally interfere with the activities of MPS and PG, with significant consequences for their behaviour.

In the past few years, Maldives has witnessed a practice of the person holding the position of the Police Commissioner, and his deputies changing with every change of government.[43] Due to the sole discretion of the Executive in the appointment of the Police Commissioner, the potential for

the politicisation of the Police institution's head is, generally, the subject of much criticism from opposition parties.[44]

The politicisation of law enforcement agencies is a real issue and the subject of much debate in the country. The Police have faced constant criticism, with allegations of abusing powers and operating with impunity.[45] Politicisation within the MPS has been alleged in numerous cases, from the unlawful arrests of opposition political leaders,[46] parliamentarians,[47] and political activists[48] to the unlawful dismissal of senior officers of the MPS who are not aligned with the ruling party.[49] The MPS has even been charged with being discriminatory amongst certain media outlets that are critical of the incumbent government or ruler.[50] The MPS' decision to discontinue cooperation with one of the local TV stations, which included barring it from police press conferences and taking discriminatory actions against its reporters during anti-government demonstrations, was ruled as being unconstitutional by the Civil Court in February 2013. This is reflective of the high level of politicisation prevalent in the MPS. Furthermore, the questionable behaviour of a number of senior Police officers during the events prior to and culminating in the resignation of the then President on 7 February 2012 stand out starkly as actions that were unprofessional and unbecoming of officers sworn to uphold the law without fear, favour or political bias.[51]

Likewise, the PG has also been facing allegations of political bias in favour of persons aligned with the Government.[52] At a parliamentary committee hearing held on 12 December 2012 to which the PG was summoned, committee members reprimanded the PG of being unfairly discriminatory and selective in his prosecutorial conduct, specifically pointing to the slow speed in prosecuting cases related to the events of 7th and 8th February 2012, while cases after that day were moving at a much faster speed. According to PG Ahmed Muizzu, he faced intimidation and harassment, including protests outside his private residence, as well as verbal attacks and criticisms.[53]

Political or other forms of interference to obstruct the PIC from operating independently in practice are not evident.[54]

5.2. Governance

5.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can access the relevant information on law enforcement agency activities?

Score: 25/100

Legal provisions are in place to ensure that the public can access relevant information on the exercise of functions by the PG and the PIC. However, similar requirements for annual reporting are absent for the MPS.

The PGO is required by the *Prosecutor General's Act* to publicly disclose an annual report containing data on cases submitted to the PG, and specifying the authority that submitted and the actions taken in respect of submitted cases, as well as administrative and human resource matters of the PGO during the year.[55] The law specifies that the report must be made public within 14 days of submission to the oversight bodies, the date of which must be before the end of February the following year[56]

44. *See for example, "Riyaz's appointment as Commissioner compliant: PIC" Haveeru News (web) 4 September 2013 at <www.haveeru.com.mv/dhivehi/police_commissioner_riyaz/143191>; "I accepted the post legally: Commissioner" Haveeru News (web) 11 February 2012 at <www.haveeru.com.mv/dhivehi/police_commissioner_riyaz/116905>.*
45. *See for example, "Police and military: two children that needs to be pleased?" Haveeru News (web) 7 February 2013 at <www.haveeru.com.mv/dhivehi/report/133977>; Amnesty International, Report 2013: The State of the World's Human Rights (2013) page 171; United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2013: Maldives, <http://www.state.gov/documents/organization/220609.pdf>; United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices for 2012: Maldives <http://www.state.gov/documents/organization/204616.pdf >; Severin Carrell, "Maldives police accused of civil rights abuses being trained by Scottish police", The Guardian (web) 17 December 2012 at <http://www.theguardian.com/world/2012/dec/17/maldives-training-scottish-police-college>.*
46. *Qasim Ibrahim v. Maldives Police Service, Supreme Court, 11 July 2010 (2010/SC-A/19).*
47. *Abdulla Yameen Abdul Gayoom v. Maldives Police Service, Supreme Court, 11 July 2010 (2010/SC-A/20).*
48. *Sabra Ibrahim Noordeen v. Maldives Police Service, Civil Court, 26 January 2014 (1944/Cv-C/2013).*
49. *Mohamed Hameed v. Maldives Police Service, Civil Court, 30 September 2013 (1614/Cv-C/2012).*
50. *Raajje Television Pvt Ltd v. Maldives Police Service, Civil Court, 3 February 2013 (1609/Cv-C/2012).*
51. *See, Commission of National Inquiry, Report of the Commission of National Inquiry, Maldives (2012).*
52. *"PG does not maintain equality in initiating prosecutions: Committee" Haveeru News (web) 13 December 2012 at <www.haveeru.com.mv/dhivehi/news/131379>.*
53. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
54. *See for example, PIC, Annual Report 2013.*
55. *Prosecutor General's Act, 19(b).*
56. *Prosecutor General's Act, section 19.*

Minimum score (0)

There are no provisions which allow the public to obtain relevant information on the organisation and functioning of the law enforcement agencies on decisions that concern them and how these decisions were made.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of law enforcement agencies and/or some provisions contain loopholes

Maximum score (100)

Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the law enforcement agencies, on decisions that concern them and how these decisions were made.

The law is silent on the matter of asset disclosure to the public, although these statements are to be reported annually to the Auditor General[57]. The rationale for prosecutorial decisions are not required by legislation to be made public either.

The PIC is also required to publicly disclose its annual report within 45 days of its submission to the President and the People's Majlis, before the end of February of the following year.[58] Its annual report must contain data on complaints lodged and on-going investigations, and must specify decisions taken on completed investigations, recommendations proposed to the MPS, and recommendations complied with and not complied with by the MPS.[59] No requirements for asset disclosure exist for members or staff of the PIC.

Legislation provides limited scope for transparency in the activities of the Police. The *Police Act* is silent on annual reporting requirements of the MPS to the overseeing Home Ministry or any other body. The *General Regulation of Police 2008* enacted under the *Police Act*, however, provides some provisions for the disclosure of information to persons who filed a matter, persons being the subject to an investigation, and the media. These include the requirement to provide information on any matter to the person who filed the matter and the person being the subject of any investigation upon its completion,[60] and the requirement to provide information to media on activities of the Police, including investigations conducted by the MPS.[61] Legislation is silent on any special provisions for victims of crimes to access their case files.

Furthermore, legislation does not specify requirements for asset disclosure of Police personnel, or the Commissioner and Deputy Commissioners of Police.

57. *Prosecutor General's Act, section 12(b).*
58. *Police Act, section 50.*
59. *Police Act, section 50(b).*
60. *General Regulation of Police, 2008, sections 14-15.*
61. *General Regulation of Police, chapter 9.*
62. *See PGO website at <www.pgoffice.gov.mv/?q=%DE%91%DE%A6%DE%87%DE%AA%DE%82%DE%B0%DE%8D%DE%AF%DE%91%DE%B0%DE%90%DE%B0>.*
63. *See PIC website at <www.pic.org.mv/v2/archives/category/publications>; <www.pic.org.mv/v2/archives/category/observation-report>.*

5.2.2. Transparency (Practice)

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?

Minimum score (0)

The public is not able to obtain any relevant information on the organisation and functioning of the law enforcement agencies, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of law enforcement agencies, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the organisation and functioning of the law enforcement agencies, on decisions that concern them and how these decisions were made.

Score: 25/100

While the public can obtain some relevant information on the organisation and functioning of the PGO and PIC, the information disclosed regarding Police activities is not comprehensive. Public disclosure of assets by all law enforcement officials is absent.

In practice, the PGO complies with its reporting requirements, including making these reports available to the public via its website. This includes annual reports as well as statistics of cases presented to PGO, cases sent for prosecution and cases completed, and specifies the types of cases, including the number of cases lodged by the ACC.[62] Information is lacking on key decisions such as the prioritisation criteria for prosecution or investigation.

The PIC is similarly compliant with its reporting requirements. Publications are made available to the public via its website. These include its annual reports, observation reports on certain important investigations, and reports into research conducted on certain matters.[63]

As similar reporting requirements do not exist for the MPS by legislation, no statutory reports are prepared or made available to the public by the MPS.

Given the wide powers granted to PG, the legal checks in place to ensure candid decision-making is inadequate

The MPS, nonetheless, makes available to the public important information relevant to their services, including regulations, application forms and other publications such as their Strategic Plan and Police Performance Review.[64]

Assets disclosure to the public by law enforcement officials is absent, due to the absence of this requirement in law.

5.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?

Score: 50/100

While effective oversight mechanisms are established in law to make all three law enforcement agencies answerable for their actions, gaps exist which may have consequences, such as the limited powers of PIC to enforce its directives. Given the wide range of powers granted to the PG, the legal checks in place to ensure candid decision-making are inadequate. The MPS is held accountable by various authorities whose decisions may or may not be consistent. Immunity from prosecution and civil suit is afforded to all members of law enforcement agencies under legislation.

Minimum score (0)

No provisions are in place to ensure that law enforcement agencies have to report and be answerable for their actions

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of accountability of law enforcement agencies and/or some provisions contain loopholes

Maximum score (100)

Extensive provisions are in place to ensure that law enforcement agencies have to report and be answerable for their actions.

Although the PG is subject to prosecutorial policy guidelines prescribed by the Attorney General,[65] legislation empowers him to review or revert any decision to prosecute or not prosecute any alleged offender, as well as to appeal any judgement, verdict or decision in any criminal matter.[66] Legislation does not specifically require the PG to give reasons for his decisions, nor is a time limit imposed on the PG in making a decision to prosecute. The PG is nevertheless answerable to the Parliament and its committees in relation to the exercise of his functions under statute.[67] The PG is required by the *Prosecutor General's Act* to submit an annual report of his activities to the President and the Parliament, before the end of February of the following year.[68] The PG can also submit reports of any special cases or situations to the President and the Parliament, but this is done at his discretion.[69] Legislation also requires the PG to file annual statements of income, assets and business interests to the Auditor General.[70] Asset disclosure provisions for staff at the PGO are absent in law.

The MPS is subject to constitutional provisions which require actions of the security services to be exercised in accordance with the Constitution and law, and to operate on the basis of accountability.[71] The MPS, which forms part of the security services, are also subject to the authority of the Parliament as well as to the Executive through the Home Minister, who has oversight responsibilities, and to the dedicated oversight body PIC.[72] Under article 241 of the Constitution, a dedicated Parliamentary Committee on Security Services (the "241 Committee") is established to exercise continuing oversight of the operations of both the MNDF and MPS, comprising representation from all political parties within the Parliament.[73]

The PIC is conferred with responsibilities to investigate complaints lodged by the Home Minister or any other person against the MPS or individual Police officers. Upon investigation, the PIC is mandated to issue a directive or recommendation to the Home Minister on the corrective action required, and/or to submit directly to the PG for prosecution any findings of criminal offences committed by Police officers.[74] Police officers being subjected to an

64. See MPS website at <www.police.gov.mv>.
65. Prosecutor General's Act, 12(a)(6).
66. Constitution, article 223.
67. Prosecutor General's Act, section 14.
68. Prosecutor General's Act, section 19.
69. Prosecutor General's Act, section 19(d).
70. Prosecutor General's Act, section 12(b).
71. Constitution, article 238.
72. Constitution, article 239(b).
73. Constitution, article 241. Regulation of the People's Majlis 2010, chapter 19
74. Police Act, sections 23, 42.

investigation by the PIC are given the right of defence, either of their own or through legal representation.[75]

The PIC is required to submit its annual report to the President and the People's Majlis, before the end of February of the following year.[76] Its annual report is required to contain data on complaints lodged and on-going investigations, and to specify decisions taken on completed investigations, recommendations proposed to the MPS, and the recommendations complied with and not complied with by the MPS.[77] The PIC can also submit reports of any special cases or situations to the President, the Parliament and the Home Minister, but this is done at the discretion of the PIC.[78] No requirements for asset disclosure exist for members or staff of the PIC.

In addition, all these institutions are subject to the purview of the Auditor General in relation to the audit of financial accounts, and the ACC in relation to any allegations of corruption.[79]

Police officers, the PG and his staff, and members and staff of the PIC are granted immunity from prosecution and civil suit for acts done in good faith in the exercise of their functions, and within the powers conferred under statute.[80] Immunity for police officers continues to exist after retirement from the service, except in cases of dishonourable discharge.[81]

75. *Police Act, section 43.*
76. *Police Act, section 50.*
77. *Police Act, section 50(b).*
78. *Police Act, section 50(d).*
79. *See Chapters on Supreme Audit Institution and Anti Corruption Agencies.*
80. *Police Act, section 46, 68; Prosecutor General's Act, section 13.*
81. *Police Act, section 68.*
82. *See website of PGO at <www.pgoffice.gov.mv>.*
83. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
84. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
85. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
86. *PIC, Annual Report 2013, page 1; PIC, Annual Report 2012, page 1.*
87. *MPS, Police Performance Review 2012, page 30.*

5.2.4. Accountability (Practice)

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

Score: 50/100

While law enforcement agencies have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective in practice.

The PG submits an annual report into his activities, containing comprehensive information and statistics on cases and matters deliberated on by the PGO.[82] However, the rationale for prosecutorial decisions are not published or announced in each individual case. According to the PG, the reasons for a decision not to prosecute may be either a lack of evidence or a lack of public interest, and reasons for not prosecuting in a specific case are provided if and when requested by oversight bodies such as the Parliamentary committees.[83] Filing of income and assets statements to the Auditor General by the PG is practiced as required by law.[84] According to PG Ahmed Muizzu, the level of responsiveness for cases lodged with the PGO is not on par with citizens' expectations, and there is room for improvement.[85]

The level of responsiveness of the PIC's complaints mechanism is debatable, based on the rate at which cases filed with the PIC are being completed. In 2013, the PIC completed investigations into 51 per cent of complaints lodged, while the completion rate for 2012 was 43 per cent.[86]

The MPS' internal complaints mechanism, on the other hand, appears to be more responsive than that of other law enforcement agencies, according to statistics.[87] While there may be a claim to a reasonable level of responsiveness to internal complaints mechanisms established within the MPS, the resolution of many of these complaints depends on the capacity of the personnel, the amount of evidence available, and, to some extent,

Minimum score (0)

No provisions are in place/existing provisions are not enforced at all

Mid-point score (50)

While law enforcement agencies have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that law enforcement agencies have to report and be answerable for their actions in practice

internal politics.[88] On the other hand, the level of compliance by the MPS to the PIC's directives for corrective action is not published. According to the PIC's annual reports, its directives and recommendations to the Home Minister are almost always informed by the Home Minister to the MPS. In 2013, for example, except for one single case in which the Minister decided not to comply with the PIC's directive, citing legal inconsistency in the PIC's analysis of the case,[89] all recommendations and directives were informed to the MPS.[90] Whether or not the corrective action was then taken by the MPS is not known from the records of the PIC, nor from any records published from the MPS or MOHA.

The activities of law enforcement officials with regard to audit are subject to the purview of the Auditor General. Audit of the financial accounts of the PGO, PIC and MOHA are conducted by the Auditor General and made available online.[91] An audit report of the MPS is presented as part of the audit report of the MOHA.[92]

5.2.5. Integrity Mechanisms (Law)

To what extent is the integrity of law enforcement agencies ensured by law?

Score: 50/100

A comprehensive code of conduct is enacted for the MPS. Legislation covers some aspects of codes of conduct for the PG and members of the PIC, though with major shortfalls. A code of conduct has also been enacted for staff at the PGO, as required under statute. There are no requirements for the declaration of assets for either the PIC or MPS, and post employment restrictions are largely absent for all three agencies.

Law enforcement officials are subject to the ambit of the *Prohibition and Prevention of Corruption Act 2000*, which is applicable to all government employees. The Act provides requirements for gifts and hospitality rules whereby all gifts received by government employees or their spouses from any person seeking the services of any government agency are required to be sent to the President's Office.[93] The President's Office or a designated official must be notified of any offers of gifts or hospitality.[94] The Act prescribes a penalty of imprisonment, banishment or house arrest for a period not exceeding one year for breaches of gift notification provisions.

The *Police Act* stipulates certain codes of conduct for Police personnel. Police officers are required to act with impartiality, and without fear, favour or prejudice. Police personnel are prohibited from being members of political parties or trade unions, and from engaging in or financing any political activity.[95] Police officers are, however, given the right to vote as any other citizen.[96] A comprehensive Code of Conduct for Police personnel enacted under the *Police Act* covers aspects of confidentiality, conflict of interest rules, and the prohibition of corrupt practices and acts.[97] A violation of the code is deemed a disciplinary offence, punishable by disciplinary action including counselling, specific training aimed to reform conduct deemed a to be violation, special supervision, change of work place or site, demotion, or dismissal.[98]

Similarly, members of the PIC are prohibited from holding any public office, whether elected or appointed, or engaging in any other employment.[99] The

Minimum score (0)

There are no provisions in place to ensure the integrity of members of the law enforcement agencies.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of members of law enforcement agencies and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of members of the law enforcement agencies.

88. *Interview of a former police officer with lead researcher, Male', 15 January 2013.*
89. *PIC, Annual Report 2013, page 17*
90. *PIC, Annual Report 2013, pages 5-26.*
91. *See Auditor General's Office website, at <http://www.audit.gov.mv/v1/en/downloads/auditor-generals-reports/>*
92. *See for example, Auditor General, Audit Report of the Ministry of Home Affairs 2011 (25 February 2013) No. FIN-2013-07, pages 19-21; Auditor General, Audit Report of the Ministry of Home Affairs 2010 (13 August 2010) No. FIN-2012-23, pages 9-15.*
93. *Prohibition and Prevention of Corruption Act, 2000 (Law No. 2/2000), section 16(b).*
94. *Prohibition and Prevention of Corruption Act, section 16(b).*
95. *Police Act, section 69; Constitution, article 246.*
96. *Police Act, section 70.*
97. *MPS, Code of Conduct of the Maldives Police (12 August 2008).*
98. *Regulation on Police Disciplinary and Administrative Offences and Penalties 2009 (No. MPS-7/2009-1) section 8.*
99. *Police Act, section 21 (g)*

Act also disqualifies any person directly related to any Police officer from holding a member post in the PIC.[100]

Legislation does not require the disclosure of assets of Police officers or members of PIC, nor does it prescribe any post-employment restrictions.

The *Prosecutor General's Act* specifies certain codes of conduct for the PG in the exercise of his functions. These include the requirement for functions to be exercised with impartiality and without fear, favour or prejudice; the requirement for non-discrimination, equality, transparency and accountability; the prohibition of the personal use of information received in the course of duty; non-disclosure of confidential information; and prohibition from any other employment or any income generating activity.[101] Furthermore, the PG is prohibited from holding any public office, whether elected or appointed; from being a member of any political party or engaging in any political activity; from engaging in any other employment; and from holding shares, interest or a position in any company or partnership related to the legal sector.[102] No such prohibition exists for staff at the PGO with the exception of the DPG.[103] A code of conduct for staff is enacted in the PGO, as is required under statute[104].

Post-employment restrictions are absent for law enforcement officials, and there are no legal restrictions preventing the PG or prosecutors at the PGO from, for example, moving to the private sector and acting as criminal defence attorneys.

100. *Police Act, section 21(i).*
101. *Prosecutor General's Act, section 12(a).*
102. *Constitution, article 222; Prosecutor General's Act, section 4.*
103. *Prosecutor General's Act, section 4*
104. *Prosecutor General's Act, section 15(m).*
105. *Interview of Ahmed Muizzu with lead researcher, Male', 23 December 2012.*
106. *Shameem, Hussain, "Maldivian Legal System: Corruption Control Mechanisms and Codes of Conduct for Law Enforcement Officials", UNAFEI Resource Material Series No. 80: 143rd International Training Course Participants' Papers, page 309 <www.unafei.or.jp/english/pdf/RS_No80/No80_32PA_Shameem.pdf>. Hussain Shameem served as Deputy Prosecutor General from February 2009 to October 2012 and from November 2013 to May 2014.*
107. *"44 dismissed and 7 demoted in police last year" Haveeru News (web) 10 February 2013 at <www.haveeru.com.mv/dhivehi/february_7/134121>.*

5.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of members of law enforcement agencies ensured in practice?

Score: 25/100

There is an ad-hoc and reactive approach to ensuring the integrity of members of the law enforcement agencies in practice, including only some of the elements of inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

The PG acknowledges that much improvement needs to be made to the training and education of the PGO staff on integrity and ethical issues. There is no structured approach to training on integrity issues at present. PG Muizzu notes that some integrity rules are practiced strictly in the PGO, including conflict of interest rules, and gift and hospitality rules.[105] DPG Shameem claimed in 2010 that there have been no reported incidences of corruption in the PGO. He states that the close monitoring of the personnel, along with the procedures in place to address daily routine matters, including daily briefings, inhibit the occurrence of such incidences. Furthermore, he asserts that the PGO is not seen as a "corrupt organization" by the public.[106] However, as has been noted earlier, accusations of bias have been levelled against the PG on occasions, usually by members of the opposition in Parliament.

In the context of the MPS, internal disciplinary mechanisms on integrity issues appear to function adequately. According to the MPS' statistics, more than 50 police personnel were disciplined in 2012, out of a total of 152 matters submitted to the Police Directorate mandated to investigate professionalism matters.[107]

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the law enforcement agencies, such that misbehaviour goes mostly unsanctioned

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the law enforcement agencies, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the law enforcement agencies, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues

A human rights baseline survey conducted by the Human Rights Commission of Maldives (HRCM) indicated a wide variation in the level of public satisfaction with the Police service. Populations in more rural areas tended to view the Police services as being more satisfactory, while a large number of the public in the more urban islands considered Police services to be unsatisfactory. Among the complaints levelled against the Police were inefficiency, inaccessibility, lack of fairness/bias, torture, and corruption.[108] In a similar trend, the *Global Corruption Barometer Survey 2013* indicates that 34 per cent perceive the Police to be corrupt.[109] Research indicates that a perception gap exists between how the public view the services of the Police, and how the Police view their services to the public. The culture of secrecy and entitlement that had pervaded through law enforcement officials, especially the police service, for centuries, has not yet been effectively erased, despite efforts in recent years to make law enforcement more accountable and less biased in its implementation.

For the police oversight body, there is no evidence to suggest that mechanisms for ensuring the integrity of the PIC are ineffective in practice.

5.3. Role

5.3.1. Corruption Prosecution

To what extent do law enforcement agencies detect and investigate corruption cases in the country?

Minimum score (0)

In general, law enforcement agencies do not detect and investigate corruption cases

Mid-point score (50)

While law enforcement agencies do investigate corruption cases, their work is generally reactive, focused only on a small number of cases and rarely results in charges and successful convictions

Maximum score (100)

Comprehensive, concrete and proactive steps are taken by the law enforcement agencies to promote public accountability and the fight against corruption. They regularly and successfully detect and investigate corruption cases.

Score: 25/100

Whilst there have been many alleged cases of corruption reported in the media and claimed to be under investigation by the law enforcement agencies, relatively few cases have led to successful convictions.

With the establishment of a dedicated statutory body, the ACC, to detect and investigate corruption activities, the role of the MPS is limited in terms of its involvement in the investigation of corruption cases. This is perhaps a positive change in the political spectrum, as the ACC is a more independent institution than the MPS, the latter being subject to the ambit of the Executive, and therefore more likely to have a bias in investigation of activities by members of the Executive.

The independent PG, on the other hand, plays a crucial role in prosecuting corruption cases before the courts, upon investigation by the ACC. Cases for prosecution can be sent to the PGO by both the MPS and the ACC. However, a decision to proceed or not with the prosecution of a case submitted by the MPS or the ACC is determined by the PG, after his own evaluation of the case. Consequently, cases can get delayed or even ignored by the PG indefinitely, without the MPS or the ACC being consulted.

The MPS is vested with adequate powers for the investigation of criminal activity, including powers of arrest, detention and questioning of suspects of criminal activity, and investigation of suspected venues of criminal activity.[110] The powers of arrest and detention are, however, subject to warrants from Courts of Law. The PIC, in its role as the police watchdog, has the power to investigate cases of alleged corruption within the police service, and can recommend prosecution to the PG, based on satisfactory evidence.[111] The PG, too, is prescribed wide powers under legislation to act with great discretion in matters of criminal prosecution. This includes the determination of the legality of an investigation and its process.[112]

108. *Human Rights Commission of the Maldives (HRCM), The "Rights" Side of Life: A Baseline Human Rights Survey (2013) page 13.*
109. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
110. *Police Act, section 8.*
111. *Police Act, sections 23, 36(c)*
112. *Constitution, article 223*

Despite these powers, records of corruption-related prosecution and successful conviction are low in the country. However, the low numbers recorded may be due to the fact that specific statistics for "corruption related offences" are not categorised in such a way as to be easily identifiable. Neither the PGO nor the MPS provides separate categories for "corruption" offences when formulating their statistics, though they do specify the institution that lodged the case with the PG (e.g. the ACC or PIC) and certain categories of offences may be regarded as corruption-related offences.[113]

According to PGO statistics, in 2013, a total of 3,551 cases were presented to the PGO, out of which 3,494 cases were submitted by the MPS, and 47 submitted by the ACC. A total of 1,821 cases were sent to courts for prosecution, and out of these, only three cases related to a corruption-related offence.[114] In 2012, a total of 3,362 cases were presented to the PGO, out of which 3,311 were submitted by the MPS and 41 were submitted by the ACC. A total of 1,429 cases were sent for to courts for prosecution, out of which only 13 cases related to corruption offences.[115] According to the PGO, one of the problems faced by prosecutors with regard to the cases submitted by the ACC relates to the weak investigation, which makes it difficult to successfully prosecute such cases. While the PGO and the MPS have been able to establish a better working relationship in vetting the cases during handover, no such relationship has been established with the ACC.

Of the corruption cases being prosecuted in the courts, very few result in successful convictions. In the last few years, there has been only one major corruption case that resulted in a successful conviction, which involved a sitting MP and resulted in his removal from the post of Member of Parliament.[116] On the other hand, many major cases of alleged corruption involving MPs and senior government officials were indicted in 2012 alone.[117]

Due to recurrent issues of social disorder, drug use and political turmoil in the country, the MPS' strategic and operational priorities almost always focus on addressing these issues, and are significantly negligent towards corruption offences. This is in part also because corruption offences are primarily within the ambit of the ACC.[118]

Of the corruption cases being prosecuted in the courts, very few result in successful convictions

113. *MPS, Statistics of Criminal Offences 2011-2012 (2013) at <www.police.gov.mv/s/annual_report_2011_2012.pdf>; MPS, Statistics of Criminal Offences 2010 (2011) at <www.police.gov.mv/s/annual_report_2010.pdf>; PGO, Statistics on Prosecution of Cases 2011, at <www.pgoffice.gov.mv/sites/default/files/Statistics_2011.pdf>; PGO, Statistics on Prosecution of Cases 2010, at <www.pgoffice.gov.mv/sites/default/files/2010.pdf>; PGO, Statistics on Prosecution of Cases 2009, at <www.pgoffice.gov.mv/sites/default/files/2009.pdf>; PGO, Statistics on Prosecution of Cases 2008, at <www.pgoffice.gov.mv/sites/default/files/2008.pdf>.*

114. *PGO, Annual Report 2013, pages 8, 17-20.*

115. *PGO, Annual Report 2012, pages 4, 15-16, 18.*

116. *See "Several fraud cases expectant of a judgement" Haveeru News (web) 21 June 2012 at <www.haveeru.com.mv/dhivehi/report/123019>.*

117. *See for example: State v MP Nazim, "Nazim's actions cannot be considered a crime" Haveeru News (web) 22 February 2012 at <www.haveeru.com.mv/dhivehi/politics/117411>; State v MP Saleem, "Red Wave Saleem indicted" Haveeru News (web) 28 February 2012 at <www.haveeru.com.mv/dhivehi/mp_ahmed_saleem/117705>; State v Shafiu (former Customs head), "Shafiu judged not guilty" Haveeru News (web) 5 October 2012 at <www.haveeru.com.mv/dhivehi/customs_ibrahim_shafiu_/128189>.*

118. *MPS, Police Performance Review 2012; MPS, Strategic Plan 2014-2018.*

Recommendations

1. Procedure for appointing the Police Commissioner, Prosecutor General and members of Police integrity Commission should be transparent and based on clear professional criteria.

2. There should be greater transparency in the powers vested in the PG, with greater accountability imposed for prosecutorial decisions. The PG should be required to follow publicly disclosed criteria for case prioritisation. There should be a clear duration imposed on the PG to decide on whether or not to prosecute a case, with transparency in this decision.

3. The PG should establish better working relations with other statutory bodies such as the HRCM and the ACC.

4. The PIC should be granted with greater powers to ensure its recommendations are implemented.

5. Post-employment guidelines should be drawn up for officials leaving the law enforcement service.

6. Regulations need to be in place to define what information is required to be publicly disclosed by the MPS, ensuring public confidence in its activities and intentions.

VII 6. Elections Commission

Summary

The electoral management functions in the Maldives are vested with the independent Elections Commission of the Maldives (EC). Independence and impartiality of the EC is ensured in law and practice. Electoral officials are subject to integrity rules prescribed by statute and regulation. The EC's performance in the conduct of three major elections since it was established as an independent body in 2008 has been deemed admirable by local and international observers. Although the EC is allocated an adequate budget to administer and conduct elections, it faces resource constraints in the exercise of its other functions, such as voter education and the regulation of political parties. Campaign regulation also lacks an adequate legal framework, coupled with a lack of effective enforcement of campaign financing and political party financing measures. Transparency in the activities of the EC is not adequately ensured, leading to some inadequacy in the legislative provisions aimed at ensuring its accountability.

Average Score = 63/100

The table below presents the indicator scores that summarise the assessment of the electoral management body in terms of its capacity, internal governance, and role within the integrity system of the Maldives.

Dimension	Indicator	Law	Practice
Capacity	Resources	-	50
	Independence	75	75
Governance	Transparency	75	50
	Accountability	100	50
	Integrity	75	75
Role	Campaign Regulation	25	
	Election Administration	75	

Structure & Organization

The EC is established as an independent statutory body under the new Constitution of 2008.[1] It is mandated with powers and responsibilities to conduct, manage, supervise and facilitate all elections and public referendums; to ensure proper exercise of the right to vote; and to ensure the conduct of free and fair elections, without intimidation, aggression, undue influence or corruption. The EC is also responsible for preparing, maintaining and updating electoral rolls, for the registration of voters, for fixing and demarcating the boundaries of constituencies or voting units, and for educating and generating public awareness on the electoral process.[2] The

Budgetary constraints persist for EC to undertake voter education or monitoring of political parties

EC is also mandated with the responsibilities of registration and regulation of political parties in the Maldives. (The EC's functions relating to the regulation of political parties are more closely assessed under the political parties pillar.)

The EC is composed of five members, appointed by the President upon approval by the Parliament.[3] The interim EC was established immediately after the ratification of the Constitution of 2008. The interim members held their posts from 6 September 2008 until 23 November 2009, when the interim period expired and members were appointed for the permanent Commission.[4]

Minimum score (0)

No electoral management body exists OR the existing financial, human and infrastructural resources of the electoral management body are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)

The electoral management body has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)

The electoral management body has an adequate resource base to meet its goals. Resources include financial, infrastructure and staff as well as organisational and staff development.

Assessment

6.1 Capacity

6.1.1. Resources (Practice)

To what extent does the electoral management body (EMB) have adequate resources to achieve its goals in practice?

Score: 50/100

Sufficient resources are available in terms of infrastructure, human and technical resources, although budgetary constraints hinder the EC's to undertake other functions, such as voter education or the monitoring of political parties.

The EC is allocated ample resources to carry out its primary function of conducting elections, according to its Secretary General.[5] As is true for most other statutory institutions, the budget of the EC is formulated and submitted to the Minister of Finance and Treasury, who in turn finalizes the State budget and submits to the Parliament for approval each year.[6] According to the EC's Secretary General, the EC receives the allocated budget in a timely manner, and adequate financial resources are available for it to exercise its functions effectively.[7] The Secretary General stated that the Government always allocates additional financial resources for the conduct of elections,[8] but that budgetary constraints are, however, present in other areas of its work.[9]

The EC has competent human resources that enable it undertake its functions. The secretariat comprises permanent staff, while temporary electoral staff are appointed for the conduct of each election. Permanent staff at the Secretariat are hired based on merit, and employment matters are governed by the *Regulation of the Elections Commission 2010*.[10] Regular training sessions are conducted for permanent staff, and as the former Vice President of EC noted, the amount of training offered was on par with that offered by other statutory institutions.[11] Whilst the conduct of elections is largely administered by temporary staff throughout the country, at each balloting station, it is the permanent staff at the secretariat who comprise the systematic and institutional memory of the EC. Temporary electoral staff or election officials, hired during the period surrounding each election, are given necessary training for each election in which they take part.[12] Similarly, adequate facilities for the conduct of elections, such as balloting halls, communications, and transport facilities are also provided by State institutions to the EC for the conduct of elections.[13]

1. *Constitution, 2008, article 167(a)*
2. *Constitution, 2008, article 170*
3. *Constitution, 2008, article 168; Elections Commission Act, 2008 (Law No. 8/2008), section 4.*
4. *Website of the Elections Commission (EC) at <www.elections.gov.mv/index.php?option=com_content&view=article&id=20&Itemid=5>.*
5. *Interview of Asim Abdul Sattar, Secretary General of EC, with lead researcher, Male', 13 November 2012.*
6. *Elections Commission Act, section 27(a).*
7. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012; EC, Annual Report 2012, page 59.*
8. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
9. *For example, in its Annual Report 2012 notes that due to reductions in the proposed budget, the EC could not undertake a project for development of a software for archiving of Commission's documents, as proposed in its Strategic Plan <EC, Annual Report 2012, pages 63, 65>*
10. *Elections Commission's Regulation 2010, section 11 (b) (i)*
11. *EC, Annual Report 2012, pages 16-18, 29; EC, Annual Report 2011, pages 14-15, 23-24; Interview of Hussain Siraj, former Vice President of EC, with lead researcher, Male', 5 November 2012.*
12. *EC, Annual Report 2012, pages 50; EC, Annual Report 2011, pages 42-43.*
13. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*

Members of the EC are nominated by the President and appointed upon approval by the Parliament.[14] The process and mechanism for the appointment of members does not necessarily take into account any specific level of academic qualifications or merit; both the submission of names by the President and the approval of names by the Parliament are done at the discretion of these two institutions. Whilst the process is open to being subject to political patronage, the present composition of the EC reflects a broad range of educational qualifications and experience, and has shown considerable competency and independence in the execution of its responsibilities.

6.1.2. Independence (Law)

To what extent is the electoral management body independent by law?

Score: 75/100

The EC is an independent statutory body established by the Constitution of 2008, with separate legal entity status, and is composed of five members appointed by the President with the approval of the Parliament.[15] Membership in the EC is limited to a fixed term of five years, and is subject to renewal for an additional term of not more than five years, upon approval by the Parliament.[16] Members of the EC and its staff are granted legal immunity from civil suits and criminal prosecution, for acts in good faith, conducted within the exercise of their duties and responsibilities, and within the powers provided for under law.[17]

The *Elections Commission Act 2008* stipulates provisions aimed at ensuring the independence and neutrality of the Commission. Members are prohibited from holding, inter alia, and public office, whether elected or appointed, prescribed in the Constitution or legislation; from any other employment in the Government or private sector; and from membership in any political party, or involvement in the activities of any political party.[18] EC members are liable to be removed from office, inter alia, if any of these qualifications ceases to exist, or if they make an application for an elected public office.[19]

On the other hand, certain limitations exist in the constitutional and legislative provisions, raising questions about the level of political impartiality guaranteed by these legal provisions. No specific provisions exist to ensure the qualification of members given approval by the Parliament and appointed by the President.[20] Furthermore, under the Constitution and the *Elections Commission Act*, members of the EC may be removed from office by a resolution of a simple majority of the Parliament members present and voting, based on a parliamentary committee finding that such members have breached any of the grounds of misconduct, incapacity or incompetence.[21] As there are no clear guidelines for what construes grounds for dismissal, this could and has been proven to impinge on the independence of the EC, because it opens the possibility of members being removed on political (as opposed to professional) grounds.

The secretariat of the EC comprises the Secretary General and staff of the EC, appointed by the members.[22] The Secretary General heads the secretariat and is overall in charge of the day-to-day affairs of the Commission. Decisions of the members are communicated through the President of the EC or a designated member of EC, to the Secretary General.[23]

Minimum score (0)

There are no laws which seek to ensure the independence of the electoral management body.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the independence of the electoral management body and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the electoral management body .

14. *See Elections Commission Act, section 5, Constitution of Maldives Article 169 (b)*
15. *Constitution, article 167, 168 (a); Elections Commission Act, sections 2-4.*
16. *Constitution, article 173, Elections Commission Act, section 6.*
17. *Elections Commission Act, section 18.*
18. *Elections Commission Act, section 5.*
19. *Elections Commission Act, section 10(a).*
20. *Elections Commission Act, section 5; The Act stipulates qualifications of members, which includes, being: (1) a Muslim; (2) a Maldivian national; (3) of 25 years of age; (4) not have been convicted, in the last five years, of an offence for which a haddis prescribed in Islam; (5) not hold a public office, whether elected or appointed, prescribed in the Constitution or a legislation; (6) not hold any employment in the Government or private sector; (7) not have been convicted of a criminal offence for which sentence of more than 12 months, unless a period of 5 years has elapsed since release or pardon for the offence; and (8) not hold membership in any political party, or involved in activities of any political party.*
21. *Constitution, article 177.*
22. *Regulation of the Elections Commission, sections 2(a), 26(a).*
23. *Regulation of the Elections Commission, sections 2(b)-(d).*

Minimum score (0)

Other actors regularly and severely interfere in the activities of the electoral management body

Mid-point score (50)

Other actors occasionally interfere with the activities of the electoral management body. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the electoral management body.

Maximum score (100)

The electoral management body operates freely from other actors and its activities are non-partisan, i.e. they demonstrate no signs of bias. The government or other actors never interfere in electoral management body activities.

The hiring and firing of staff of the EC secretariat is undertaken by the members in accordance with its Regulation, which requires all recruitments to be conducted by public advertisement.[24] These regulations in general follow the guidelines for hiring civil servants, although the EC can fire individual staff members in accordance with the provisions of the *Employment Act 2008* and their own guidelines. Unfair dismissal of any staff, including the Secretary General, can be contested in the Employment Tribunal under provisions of the *Employment Act*.[25]

6.1.3. Independence (Practice)

To what extent does the electoral management body function independently practice?

Score: 75/100

Despite the hectic and fluid nature of the country's political system in a budding democracy experiencing dramatic reforms, the EC has excelled in successfully conducting three major elections in the country since the body's inception in 2008, indicating its institutional capabilities to function, and earning the confidence of citizens as an independent and impartial institution. The independence of the EC was not called into question, nor were there any alleged violations of law by the EC, during the presidential election in 2008, the parliamentary elections in 2009, or the local council elections in 2011. Nonetheless, the EC is free from the criticism of political parties or electoral candidates.

The EC is independent from the Executive, with membership appointment and removal requirements being vested with the Parliament. Other than the change in membership on the expiry of the term of the interim EC in 2009, there have not been any instances of change in the members of the EC.[26]

Following the presidential election of 2008, the first major election conducted by the independent EC since its creation, the Commonwealth observer group noted a high level of transparency, inclusiveness and participation in the process, and an overall credible election.[27] In early 2013, the Elections Commission of India is reported to have stated, upon a visit to the Maldives to conduct research into the electoral process, that the Maldives' EC had the capability to operate independently and efficiently to conduct elections.[28] In an interview, the Secretary General of EC also noted the strong position of the EC to operate independently in a professional and non-partisan manner, without interference from other state bodies, owing to constitutional and legislative provisions.[29] Moreover, there have not been any reported cases of external powers or institutions interfering with or influencing the work of the EC.

24. *Regulation of the Elections Commission, section 11(a).*
25. *Employment Act, 2008 (Law No. 2/2008), section 5.*
26. *See EC's website at <www.elections.gov.mv/index6f77.html>*
27. *Commonwealth Secretariat, Commonwealth Observer Group, Maldives Presidential Election: Interim Statement on the Run-Off Election (30 October 2008); Commonwealth Secretariat, Reports of the Commonwealth Observer Group: Maldives Presidential Election, 1st Round of Voting, 8 October 2008 and Run-Off Election, 28 October 2008 (2008) page 27.*
28. *"EC has the competence to conduct a free and fair election: Indian Elections Commission" Haveeru News (web) 10 March 2013 at <www.haveeru.com.mv/dhivehi/news/135434>.*
29. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*

Minimum score (0)

There are no provisions which allow the public to obtain relevant information on the organisation and functioning of the electoral management body on decisions that concern them and how these decisions were made

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the EMB and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the electoral management body, on decisions that concern them and how these decisions were made.

6.2. Governance

6.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the EMB?

Score: 75/100

Relevant provisions exist in the current legal framework to ensure that the public can obtain adequate information about the activities of the EC.

Legislation imposes requirements for the EC to count the ballot papers at the polling station, and to record and publicly declare the votes cast in favour of each candidate (or question in case of a public referendum), immediately after close of polls and in the presence of the candidates or their representatives.[30] The EC is mandated to prepare and maintain a registry of voters,[31] and to make the voters registry publicly available, including in the Government Gazette and on the EC's website.[32]

Under the *Parliamentary Constituencies Act 2009*, the EC is required to determine the parliamentary constituencies and to establish the number of MPs to be elected and the registered population in each constituency no later than ten months prior to expiration of the term of membership of the sitting MPs, and to make this information available to the public, including publication in the Government Gazette.[33] An interim report on these activities is required to be made available to the public through the Government Gazette, no later than eight months prior to expiration of the term of membership of the sitting MPs.[34] The official report is required to be made available to the public no later than 150 days prior to expiration of the term of membership of the sitting MPs.[35]

Under the *Presidential Elections Act 2008*, the EC is required to make publicly available the official results of presidential elections within seven days of the polls.[36] Similarly, the EC is required to make publicly available the official results of parliamentary elections, including any by-elections within 7 days of the polls, including publication in the Government Gazette.[37] The specified time period for the publication of the official results of the local councils' elections is 14 days from the date of elections.[38]

Moreover, the EC is required, by regulation, to establish a national advisory committee for each election, capable of offering advice to the EC and discussing matters related to the respective elections. The committee in the case of the parliamentary elections and local council elections comprises a member of the Human Rights Commission of the Maldives (HRCM), a staff member appointed by the Maldives Police Service (MPS), a representative from civil society, and a representative from each registered political party.[39] The composition of the committee in case of a presidential election comprises a member of the HRCM, a representative from civil society, and a representative from each presidential candidate.[40] The functions of the National Advisory Committees are to offer advice to the EC, to discuss matters related to the respective elections, and to offer a venue for information sharing of the organisational and logistics aspects of the administration of elections.

As the regulator of political parties, all registered political parties are required to submit to the EC, within 90 days of the end of each year, audit reports and financial.[41] However, the Regulation does not require the EC to make such reports available to the public. In the case of presidential elections, every candidate contesting in a presidential election is required to submit to the EC, within 60 days of the elections, an audit report on the financial expenditure of the campaign and elections, and the EC is required to establish a mechanism to make these reports available for inspection by the public.[42]

The EC is also required to prepare and make publicly available a report on the conduct of presidential elections within 60 days of the polls,[43]

30. *Constitution, article 171(b); Elections Commission Act, section 24(b).*
31. *Elections (General) Act, 2008, (Law No. 11/2008) section 8.*
32. *Elections (General) Act, section 9.*
33. *Parliamentary Constituencies Act, 2009 (Law No. 1/2009), sections 7-8.*
34. *Parliamentary Constituencies Act, section 12.*
35. *Parliamentary Constituencies Act, section 14.*
36. *Presidential Elections Act, 2008 (Law No. 12/2008), section 15.*
37. *Parliamentary Elections Act, 2009 (Law No. 2/2009), section 14; Regulation on Parliamentary Elections 2009, section 23(a).*
38. *Local Councils Elections Act, 2010 (Law No. 10/2010), section 19.*
39. *Regulation on Local Council Elections 2010 (No. 2010/R-5), section 3; Regulation on Parliamentary Elections 2009, section 4. (The Regulation on Parliamentary Elections 2012 (No. 2012/R-8), section 4, varies composition of the national advisory committee to include a representative from all political parties fielding candidates in the election, as opposed to a representative from all registered political parties).*
40. *Regulation on Presidential Elections 2008, section 5. (The Regulation on Presidential Elections 2013 (No. 2013/R-40) section 3 increases composition of the national advisory committee to also include representatives from MPS, Maldives Media Council and the Maldives Broadcasting Commission).*
41. *Regulation on Political Parties 2005, section 29.*
42. *Presidential Elections Act, section 17.*
43. *Regulation on Presidential Elections 2008, section 29.*

Public disclosure of information on political party financing is primarily absent

and reports on the conduct of parliamentary elections and local councils' elections within 60 days of the polls.[44]

6.2.2. Transparency (Practice)

To what extent are reports and decisions of the electoral management body made public in practice?

Score: 50/100

In practice, public disclosure of relevant information by the EC is adequate in relation to information about elections. However, the public disclosure of information about political party financing is largely absent.

The EC maintains its website, which contains up-to-date information about elections and matters relating to political parties. The website contains detailed and comprehensive information on elections results, laws, regulations and procedures, public notices and circulars, as well as news items. As of the date on which the research was conducted, 3 December 2012, some of the reports required to be made publicly available by law were not available on the EC's website, including a *Report on the Conduct of Parliamentary Elections 2009*, and a *Report on the Conduct of Local Councils Elections 2011*.

In the context of information about political party financing and electoral candidate financing, public disclosure is low. The EC does not proactively disclose annual party finances, nor does it proactively disclose the presidential and legislative campaign finances, although they include in their annual reports details of which parties submitted the required information[45]. The *CRINIS 2011* report noted that access to information submitted by the parties was granted upon request, for viewing only at the premises of the EC.[46]

On the other hand, engagement with the media is proactively exercised by the EC. According to the website of the EC and an interview with the Secretary General, the EC holds regular press conferences, and issues public statements regarding its functions and electoral activities.[47] Continuous engagement of the EC with the public through the media ensures that all necessary information is disseminated from its central headquarters in the capital, Male', to the local islands and atolls. The Secretary General stressed in an interview that the media is a key means of information dissemination.[48]

With a view to strengthening its means and processes to disseminate information to the media, in 2011 the EC established a media unit. In addition to conducting activities to engage with media sources, this unit has been charged with the task of managing and updating the EC's official website. According to its annual report, the media unit executed processes and activities to conduct media conferences regularly throughout 2012.[49] The Commonwealth Secretariat noted in its report following the observation of the parliamentary elections in 2009 that "an example of the positive changes that have already occurred in the development of democracy in Maldives was the role played by the media throughout the campaign. The [Commonwealth] Expert Team was pleased to learn that the Commonwealth Broadcasters Association had provided a media expert to advise the public broadcaster (TVM and Voice of Maldives) on good practice in relation to election coverage".[50]

Minimum score (0)

The public is not able to obtain any relevant information on the organisation and functioning of the electoral management body, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of the EMB, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the organisation and functioning of the electoral management body, on decisions that concern them and how these decisions were made.

44. *Regulation on Parliamentary Elections 2009, section 33; Regulation on Local Councils Elections 2010, section 40.*
45. *Elections Commission, Annual report 2012 page 31, Annual report 2011 page 28*
46. *Transparency Maldives, Transparency in Political Financing in Maldives: CRINIS Research Project (2011), page 40 ("CRINIS").*
47. *See EC website at <www.elections.gov.mv/index.php?option=com_content&view=category&layout=blog&id=8&Itemid=35>.*
48. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
49. *See EC, Annual Report 2011, page 52.*
50. *See Commission Secretariat, Maldives People's Majlis (parliamentary) elections: Report of the Commonwealth Expert Group (2009) pages 21-22.*

The EC, moreover, employs a toll-free phone line to enable voters to check the registry, make inquiries, lodge complaints and report issues during election times. This toll-free number facilitates better communication and accessibility of information for the general public throughout the country.[51]

6.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that the EMB has to report and be answerable for its actions?

Score: 100/100

Legislation provides for adequate accountability in terms of the conduct of EC personnel.

Legislation makes adequate reporting requirements for the EC to publish reports on its activities. The EC's annual report is required to be submitted to the President and the Parliament before the end of February of the subsequent year.[52] The annual report is required to contain information about the activities of the EC during the year, including information on elections conducted during the year, electoral complaints and actions taken on these complaints, electoral expenses, changes to the voters registry, changes to parliamentary constituencies, changes to the political parties registry, administrative and management information including human resources matters, and important activities conducted by the EC during the year. The EC's financial statements, audited by the Auditor General, are also required to be included in the annual report. Moreover, the EC is required to publish these reports after 14 days of submission.[53]

Further reporting requirements are applicable to the EC regarding the elections conducted. The EC is required to prepare and make publicly available a report on the conduct of presidential elections within 30 days of the polls.[54] Reports on the conduct of parliamentary elections and local councils' elections are required to be prepared and made publicly available within 60 days of the polls.[55]

The EC is accountable to ordinary citizens through the judicial courts. Constitutional and legislative provisions grant any person the right to challenge a decision of the EC concerning an election or a public referendum, and to challenge the results of an election, or contest the legality of any other matter related to an election, by means of an application to the High Court.[56] Furthermore, the EC is accountable to the Parliament through its committees.[57]

Although legislation does not explicitly define a means of establishing relations with other stakeholder institutions, by virtue of the EC's independence, it is free to engage with other stakeholders in the exercise of its functions.

6.2.4. Accountability (Practice)

To what extent does the EMB have to report and be answerable for its actions in practice?

Score: 50/100

Minimum score (0)

No provisions are in place to ensure that the EMB has to report and be answerable for its actions.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the accountability of the EMB and/or some provisions contain loopholes.

Maximum score (100)

Extensive provisions are in place to ensure that the EMB has to report and be answerable for its actions.

51. See for example, EC, Report on the Presidential Elections 2008, page 9; EC, Statistical Report on the Local Council Elections 2011, pages 47-48.
52. Elections Commission Act, sections 27, 28(a).
53. Elections Commission Act, sections 28(c).
54. Regulation on Presidential Elections, section 29.
55. Regulation on Parliamentary Elections, section 33; Regulation on Local Councils Elections, section 40.
56. Constitution, article 172(a); Elections Commission Act, section 25.
57. Regulation of the People's Majlis, section 69.

Minimum score (0)

No provisions are in place/existing provisions are not enforced at all.

Mid-point score (50)

While members of the EMB have to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that members of the EMB have to report and be answerable for their actions in practice

In practice, the EC is not fully compliant with its reporting requirements. Findings of the audit reports of the EC reveal further mismanagement of funds. Mechanisms to hold the EC to public accountability are, however, active and utilised.

The reporting requirements laid down by legislation are not fully complied with by the EC. On the one hand, the required annual reports are submitted by the EC in a timely manner, and made available online. The contents of the information available from the report provides a good insight into the activities and records of the EC during each year.[58] The required reports on elections are, however, not comprehensively prepared and published. Of the three major elections conducted by the EC between 2008 and 2011, only two reports, those on the presidential elections of 2008 and the local council elections 2009, were made available on its website.[59]

Auditing of the EC's financial statements is mandated to the Auditor General. Audit reports of the EC reveal incidences of non-compliance with public finance laws, misuse of State funds, and other irregularities.[60] The audit report of the EC for the year 2012, for example, notes that 13 cases flagged in the EC's previous audit reports have resulted in no implementation of corrective measures.[61] Such findings from the audit reports are picked up and investigated by the ACC, in relation to corruption allegations, and occasionally by the parliamentary committees.[62]

Electoral-related complaints resolution mechanisms are established by the EC prior to each election, in the form of complaints bureaus which deal with all electoral related complaints.[63]

Moreover, constitutional and legislative provisions provide redress mechanisms by which to challenge decisions of the EC. Resort to court is a frequent and common practice across all spheres of the country, and matters concerning the EC and the conduct of elections are no different. Subsequent to the parliamentary elections in 2009, some 21 matters were submitted to court. All but one were ruled in the EC's favour.[64]

Engagement with the media is one aspect that is proactively exercised by the EC. According to the website of the EC and an interview with the Secretary General, the EC holds regular press conferences and issues public statements regarding its functions and electoral activities.[65]

58. *See EC, Annual Report 2011; EC, Annual Report 2012.*
59. *EC, Report on the Presidential Elections 2008; EC, Statistical Report on the Local Council Elections 2011.*
60. *"Will prove members' not fraudulent towards public money: Fuad" Haveeru News (web) 18 April 2012 at <www.haveeru.com.mv/dhivehi/news/120023>; "EC members transferred money from official phone lines" Haveeru News (web) 16 November 2012 at <www.haveeru.com.mv/dhivehi/news/130065>; "Major issues with local council election expenditures" Haveeru News (web) 14 November 2012 at <www.haveeru.com.mv/dhivehi/news/130006>.*
61. *"Recommendations on 13 cases not implemented by Elections Commission: 2012 audit report" Minivan News (web) 29 June 2013 at <www.minivannews.com/politics/recommendations-on-13-cases-not-implemented-by-elections-commission-2012-audit-report-60457>.*
62. *See for example, "Parliament discusses to lodge EC corruption issues to ACC" Haveeru News (web) 18 June 2012 at <www.haveeru.com.mv/dhivehi/news/122875>.*
63. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
64. *Interview of Hussain Siraj with lead researcher, Male', 5 November 2012.*
65. *See EC website at <www.elections.gov.mv/index.php?option=com_content&view=category&layout=blog&id=8&Itemid=35>.*

6.2.5. Integrity (Law)

To what extent are there mechanisms in place to ensure the integrity of the electoral management body?

Score: 75/100

Legislation seeks to ensure the integrity of the EC and its members by prescribing comprehensive codes of conduct.

The *Elections Commission Act* outlines comprehensive codes of conduct for the EC's members in the exercise of their functions. These codes address a broad range of integrity matters, such as compliance with the provisions of the Constitution and applicable laws; the promotion of the rule of law and protection of the rights and freedoms of citizens; the prioritization of national interest and citizens' wellbeing; non-discrimination; independent

Minimum score (0)

There are no provisions in place to ensure the integrity of members of the electoral management body.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of members of the EMB and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of members of the electoral management body. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality, and post-employment restrictions.

and impartial conduct; the exercise of members' powers without fear, favour or prejudice; non-support for any candidate or party; behaviour on the basis of fairness, transparency, and accountability; the prohibition of misuse and disclosure of information; and the prohibition of participation in active business, any income-generating profession, or any other income-generating activity.[66]

However, the codes stipulated in the *Elections Commission Act* are not applicable to staff of the EC. The integrity rules applicable to staff of the EC are laid down in the *Regulation of the Elections Commission 2010*. Regulatory provisions prohibit staff from engaging in other employment, from membership in any political party or engagement in any political activity, from the disclosure of confidential information, and from the misuse of State resources and official information for personal gain.[67]

The *Prohibition and Prevention of Corruption Act 2000* provides further integrity rules applicable to all employees of governmental institutions, and therefore applicable to the EC's members and staff. The Act prohibits bribery, the misuse of power or influence for undue gain, and the misuse of resources for personal gain. Moreover, the Act requires that any gifts received by employees or their spouses in the course of exercising official functions, from any person seeking the services of any Government agency, be forwarded to the President's Office or a designated office, and that any offers of gifts or hospitality be notified to the President's Office.[68]

However, the codes of conduct applicable to members and staff of the EC do not address matters such as post-employment restrictions. .

Staff of the EC are further regulated in their conduct by their respective employment contracts.[69]

6.2.6. Integrity (Practice)

To what extent is the integrity of the electoral management body ensured in practice?

Score: 75/100

The codes of conduct established by the *Elections Commission Act* and the *Regulation of the Elections Commission* seek to ensure the integrity of the members and staff of the EC in practice. Breaches of these codes by staff are penalised, including by the termination of employment.[70]

The effective implementation of these codes is, however, questionable. According to the former Vice President of the EC, two notable incidents of breaches of the code by staff which were sanctioned with termination have since been reversed by the Employment Tribunal as being inconsistent with the *Employment Law*.[71]

Employment contracts are signed by staff with the EC upon appointment, including by temporary staff appointed for the conduct of elections.[72] There is no evidence to indicate that temporary staff are required to sign a declaration or to swear an oath to uphold the guiding principles.

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the EMB, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the EMB, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the EMB, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

66. Elections Commission Act, section 17(a)
67. Regulation of the Elections Commission 2010, section 7.
68. Prohibition and Prevention of Corruption Act, 2000 (Law No. 2/2000), section 16.
69. Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.
70. Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.
71. Interview of Hussain Siraj with lead researcher, Male', 5 November 2012; see also, EC, Annual Report 2011, page 13.
72. Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.

Minimum score (0)

The EMB is inactive and unsuccessful in regulating candidate and political finance.

Mid-point score (50)

While the EMB does seek to regulate candidate and political finance, its approach is largely reactive and its success is limited (due to limited competencies and/or failures in implementing existing provisions).

Maximum score (100)

The EMB is very active and successful in regulating candidate and political finance.

6.3. Role

6.3.1. Campaign Regulation

Does the electoral management body effectively regulate candidate and political party finance?

Score: 25/100

The regulation of candidate and political party financing by the EC is weak both in law and in practice.

Under the Constitution and legislation, the EC is mandated with the functions of conducting the registration and regulation of political parties, including political party financing. Despite laws having been enacted since 2008, and competent powers having been granted to EC to undertake the necessary regulation of campaign financing,[73] enforcement of these requirements has been weak. Furthermore, the line between using State resources for political campaigning and official functions by senior government officials, including the President, is often blurred, even in law, leading to further issues in respect of campaign regulation.[74]

Under the *Political Parties Regulation*, political parties are required to conduct audits and to submit financial reports to the EC annually. The Secretary General of the EC concedes that this aspect has not been effectively enforced, partly due to shortcomings in the law.[75] Although the EC decided to withhold budgetary finances allocated to parties that did not comply with the financial reporting requirement, this decision was reversed by the courts.[76]

The Auditor General too has noted the lack of proof regarding the validity of much of the expenditure by political parties for a credible audit, a key problem being that parties receive donations and resources in kind (for example, transportation is provided for a party/candidate in kind).

Legislation requires electoral candidates to file a financial report with the EC within 30 days of the election,[77] and presidential candidates to file financial reports to the EC within 60 days of the election.[78] However, the law is vague on the information that must be included in this report, and leaves much room for interpretation. The EC is required to establish a mechanism by which the public can inspect these records.[79] Despite the legislative requirement, the reports filed with the EC are kept on file, and are not disclosed to the public.[80]

Transparency Maldives' *CRINIS* study rated the laws enacted for regulating political party financing as "average", while practice dimensions of political financing received a score within the "insufficient" range. These scores indicate shortcomings in both the relevant laws, and, particularly, the practice of the EC to effectively regulate political party and candidate financing.[81]

73. *Most relevant of these legislations include, Regulation on Political Parties 2005 (enacted under the General Regulations Act, 2008 (Law No: 6/2008), Elections Commission Act (Law No: 8/2008), Regulation of the Elections Commission 2010 (enacted under the Elections Commission Act 2008), Elections (General) Act (Law No: 11/2008), Presidential Elections Act (Law No: 12/2008), Regulation on Presidential Elections 2008 (enacted under the Presidential Elections Act 2008), Parliamentary Elections Act (Law No: 2/2009).*
74. *"Campaign using state monies" Haveeru News (web) 11 May 2013 at <www.haveeru.com.mv/dhivehi/opinion/138068>; "Several complaints for campaigning using state resources: ACC" Haveeru News (web) 3 January 2011 at <www.haveeru.com.mv/dhivehi/news/98047>*
75. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
76. *See Transparency Maldives, CRINIS (2011) pages 24-25.*
77. *Elections (General) Act (Law No: 11/2008), section 73.*
78. *Presidential Elections Act (Law No: 12/2008).*
79. *Elections (General) Act (Law No: 11/2008), section 73(d).*
80. *See Transparency Maldives, CRINIS (2011) pages 26.*
81. *See Transparency Maldives, CRINIS (2011) pages 7.*

Minimum score (0)

The EMB is inactive and unsuccessful in ensuring free and fair elections.

Mid-point score (50)

While the EMB is somewhat active in seeking to ensure free and fair elections, its success is limited (due to limited competencies and/or failures in implementing existing provisions).

Maximum score (100)

The EMB is very active and successful in ensuring free and fair elections.

6.3.2. Election Administration

Does the EMB ensure the integrity of the electoral process?

Score: 75/100

Since its establishment in 2008, the EC has established mechanisms for the registration of voters, to facilitate voting on islands different from the voters'

permanent addresses, in all elections.[82] Voter registration is prepared with the assistance of other State institutions, such as the Department of National Registration (DNR) and the Male' Municipality (later, the Male' City Council).[83] The initial voters list is published both on the EC's website and in the Government Gazette to enable public viewing, commenting, and the proposal of amendments, before a finalised list is published.[84] This process enables voters to check and correct any incorrect or missing information.[85] In the parliamentary elections held on 9 May 2009, for example, the EC prepared and distributed the initial voters list as early as 16 February 2009, in order to provide adequate time for voters to check and correct any inaccuracies.[86]

The voter registration process, complaints mechanisms, and the subsequent right to vote are not, however, free from criticisms or shortfalls. In its report of the presidential elections of 2008, Transparency Maldives noted that there were some inaccuracies in the voter registry and voter lists at the polling stations that "threatened to derail the first round of the elections and complicate the second round of voting". As the report noted, this may also have been caused by the inherent institutional shortcomings that pre-date the 2008 election. For example, the previous voter registry was based on 'incomplete' and 'out-dated' information available from the DNR. Since 2007, it was a key priority of EC to improve the voter registry.[87] The Commonwealth Observer report on the parliamentary elections of 2009 also noted that improvements to the voter list and complaints mechanisms of the EC were required.[88]

According to the Secretary General of the EC, a workable system is in place to educate voters about elections and election process during and in between elections.[89] In 2011, Transparency Maldives commended the EC for "spearheading a meaningful, although a limited and delayed, voter education program in Male' and the atolls".[90] Voter education remains a significant challenge, as the problem of voter buying is quite pervasive, and voters are not necessarily impervious to cash handouts, or promises of infrastructure and employment.

Election administration by the EC, considering the highly challenging geographical setting of the Maldives, is admirable. In the opinion of EC's Secretary General, an effective computerised system put in place to calculate election results enhances its effectiveness and reduces problems faced by the EC in the calculation of results.[91]

Both international and local observers are permitted to observe every stage of the elections, including the counting of polls.[92] For example, in 2011, the Commission facilitated the participation of political parties, civil society, independent bodies and persons including the HRCM, the Commonwealth, the UNDP and the International Foundation for Elections Systems (IFES) as observers of the elections process.[93] The Commonwealth Observer Group in the presidential election of 2008, for instance, was able to deploy its observer teams to cover eleven (of the 20) atolls, and a total of 60 islands across the country.[94]

82. *See EC, Annual Report 2011, pages 17, 47.*
83. *See EC, Report of the Presidential Elections 2008, pages 8-9.*
84. *Elections (General) Act, section 9.*
85. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
86. *See EC, Report of the Parliamentary Elections 2009. pages 4-6*
87. *Transparency Maldives, Domestic Observation of the 2008 Maldivian Presidential Election (2008) page 27.*
88. *See Commission Secretariat, Maldives People's Majlis (parliamentary) elections: Report of the Commonwealth Expert Group (2009).*
89. *Interview of Asim Abdul Sattar with lead researcher; See also EC website at <www.elections.gov.mv/index.php?option=com_content&view=section&layout=blog&id=5&Itemid=23>.*
90. *See Transparency Maldives, Maldives: Pre Election Statement' (2011).*
91. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
92. *Interview of Asim Abdul Sattar with lead researcher, Male', 13 November 2012.*
93. *See EC, Annual Report 2011, page 43.*
94. *See Commonwealth Secretariat, Maldives Presidential Election First Round of Voting (2008); Commonwealth Secretariat, Maldives People's Majlis (parliamentary) elections: Report of the Commonwealth Expert Group (2009).*

Recommendations

1. The Elections Commission should be provided with adequate resources to enable it to undertake effective training and development programmes for its staff.

2. Codes of conduct for Elections Commission staff need to be improved and better enforced.

3. Legislation needs to be improved to ensure more transparent disclosure of campaign finances by candidates to the public.

4. The Elections Commission should proactively make available to the public financial reports that are submitted to the Commission by political parties and election candidates, in an easily accessible manner, and on a timely basis.

5. Non-compliance with legally required financial reporting by political parties should be sanctioned.

6. Existing regulations on campaign finance need to be enhanced and aimed at better enforcement. In particular, legislative enactments should be made to prevent the misuse of State resources for election campaigning by senior government officials.

VII 7. Auditor General's Office

Summary

The Auditor General is a constitutionally mandated position entrusted with the task of ensuring accountability in matters of public finance. However, effective implementation of this mandate is constrained by a weak human resource capacity of Auditor General's Office, which does not have the level of trained and experienced staff necessary to meet its demands. The law provides a high degree of autonomy and independence for the Auditor General to carry out his mandated responsibilities, including measures to ensure financial independence. The Auditor General is however sometimes hampered in his work by cooperation and coordination difficulties with the institutions being audited, which often lack the necessary information or create delays in providing information. There is no overt political or judicial interference in the work of the Auditor General, and he is generally free to follow his own agenda in auditing Government ministries and public institutions. Major shortcomings are the lack of review mechanisms to ensure the implementation of the Auditor General's recommendations following audits, and the lack of guidance for reviewing statements of assets that are submitted to the Auditor General as mandatory requirements for some State officials.

Score = 53 / 100

The table below presents the indicator scores that summarise the assessment of the Auditor General's Office in terms of its capacity, internal governance and effectiveness of its role within the integrity system of the Maldives.

Dimension	Indicator	Law	Practice
Capacity	Resources	-	50
	Independence	75	50
Governance	Transparency	50	50
	Accountability	75	50
	Integrity Mechanisms	75	50
Role	Effective Financial Audits	50	
	Detecting & Sanctioning Misbehaviour	50	
	Improving Financial Management	25	

Structure & Organization

The Constitution of the Maldives provides for an independent and impartial Auditor General.[1] Functions of the Auditor General are to undertake financial audits, performance audits, governance and regulatory audits, and special

audits of all Government ministries, departments and offices, the Parliament, offices of the Judiciary, independent statutory bodies, public funds granted to political parties, all government revenues and expenditures, assets and liabilities, and state enterprises and ventures.[2] The Auditor General is also mandated to audit, report on and publish the accounts, financial statements and details of the financial management of any institution primarily funded by the State, and any business entity in which shares are owned by the State.[3] Moreover, the Auditor General is also authorised to provide independent and objective assessments of the use of public funds, and to advise on the efficient and effective delivery of services.[4] In addition, he carries out the functions of regulating the accounting and audit profession in the country.[5]

Under the Constitution, the Parliament is vested with the powers of determining matters relating to independent commissions, including the Auditor General.[6]

The Auditor General is appointed by the President, upon approval by the majority of the total membership of the People's Majlis.[7] The term of appointment of the Auditor General is seven years, subject to the renewal of an additional term of not more than five years by a resolution passed by a majority of the total membership of the Parliament.[8]

The first independent Auditor General under the *Audit Act 2007* was appointed in January 2008.[9] The position, however, remained vacant for over a year, following the dismissal of the Auditor General by the Parliament in March 2010. The current Auditor General was appointed in May 2011.[10]

1. *Constitution, 2008, article 209(a).*
2. *Constitution, article 212.*
3. *Constitution, article 212(c).*
4. *Constitution, article 212; Website of the Auditor General's Office at <www.audit.gov.mv/v1/en/our-office/strategy-and-work-program>.*
5. *Audit Act, 2007 (Law No. 4/2007), sections 3, 5; Regulation on Statutory Audit and Assurance Services, 2012 (2012/R-24).*
6. *Constitution, article 70(b)(5).*
7. *Constitution, article 210.*
8. *Constitution, article 215.*
9. *Auditor General's Office (AGO), Annual Report 2008, page 6.*
10. *President's Office, "President Appoints Niyaz Ibrahim as the Auditor General", Press Release (2011-341), 4 May 2011, website of the President's Office <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=5260>.*
11. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
12. *Audit Act, section 14.*
13. *Audit Act, section 14 (5b)*
14. *AGO, email communications with TM, 2014*

Minimum score (0)

No audit institution exists OR the existing financial, human and infrastructural resources of the audit institution are minimal and fully insufficient to effectively carry out its duties

Mid-point score (50)

The audit institution has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)

The audit institution has an adequate resource base to meet its goals. Resources include financial, infrastructure and staff.

Assessment

7.1 Capacity

7.1.1. Resources (Practice)

To what extent does the AGO have adequate resources to achieve its goals in practice?

SCORE: 50 / 100

The Audit institution faces resource gaps leading to a certain degree of ineffectiveness in carrying out its duties.

According to the Auditor General Niyaz Ibrahim, limited human resources contribute to the Auditor General's Office (AGO) to not be able to deliver timely audit reports of all institutions of the State.[11]

The budget of the AGO is sent directly to the parliamentary committee on Public Finance, along with a proposed timeline and work plan for audits. This is in contrast to other governmental institutions, whose budgets face scrutiny and review from the Minister of Finance and Treasury (MoFT) before being presented to Parliament. The Auditor General is also privy to direct communication with the parliamentary committee during the parliamentary review of its budget.[12] The budget for the AGO is passed by the Parliament upon review of the committee's recommendations. The law specifies that the AGO must receive the amount that was approved by the Parliament[13]. This is adhered to in practice, hence AGO does not face financial constraints in carrying out its work.[14] The AGO is also allowed to levy fees for any institution

that it audits, at the AG's discretion.[15]

However, the Auditor General's Office lacks adequate human resources to carry out its functions effectively, especially within the mandatory deadlines. All audited institutions are required to submit financial statements within three months of the end of the financial year[16], and the AGO is required to submit audit reports of all these within two months, in addition to an overall report on the State budget[17]. The Auditor General maintains that the statutory deadlines for the AGO is unrealistic for these tasks.[18]

According to the Auditor General, many of the human resource challenges occur due to the nature of the work, as audit work cannot be handed over midway to another auditor. Staff turnover, however, does not pose an issue for the institution, owing to higher rates of remuneration compared to the civil service and other independent statutory bodies.[19] As an experienced professional in the auditing sector, Rifaath Jaleel, former President of Certified Practicing Accountants (CPA) Maldives, noted that the AGO lacked an adequate number of experienced senior staff to be able to carry out its work most effectively, as demonstrated by the existing level and quality of output, and undue delays in producing audit reports.[20]

Training is provided to staff at the AGO, albeit not enough to create a qualified workforce. According to its annual report, 30 out of its 118 staff were undergoing overseas training in 2008.[21] As of November 2012, there were 28 scholarships set for 2013.[22] The Auditor General also mentioned that the AGO lacks the capacity to undertake any performance audits. It also faces difficulty meeting financial audit duties due to the high travel costs for the annual audits of the entire local government, which includes two city councils, 19 atolls councils, and 182 island councils. As of March 2013, no audits of local councils have been conducted[23].

There is no prohibition in law for Attorney General for particiaption or membership in political party

15. *Audit Act, Section 10*
16. *Public Finance Act 3/2006, Section 35(a)*
17. *Audit Act, Section 36*
18. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
19. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
20. *Interview of Rifaath Jaleel, former President of Certified Practicing Accountants (CPA) Maldives (May 2011-May 2012), with lead researcher, Male', 24 November 2012.*
21. *AGO, Annual Report 2008, page 15.*
22. *AGO, email communication with lead researcher, November 2012. RESEARCH UPDATE: Local council audits commenced in 2014 and reports are now publicly available for some councils.*
23. *Transparency Maldives, An Assessment of Climate Finance Governance in Maldives (2013) page 19.*
24. *Constitution, articles 215-218.*
25. *Constitution, article 210.*
26. *Constitution, article 211.*
27. *Constitution, article 215.*

7.1.2. Independence (Law)

To what extent is there formal operational independence of the AGO?

SCORE: 75 /100

There are comprehensive laws seeking to ensure the independence of the AGO. However, minor gaps exist in law.

The independence of the Audit institution is guaranteed under the Constitution and the *Audit Act*. Mechanisms for the appointment and removal for the post of the Auditor General are established independently from the Executive and through parliamentary consent.[24] The Auditor General is appointed by the President, upon approval by the majority of the total membership of the Parliament.[25] Although constitutional and legislative requirements dictate that the Auditor General shall possess the educational qualifications, experience and recognised competence necessary to discharge his functions,[26] no clear rules exist to ensure that appointments are based on clear professional criteria. Parliamentary approval of the President's choice of candidate is subject to, and at the full discretion of, parliamentary majority.

Legislation stipulates a term of seven years for the Auditor General, but this can be extended for an additional term of not more than five years, by a resolution of the majority of total membership of the Parliament.[27] Power to

Minimum score (0)

There are no laws which seek to ensure the independence of the supreme audit institution.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of independence of the supreme audit institution and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the supreme audit institution.

28. Constitution, article 218.
29. Audit Act, section 5.
30. Audit Act, section 5(d).
31. Constitution, article 211.
32. Audit Act, section 14.
33. Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.

remove the Auditor General from his post is also vested with the Parliament, by a resolution of a simple majority of the Parliament, preceded by a parliamentary committee's finding that the AG has met any of the grounds of misconduct, incapacity or incompetence.[28]

Appointment and removal of staff at the AGO, and their conduct, is governed by contractual law and subject to relevant provisions of the *Employment Act 2008*.

Legislation also guarantees the independence of the institution in terms of functions of the Auditor General. The Auditor General is vested, under both the Constitution and the *Audit Act*, with the necessary powers to carry out its functions as laid down in the law. These include the authority to issue direction to State institutions on the management of finances and bookkeeping; powers to inspect and make copies of all records, books, receipts, documents, monies and stamps; powers to interview persons and request information from any person; and all other necessary powers as required in relation to any audit being conducted by the Auditor General.[29] The Auditor General is also entrusted to carry out his audits in accordance with self-determined programmes and methods.[30]

The dismissal of an employee of the AGO can be heard and adjudged by an Employment Tribunal. Likewise, the Anti-Corruption Commission (ACC) or a parliamentary committee can investigate any suspected cases of corruption on the part of the Auditor General. Therefore,,the Auditor General is independent in the conduct of his functions, except for those falling within the ambit of another institution.

Legislation is, however, not without gaps in terms of its ability to ensure complete independence and impartiality. Although the Constitution and Audit Act provide for a general requirement of the independence and impartiality of the Auditor General, no prohibition from political participation or membership in a political party is explicit in legislation, for either the Auditor General or his staff. Moreover, the law does not explicitly provide for the Auditor General or his staff to be immune from prosecution. Legislation, does however explicitly prohibit the AG from engaging in any other employment.[31]

Relations between the AGO and the Legislature are clearly laid down in law. The *Audit Act* provides mechanisms for the Auditor General to communicate with the relevant parliamentary committee in terms of proposing his own budget.[32]

Minimum score (0)

Other actors regularly and severely interfere in the activities of the AGO and/or the director/members/staff are engaged on regular basis in political or other activities which undermine their independence and political neutrality.

Mid-point score (50)

Other actors occasionally interfere with the activities of the AGO. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the AGO.

Maximum score (100)

The audit institution operates freely from other actors and its activities are non-partisan, i.e. they demonstrate no signs of bias. Operating freely means that the government or other actors never interfere in audit institution activities.

7.1.3. Independence (Practice)

To what extent is the AGO free from external interference in the performance of its work in practice?

SCORE: 50/100

Although its activities are non-partisan and free from bias, the AGO faces interferences in terms of access to information, and is subject to perennial threats of potential political retaliation.

According to the Auditor General, the work of the AGO is planned out independently, without any interference from outside actors. It seeks to undertake audits, and reports on aspects covering all ministries, departments and public finances, with no considerations of bias.[33]

Although not stated in Audit Act, the AGO has included in its internal regulations that staff cannot hold membership in political parties[34]. There have been no reported incidences of the Auditor General or his staff holding political positions or membership in political parties, or taking up other employment.

The first independent Auditor General under the *Audit Act* was appointed in January 2008. However, following the release of some audit reports just prior to the presidential election of 2008 that were alleged to be controversial and politically motivated to unfairly influence the election outcome, he was dismissed from his post by the Parliament in March 2010. The parliament, at the time dominated by parties sympathetic to the losing candidate in the 2008 presidential election, passed a majority resolution to remove the Auditor General on allegations of corrupt practices and activities.[35] Such action reflects the existence of a perennial threat of potential political retaliation by a parliamentary majority against any official appointed to independent institutions by the Parliament. The current Auditor General has been in the post only since May 2011.[36]

Additional challenge to the Auditor General's ability to conduct audits efficiently and in a timely manner include the lack of information available from other institutions, the poor quality of information received, and delays in submission. Whilst some institutions do not have financial reports prepared, those who do have reports available may not provide reports of the standards specified in Act due to their own capacity constraints[37]. Other institutions challenge the authority of the Auditor General on access to the information required.[38]

34. AGO, Email correspondence with TM, 2014
35. See Transparency Maldives, Maldives Parliamentary Watch (2012), pages 9-10.
36. President's Office, "President Appoints Niyaz Ibrahim as the Auditor General", Press Release (2011-341), 4 May 2011, website of the President's Office <http://presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=5260>
37. AGO, email correspondence with TM, 2014
38. "Most state companies not in a condition to be audited" Haveeru News (web) 22 December 2013 at <www.haveeru.com.mv/dhivehi/auditor_general/148019>.
39. Audit Act, section 11.
40. Audit Act, section 8.

7.2. Governance

7.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the AGO?

SCORE: 50/100

Legislative requirements for reports on the activities of AGO to be made available to the public are weak, although there are adequate requirements for the AGO to report to the Parliament.

The Auditor General is required by law to prepare annual audits of the State budget as a whole and of government institutions, and to submit these reports to relevant agencies. It must also ensure its own audit is carried out, independently, and furthermore can carry out performance audits of institutions. Budget requests for the AGO are required to be sent along with details of the budget requested, an annual work plan, and a performance review.

The Auditor General is required to prepare an audit of State accounts, upon receipt of financial statements of State expenditure from the Minister of Finance and Treasury, within three months of his receipt of these financial accounts[39]. In cases of non-receipt of financial accounts within three and a half months after end of each year, the Auditor General is required to notify the President and the Parliament within 14 days.[40]

Minimum score (0)

There are no provisions which allow the MPs and the public to obtain relevant information on the organisation and functioning of the audit institution, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the AGO and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place which allow MPs and the public to obtain information on the organisation and functioning of the audit institution, on decisions that concern them and how these decisions were made.

The annual work plan and programmes of AGO are required to be prepared and submitted to the Parliament three months prior to end of each year, along with its budget request for the coming year.[41]

Additionally, an annual report of the AGO's activities, together with an audit report of its annual accounts, is required to be prepared and submitted to the relevant parliamentary committee[42] mandated to scrutinize these reports,[43] but no deadline is stipulated in law for the submission of either the annual report or quarterly operational reports.

The audit report of the AGO must be conducted by an independent auditor appointed by the Auditor General within two months of the end of each year. This auditor is required to conduct the audit and submit its report to the President, the Speaker of the Parliament and the Auditor General within three months.[44]

However, of all these reporting requirements, only the AGO report on the State budget is explicitly required to be made public[45].

Minimum score (0)

The public and MPs are not able to obtain any relevant information on the organisation and functioning of the AGO, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public and MPs can obtain relevant information on the organisation and functioning of the AGO, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

MPs and the public are able to readily obtain relevant information on the organisation and functioning of the AGO, on decisions that concern them and how these decisions were made.

7.2.2. Transparency (Practice)

To what extent is there transparency in the activities and decisions of the AGO in practice?

SCORE: 50/100

In practice, the public and MPs can obtain some degree of information on the organisation and functioning of the AGO. Information available to the public in particular must be noted as meeting more than the statutory requirements. However, the reports prepared and the information made available are not always comprehensive, and are not made available by the required deadlines.

The audit reports, when prepared by the AGO, are published and made available to the public via the AGO's official website.[46] According to the Auditor General, limited human resources contribute to the failure to conduct audits of, and prepare reports on, all institutions of the State.[47]

The submission of quarterly operational reports to the Parliament as stipulated in law was not adhered to in 2012, although quarterly reports of the AGO are publicly available on its website, from the second quarter of 2013 onwards.[48]

41. *Audit Act, section 14(a).*
42. *Audit Act, section 14(e).*
43. *Regulations of Parliamentary Public Finance committee, section 8 (a)*
44. *Audit Act, section 16.*
45. *Audit Act, Sections 5,8,11,14,16 and Public Finance Act Sections 36,38*
46. *See, AGO website at <www.audit.gov.mv/v1/en/downloads/auditor-generals-reports/>*
47. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
48. *See, AGO, Quarterly Report: Sept 2013 (21 January 2014; No. QR3/2013); AGO, Quarterly Report: Dec 2013 (19 February 2014; No. QR4/2013).*

Minimum score (0)

No provisions are in place to ensure that the audit institution has to report and be answerable for its actions.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the accountability of the audit institution and/or some provisions contain loopholes.

Maximum score (100)

Extensive provisions are in place to ensure that the audit institution has to report and be answerable for its actions.

7.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that the AGO has to report and be answerable for its actions?

SCORE: 75/100

Effective provisions are in place under legislation to ensure that the AGO has to report and be answerable for its actions, such as requirements for reporting on its activities to the Parliament, and requirements providing for the independent audit of its financial accounts.

The Auditor General is required to submit to the parliamentary committee quarterly reports of its operational activities.[49] An annual performance report of its activities, and an independent annual audit report of its own accounts, are also required to be submitted to the parliamentary committee.[50] The committee is mandated to scrutinize these reports[51] but no deadline is stipulated in law. Adequate information is required to be included in the annual performance report, including the AGO's achievements in respect of annual work plans, and reasons for the non-achievement of any targets, if any.[52] However, no deadline is provided in law for the submission of both these annual reports.

The audit of the AGO is required to be conducted by an independent auditor within two months of the end of each year. This audit report is required to be submitted to the President, the Speaker of the Parliament and the Auditor General within three months.[53]

There are no formal mechanisms established in law for institutions audited by the AGO to challenge the opinions or appeal the findings of the Auditor General. Constitutional provisions, however, permit any person or body to apply to the courts to strike off any action or decision that adversely affects them on grounds of fair administrative action.[54]

7.2.4. Accountability (Practice)

To what extent does the AGO have to report and be answerable for its actions in practice?

SCORE: 50/100

Although legislation makes adequate provisions for the Auditor General to report and be answerable for his activities, existing provisions are not effectively adhered to, and are only partially effective in practice.

The AGO had not been audited on a timely basis, due to the Auditor General's post being vacant, until May 2011.[55] The audit report of the AGO for the year 2012 was published and made available to the public in August 2013.[56]

The AGO has also failed to prepare and submit any of its quarterly reports on operational activities for 2012, but did submit in 2013[57]. This non-compliance was recorded in its audit report for 2012 as the only, though very serious, irregularity in the work of the AGO.[58]

However, whether or not these reports are deliberated on by the parliamentary committee is not clear. Parliamentary scrutiny of the reports being presented to the Legislature takes place within the relevant parliamentary committees, and its reports are published on the website of the Parliament. The Parliamentary Committee on Public Finance deliberates on the proposed budget of the AGO, and reports on institutional audits conducted by the Auditor General in a timely manner,[59] but parliamentary scrutiny of the annual reports, quarterly operational reports and the audit report of the AGO, is largely absent.

The Auditor General also noted that he is planning on recommending a peer review of the institution, which allows for foreign audit institutions to audit the AGO in the Maldives. This recommendation is for a peer review to be conducted every three years.

Minimum score (0)

No provisions are in place/existing provisions are not enforced at all

Mid-point score (50)

While the audit institution has to report and be answerable for certain actions of theirs, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that the audit institution has to report and be answerable for its actions in practice

49. Audit Act, section 14(d).
50. Audit Act, section 14(e).
51. Regulations of Parliamentary Public Finance committee, section 8 (a)
52. Audit Act, section 14(e).
53. Audit Act, section 16.
54. Constitution, article 43.
55. Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012, although email communications with AGO and TM later confirmed that audits were completed for these years since then.
56. Auditor General's Office, Audit Report 2012.
57. See, AGO, Quarterly Report: Sept 2013 (21 January 2014; No. QR3/2013); AGO, Quarterly Report: Dec 2013 (19 February 2014; No. QR4/2013).
58. "Audit report of the Audit Office not submitted to Parliament: Audit" Haveeru News (web) 16 August 2013 at <www.haveeru.com.mv/dhivehi/auditor_general/142349>.
59. See for example, Parliamentary Committee on Public Finance, Report on the Annual Budget of the Auditor General's Office for the Year 2014, (No. MLK/2013/R-9) 19 December 2013, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Annual Budget of the Auditor General's Office for the Year 2013, (No. MLK/2012/R-2) 6 November 2012, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Annual Budget of the Auditor General's Office for the Year 2011, 30 November 2010, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Deliberations of the Audit Report of the Human Rights Commission of the Maldives for the Year 2010, (No. MLK/2012/R-4) 25 November 2012, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Deliberations of the Audit Report of the Attorney General's Office for the Year 2010, (No. MLK/2012/R-5) 25 November 2012, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Deliberations of the Audit Report of the Police Integrity Commission for the Year 2010, (No. MLK/2012/R-7) 25 November 2012, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Deliberations of the Audit Report of the Prosecutor General's Office for the Year 2010, (No. MLK/2012/R-6) 25 November 2012, website of the People's Majlis; Parliamentary Committee on Public Finance, Report on the Deliberations of the Audit Report of the Anti Corruption Commission for the Year 2010, 28 December 2011, website of the People's Majlis.

Although not provided for in legislation, the Auditor General notes that audited institutions can challenge audit reports of their respective institutions. This may take place in the form of communications exchanged between the AGO and the audited institutions, or through complaints lodged with the relevant parliamentary committees. However, in the absence of an established formal mechanism, many of these debates on the disagreements between the auditor and the audited have taken place via the media.[60] One such example is the comments made by the Auditor General with regard to the AGO's findings on the Elections Commission (EC). On the one hand, such open and frank debate in the media may help increase public awareness of financial practices in the audited institutions. Conversely, it can also lead to undue politicization of some very serious issues raised, as both parties vie for favourable public opinion through a 'trial by media'.

7.2.5. Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of the audit institution?

SCORE: 75/100

Minimum score (0)

There are no provisions (e.g. codes of ethics) in place to ensure the integrity of officials of the audit institution

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of officials of the audit institution and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of officials of the audit institution. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality, and post-employment restrictions.

The Constitution, the *Audit Act* and the *Prohibition and Prevention of Corruption Act 2000* provide principles of integrity for the Auditor General and his staff to follow, albeit with some gaps. However, these gaps are addressed in internal regulations of the AGO.

The Constitution and Audit acts espouse that the Auditor General shall be independent and impartial.[61] The Constitution prohibits the Auditor General from engaging in any other employment.[62] Similar prohibitions of staff engaging in any other employment and being members of political parties or taking part in political party activities are not laid down in legislation, but are included in AGO staff regulations[63].

The *Audit Act* makes provision for confidentiality of information obtained in the course of duty by officials of the AGO.[64] Breaches of confidentiality of information are punishable by a fine not exceeding MVR 25,000 (US$ 1,621), and misuse of any confidential information for personal gain is punishable by a fine not exceeding MVR 10,000 (US$ 649) and imprisonment for a period of between 3-12 months.[65]

The *Prohibition and Prevention of Corruption Act* provides further integrity rules applicable to all employees of governmental institutions, and therefore applicable to the Auditor General and his staff. The Act prohibits bribery, misuse of power or influence for undue gain, and misuse of resources for personal gain. Moreover, the Act requires any gifts received by employees or their spouses from any person seeking the services of any government agency, in the course of exercise of official functions, to be forwarded to the President's Office or designated office, and any offers of gifts or hospitality to be notified to the President's Office.[66]

Integrity provisions to address post-employment restrictions and conflict of interest in the course of conducting audits are primarily absent in law.

Audits restricted by lack of cooperation from institutions being audited

60. "Audit report flags irregularities in Elections Commission finances" Minivan News (web) 17 November 2012 at <www.minivannews.com/politics/audit-report-flags-irregularities-in-elections-commission-finances-47476>; "Auditor General accuses Elections Commission of Misappropriation of Funds" Minivan News (web) 25 Aril 2012 at <www.minivannews.com/politics/auditor-general-accuses-elections-commission-of-misappropriation-of-funds-36153>; "Elections Commission audit reports reveals 'irresponsible' spending" Minivan News (web) 29 December 2011 at <www.minivannews.com/politics/elections-commission-audit-report-reveals-irresponsible-spending-30097>.
61. Constitution, article 209(a).
62. Constitution, article 211(a).
63. AGO, Email correspondances with TM, 2014
64. Audit Act, section 17-18.
65. Audit Act, section 18(b) and (c).
66. Prohibition and Prevention of Corruption Act, 2000 (Law No. 2/2000) section 16.

7.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of the audit institution ensured in practice?

SCORE: 50/100

Despite the absence of adequate legal measures to ensure the integrity of the AGO, there is no record of issues relating to the integrity of the officials of the AGO in practice.

Although there is no specific training provided to staff on integrity issues, the Auditor General is confident that the AGO's staff do not accept gifts. Generally, staff at the AGO abide by all laws and regulations, according to the Auditor General.[67] There is no evidence from research or from the interviews conducted of any violations by staff at the AGO in terms of integrity issues. Nor has the media ever reported on an issue relating to the integrity of staff at the AGO.

The first Auditor General was removed by the Parliament in 2010 on grounds of allegedly corrupt practices. The charges against the Auditor General were initially raised in 2008 and were investigated by the ACC. Charges included the misuse of his position to access office funds for personal use. Though these funds were reimbursed to the office, these issues were raised in the Parliament. The media speculated that the charges were brought forward primarily by the then-opposition party's members, and blamed the controversial timing of the issuance of certain audit reports that were unfavourable to the previous President, who went on to lose the election.[68] However, the ACC had forwarded the case against the AG for prosecution after its investigations[69].

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the audit institution, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the audit institution, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the audit institution, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

67. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
68. *See, "Parliament votes to dismiss Auditor General 43-28 in favour" Minivan News (web) 29 March 2010 at < http://minivannews.com/politics/parliament-votes-to-dismiss-auditor-general-43-28-in-favour-5273>; "Auditor General Ibrahim Naeem sacked" Haveeru News (web) 29 March 2010 at <www.haveeru.com.mv/english/details/29203>.*
69. *http://www.haveeru.com.mv/english/details/30552*
70. *See for eg, "Major issues with obtaining information for audit!" Haveeru News (web) 4 December 2012 at <www.haveeru.com.mv/dhivehi/auditor_generals_office/130898>; "Files and papers damaged if an audit is to be done!?" Haveeru News (web) 25 October 2012 at <www.haveeru.com.mv/dhivehi/auditor_generals_office/129156>.*
71. *"Most institutions are audited by force: Niyaz" Haveeru News (web) 25 April 2012 at <http://www.haveeru.com.mv/dhivehi/news/120315>*

7.3. Role

7.3.1. Effective Financial Audits

To what extent does the AGO provide effective audits of public expenditure?

SCORE: 50/100

Whilst the AGO is somewhat active in auditing public expenditure, its effectiveness is limited due to limited competencies and resources, and by a lack of coordination and cooperation from the institutions being audited.

The Auditor General undertakes financial audits of Government and independent bodies. His ability to undertake this task is restricted by resource limitations, coordination difficulties between the AGO staff and the institutions being audited, and sometimes to reluctance in cooperation by these institutions, despite penalties for non-cooperation being provided for in law. Adequate financials systems are not in place in many governmental institutions, resulting in limited information being provided to the auditors. Frequently, institutions have lost or misplaced much of the required information.[70] Non-cooperation may take the form of delays in providing complete information, the provision of information that is edited, or even refusal to provide a conducive environment in the workplace for audit officials, for example as a result of relevant administrative staff being on leave while AGO undertakes the audit of their institution. The Auditor General is reported to have commented in April 2012 that some institutions are being audited "almost by force".[71]

Minimum score (0)

Public expenditures are never audited.

Mid-point score (50)

While the SAI is somewhat active in auditing public expenditure, its effectiveness is limited (due to limited competencies and/or failures to effectively implement existing provisions).

Maximum score (100)

The audit institution has the full authority to oversee all public financial operations and always reports the results of the audit to the legislature or another public body.

Asset declarations of the Cabinet to the Auditor General is rarely complied with and difficult to enforce

Although the Auditor General is authorised to conduct performance audits of Government agencies, State-owned companies and State trusts,[72] performance or management audits have not been possible due to the lack of expertise and the lack of performance-based budgeting by Ministries, as well as the weak capacity of AGO to undertake these audits.[73]

The financial audit reports prepared by the Auditor General are submitted to the Parliament and made available on the website of the AGO. The required annual financial audits, and the publication of these reports are, however, not always achieved by the deadlines stipulated. According to the AGO, out of the 204 audits planned for the year 2013, 149 audits were pending as of end of the year.[74]

7.3.2. Detecting and Sanctioning Misbehaviour

Does the AGO detect and investigate misbehaviour of public officeholders?

SCORE: 50/100

Although institutional provisions related to detecting and sanctioning misbehaviour are present in law, the AGO has not always been able to exercise its full authority and discretion, primarily resulting from resource constraints, but also resulting from difficulties in cooperation and coordination with the institutions being audited. Enforcement is primarily absent for the filing of assets declarations to the Auditor General by senior public officials.

The Auditor General is vested with wide powers in terms of conducting audits of State funds, including powers to determine standards for maintaining accounts, expenditure and state funding; powers to establish and maintain audit manuals and audit standards in accordance with international best practice; powers to examine and record all documentation in the conduct of an audit; and other powers necessary for the exercise of the Auditor General's functions.[75] Legislation empowers the Auditor General to request any information related to an audit, as well as to summon and question any person, and prescribes penalties for non-compliance with requests for information or summons, with a fine not exceeding MVR 5,000 (US$ 324) being applicable for individuals, and a fine not exceeding MVR 25,000 (US$ 1,621) for legal entities.[76] The Auditor General is also empowered to enter, through designated representatives, any premises of State agencies, without prior notice, to examine, document and copy any documentation related to an audit being conducted by the AGO, or to enter any other premises with a court warrant.[77] The penalties for concealing information or for obstruction of duty are a fine of between MVR 10,000 (US$ 648) and MVR 75,000 (US$ 4,863), and/or imprisonment for 3-12 months.[78] There are no records, however, of anyone being sanctioned for non-compliance with a request for information, concealing information or obstruction of the duty of the Auditor General.

Further sanctions provided for in the *Audit Act* include, for breach of confidentiality rules, a fine not exceeding MVR 25,000 (US$ 1,621), and a fine not exceeding MVR 10,000 (US$ 648) and imprisonment for a period of 3 to 12 months if a breach of confidential information was committed for personal gains.[79]

Minimum score (0)

The audit institution does not detect misbehaviour and does not investigate or apply sanctions for misbehaviour (and no other government agency does either).

Mid-point score (50)

The audit institution's track record in detecting, investigating and sanctioning misbehaviour is mixed (either due to limited competencies and/or failure to effectively implement existing provisions).

Maximum score (100)

Misbehaviour of public officeholders is detected and investigated by the audit institution. The audit institution or another government agency clearly defines sanction, which is generally applied.

72. *Audit Act, section 4.*
73. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012; Transparency Maldives, An Assessment of Climate Finance Governance in Maldives (2013) page 19.*
74. *AGO, Quarterly Report: October to December 2013 (19 February 2014) pages 21-24, 26-32.*
75. *Audit Act, section 5.*
76. *Audit Act, section 6.*
77. *Audit Act, section 7.*
78. *Audit Act, section 20.*
79. *Audit Act, section 18.*

The Auditor General is also vested with the discretion to suspend from work any employee of the State found to have committed a breach of the law, as found by the Auditor General's examination of financial records, until such a breach is established and penalties are prescribed.[80] However, the Auditor General has been reluctant to exercise this discretionary power, in order to avoid being seen as a "policeman" or perceived to be "biased" in a highly politicised environment. Instead, he has preferred to employ a mechanism through which a recommendation is issued to the relevant authorities in instances of such misconduct, informing them to remove the person from duty.

In October 2012, for example, no suspensions from duty were prescribed by the Auditor General for allegations of misconduct identified in the special audit report on the Maldives Disaster Management Centre. However, a recommendation was presented to the relevant authorities, such as the ACC and the MPs, to take necessary action on the senior government officials responsible for the alleged fraud and embezzlement amounting to MVR 24 million (US$ 1.56 million) identified in the audit report.[81] Owing to the serious nature of the fraud allegations involved, and demonstrating his pro-active commitment in the exercise of his functions, in October 2012 the Auditor General presented the report to the Parliamentary Committee on Public Finance.[82]

According to the Auditor General, in all cases of financial irregularities, he recommends that misused funds be returned to the State treasury. No confirmed reports of any funds being returned, however, are on record with the Auditor General.[83] Further sanctioning is applied through prosecution for actions constituting criminal offences.

The declaration of assets by public officials and governmental institutions to the Auditor General is a major challenge.[84] Although constitutional and legislative provisions make this requirement on public officials, assets declaration to the Auditor General has rarely ever been enforced.

80. *Audit Act, section 9.*
81. *See AGO, Special Audit Report on embezzlement of 20 million Rufiyaa from the budget of the National Disaster Management Center (11 October 2012), page 9.*
82. *See, "Auditor General accuses senior officials of negligence in embezzlement of MVR 24 million DMC" Minivan News (web) 20 October 2012 at <www.minivannews.com/politics/auditor-general-accuses-senior-officials-of-negligence-in-embezzlement-of-mvr-24-million-from-dmc-45671>.*
83. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
84. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
85. *Constitution, article 212; AGO website at <www.audit.gov.mv/v1/en/>.*
86. *This information is available from reports published in AGO's official website at <www.audit.gov.mv/v1/en/>.*
87. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
88. *AGO, Report on the Professional Opinion of the Auditor General to the State Budget 2014, (16 December 2013, Report No. SPE-2013-12); AGO, Report on the Professional Opinion of the Auditor General to the State Budget 2013 (19 December 2012, Report No. SPE-2012-5).*

Auditor General notes the lack of action by the State to recover funds lost through state incompetence...

7.3.3. Improving Financial Management

To what extent is the AGO effective in improving the financial management of Ggovernment?

SCORE: 25/100

The Auditor General makes recommendations that are generally comprehensive, well-grounded and realistic, in his audit reports regarding improving financial management. However, there are no follow-ups or review mechanisms, and no assessments are conducted on implementation.

The Auditor General is entrusted with the functions of making the Government accountable for its financial management, and of ensuring that public monies are spent wisely.[85] Each audit report presented by the Auditor General includes a set of recommendations for improvement.[86] According to Auditor General, however, there is no evidence indicating that any actions have been taken based on his recommendations.[87]

Moreover, the Auditor General presents his opinion on the State budget submitted to the Parliament by the Government.[88] However, there is no indication that his views are taken into consideration when the budget is

Minimum score (0)

The SAI does generally not make recommendations on how to improve financial management in its audits.

Mid-point score (50)

Recommendations by the SAI on how to improve financial management are sometimes included, sometimes not. When included, they are not always comprehensive, well-grounded and realistic and there is no follow-up on implementation.

Maximum score (100)

The SAI makes comprehensive, well-grounded and realistic recommendations on how to improve financial management and engages government in an effective follow-up to ensure their implementation.

deliberated on by the Parliamentary Committee on State Budget, or when passed by the Parliament, which has complete discretion in the matter.

There are no established mechanisms in place to follow-up on the recommendations presented in the AGO's audit reports, except for subsequent audit reports of that institution. For example, the Auditor General noted in the audit report of the EC for the year 2012 the absence of implementation of corrective measures concerning 13 cases flagged in the EC's audit reports for 2010 and 2011.[89] Not much work is done by the Auditor General's Office itself in terms of following up recommendations, due to the lack of human resources.[90] Moreover, the Auditor General has highlighted the lack of action by the State, through the Ministry of Finance and Treasury, to recover funds lost through state incompetence and those flagged in the audit reports of State bodies.[91]

Recommendations

1. Assistance should be provided to institutions who are unable to maintain financial records as per the mandatory standards. Measures need to be taken to ensure that the current challenges in place for the Auditor Generals Office to obtain information from other offices are addressed, and to reduce the time taken for each audit.

2. Legal immunity and security of tenure should be provided to better protect the Auditor General from being removed from his post during his term of office as a matter of political retaliation.

3. The AGO should exercise its powers in levying fines in cases of obstruction of information, and should also implement disciplinary measures against government staff where applicable, in a transparent manner.

4. Review and follow-up of audit recommendations needs to be better enforced by AGO.

5. The legally prescribed measures against misconduct in use of public funds needs to be enforced by Public Accounts Committee and Ministry of Finance and Treasury in accordance with the relevant acts.

89. *"Recommendations on 13 cases not implemented by Elections Commission: 2012 audit report" Minivan News (web) 29 June 2013 at <www.minivannews.com/politics/recommendations-on-13-cases-not-implemented-by-elections-commission-2012-audit-report-60457>.*
90. *Interview of Niyaz Ibrahim with lead researcher, Male', 31 October 2012.*
91. *"Finance Ministry not working to recover funds lost through state incompetence: AG" Minivan News (web) 21 January 2013 at <www.minivannews.com/news-in-brief/finance-ministry-not-working-to-recover-lost-funds-ag-51535>.*

VII 8. Anti-Corruption Commission

Summary

The Anti Corruption Commission (ACC) was established under the Constitution in 2008 as an independent and impartial statutory body, and endowed with wide investigative powers to prevent and combat corruption in state institutions. The ACC can and does in practice act independently, and has the power and will to initiate its own investigations, though the selection criteria and grounds for dismissal of Commission members are not well defined. The ACC has shown a high degree of transparency and accountability in carrying out its functions since its establishment, as well as enacting internal integrity mechanisms. However, the Act does not confer formal guarantees of financial independence and as such, the ACC's access to resources is subject to compromise. Furthermore, a Supreme Court judgement in September 2012 that limited the Commission's powers to halt projects or issue binding orders or injunctions has limited some of the Commission's ability to carry out its corruption investigation activities.

Score = 65/100

The table below presents the indicator scores that summarise the assessment of the ACC of the Maldives in terms of its capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	75	25
	Independence	75	75
Governance	Transparency	75	75
	Accountability	100	75
	Integrity Mechanisms	75	100
Role	Prevention	25	
	Education	50	
	Investigation	75	

Structure & Organisation

The ACC is one of several independent institutions created as part of key democratic institutional reforms established by the Constitution of 2008. The ACC was created soon after ratification of the Constitution, and its predecessor, the Anti Corruption Board, was dissolved in accordance with the *Anti Corruption Commission Act 2008* (the ACC Act). As per the Constitution,

the ACC is established as an independent and impartial statutory body, with the mandate of preventing and combating corruption within all functions and activities of the State.[1]

The principal functions of the ACC comprise investigating allegations of corrupt activities, conducting research, and publicly disclosing information on the prevention of corruption, including by advising state institutions on preventive measures, creating public awareness into corrupt practices, and promoting transparency and accountability in state governance.[2] The ACC is granted wide investigative powers, including powers to summon and question persons, to collect and seize documents related to any investigation, and to conduct investigation proceedings. The powers of the ACC also involve preventive measures, including issuing directive orders preventing persons involved in an investigation from departing the country, or issuing advisory measures to state institutions.[3] The ACC does not, however, have prosecutorial powers. These lie with the Prosecutor General (PG), who is responsible for instituting and conducting all criminal prosecutions and proceedings in court.[4]

The jurisdiction of the ACC's investigation extends to all institutions and employees of the state, including the executive, legislative and judicial branches, state owned enterprises, other associations, political parties and bodies with state funding, and other parties or foreign parties who, in the opinion of the Commission, have allegedly participated in any transaction that took place in the Maldives, related to any matter under investigation by the Commission.[5]

1. *Constitution, 2008, article 199.*
2. *ACC Act 2008 section 21; ACC, Annual Report 2011, page 6.*
3. *ACC Act, section 22.*
4. *Constitution, article 223.*
5. *ACC Act, section 24.*
6. *ACC Act, section 30(a).*
7. *ACC Act, section 30(a).*
8. *Constitution, articles 70(b)(4), 96(b).*

Minimum score (0)

No such provisions exist.

Mid-point score (50)

While a number of provisions exist, they do not cover all aspects of resources and/ or some provisions contain loopholes.

Maximum score (100)

There are provisions in place to ensure that the ACC receives adequate financial, human and infrastructural resources to effectively carry out its duties.

Assessment

8.1 Capacity

8.1.1. Resources (Law)

To what extent are there provisions in place that provide the ACC with adequate resources to effectively carry out its duties?

Score: 75/100

Legislation does require the Government to allocate the budgetary resources necessary for the proper functioning of the ACC. However, there are some limitations on the control of the ACC over its budget.[6] The ACC is allowed to explore foreign funding opportunities for its activities.

The ACC Act does not make provision for ensuring the formal guarantee of fiscal stability, nor does it provide an objective indicator for determining budgetary changes over time. The ACC's annual budget is required to be prepared in consultation and agreement with the Minister of Finance and Treasury, and submitted to the Parliament along with the State budget.[7] Although the ACC is consulted in the process, this essentially limits the authority of the ACC to prescribe its own budget, as the Finance Minister has a say in budgetary allocations to the ACC when submitting the state budget to the Parliament, and the Parliament has full discretion in passing the proposed budgetary allocations with or without variations[8].

Accordingly, the financial independence of the ACC to obtain adequate resources for its functions is questionable. Furthermore, legislation does not

address any options for the ACC to acquire further funding from confiscation of assets. However, the use of funds from any other agency or foreign government is permitted for the purpose of achieving the Commission's objectives.[9]

The Commission consists of five members, appointed by the President upon approval of the Parliament,[10] and is headed by a President of the Commission, elected from amongst the members. According to the ACC Act, members should be selected from a list of persons who have responded to the public announcement of the vacancy. The Constitution states that the Commission member shall "possess the educational qualification, experience and recognised competence"[11] necessary for the position. The Act does not contain specify necessary qualifications or experience for a member, although it specifies other requisites[12]. Therefore, the legal framework does not provide a clear directive to the President or the Parliament in terms of selecting names or granting approval to names proposed. This does not ensure a merits-based selection.

8.1.2. Resources (Practice)

To what extent does the ACC have adequate resources to achieve its goals in practice?

Minimum score (0)

The existing financial, human and infrastructural resources of the ACC are minimal and fully insufficient to effectively carry out its duties.

Mid-point score (50)

The ACC has some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out its duties.

Maximum score (100)

The ACC has an adequate resource base to effectively carry out its duties.

Score: 25/100

The ACC continues to face major shortfalls in the resources necessary, both in terms of financial and human resources development, to carry out its functions effectively.

Due to budgetary shortfalls at a national level,[13] the ACC, since inception, has continued to experience challenges in terms of obtaining an adequate resource base, including financial and human resources. In 2011, the ACC was allocated only 61 per cent of the budget it requested (MVR 40 million / US$ 2.59 million), and in 2012, only 63 per cent of the amount requested as its budget.[14] This budget was reduced by a further 15 per cent towards end of the year[15]. In an interview with the research team, the Vice President of the ACC expressed concern that the allocated budget was not sufficient to undertake the ACC's activities effectively.[16]

Such limitation of the available financial resources subsequently affects the ACC's performance, especially in relation to challenges incurred by the geography of the country. The lack of financial resources limits the ACC's capacity to establish an adequate number of divisions or offices throughout the country, with its only office based in the capital Malé. This results in much of its budget being spent on transportation and accommodation of staff on trips to islands to undertake investigation and awareness programmes.[17] In 2012, the ACC was unable to undertake many of its planned visits to the atolls for investigation of complaints, due to lack of budget. Although it planned a total of 24 trips for 2013, budget was allocated for only two.[18]

Likewise, this financial limitation also results in a lack of capacity for the ACC to run adequate public awareness programmes throughout the country at times. The ACC reported that it did not receive any budget in 2013 for the public awareness programmes planned for the atolls, although such trips were conducted in 2012.[19]

9. ACC Act, section 30(b).
10. ACC Act, section 4, 5(3)
11. Constitution, Clause 201
12. See ACC section 5
13. See political-institutional foundation pillar.
14. ACC, Annual Report 2012.
15. Interview of Muavviz Rasheed, Vice President of the ACC with lead researcher, Malé, 4 November 2012. The overall annual budget of the country was reduced in November 2012, (see MMA, Annual Report 2012) however it is unclear if this is the reason for the budget cuts for ACC.
16. Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012.
17. See ACC, Annual Report 2011; ACC, Annual Report 2012.
18. ACC, Annual Report 2012, page 48 (numerous communities were covered in each trip)
19. ACC, Annual Report 2012, page 48.

Further challenges posed by budgetary shortfalls exist in the development of human resources capacity. As of November 2012, the ACC had 60 staff members, comprising 20 support staff and 40 technical staff.[20] The ACC is often unable to carry out staff training programmes to develop the capacity of its staff in an effective manner due to budgetary shortfalls,[21] and its performance outcomes depend only on the output produced by the limited or untrained staff. One interviewee reported that the ACC does not have an adequate career development programme or a scholarship scheme.[22] While a long-term strategic human resource development plan does not exist, short term trainings are carried out by different funding mechanisms.[23]

Despite these financial challenges, the ACC has set up adequate systems for the recruitment and management of human resources. Screenings are conducted during recruitment, and during the tenure of employees, performance appraisals are conducted, which were reported to be focused more on performance than ethical factors at the time of interview.[24] However, internal regulations which were introduced in May 2013 necessitate criminal background checks, which are now implemented[25]. The regulations cover various aspects of ACC operations[26], including clauses guiding the process of hiring, screening, disciplinary measures and performance appraisals of staff, with an emphasis on meeting qualification criteria and criminal records, particularly those relating to corruption related offenses. The regulations also make reference to a separate guideline for the selection of staff for the ACC.

Minimum score (0)

There are no laws which seek to ensure the independence of the ACC.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the independence of the anti-corruption agencies and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive laws seeking to ensure the independence of the ACC.

8.1.3. Independence (Law)

To what extent is the ACC independent by law?

Score: 75/100

The ACC is an independent statutory body with separate legal entity status established by the Constitution, and legislative provisions aimed at ensuring the independence and neutrality of the Commission's members and staff are generally adequate. However, there is room for manipulation in the appointment and removal of Commission members.

The Commission comprises five members appointed by the President with the approval by the Parliament.[27] The Commission's members and staff are granted legal immunity from civil suits and criminal prosecution, for acts done in good faith, within the exercise of their duties and responsibilities, conducted within the powers provided for under respective laws.[28]

Members are prohibited from, inter alia, holding a public office, whether elected or appointed, as prescribed in the Constitution or legislation; any other employment in the Government or private sector; membership in any political party; or involvement in the activities of any political party.[29] Commission members are to be removed from office, inter alia, if any of these qualifications ceases to exist,[30] or if they make an application for an elected public office.[31]

Certain limitations, however, exist in Constitution and legislation in the context of ensuring impartiality in hiring and firing process. No specific provision exists to ensure that members being proposed by the President and given approval by the Parliament are based on professional merit [32]. Furthermore, under the Constitution and the ACC Act, a member of the Commission may be removed from office by a resolution of a simple majority (of the members present and voting) of the Parliament, upon finding by a

20. *ACC, email communication with lead researcher, 2012.*
21. *See ACC, Annual Report 2011, pages 49-50.*
22. *Interview of Ali Azim with lead researcher, Malé, 3 November 2012.*
23. *The annual report for 2013 reported that the 9 short-term trainings abroad were funded by national budget allocation as well as grant assistance extended to ACC by other organisations. ACC staff also took part in local trainings arranged by other institutions. The report also details the targeted in house trainings conducted primarily for new staff, investigative staff and focus on elections. (ACC, Annual Report 2013). Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim, former Investigative Officer grade 1 at ACC, with lead researcher, Malé, 3 November 2012.*
24. *ACC, email correspondences with TM, 2014*
25. *ACC Regulations, May 2013 (available at http://acc.gov.mv/details/1695)*
26. *Constitution, article 200; ACC Act, sections 2,3,4.*
27. *ACC Act, section 18.*
28. *ACC Act, section 5.*
29. *ACC Act, section 10(a)(6).*
30. *ACC Act, section 10(a)(4).*
31. *ACC Act, section 5; The ACC Act stipulates qualifications of members, which includes, being: (1) a Muslim; (2) a Maldivian national; (3) of 25 years of age; (4) not have been convicted, in the last five years, of an offence for which a hadd is prescribed in Islam; (5) not hold a public office, whether elected or appointed, prescribed in the Constitution or a legislation; (6) not hold any employment in the Government or private sector; (7) not have been convicted of an offence related to corrupt activities, or fraud; (8) not have been convicted of a criminal offence for which sentence of more than 12 months, unless a period of 5 years has elapsed since release or pardon for the offence; and (9) not hold membership in any political party, or involved in activities of any political party.*
32. *Constitution, article 207.*

parliamentary committee that the members has breached any of the grounds of misconduct, incapacity or incompetence.[33]

As no clear guidelines exist to specify the grounds for dismissal or qualification criteria, this could result in, for instance, members being removed by any party holding a majority in Parliament, purely for political purposes, or wide Executive influence in determining the competence of applicants.

8.1.4. Independence (Practice)

To what extent is the ACC independent in practice?

Score: 75/100

Despite the limitations existing within the legal framework, in practice, the ACC maintains a significant level of independence in undertaking its functions. The President of the ACC noted that the Commission has the ability to act independently in undertaking its functions, without undue influence from other institutions.[34]

Former staff of the ACC noted room for further improvements within coordination mechanisms between the ACC and other stakeholder institutions; inter-agency coordination is important in order to enable the ACC to undertake its function effectively within the existing political-institutional framework.[35] For example, a case investigated by the ACC is only seen by the PG after its investigation report is compiled by the ACC, although the effectiveness of the ACC is significantly dependant upon the performance of other institutions, such as the PG and the courts, for successful prosecution. The ACC's collaboration with the Maldives Police Service (MPS) is noteworthy in this respect. The ACC signed a Memorandum of Understanding (MOU) with the MPS in 2011 to collaborate in the exercise of its functions.[36]

Moreover, the ACC previously enjoyed much wider investigation powers, including the power to issue an order to halt a project or process.[37] In 2012, the ACC exercised this authority and ordered the cessation of an ongoing land reclamation project, on grounds of suspect procurement processes. This was contested in court by the contracting company, which claimed to suffer financial losses due to the sudden halt in the project[38]. The cases ended with a Supreme Court judgement in September 2012, whereby the ACC could only issue non-binding advice to halt a project.[39]

There is no credible evidence to indicate any level of threat to or political bias against members of the ACC. Since its inception, no member has yet been dismissed from their post. Lack of credible information in this respect, though, limits any claim to indicate either the presence or absence of any definitive political bias in this process and the decision making of the ACC. For instance, despite data on investigations that are dropped and resolved being made available to the public, the justifications for prioritizing investigations and updates of ongoing investigations are not made public. Information on the status or updates of ongoing investigations is also not available to the public.

Minimum score (0)

Other actors regularly and severely interfere in the activities of the ACC.

Mid-point score (50)

Other actors occasionally interfere with the activities of the ACC. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of the ACC.

Maximum score (100)

The ACC operates freely from any interference by other actors, particularly the executive and/or the ruling party.

33. See ACC, Annual Report 2011, page 7.
34. Interview of Ali Azim with lead researcher, Malé, 3 November 2012.
35. "Maldives Police Service signs MoU with Anti-Corruption Commission" Maldives Police Service (web) 27 June 2011 at <www.policelife.mv/page/22899>; ACC website at <www.acc.gov.mv/details/405>.
36. See for example, ACC v. Department of Immigration and Emigration, High Court, 17 September 2012 (2012/HC-A/105); ACC v. Department of Immigration and Emigration, High Court, 18 April 2013 (2012/HC-A/50); Thilafushi Corporation Ltd v. Anti-Corruption Commission, Civil Court, 3 March 2013 (400/Cv-C/2011).
37. http://www.haveeru.com.mv/news/39645,
38. Nexbiz Ltd v. Anti-Corruption Commission, Supreme Court, 2 September 2012 (2012/SC-A/21).
39. ACC Act, section 31(a).

9.2. Governance

9.2.1. Transparency (Law)

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ACC?

Minimum score (0)

There are no provisions which allow the public to obtain relevant information on the organisation and functioning of the ACC, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the ACC and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive provisions are in place which allow the public to obtain information on the organisation and functioning of the ACC, on decisions that concern them and how these decisions were made.

Score: 75/100

The ACC is required by legislation to prepare an annual report of its activities and an audit report on its financial activities, and to submit these to the President and the Parliament before the end of February of the subsequent year.[40] The annual reports are required to be made available to the public within 14 days of submission.[41] Information on all work of the Commission during the year, including details of complaints lodged with the Commission, decisions made in relation to lodged complaints, the dates of ongoing investigations and pending investigationsis required to be included in the annual report.[42] Moreover, the ACC Act stipulates the duties and responsibilities of the Commission, among which is the duty of publicly disclosing and publishing relevant information relating to prevention and prohibition of corruption.[43]

Furthermore, the ACC Act requires the Commission to prepare a report on the investigation of any complaints received, and upon request, requires a copy to be sent to the complainant and the person being subject to investigation.[44] Legislation, however, does not specify what details should be included in such reports. Summaries of the reports are included in the annual reports for public viewing.[45]

Limitations are, however, evident in law on the public disclosure of relevant information regarding ongoing alleged corruption cases being investigated. For example, no requirement is present in law for the ACC to publicly disclose the reasons for pending investigations, or reasons for any delay in the completion of an investigation, leaving some room for legislative improvement.

40. *ACC Act, section 31(c).*
41. *ACC Act, section 31(b).*
42. *ACC Act, section 21(f).*
43. *ACC Act, section 25(b).*
44. *See ACC, Annual Report 2011; ACC, Annual Report 2012; ACC, Annual Report 2013.*
45. *See ACC website at <www.acc.gov.mv/contact.php>.*
46. *See ACC, Annual Report 2011.*
47. *Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim with lead researcher, Malé, 3 November 2012.*
48. *See ACC, Annual Report 2011.*

9.2.2. Transparency (Practice)

To what extent is there transparency in the activities and decision-making processes of ACC in practice?

Minimum score (0)

The public is not able to obtain any relevant information on the organisation and functioning of the ACC, on decisions that concern them and how these decisions were made.

Mid-point score (50)

While the public can obtain relevant information on the organisation and functioning of anti-corruption agencies, on decisions that concern them and how these decisions were made, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

The public is able to readily obtain relevant information on the organisation and functioning of the ACC, on decisions that concern them and how these decisions were made.

Score: 75/100

The ACC maintains a high level of transparency in informing the public on its activities.

The ACC's website contains information on its general and specific activities,[46] including its annual reports, details of the functions and procedures of the ACC, laws and regulations, and information about activities to raise awareness of corruption within society. The ACC also publishes annual reports as required by law, containing general and detailed information on its activities.[47] These reports are available from its website and further information is made available upon request by the public. The ACC's prompt response and issuance of information requested as part of this research is an example of the high level of transparency that the ACC promotes in disseminating general and specific information to the public.[48]

Information included on the website is reasonably clear and useful. This includes information on the structure of the Commission, including its functional bodies and their key tasks, list of current members, etc. The ACC's annual reports also include information about its main objectives; structure; laws and regulations; its general and specific meetings; and summaries of cases it handled.[49]

The ACC does not publicly disclose the reasons for investigations pending, or reasons for any delay in completion of any investigation, leaving some room for improvement with regard to transparency of the commission in practice. Briefs on closed cases or those forwarded to the PGO are available on the website for 2011 onwards.

9.2.3. Accountability (Law)

To what extent are there provisions in place to ensure that the ACC has to report and be answerable for its actions?

Score: 100/100

Under the Constitution, the principal oversight function of the ACC is vested with the Parliament.[50] The Parliamentary Committee on Independent Institutions deals with the determination of matters relating to independent commissions, including the ACC.[51] As part of ensuring independence in the functioning of the Commission, the ACC is not subject to executive bodies, although the courts do have a right to determine the constitutionality or legality of specific actions of the ACC.[52]

In addition to this external oversight, legislation imposes further obligations for the ACC to hold itself accountable for its actions. Legislation requires the ACC to prepare an annual report on its activities, and an audit report on its financials, and to submit these to the President and the People's Majlis before the end of February of the subsequent year.[53] Although legislation limits the depth of information about cases included in the annual reports,[54] the ACC Act stipulates the type of information to be contained in the annual report, including details of the ACC's activities; matters (or complaints) submitted to the ACC; matters investigated by the ACC, including findings of the ACC; ongoing investigations; pending investigations; advisory directives on preventive matters issued to state institutions to revise any of its policies or procedures; compliance for directives issued on preventive matters; and administrative and human resources activities for the year.[55] The ACC may also submit any further reports on matters deemed by the ACC to be of special interest, to the President and the Parliament.[56]

ACC staff are afforded protection as whistle-blowers by the *Prohibition and Prevention of Corruption Act 2000*, which makes it an offence punishable by imprisonment, banishment or house arrest for a period less than a year, for any person to disclose information on a complainant who requests to remain anonymous.[57]

Minimum score (0)

No provisions are in place to ensure that the ACC has to report and be answerable for its actions.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the accountability of ACC and/or some provisions contain loopholes.

Maximum score (100)

Extensive provisions are in place to ensure that the ACC has to report and be answerable for its actions.

49. Constitution, article 70(b)(5).
50. Regulation of the People's Majlis 2010, chapter 19, schedule 2.
51. Constitution, article 43.
52. ACC Act, section 31(a).
53. ACC Act, section 25(b); The ACC Act requires the Commission to prepare a report on the investigation of any complaint received by the Commission, and to send a copy of the report to the complainant upon request, and a copy to the recipient.
54. ACC Act, section 31(b).
55. ACC Act, section 31(d).
56. Prohibition & Prevention of Corruption Act, 2000, (Law No. 2/2000), section 18.
57. ACC Act, section 7.

9.2.4. Accountability (Practice)

To what extent does the ACC have to report and be answerable for its actions in practice?

Minimum score (0)

No provisions are in place/existing provisions are not enforced at all.

Mid-point score (50)

While the ACC has to report and be answerable for certain of its actions, the existing provisions are only partially effective/applied in practice.

Maximum score (100)

Existing provisions are effective in ensuring that the ACC has to report and be answerable for its actions in practice

Score: 75/100

There is no credible evidence indicating any lack of accountability on part of the head of the ACC. The ACC is governed by five members appointed by the President with the consent of the Parliament, and the President and the Vice President of the ACC are selected by and from the members.[58] The President of the ACC is responsible for convening its meetings and allocating work for its members and staff.[59]

The ACC is compliant in the reporting requirements laid down in law. The ACC has presented its annual reports to the Parliament regularly, and complete with the information required by law.[60] These reports are made available to the public via the ACC's website.[61] The audit report of the ACC was, however, not submitted to the Parliament by the deadline, due to a delay in completion of financial accounts by the Auditor General.[62]

There is no comprehensive whistle-blower protection policy save for the anonymity clause for corruption offences stipulated in the *Prohibition and Prevention of Corruption Act*.[63] Complaints can be lodged to the ACC anonymously. This is clearly inadequate in encouraging potential informants to come forward with evidence of wrongdoing by persons in positions of power, as they are likely to fear possible repercussions. Moreover, in a small society like the Maldives, anonymity cannot always be guaranteed. According to the *Global Corruption Barometer Survey 2013*, 11 per cent would not report an incidence of corruption, and of this, 22 per cent would not report for fear of the consequences.[64]

Judicial review of ACC's decisions takes place through the courts, and claimants have access to these mechanisms in order to challenge the ACC's decisions.[65] Judicial reviews of important decisions of the ACC have been, in the past, submitted and heard at the Civil Court, High Court, and Supreme Court.[66]

58. *See ACC Act, section 7-8.*
59. *See ACC, Annual Report 2011.*
60. *See ACC website at <www.acc.gov.mv>.*
61. *See ACC, Annual Report 2011, page 49.*
62. *Prohibition & Prevention of Corruption Act, section 18.*
63. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
64. *Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim with lead researcher, Malé, 3 November 2012.*
65. *See for example, Nexbiz Ltd v. Anti-Corruption Commission, Supreme Court, 16 September 2013 (2012/SC-A/26); Anti-Corruption Commission v. Department of Immigration and Emigration, High Court, 17 September 2012 (2012/HC-A/105); Anti-Corruption Commission v. Department of Immigration and Emigration, High Court, 18 April 2013 (2012/HC-A/50); Thilafushi Corporation Ltd v. Anti-Corruption Commission, Civil Court, 3 March 2013 (400/Cv-C/2011).*
66. *ACC Act, section 17(a).*
67. *ACC, Anti-Corruption Commission's Code of Conduct.*
68. *ACC, Anti-Corruption Commission's Code of Conduct, point 6.*
69. *ACC regulations, section 42.*
70. *ACC Act, section 28.*

9.2.5. Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of members of the ACC?

Minimum score (0)

There are no provisions in place to ensure the integrity of members of the ACC.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the integrity of members of the ACC and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions in place to ensure the integrity of members of the ACC. Examples are a code of conduct, rules regarding conflicts of interest, rules on gifts and hospitality, and post-employment restrictions.

Score: 75/100

The ACC is subject to adequate requirements aimed at ensuring the integrity of its members and staff, under the ACC Act, the *Prohibition and Prevention of Corruption Act*, and internal codes of conduct.

The ACC Act outlines codes of conduct for its members.[67] Similarly, the ACC maintains internal codes of conduct for its staff, made binding on them through regulation and employment agreements. The staff code of conduct addresses issues of independence, truthfulness and honesty, reliance on evidence, confidentiality of information, conflict of interest, asset declaration, and prohibition on participation in political activities.[68] The ACC's code of conduct prohibits staff from accepting any gifts from any party related to any investigation or Commission activity.[69] However, the code fails to specify any post-employment restrictions for members of the ACC, nor do its Employees' Regulations place similar restrictions on staff. The ACC has an internal requirement for checking police records of prospective employees during recruitment, to establish whether candidates have prior criminal convictions or have been the subject of a prior corruption investigation[70].

The ACC Act provides certain conflict of interest rules, whereby members are required to disclose to the President of the ACC, and refrain from participation in the investigation of any matter in which such member has any interests. Similar disclosure requirements exist for the Commission's staff in both the ACC Act,[71] and the Codes of Conduct. They require members to act in compliance with the Constitution and applicable laws; to promote the rule of law and protect the rights and freedoms of citizens; to prioritize national interests and citizens' wellbeing; to be non-discriminatory; to conduct themselves independently and impartially, without fear, favour or prejudice, on the basis of fairness, transparency, and accountability; and not do commit act that may compromise their independence, integrity, or impartiality. They also prohibit the use of any information received by virtue of membership of the Commission for members' own benefit or for the benefit of any other person; require the non-disclosure of any information; and prohibit participation in active business, any income generating profession, any other income generating activity or employment.[72]

Members are required to file with the Auditor General annual statements of income and assets, business interests and liabilities, and to file such statements prior to assuming their membership duties.[73] Investigative staff at the ACC are also required to file with the Commission annual financial statements by end of March each year.[74]

Prohibition on bribery and rules on gift and hospitality are present in the *Prohibition and Prevention of Corruption Act*. Under the Act, any gifts received by government employees or their spouses from any person seeking the services of any government agency are required to be sent to the President's Office or to a designated official.[75] Any offer of gifts or hospitality is required to be notified to the President's Office or a designated official.[76] The Act prescribes a penalty of imprisonment, banishment or house arrest for a period not exceeding one year for breaches of gift notification provisions.[77]

9.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of members of the ACC ensured in practice?

Score: 100/100

The integrity mechanisms as laid out by legislation and codes of conduct for members and staff of the ACC are adequate in ensuring ethical behaviour among personnel of the ACC. There is no credible evidence found to indicate that Commission members have failed to follow the laws and code of conduct set out under integrity mechanisms.

According to the ACC, its staff is provided with in-house training on the provisions of the legislation, regulations and codes of conduct, as well as skill-based training, although the extent and frequency of this training is not evident.[78] The Vice President of the ACC noted in an interview with the research team that there were no cases of sanctions against any staff for breach of codes of conduct or on integrity issues.[79]

71. *ACC Act, section 17(a).*
72. *ACC Act, section 17(d).*
73. *ACC, Anti-Corruption Commission's Code of Conduct, point 5.*
74. *Prohibition and Prevention of Corruption Act, section 16(b).*
75. *Prohibition and Prevention of Corruption Act, section 16(b).*
76. *Prohibition and Prevention of Corruption Act, section 16(d).*
77. *ACC, Annual Report 2012, page 44; ACC, Annual Report 2011, page 48*
78. *Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim with lead researcher, Malé, 3 November 2012.*
79. *See for example, ACC v. Department of Immigration and Emigration, High Court, 17 September 2012 (2012/HC-A/105); ACC v. Department of Immigration and Emigration, High Court, 18 April 2013 (2012/HC-A/50); Thilafushi Corporation Ltd v. Anti-Corruption Commission, Civil Court, 3 March 2013 (400/Cv-C/2011).*

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of members of the ACC, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of members of the ACC, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of members of the ACC, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

Minimum score (0)

The ACC is inactive and unsuccessful in preventive anti-corruption activities.

Mid-point score (50)

The ACC is somewhat active in preventative anti-corruption activities, but its efforts are generally unsuccessful and it has not been successful bringing about legislative or policy change.

Maximum score (100)

The ACC is generally very active and has been successful in its preventive anti-corruption activities, such as achieving major legislative reform and influencing policy change.

8.3. Role

8.3.1. Prevention

To what extent does the ACC engage in preventive activities regarding fighting corruption?

Score: 25/100

Up until September 2012, the ACC enjoyed wide powers in terms of corruption prevention and investigation, including the ability to issue interim injunctions to halt certain projects,[80] to repeal and require the re-announcing of procurement notices and biddings not in compliance with public finance laws,[81] and to enter state premises and confiscate equipment used to undertake a project.[82] Most often, these powers were exercised with a court warrant,[83] whilst interim injunctions to halt work on a project subject to an investigation were usually issued without one. However, in September 2012, the Supreme Court declared that the ACC Act only granted the ACC the power to make a request or recommendation, and that the existing legislation did not grant them powers to issue a binding order, injunction or directive to halt any project.[84] The revised bill on anti-corruption submitted to Parliament in late 2012 contains provisions to enhance the preventive powers of the ACC.[85] At present, however, injunctions issued by ACC are not binding and are deemed only to be recommendations or advisory. TheCommission is left without any real powers in terms of the prevention of corruption.

Also as part of preventative work, the ACC has a responsibility to increase public awareness of corruption issues as well as to provide training to state bodies, which does take place and is aimed at both ministerial level government officials and ministry staff[86]. Awareness activities also include media campaigns and sessions aimed at school level. However, the impact of these activities is not assessed.

The ACC also undertook the task of the self-assessment country review as required under the United Nations Convention Against Corruption (UNCAC)[87].

With regard to legislative reform, the ACC can make recommendations to the Parliament. However, legislative reforms cannot be presented to Parliament directly by the ACC. Their actions usually entail recommendations submitted to parliamentary committees,[88] as only members of Parliament can introduce draft legislation (bills submitted by Government can also be introduced by a member of Parliament belonging to the political party in Government).[89] The revised bill on anti-corruption, for example, drafted in consultation with the ACC and other state bodies, was submitted to the Parliament in 2012 by MP Mohamed Nasheed.[90] Upon invitation by the Parliament, the ACC can also present its views and opinion on bills being deliberated by the Parliament.

The ACC is also tasked with coordinating anti-corruption activities with other state bodies and stakeholders. Government and State institutions do request advice from the ACC on many of their activities, especially on tenders and procurement notices.[91] For example, in September 2012, the ACC made a presentation to the Parliamentary Committee on Public Finance, on the investigation of the project on the establishment of a Maldives Immigration Border Control System.[92]

This is one area where major improvements have taken place, through the establishment of agreements and MOUs with respective stakeholder bodies including state and non-state actors. Such activities go hand-in-hand with

80. See for example, "Zakat-fund scholarships can only be re-announced next year: Ministry" Haveeru News (web) 15 November 2012 at <www.haveeru.com.mv/dhivehi/news/130040>; "ACC order to review scholarships questionable: Education" Haveeru News (web) 3 November 2012 at <www.haveeru.com.mv/news/45397>.
81. See for example, "ACC enters into Immigration and confiscates more laptops" Haveeru News (web) 24 May 2012 at <www.haveeru.com.mv/dhivehi/news/121661>.
82. See for example, case of ACC officials entering Immigration offices and confiscation of laptops related to an ongoing investigation, in mid 2012: "ACC enters into Immigration and confiscates more laptops" Haveeru News (web) 24 May 2012 at <www.haveeru.com.mv/dhivehi/news/121661>.
83. Nexbiz Ltd v. Anti-Corruption Commission, Supreme Court, 16 September 2013 (2012/SC-A/26).
84. Anti Corruption Bill 2012, sections 50-51, at <www.mnasheed.com/download/41/>.
85. ACC, Annual report 2012
86. ACC, Annual report 2012
87. Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim with lead researcher, Malé, 3 November 2012.
88. Regulation of the People's Majlis, section 71.
89. Mohamed Nasheed, "A new bill to stop corruption", Mohamed Nasheed's blog (web) 11 November 2012 at <www.mnasheed.com/2012/11/%DE%86%DE%AE%DE%83%DE%A6%DE%95%DE%B0%DE%9D%DE%A6%DE%82%DE%B0-%DE%80%DE%AA%DE%87%DE%B0%DE%93%DE%AA%DE%88%DE%AA%DE%89%DE%AA%DE%8E%DE%AC-%DE%87%DE%A7-%DE%84%DE%A8%DE%8D%DE%AC%DE%87%DE%B0/#more-1151>.
90. Interview of Ali Azim with lead researcher, Malé, 3 November 2012.
91. "Anti-Corruption Commission gives a presentation on investigation into the Border Control System case to the Public Accounts Committee" People's Majlis website at <www.majlis.gov.mv/en/2012/09/23/the-anti-corruption-commission-gives-a-presentation-on-investigation-into-the-border-control-system-case-to-the-public-accounts-committee/>.
92. See, ACC, Annual Report 2011; ACC, Annual Report 2012; Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012. See also, ACC website at < http://acc.gov.mv/details/614 >.

the ACC's activities of education and research undertaken to create public awareness against corruption.

8.3.2. Education

To what extent does the ACC engage in educational activities regarding fighting corruption?

Score: 50/100

One of the ACC's mandates is educating and raising awareness among the general public against corruption, but it falls short of achieving this. The Commission's Education and Research Section is mandated with the task to design and conduct awareness programmes for public officials and the general public through seminars, workshops and media sources, to organise corruption control activities and carry out research based on anti-corruption activities conducted and promoted by international organisation, and to undertake research on the level of corruption involved in the activities of national authorities and their policy formulation processes.[93] The Commission's public awareness programs are undertaken in the capital Malé as well as in the atolls, for state institutions as well as the private sector.[94]

Budgetary shortfalls prove a constraint to the ACC's educational and awareness-raising activities, especially by limiting its capacity to expand its activities to the atolls given the geographic dimensions. The International Anti-Corruption day has been a key event through which the ACC has launched new educational activities for creating public awareness against corruption in the Maldives.[95] An assessment of the impact of the educational activities and awareness raising activities of the ACC has not been carried out either by the commission or an independent party.

Minimum score (0)

The ACC is inactive and unsuccessful in educating the public on corruption and how to fight it.

Mid-point score (50)

While the ACC is somewhat active in educating the public on corruption and on how to fight it, its efforts are generally limited, reactive, piecemeal and/or considered to be ineffective.

Maximum score (100)

The ACC is generally very active and successful in educating the public on corruption and how fight it.

93. *In 2011, awareness programs were conducted for staff of 5 state institutions including the Maldives Police Service, Maldives Police Service Budget Section, Ministry of Housing and Environment, Department of Judicial Administration and Local Government Authority. The Commission also carried out programs in 4 different atolls and 28 islands. Accordingly, these programs circulated to the public 5,331 leaflets, 5,931 flyers, 912 desktop calendars, 330 pamphlets and 1,036 folders - see ACC, Annual Report 2011, pages 33-34.*
94. *See ACC, Annual Report 2012.*
95. *ACC Act, section 22.*
96. *ACC Act, section 24.*

8.3.3. Investigation

To what extent does the ACC engage in investigation regarding alleged corruption?

Score: 75/100

Investigation of allegations of corruption is one of the key functions of the ACC, but the extent to which it undertakes this function effectively depends on the available resources (including financial and human resources) within the organisation. The research finds that the ACC is committed to addressing all issues of corruption brought before it, whilst limitations exist due to broader challenges caused by resources constraints.

The ACC is vested with competent investigative powers by law, including powers to summon and question persons as witnesses; to summon and question any persons who, in the opinion of the Commission, are related to any investigation; to enter into any State institution (in which the Commission has jurisdiction); to collect and seize documents related to any investigation; to require any person to provide statements relating to any investigation; to issue directives or orders preventing any person involved in any investigation from departing the country; or to subject such departure to the Commission's approval.[96]

Minimum score (0)

The ACC is inactive and unsuccessful in investigating corruption-related cases.

Mid-point score (50)

The ACC's track record in detecting, investigating and sanctioning misbehaviour is mixed (either due to limited competencies and/or failure to effectively implement existing provisions).

Maximum score (100)

The ACC is generally very active and successful in investigating corruption-related cases.

The jurisdiction of the ACC's investigative powers extends to all institutions and employees within the Executive branch; members of Parliament, and offices and employees within the Parliamentary Service; institutions and employees of the Judiciary; all other state institutions and their employees; State-owned enterprises and their employees; corporate bodies, associations, political parties and other institutions, including their employees, on which State monies are spent, either through subsidies or otherwise; all agencies with contracts for services or procurements with the Government, and their employees; all agencies related to any agency under investigation; not-for-profit associations; atoll, island and ward bodies entrusted with state monies or assets; and foreign parties who, in the opinion of the Commission, have participated in any transactions that took place in the Maldives, related to any matter under investigation by the Commission.[97]

The ACC Act further requires all persons to comply with the Commission's requests for information or documents, summons to appear before the Commission, or any orders to do or not do any act. Non-compliance is punishable by imprisonment of not more than one month, house arrest for a period not exceeding three months, or a fine not exceeding MVR 3,000 (US$ 195).[98]

According to its *Annual Report 2012*, the ACC conducted investigations into 998 cases in 2012, including those involving state institutions, Parliament members, and members of the judiciary, as well as ruling party officials and senior officials of the State. According to statistics, 1,138 cases were brought to the ACC by complainants, while the ACC initiated 156 investigations on its own initiative.[99] Both the Vice President and the former senior lawyer of the ACC interviewed for this research specified that the greater number of reactive cases was due to the increase in public awareness on corruption, which has led to more cases being reported to the ACC.[100] In order to strengthen its proactive investigatory mechanisms to monitor corruption cases, the ACC undertakes a review of the Auditor General's reports of State institutions within seven days of their publication. The limitations for an increase of proactive cases lie, more importantly, with the shortcomings incurred by budgetary problems.[101]

Corruption offences, whether conducted by judges or other public officials, come within the mandate of the ACC. In 2012, the Judicial Service Commission (JSC) challenged the competency of the ACC to investigate corruption allegations relating to judges, and maintained that only the JSC had this authority. The ACC, in turn, responded that is was well within its legal mandate to investigate corruption matters involving judges.[102] Following this exchange, the ACC has continued to investigate matters related to staff in courts and judges, and to forward some cases for prosecution.[103]

The ACC Act mandates the ACC to investigate allegations of corrupt activities and to submit cases requiring prosecution to the PG, or cases requiring action on the part of other state institutions to the institutions concerned.[104] Although several cases are submitted to the PG each year, very few of these result in successful convictions. As of June 2012, there has been only one major corruption case that resulted in a successful conviction - a case involving a sitting MP, which resulted in the removal from his post as Member of Parliament.[105] Contrastingly, 26 cases involving 52 prosecutions were sent to the PG by end of 2011.[106] A parliamentary oversight committee reported in 2012 that the majority of corruption cases forwarded by the ACC to the PG are pending a decision at the PGO,[107] and that those forwarded to

97. *ACC Act, section 27.*
98. *ACC, Annual Report 2012, pages 22-23.*
99. *Interview of Muavviz Rasheed with lead researcher, Malé, 4 November 2012; Interview of Ali Azim with lead researcher, Malé, 3 November 2012.*
100. *Information on budgetary constraints for the ACC are available from its annual reports – ACC, Annual Report 2011, pages 49-50; ACC, Annual Report 2012, page 47.*
101. *"Will investigate corruption allegations of judges without hesitation: ACC" Haveeru News (web) 22 September 2012 at <www.haveeru.com.mv/dhivehi/news/127558>.*
102. *See for example, case against staff of high court, sent to Prosecutor General in September 2012 (http://acc.gov.mv/wp-content/uploads/2013/03/Shareeathah-hushahelhunu.pdf). The case against a sitting Supreme Court Judge was also sent for Prosecution by ACC after this, in July 2012.*
103. *ACC Act, section 21.*
104. *See "Numerous fraud cases expectant of a conviction" Haveeru News (web) 21 June 2012 at <www.haveeru.com.mv/dhivehi/report/123019>.*
105. *ACC, Annual Report 2011, page 23.*
106. *"Seventy two percent of corruption cases pending on PG's table: Nazim" Haveeru News (web) 24 December 2012 at <http://www.haveeru.com.mv/news/46420>http://www.haveeru.com.mv/dhivehi/abdulla_hameed/110061*
107. *See for example, corruption case of former Minister Abdulla Hameed: "Court orders to arrest and summon Abdulla Hameed" Haveeru News (web) 13 September 2011 at <www.haveeru.com.mv/dhivehi/abdulla_hameed/110061>*

courts by the PG often face another waiting period while the courts make a decision.[108]

Overall, the number of successful convictions on corruption allegations investigated and forwarded by the ACC is very lowm although some major corruption allegations involving MPs have been recently indicted.[109]

Recommendations

1. A clear and relevant set of criteria needs to be developed for the nomination and approval of suitable candidate as members of the ACC. Grounds for dismissal also need to be outlined and publicly disclosed.

2. Measures need to be taken to better ensure financial stability and predictability for the ACC, to enable it to plan its investigations and awareness activities.

3. Human resources and training opportunities for ACC staff need to be increased, especially in terms of investigative capacity.

4. There should be better coordination between the work of the ACC and other law enforcements agencies, most notably the PGO and Judiciary, to increase collaborative efforts. Efforts need to be made to build public confidence in institutions working together.

5. Preventive efforts need to be planned and implemented with other stakeholders such as local NGOs and businesses especially, to use the limited resources most efficiently.

6. The impact of current strategies and efforts for public awareness and corruption prevention need to be assessed and reviewed regularly.

7. Greater transparency is required in how cases are prioritised for investigation by the ACC or for prioritised forwarding for prosecution.

108. See for example, corruption case of Deputy Speaker of Parliament Ahmed Nazim: "Nazim's actions cannot be considered a crime: Court" Haveeru News (web) 22 February 2012 at <www.haveeru.com.mv/dhivehi/politics/117411>; corruption case of Member of Parliament Saleem: "Red Wave Saleem sentenced not guilty" Haveeru News (web) 28 February 2012 at <www.haveeru.com.mv/dhivehi/mp_ahmed_saleem/117705>; corruption case of former head of Customs ShaState v Shafiu (former head of Customs): "Shafiu sentenced not guilty" Haveeru News (web) 5 October 2012 at <www.haveeru.com.mv/dhivehi/customs_ibrahim_shafiu_/128189>.

VII 9. Political Parties

Summary

The emergence of political parties in the Maldives is a recent phenomenon closely associated with the political reform process that began in the early 2000s. Political parties were first formed under a regulation that came into being through a Presidential decree in 2006, with the Political Parties Act being ratified only in 2013. Although the number of political parties mushroomed in the beginning, only a few parties today remain politically and electorally active, with two major parties dominating the political sphere. The remaining parties have generally tended to align themselves with one or the other major party during election times. Political parties have also been more associated with a dominant political personality than with any particular ideology to date. Although the legal mechanisms available to the political parties provide an environment that allows them to act quite independently, resource constraints and the prevailing political culture can be a hindrance to the parties behaving with integrity and transparency. Membership in political parties has increased quite dramatically since their inception, yet politicians and political parties continue to be viewed with distrust and associated with a high degree of corruption by the general public. Legislation continues to lack effective mechanisms for the transparency of political parties' financing, and political parties are not effectively made accountable, especially in terms of their financing.

Score = 33/100

The table below presents the indicator scores that summarise the assessment of the political parties of the Maldives in terms of their capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	75	25
	Independence	100	25
Governance	Transparency	25	25
	Accountability	75	50
	Integrity	75	0
Role	Interest aggregation and representation	0	
	Anti-corruption commitment	0	

Structure & Organization

The Constitution of 2008 established, for the first time ever, a multiparty presidential system of governance in the Maldives. The Constitution enshrines the right of citizens to establish and participate in the activities

of the political parties, and their right to run for public office and vote in elections,[1] though no specific role for political parties within the political system of government is defined by the Constitution.

The formation and operation of political parties in the modern history of the Maldives was permitted in 2005, when the President, upon authorisation by the Parliament, decreed the Regulation on Political Parties. Four political parties were registered that year, and 15 political parties have been registered since then,[2] though only a few are effectively active in the political system.

However, the development of a proper legal framework for the existence and operation of political parties has been slow. Up until 2013, the Regulation on Political Parties enacted in 2005 governed the formation of parties and their operation and regulation, with the Political Parties bill languishing in the Parliament for a long while. The Political Parties Act was ratified into law in March 2013,[3] and replaced the Regulation on Political Parties, but has since been the subject of controversy and legal debate, specifically in relation to its requirement that parties obtain a membership of 10,000, in contrast to the 3,000 requirement under the previous Regulation. A legal resolution to this issue was prescribed by the Supreme Court in September 2013. In a landmark case brought forward by the Attorney General, the Supreme Court revoked the requirement to submit a membership of 10,000 for the registration of a new party, and the requirement to maintain a membership of 10,000 for existing parties at the time of enactment of the new Act. Instead, it prescribed the previous requirement of 3,000 members under the Political Parties Regulation to be in force until the Parliament enacted an amendment to the Act.[4] In rendering its decision, the Supreme Court declared that freedom of association was a fundamental right enshrined by the Constitution; that political parties were the most important actors in a multiparty democratic system; and that the democratic principle governing the extent of the right of association should be to minimise or prevent any governmental interference in the exercise of such a right.[5]

The independent Elections Commission (EC) is vested with the administrative powers of registering political parties, maintaining a registry of all political parties, their members and office bearers, verifying membership numbers, and governing the conduct of parties through regulatory compliance requirements.[6]

As at the end of 2012, the Maldivian Democratic Party (MDP) was the largest party, with a membership of 46,349. The Progressive Party of Maldives (PPM) is the second largest party, with a membership of 22,803, followed closely by the Dhivehi Rayyithunge Party (DRP) which has a membership of 22,575. The Jumhooree Party (JP), having a membership of 11,154, is the only other party with a membership greater than 10,000. The remaining 12 parties together account for a total of 28,000 members.[7] Most of the major parties have established branches in the islands and the different wards in the more populous islands, and have also formed women wings and youth wings as part of the party structure.

1. *Constitution, 2008, articles 26, 30(a).*
2. *Elections Commission (EC), website at <www.elections.gov.mv/index3ffa.html>.*
3. *Political Parties Act, 2013 (Law No. 4/2013).*
4. *State, ex parte (Case repealing certain provisions of the Political Parties Act), Supreme Court, 2013 (2013/SC-C/11).*
5. *State, ex parte (Case repealing certain provisions of the Political Parties Act), Supreme Court, 2013 (2013/SC-C/11), page 10, para (h).*
6. *Political Parties Act, section 18, 27.*
7. *EC, Annual Report (2012), page 31.*

Assessment

9.1 Capacity

9.1.1. Resources (Law)

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

Minimum score (0)

The legal framework pertaining to the existence and operations of political parties is highly restrictive.

Mid-point score (50)

While the legal framework permits the establishment and operation of political parties, a large number of legal requirements must be met to establish a party and/or restrictions on party activities hamper their work.

Maximum score (100)

The legal framework pertaining to the existence and operations of political parties is very conducive.

Score: 75/100

The legal framework, although slow in development, is highly conducive to the formation and operation of political parties. Parties are free to procure financing in several forms, with limited restrictions. Moreover, parties receive budgetary subsidy from the State each year.

Freedom of association is a fundamental right enshrined by the Constitution, which provides, inter alia, every citizen above 18 years of age the right to establish and to participate in the activities of political parties.[8]

The newly enacted Political Parties Act of March 2013 deemed all political parties with a membership of 10,000 or more already to be registered.[9] All new registrations for political parties were required to submit to the EC proof of a membership of 10,000 founders, in contrast to the previous requirement of 3,000 membership signatures, as per the Regulation on Political Parties.[10] This requirement under the Act was, however, revoked by the Supreme Court as being unconstitutional, and prescribed the previous requirement of 3,000 founder members for the registration of a political party.[11] The minimum founder membership requirement of any number for the formation of a political party may, however, be considered too burdensome for the exercise of the constitutional right to form associations.

The registration of political parties is administered by the EC.[12] The EC is bound by a time restriction of three months to verify the membership information of an application for the registration of a party.[13] The EC is also required to make a decision on the application for registration, upon completion of successful requirements such as convening the inaugural meeting of the party, within 30 days of filing, and to publish its decision in the Government Gazette within seven days.[14] An application for a new party will be deemed registered if the EC fails to make a decision within the 30 day period.[15] The EC may, however, refuse to register a political party if not all the required information and documentation is filed, if the information filed does not comply with the provisions of the Act, or if the applicant does not file completed documentation within the period granted.[16] Parties have recourse against such judgements of the EC in the High Court, and this right is granted under both the Constitution and the Political Parties Act.[17]

The legal framework is highly conducive to allowing parties to procure financing for their activities. Under current legislation, as well as the previous Political Parties Regulation, parties are free to procure financing in several forms, including through donations, business transactions, fund raising activities, and security or mortgage financing.[18] The only restriction for political party financing specified in legislation is the procurement of funds from any foreign governments, foreign associations or foreigners for the purposes of campaigning for an election, as specified in the Constitution.[19] Parties are required to obtain written authorisation from the EC prior to accepting any finances from foreign governments, foreign organisations or foreign persons for any other purposes other than campaigning, and from any other anonymous sources.[20]

8. *Constitution, article 30(a).*
9. *Political Parties Act, section 8(b).*
10. *Political Parties Act, section 11(a); Political Parties Regulation 2006.*
11. *State, ex parte (Case repealing certain provisions of the Political Parties Act), Supreme Court, 2013 (2013/SC-C/11).*
12. *Political Parties Act, section 50(a).*
13. *Political Parties Act, section 11(c).*
14. *Political Parties Act, section 20(c), 22.*
15. *Political Parties Act, section 22(b)*
16. *Political Parties Act, section 23.*
17. *Constitution, article 143; Political Parties Act, section 25.*
18. *Political Parties Act, section 33(a)*
19. *Political Parties Act, section 7(a)(9).*
20. *Political Parties Act, section 37*

21. Political Parties Act, section 34.
22. Political Parties Act, section 35.
23. Regulation on Political Parties 2006, section 23.
24. Political Parties Act, section 36.
25. Political Parties Act, section 10(a)
26. Elections (General) Act, 2008 (Law No. 11/2008), section 30.
27. Presidential Elections Act, 2008 (Law No. 12/2008), section 13.
28. Regulation of the People's Majlis 2006, section 29.

Political parties also receive a budgetary subsidy for party finances from the Government's national budget. A total amount of between 0.1 and 0.2 per cent of the total annual budget is required to be allocated as government subsidies for political parties, which is the only instance of a fixed minimum amount being specified in legislation for the allocation of a state resource.[21] This amount is distributed to parties based on the membership numbers of that party, with considerations given to its compliance with regulatory matters, such as the filing of audit reports to the EC, and the activities the party has undertaken to achieve its objectives, as evident from its annual report.[22] The new Act changes the distribution ratio of budgetary subsidy to parties, whereas under the previous Regulation, 40 per cent of the total amount was distributed to all existing parties equally, and 60 per cent distributed to parties based on membership numbers.[23] There is no requirement, either in the Act or in the Regulation, that specifically necessitates a political party to participate in any electoral activity, or to secure a minimum number of seats in parliamentary or local council elections, to qualify for state subsidy.

Unfair exploitation of state resources by ruling party creates a bias in terms of resource distribution amongst parties

In addition to budgetary subsidies, the newly enacted Political Parties Act also makes provision for other forms of resource allocation, such as the allocation of land for lease from the capital, Male' City, for the purposes of conducting party activities, to those political parties whose membership amounts to 20,000 or more.[24] Legislation also seeks to prohibit discrimination between parties in the provision of any services or resources to political parties by the Government or State institutions, through a requirement to provide such services and resources to all political parties fairly and without discrimination.[25] However, no clear mechanism exists to prohibit, restrict or regulate the abuse of State resources for political and electoral campaigns by incumbent governments and their senior officials. During elections, all broadcasters are also required to allot equal time for candidate and parties. Broadcasters are required to publish the time slots available to candidates, along with costs.[26] Presidential candidates are entitled to free airtime in an equal manner.[27]

The Regulation of the People's Majlis specifies the role of political parties represented in the Parliament, in terms of the conduct of parliamentary proceedings. The Regulation provides for proportionate representation of members in parliamentary committees from all parties represented in the Parliament, and outlines procedures for party representation in parliamentary committees, and for the allocation of speaking opportunities for members representing that party.[28]

Minimum score (0)

Effective political competition within the party system is absent due to lack of adequate funding and/or heavily biased funding against new, small or opposition parties which receive no significant resources at all.

Mid-point score (50)

While small and/or opposition parties can draw on some financial resources, these are considerably lower than the resources of the larger and/or ruling party. Political competition among parties is biased towards the largest and/or ruling party.

Maximum score (100)

All parties have adequate funding, reflecting their socio-political weight in society, allowing for effective political competition

9.1.2. Resources (Practice)

To what extent do the financial resources available to political parties allow for effective political competition?

Score: 25/100

Political parties in the Maldives have access to some financial resources, especially from the Government's budget, regardless of their level of any political activity or electoral participation, and to differing degrees based on membership numbers. Unfair exploitation of State resources by ruling party, however, creates a bias in terms of resource distribution amongst parties.

For the year 2012, the total budgetary grant to political parties amounted to MVR 14.5 million (US$ 940,000). 40 per cent of the total budgetary

contribution, amounting to MVR 387,445 (US$ 25,126), was distributed equally among all parties. The remaining 60 per cent was distributed based on membership numbers. The total budgetary grant received by the largest political party, MDP, amounted to MVR 3.7 million (US$ 240,000), while the smallest party, Social Liberal Party (SLP), with a membership of 685, received a total of MVR 436,000 (US$ 28,000).[29] For the year 2011, the total budgetary grant allocated to political parties amounted to MVR 12.7 million (US$ 825,000).[30] As can be expected, there is a considerable variation in the amount of Government contribution received by larger parties compared to the smaller parties when the contribution is based on membership numbers. With the coming into force of the new Political Parties Act, this difference will grow larger, as the total budgetary allocation will be distributed based solely on membership numbers under the new Act.

Political parties are free to procure other forms of financing, including through donations, business transactions, fund raising activities, and security or mortgage financing. Generally, all parties receive a considerable amount of funding outside of the budgetary subsidy. Accurate data on the balance between private and public funding is, however, not available, since parties' audit reports are generally not made public. The largest political party, MDP, makes its audit reports available via its website, and on average, the budgetary subsidy accounts for about 30 per cent of its income, whilst 70 per cent of its income is sourced from private funding.[31]

Although legislation requires broadcasters to provide equal airtime to candidates and political parties during election campaigns, this rarely takes place, given the polarization and the fact that broadcasters and media are always aligned to a certain political party or candidate. According to one commentator, Ali Shiyam, Deputy Chairperson of MDP, not only does the party not receive equitable airtime from most TV broadcasters, but it also suffers from negative campaigning from those broadcasters.[32] A recently published report by the Maldives Broadcasting Commission based on monitoring of 10 TV stations' prime time during the 2013 presidential election campaign identified that almost every TV station was perceived to be aligned with one candidate or party, and granted more airtime to that candidate than the rest.[33]

In the absence of clear legislative or regulatory procedures, the unfair exploitation of State resources by senior Government officials, including the President, for individual or party gain has become commonplace during election campaigns. The Auditor General has labelled such practices as abuse of State resources leading to corruption, but they continue regardless due to the lack of a legislative mandate for effective monitoring and sanctioning.[34]

29. *EC, Annual Report (2012), page 61.*
30. *EC, Annual Report (2011), pages 50-51.*
31. *MDP, Auditors Report and Financial Statements, 31 December 2012 (12 May 2013) <http://mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2012.140513.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2011 (9 May 2012) <www.mdp.org.mv/wp-content/uploads/2011/03/2011-Audit-Report.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2010 (11 May 2011) <http://mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2010.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2009 (28 April 2010) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2009.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2008 (11 March 2009) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2008.pdf>.*
32. *Interview of Ali Shiyam, Deputy Chairperson of MDP, with lead researcher, Male', 7 May 2014.*
33. *Maldives Broadcasting Commission, Broadcast Content and Complaints during Presidential Election 2013 (2014) <www.broadcom.org.mv/dh/images/upload/Election%20Report%20Part%201.pdf>.*
34. *See for example, "Participation of candidates in inauguration events of development projects not ideal: Auditor General", Haveeru News (web) 9 March 2014 at <www.haveeru.com.mv/dhivehi/auditor_general/151359>; "In dire need of a mechanism to monitor campaign finances" Haveeru News (web) 13 May 2013 at <www.haveeru.com.mv/dhivehi/auditor_general/138147>; "President's ongoing visits could be deemed campaigning using state resources: Auditor General" Haveeru News (web) 9 May 2013 at <www.haveeru.com.mv/dhivehi/auditor_general/138018>.*

9.1.3. Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

Minimum score (0)

No legal safeguards exist to prevent unwarranted external interference in the activities of political parties.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the independence of political parties and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive legal safeguards to prevent unwarranted external interference in the activities of political parties exist.

Score: 100/100

Comprehensive legal safeguards exist to prevent unwarranted external interference in the activities of political parties.

Since March 2013, political parties have the protection of statute enacted by the Parliament. Registration of parties is administered by, and their conduct

State has at times been negligent in not taking action against perpetrators who have committed acts of vandalism and harassment against opposition parties

governed by, the EC, which is an independent statutory body.[35] Political parties are guaranteed independence from Government interference through the powers granted to the EC by legislation to monitor and regulate their conduct. These include powers to inspect the financial accounts of parties at any time, powers to verify membership numbers of parties, and powers to prescribe penalties for non-compliance with the provisions of the Act.[36] Political parties have separate legal personality, and are competent to sue and be sued, to own assets and property, and to act in the political sphere to promote their objectives.[37]

Legislation specifies the circumstances and requirements for the dissolution of political parties. The EC can order the dissolution of a political party should it fail to meet the membership requirement of 10,000 members, after three months' notice has been given to the party to comply with this requirement, after a voluntary dissolution motion has been passed by that party, or following a party's failure to convene its national congress once every five years.[38] The only other means of bringing about the dissolution of a party is through an order of the High Court, issued on the grounds of an act to defeat a provision of the Constitution; contravention of the independence of sovereignty of the nation; the promotion of violence or terrorism amongst groups or persons; the conducting of military or paramilitary activities or the conducting of relations with such groups; the repeated contravention of the provisions of the Political Parties Act; the mismanagement of the party or its non performance in terms of promoting its objectives within the past five years; or its failure to compete in any elections in the name of the party in the past six years. A motion for the dissolution of a party can be submitted to the High Court by the EC or any person.[39] Other than those specified in the Act, no governmental authority or State body can order the banning of a political party on any other grounds.

The Act does not require State attendance at political party rallies or meetings, and parties are free to conduct their activities in compliance with the provisions of the Act and its Constitution. The attendance of a State representative at a political party gathering is only required at the inaugural meeting that must be convened for the formation of a political party. To facilitate this attendance, notification of the meeting is required to be made to the EC.[40]

9.1.4. Independence (Practice)

To what extent are political parties free from unwarranted external interference in their activities in practice?

Score: 25/100

Independence in the activities of the political parties is not effectively ensured in practice. The State and other actors occasionally interfere with the activities of political parties, with some consequences for their behaviour.

According to Deputy Chairperson of MDP, its members and activists face occasional harassment and intimidation by State authorities, principally by the Police.[41] The criminal offence of "obstruction of Police duty" is a frequently-used justification for the arrest and detention of party activists during protests and other party activities.[42] This practice by the State authorities is not exclusive to any specific political party, and the opposition party at any given time is subject to such bias from the State authorities. Such political activism is the result of a budding democracy with infant

35. *Political Parties Act, section 50(a); Elections Commission Act, 2008 (Law No. 8/2008).*
36. *Political Parties Act, sections 40(b), 48(a).*
37. *Political Parties Act, section 4.*
38. *Political Parties Act, section 29(a).*
39. *Political Parties Act, section 30(a)*
40. *Political Parties Act, section 12(b) and (c).*
41. *Interview of Ali Shiyam with lead researcher, Male', 7 May 2014. See also for example, HRCM, Press Release, 6 March 2012 (PR-012/2012) <www.hrcm.org.mv/dhivehi/news/pressreleasearchive/PR-12-2012.pdf>; Amnesty International, "Maldives security forces use violence against peaceful protesters", 8 March 2012 <www.amnesty.org/en/news/maldives-security-forces-use-violence-against-peaceful-protesters-2012-03-08>; MDP, "President Nasheed Condemns Police Harassment Against His Lawyer and her Spouse" Press Statement, 28 March 2012 <www.mdp.org.mv/archives/43440; MDP, "MDP condemns politically-motivated arrest of President Nasheed" Press Statement, 5 March 2013 <www.mdp.org.mv/archives/41437>; MDP, "President Nasheed's Request to Travel Abroad Denied" Press Statement, 28 February 2013 <www.mdp.org.mv/archives/41251>; MDP, "Call for the immediate release of MDP members and office bearers arrested at peaceful rally" Press Statement, 1 February 2012 <www.mdp.org.mv/archives/40052>; MDP, "Targeted Arrests and Intimidation of Women Protester" Press Statement, 14 July 2012 <www.mdp.org.mv/archives/33411>; MDP, "MDP Condemns Arrest of Party's Youth Wing President" Press Statement, 14 July 2012 <www.mdp.org.mv/archives/33393>; MDP, "MDP Strongly Condemns Unlawful Arrests of its Members and Calls for their Immediate Release" Press Statement, 9 July 2012 <www.mdp.org.mv/archives/33274>; "This government is extremely violent: DRP" Haveeru News (web) 15 January 2012 <www.haveeru.com.mv/dhivehi/news/115587>.*
42. *Interview of Ali Shiyam with lead researcher, Male', 7 May 2014.*

Minimum score (0)

The state and/or other external actors regularly and severely interfere in the activities of political parties.

Mid-point score (50)

The state and/or other external actors occasionally interfere with the activities of political parties. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of political parties.

Maximum score (100)

Political parties operate freely and are subject only to reasonable oversight linked to clear and legitimate public interests.

State bodies, and the politically charged environment that has been a characteristic of the Maldives' political landscape for the past decade.

There has been no evidence of interference in the regulatory matters of political parties, and there have been no cases of the EC dissolving or prohibiting any political parties in contravention to the Act. However, the State has at times been negligent, perhaps wilfully, in not taking action against perpetrators who have committed acts of vandalism and harassment against the opposition parties, as is demonstrated by the inaction of the State in following up on the recommendations of an HRCM investigative report.[43] Sometimes, the State has also attempted to arrest members of opposition parties on spurious charges, but the legal mechanism has proven quite effective in ensuring their immediate release.[44]

In general, the public is not able to obtain relevant information on party finances either from the party or the regulatory body

9.2. Governance

9.2.1. Transparency (Law)

To what extent are there regulations in place that require parties to make their financial information publicly available?

Score: 25/100

Whilst legislation seeks to ensure that the records of political party finances are adequately maintained and filed with relevant State authorities, the existing legislation is not fully conducive to the disclosure of such information to the general public.

The Political Parties Act requires all parties to appoint a designated official responsible for maintaining their accounts and finances, and to maintain all records of their accounts, receivables, income and assets, expenditures, as well as information about their donors.[45] Parties are required to audit their financial accounts using an auditor recognised by the Auditor General, and to submit their audit reports to the EC and the Auditor General within 90 days of the end of each financial year.[46] The EC is granted competent powers to inspect the accounts of parties at any time.[47] Similarly, all party members have the right to inspect party finances.[48]

Under legislation, candidates competing in elections are required to appoint an official election agent, who is required to maintain books of accounts of all income and expenditure related to the election campaign.[49] Candidates competing in elections are required to submit to the EC, within 30 days of the election, a financial report detailing all income and expenditure on their election campaign, together with bank statements, receipts, invoices and bills.[50]

Other than to their own members, political parties are not required under legislation to make publicly available their finances or audit reports. Neither does legislation require State authorities such as the EC or the Auditor General to make publicly available the audit reports submitted to them by political parties.

Financial reports filed to the EC by candidates in presidential, general and local elections are, however, required to be made available for public scrutiny by the EC.[51]

Minimum score (0)

No such regulations exist.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the financial information of political parties and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive regulations requiring political parties to make their financial information publicly available.

43. HRCM, Report on the investigation of unrest and human rights abuses on the 6th and 7th February 2012 in Male' (2012), pages 16-19.
44. Qasim Ibrahim v. Maldives Police Service, Supreme Court, 11 July 2010 (2010/SC-A/19); Abdulla Yameen Abdul Gayoom v. Maldives Police Service, Supreme Court, 11 July 2010 (2010/SC-A/20); "Dr. Jameel released from arrest on court order" Haveeru News (web) 15 January 2012 at <www.haveeru.com.mv/dhivehi/news/115612>; "Court orders to release Dr. Jameel immediately" Haveeru News (web) 19 January 2012 <www.haveeru.com.mv/dhivehi/news/115816>.
45. Political Parties Act, section 40(a).
46. Political Parties Act, section 41.
47. Political Parties Act, section 40(b).
48. Political Parties Act, section 42.
49. Elections (General) Act, section 72.
50. Elections (General) Act, section 73; The Presidential Elections Act, section 16 prescribes a time limit of 60 days from the election for submission of audit report under the Act.
51. Elections (General) Act, section 73(d); Presidential Elections Act, section 16.

9.2.2. Transparency (Practice)

To what extent can the public obtain relevant financial information from political parties?

Minimum score (0)

In general, political parties do not make their financial information publicly available.

Mid-point score (50)

In general, while it is possible for the public to obtain relevant financial information from political parties, it is usually a difficult, cumbersome and/or lengthy process.

Maximum score (100)

In general, the public can obtain financial information from political parties in an easy and timely manner.

Score: 25/100

In general, the public is not able to obtain relevant information about party finances either from the parties themselves or from the regulatory body. Political parties are generally not proactive in disclosing their financial records to the public.

Despite the stated compliance with financial reporting requirements by political parties, the EC does not make these audit reports readily available to the public through its website or otherwise.[52] Neither does the Auditor General make these available publicly, unlike the audits of Government offices that the Auditor General undertakes and publishes online. Transparency Maldives' study on political financing, CRINIS, recommended to the EC that it proactively make available to the general public, in an easily accessible and timely manner, all statutory financial reports submitted by political parties and candidates, so that voters could make informed decisions when casting ballots.[53]

Political parties themselves generally do not disclose their audit reports to the general public. There is no legal requirement to do so, and public disclosure of financial information is voluntary. An examination of the websites of the four largest parties – MDP, PPM, JP and AP – reveal that only one party, the MDP, has made its audit reports publicly available on its website. The audit reports of the MDP, audited by a professionally licensed auditor, make all statutory information available, including the amounts of government subsidies, private donations, and details of expenses. [54]

9.2.3. Accountability (Law)

To what extent are there provisions governing financial oversight of political parties by a designated state body?

Minimum score (0)

There are no provisions which mandate political parties to maintain records on their finances and report on them.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the financial reporting and accounting of political parties and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive provisions which mandate political parties to maintain records of their finances and report on them.

Score: 75/100

Legislation seeks to mandate political parties to maintain adequate records of their finances and effectively report on them. Legislation provides for the financial oversight of political parties by a designated state body, the EC.

Under the Political Parties Act, parties are required to maintain all records of their accounts, receivables, income, assets and expenditures, as well as particulars of their donors.[55] Formats for maintaining financial records are prescribed, and are of the same standard as is required of State bodies and offices, which maintain bank accounts for all monies and inventories for assets.[56] Under the Act, parties are also required to have their financial accounts audited by an auditor recognised by the Auditor General, and to submit their audit report to the EC and the Auditor General within 90 days of the end of each financial year.[57] Although electoral candidates are required to file campaign financial reports for each election, there is no requirement in law for political parties to file similar reports for election campaigns, even if candidates from parties compete in elections in the party ticket.

The EC is vested with competent powers to sanction those parties that fail

52. *Transparency Maldives, Transparency in Political Financing in Maldives: CRINIS Research Project (2011), page 40 (CRINIS).*
53. *CRINIS, page 7.*
54. *MDP, Auditors Report and Financial Statements, 31 December 2012 (12 May 2013) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2012.140513.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2011 (9 May 2012) <www.mdp.org.mv/wp-content/uploads/2011/03/2011-Audit-Report.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2010 (11 May 2011) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2010.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2009 (28 April 2010) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2009.pdf>; MDP, Auditors Report and Financial Statements, 31 December 2008 (11 March 2009) <www.mdp.org.mv/wp-content/uploads/2011/03/mdp.audit_.report.2008.pdf>.*
55. *Political Parties Act, section 40(a).*
56. *Political Parties Act, section 40(a).*
57. *Political Parties Act, section 41.*

to comply with the financial reporting requirements under the Act. The EC can prescribe a fine of between MVR 20,000 to MVR 50,000 (US$ 1,297 to US$3,243) to the party, and a further fine of between MVR 5,000 to MVR 10,000 (US$ 324 to US$ 649) to the designated official of the party who is responsible for maintaining party accounts and finances.[58] Furthermore, any party obtaining funds in contravention of the Act is liable for a fine amounting to twice the amount of funds being procured through illegal means.[59]

Under the Act, the EC may also impose fines on parties for non-compliance with any other provisions of the Act, of between MVR 30,000 to MVR 75,000 (US$ 1,946 to 4,864).[60] Moreover, the EC has competent powers, in case of non-payment of fines, to deduct such amounts as fines from the budgetary subsidy for that party.[61]

The State budgetary contribution allocated to parties is also subject to eligibility requirements based on reporting compliance by the parties. The subsidy amount allocated to parties is required to be distributed by the EC based on parties' membership numbers, and with consideration to their compliance with regulatory matters such as the filing of audit reports to the EC, and the activities the parties have taken to achieve their objectives, as evident from their annual reports.[62]

58. *Political Parties Act, sections 43(b) and (c).*
59. *Political Parties Act, section 43.*
60. *Political Parties Act, section 48(a).*
61. *Political Parties Act, section 48(b).*
62. *Political Parties Act, section 35.*
63. *EC, Annual Report (2012), pages 31-32.*
64. *EC, Annual Report (2011), page 28.*
65. *EC, Annual Report (2012), page 32. The EC did not fine IDP, who also failed to submit audit reports on time, as the party had been in a state of dissolution. (Abbreviations refer to PP: People's Party; MSDP: Maldivian Social Democratic Party; SLP: Social Liberal Party; MLP: Maldivian Labour Party; MRM: Maldivian Reform Movement).*
66. *EC, Annual Report (2011), page 28. (Abbreviations refer to, IDP: Islamic Democratic Party).*
67. *EC, Annual Report (2012), pages 31-32; EC, Annual Report (2011), page 28.*

9.2.4. Accountability (Practice)

To what extent is there effective financial oversight of political parties in practice?

Score: 50/100

In practice, financial oversight of political parties is enforced by the EC, and parties generally comply with their financial reporting requirements. However, some non-compliance is evident. Detailed information on compliance with the provisions of the Political Parties Act is not available, as the Act came into force only in March 2013. Information on compliance with the previous Political Parties Regulation is however available.

Annual audit reports are generally submitted to the relevant authorities in a timely manner by the majority of political parties. According to the records of the EC, audit reports for the year 2011 were submitted by 10 parties, with two parties having submitted after the prescribed deadline and received fines, and four parties having failed to submit audit reports.[63] Audit reports for the year 2010 were submitted to the EC by nine parties, with four parties having failed to submit before the deadline.[64]

The EC imposed sanctions on parties for non-compliance with regulatory matters stipulated under the previous Regulation. In 2012, the EC fined five parties – PP, MSDP, SLP, MLP, and MRM – MVR 50,000 (US$ 3,243) each, and the designated officials responsible for financial management MVR 5,000 (US$ 324) each, for having failed to submit audit reports before the deadline.[65] In 2011, the EC fined four parties – IDP, MSDP, SLP and MLP – MVR 50,000 (US$ 3,243) each for having failed to submit audit reports before the deadline. The designated officials responsible for financial management were also fined MVR 5,000 (US$ 324) each.[66]

The EC's annual report states that it examines the audit reports submitted to it by the political parties,[67] and no irregularities in audit reports have so

Minimum score (0)

In general, no reporting on party financing to a designated state agency takes place.

Mid-point score (50)

In general, parties provide partial, low-quality and/or late reports on their financing sources.

Maximum score (100)

In general, political parties provide regular and robust reports on their finances to a state agency.

far been reported. It is difficult to determine whether the reason for this is that records are inadequately or ineffectively examined by the EC, or that the audits of party financials are conducted by auditors licensed by the Auditor General and irregularities are therefore generally absent. CRINIS notes that the EC does not have internal auditors to provide an "opinion on the reliability of financial reports".[68]

9.2.5. Integrity (Law)

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?

Minimum score (0)

Almost none of the major parties has any of these regulations in place.

Mid-point score (50)

The majority of the major political parties lack these provisions and/or existing provisions do not cover all aspects of internal democratic governance.

Maximum score (100)

In general, all major parties have in place comprehensive regulations on their internal democratic governance.

Score: 75/100

In general, all major parties have in place comprehensive regulations on their internal democratic governance. Such mechanisms for governance through democratic means vary from party to party.

Legislation does not restrict or regulate the election of party officials and leaders, or the selection process of parties' candidates for elections. Parties are generally free to prescribe their own governing rules and conduct, and to specify these in their constituent documents.[69] The main political parties in the Maldives have comprehensive constitutions, providing for the effective functioning of the parties and their organs. Not all parties have democratic selection processes for election candidates, and much of the decision-making power is generally centred around one organ rather than diluted amongst organs in many parties.

The largest political party in terms of membership, MDP, provides in its Constitution for the democratic election of its leadership and formulation of its policies, with a system of powers distributed amongst various organs of the party. The party is headed by either its President, when in government or opposition, or its presidential candidate during the time of a presidential election.[70] The party's leader is complemented by a President, a Vice President, a chairperson and two deputy chairpersons, elected for a term of five years by a secret ballot amongst all members of the party.[71] The chair and deputy chairs of the parliamentary group are elected by members of the parliamentary group.[72] The party's presidential candidate is elected in a primary conducted amongst all members of the party.[73] The Constitution requires any candidate elected on the party's ticket to resign from his/her seat prior to changing membership to a different party.[74]

The Constitution of the PPM, the second largest party in terms of membership, attempts to afford greater diversity, especially by encouraging more women in executive leadership of the party. The council is vested with powers to formulate main policies and manage the party, in accordance with the decisions of the national assembly.[75] The council reserves three seats on the council for women, who are to be elected by the national assembly, and one out of three members appointed to the council by the President must be female.[76] The national assembly is convened once every 30 months, and is vested with powers to adopt and amend its Constitution.[77] The Constitution of the PPM also provides provisions to enhance democratic values. The terms of the President and Vice President are limited to two terms of five years.[78] The presidential candidate from the party's ticket is elected from a primary conducted amongst the general membership of the party.[79] The PPM's Constitution provides that candidates of the party in general elections must be elected from a primary conducted amongst members of the party

68. CRINIS, page 36.
69. Political Parties Act, section 13.
70. MDP, Constitution (31 October 2010), article 75.
71. MDP, Constitution (31 October 2010), articles 78-81, 83-89, 95
72. MDP, Constitution (31 October 2010), article 38.
73. MDP, Constitution (31 October 2010), articles 77, 100.
74. MDP, Constitution (31 October 2010), article 100(b).
75. PPM, Constitution, article 27.
76. PPM, Constitution, articles 26(a)(5), 26(e).
77. PPM, Constitution, articles 28(a), 30
78. PPM, Constitution, article 46(b).
79. PPM, Constitution, article 61.

from the respective constituent, or selected in accordance with policies enacted by the council.[80]

The third largest party in terms of membership, JP, has its national executive committee as its supreme organ, mandated to enact and formulate policies and manifestos; to enact regulations relating to committees, their membership and proceedings; to form additional committees and deliberate on dissolution of committees; to deliberate on motions of no confidence of office bearers; and to manage the party in accordance with the decisions of the national conference of the party.[81] The party's national conference is convened once every two years with representation of the general membership.[82] The leader and vice leaders of JP and PPM are elected from the national conference rather from the general membership of the party. The party's Constitution provides for a powerful leader, who is automatically selected to contest in the presidential elections on behalf of the party.[83] The party's candidates for general and local council elections are also selected from the national executive committee rather than being elected from a primary.[84]

9.2.6. Integrity (Practice)

To what extent is there effective internal democratic governance of political parties in practice?

Minimum score (0)

None of the major political parties elects its leadership, candidates for public office nor determines their policies through democratic means.

Mid-point score (50)

The majority of major political parties does not follow provisions for internal democratic governance comprehensively.

Maximum score (100)

n general, all major political parties follow democratic procedures for their leadership and candidate selection and policy-making processes.

Score: 0/100

Political parties in the Maldives face major challenges in the implementation of internal democratic governance mechanisms. In practice, internal governance is weak, and a lack of transparency, along with weak accountability measures within party organisation, leave much scope for corruption.

The political parties in the Maldives are marred by major integrity issues. Political parties, along with politicians, are perceived to be among the most corrupt institutions in the country; 57 per cent of those surveyed perceived political parties to be extremely corrupt, whilst 97 per cent of the people surveyed believed politicians to be corrupt.[85] One of the major factors influencing this perception is the frequent "floor-crossing" of MPs from one party to another, which is perceived to be connected with huge sums of money, corruption, and bribery. In the 2009 parliamentary elections, the then-ruling MDP won only 25 seats out of the 77-member parliament, with the opposition parties DRP, PA, JP and DQP, and a few independents winning the remaining seats. However, two years into the parliamentary term, the number of MPs from the MDP increased to 35, close to a simple majority by one single party in the Parliament, demonstrating the extent of floor-crossing within the legislature.[86]

Even though the main political parties have democratic mechanisms for electing their candidates for national elections written in their constitutions, these mechanisms contain loopholes and are often subject to being manipulated by candidates during party primary elections. When the selection of candidates for a general election or local council election is subject to a primary, the candidate selected may not necessarily be a loyal supporter of the party, and their inability to garner new membership of potential voters in time for primaries is a major challenge for transparent and democratic governance mechanisms faced by some parties.[87] Often, the

80. *PPM, Constitution, article 63(a)-(b).*
81. *JP, Constitution, article 32.*
82. *JP, Constitution, article 33.*
83. *JP, Constitution, article 38.*
84. *JP, Constitution, article 57-58.*
85. *Transparency Maldives, Global Corruption Barometer Survey (2013).*
86. *"Majority and minority leaders to change during this term: Majlis" Haveeru News (web) 29 May 2011 at <www.haveeru.com.mv/dhivehi/news/104476>; "Reeko Moosa Manik become Majlis majority leader" Haveeru News (web) 2 June 2011 at <www.haveeru.com.mv/dhivehi/news/104687>.*
87. *Interview of Ali Shiyam with lead researcher, Male', 7 May 2014.*

Minimum score (0)

In general, political parties are based on clientelism and narrow interests. Many relevant social interests do not find a voice in the party system.

Mid-point score (50)

While the political party system is effective in aggregating and representing many of the social interests present in the country, there are significant social groups which are excluded from representation by the major political parties. A number of major political parties are based on clientelism and narrow interests.

Maximum score (100)

In general, political parties are able to aggregate and represent the entire range of relevant social interests in the political sphere.

Public confidence in multi-party politics has been eroding, exacerbated by the lack of integrity

candidate selected by primary is not endorsed by the leadership of the party, and the indirect endorsement of other candidates fielded through outside party tickets is also a challenge for proper governance mechanisms.[88]

9.3. Role

9.3.1. Interest Aggregation and Representation

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

Score: 0/100

The political party system is not effective in aggregating and representing many of the social interests present in the country.

The evolution of the political party system in the Maldives reflects more on the personalities of the leaders and the public support commanded by them than any major differences in ideologies. The two major parties, MDP and the PPM, led by former Presidents Nasheed and Gayoom respectively, have dominated the political spectrum since the introduction of the party system in the country, with the two leaders having had a predominant influence in shaping the policies and activities of their respective parties. The JP has been little more than a personal vehicle for the political aspirations of its leader, business tycoon Qasim Ibrahim.[89] Even the Adhaalath Party, whose party platform claims to be the promotion and protection of Islam in the country, regularly changes its political affiliation and throws political support behind whichever party is considered likely to favour its party leaders, rather than basing such decisions on any ideological affinity.[90] Indeed, the party has aligned with every major political party during the different elections held in the country since 2008. According to one commentator, the present dominance of personalities in the party political system is because multi-party politics in the country is still in its infancy, and political activism is likely to develop into a mature system of democratic governance over time.[91] Another commentator views the lack of ethical behaviour by political leaders and the political immaturity of the electorate as impeding the effective representation of social interests in the country.[92]

The links that are established between political parties and civil society are often the result of political connections. Indeed, many civil society organisations, such the Maldives Democratic Network, are closely affiliated with the emergence of opposition politics in the country in the early 2000s. Civil Society organisations receive little, if any, financial support from the Government, and are often dependent on the benevolence of private business people with close affiliations to political parties. As such, civil society can often be used as a tool for furthering the political agenda of a particular party or a political leader, rather than the parties aiming to promote a social cause or interest.[93]

Notwithstanding contribution from State resources, the lack of public confidence in political leaders and political parties is evident. Although one may point to a rather high level of political party membership in the country, at over 40 per cent of the voting population,[94] this is less a reflection of the political activism of the general population but rather more the result of intensive membership drives by political parties, who stand to gain financially from the State budget based on party membership numbers. Public confidence in multi-party politics has been eroding, exacerbated by the lack

88. *Interview of Ibrahim Ismail, former President of MDP, former leader of SLP, with lead researcher, Male', 16 April 2014.*
89. *See for example, "'Personal Pledges': JP Candidate Qasim Ibrahim vows to fulfill wishes from individuals" Minivan News (web) 17 October 2013 <www.minivannews.com/politics/%E2%80%9Cpersonal-pledges%E2%80%9D-jp-candidate-qasim-ibrahim-vows-to-fulfill-wishes-from-individuals-68810>.*
90. *See for example, "Ready to support PPM in the second round of elections: Adhaalath" Haveeru News (web) 10 September 2013 <www.haveeru.com.mv/dhivehi/news/143407>; "Adhaalath decides to form coalition with Jumhooree" Haveeru News (web) 17 July 2013 <www.haveeru.com.mv/dhivehi/news/141050>; "Adhaalath decides to form coalition with President Waheed's party" Haveeru News (web) 29 March 2013 <www.haveeru.com.mv/dhivehi/news/136232>; "Adhaalath party decides to break away from Government coalition" Haveeru News (web) 27 September 2011 <www.haveeru.com.mv/dhivehi/adhaalathmdp_coalition/110670>.*
91. *Interview of Ali Shiyam with lead researcher, Male', 7 May 2014.*
92. *Interview of Ibrahim Ismail with lead researcher, Male', 16 April 2014.*
93. *See Civil Society pillar.*
94. *Figures from the website of EC at <www.elections.gov.mv>.*

of integrity shown by various political leaders and political parties in recent years.

Overall, the internal governance of political parties in the Maldives is weak, with major challenges to the proper implementation of the rules. Parties' policies and manifestos receive negligible attention from voters, especially in the rural islands, with family ties, business interests, and money politics playing a dominant role in the electoral process.[95]

Political parties pay little heed to the fight against corruption

9.3.2. Anti-corruption Commitment

To what extent do political parties give due attention to public accountability and the fight against corruption?

Score: 0/100

Despite vociferous rhetoric, especially during election periods, political parties pay little heed to the promotion of public accountability and the fight against corruption.

Countering corruption does not appear to be a very high priority for politicians or political parties, despite very loud condemnations on various occasions. In the Maldives, the ACC has been designated as the authority dedicated to combating corruption in the country. Presidents and political leaders raise their voice in support of the work of the ACC, reaffirming their commitment to and support for the work of the ACC at appropriate national functions,[96] but their lethargy is evident in their own inaction, and often in their embracement of political allies who have allegedly been involved with corrupt practices and activities.

As may be expected, the rhetoric of anti-corruption tends to roar especially during election time, when allegations of corruption against opponents fly freely, and commitment to fighting corruption is expressed with zeal.[97] Yet, few of the manifestos of political parties or individual politicians outline any concrete measures that would be taken to combat corruption once elected.[98] In fact, political parties have been deficient in addressing issues of corruption within their own party systems. While political parties appear to be aware of the prevalence of corruption in the system, it would seem that their preoccupation with the pursuance of political power at any cost has made the fight against corruption a secondary issue.

Minimum score (0)

In general, political parties do not pay attention to the promotion of public accountability and the fight against corruption.

Mid-point score (50)

While there are a number of reforms, initiated and promoted by political parties, to counter corruption and promote integrity, they are piecemeal efforts, which are considered largely ineffective in achieving their goals.

Maximum score (100)

In general, political parties give significant attention to public accountability and the fight against corruption

95. *Interview of Ali Shiyam with lead researcher, Male', 7 May 2014.*
96. *See for example, President's Office, "Maldives President Committed to Zero Tolerance on Corruption", Press Release (Ref: 2012-387), 29 May 2012 <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=7470>; President's Office, "President urges greater cooperation in the fight against corruption", Press Release (Ref: 2012-736), 9 December 2012, <www.presidencymaldives.gov.mv/Index.aspx?lid=11&dcid=8319>.*
97. *See for example, "PPM accuses Nasheed of granting MVR 5.8 billion in corruption to 11 close associates" Sun Online (web) 7 November 2013 <www.sun.mv/english/17485>; "Nasheed is obstructing investigations of corruption during his presidency: Yamin" Sun Online (web) 11 August 2012 <www.sun.mv/english/4900>.*
98. *Once such manifesto with explicit reference to anti-corruption reform is the MDP manifesto for the presidential election 2008: MDP, Aneh Dhivehi Raajje - MDP-coalition Manifesto 2008-2013 (2008) pages 64-65.*

Recommendations

1. Legislation should be strengthened to require greater accountability and transparency in the procurement of finance by political parties.

2. Financial reports of all political parties as well as electoral candidates should be required to be made publicly available, in a standardized format and a timely manner.

3. The allocation of State resources to political parties should be based on demonstrable electoral viability (e.g. based on the number of votes/seats obtained in an election) rather than membership numbers.

4. Legislation and regulations on the use of State resources by Government officials, including the President, especially during election periods, needs to be more clearly defined.

5. Restrictions on party-swapping by candidates after winning an election should be introduced.

VII 10. Media

Summary

Legislative reforms have created a highly conducive environment for independent private media to flourish, and private media has been less constrained by the dictates of the government. While the media has as a whole gained a high degree of autonomy and independence in legislature over the course of the last decade, there still remains the danger of the media being subverted to causes of private business and political interests. There still seems to be a significant dearth of media organisations committed to the cause of journalism and most expound editorial views beneficial to their particular owner's political affiliations or business interests. Resource constraints are evident for print media. Adequate accountability provisions, although existent in law, are not effectively enforced. The number of physical attacks on journalists and media outlets has increased in recent years. Mechanisms for transparency in the activities of the media are lacking in law and practice. The media has also been weak on thoroughly reporting on corruption cases. The media in the Maldives comprises print newspapers, televisions and radio channels, and online news but lacks a consolidated regulatory framework.

Score = 41/100

The table below presents the indicator scores that summarise the assessment of the media sector of the Maldives in terms of its capacity, internal governance and role within the integrity system.

Dimension	Indicator	Law	Practice
Capacity	Resources	75	25
	Independence	75	0
Governance	Transparency	0	0
	Accountability	100	50
	Integrity Mechanisms	75	50
Role	Investigate & expose cases of corruption practice	0	
	Inform public on corruption and its impact	25	
	Inform public on governance issues	75	

Structure & Organization

Recent legal reforms have enabled the development of an independent and responsible media and a framework to regulate and govern the media sector in the Maldives.

The government has always maintained a Department of Information (previously a ministry), although this has been shuffled across different ministries. The Ministry of Tourism, Arts and Culture currently houses

the Department of Information.[1] This gives the Ministry the mandate of determining policies for the development of print media, broadcast media and electronic media, as well as maintaining the official registry of media outlets and journalists[2], although licenses are issued by other bodies.

The Maldives Media Council (MMC) was established in 2010, under the *Maldives Media Council's Act 2008* (the MMC Act), as an independent legal entity mandated to promote independent and responsible media, receive complaints from public regarding all media and news, research on any possible impediments to press freedom, and regulate the actors in the media sector along with their professional conduct.[3] The MMC comprises 15 members, with eight members having been elected from amongst personnel working in registered media outlets, and seven from the general public at an election. The MMC works part-time to fulfil its duties.[4] The MMC secretariat's staff is part of the civil service,[5] and is headed by a Secretary General, who reports to the President of the MMC and is responsible for the day-to-day administration of the council.[6]

The *Broadcasting Act 2010* established the Maldives Broadcasting Commission with the mandate to formulate and implement broadcasting policies, license broadcasters, and regulate the broadcast media in the country. This includes monitoring broadcast content, and receiving and investigating complaints regarding broadcast media.[7] The Maldives Broadcasting Commission is an independent, separate legal entity,[8] and is composed of seven members[9] appointed by the President upon approval by the Parliament.[10] The membership term is limited to five years and members are eligible for reappointment for further terms.[11] The Commission's members appoint the President and Vice President of the Commission, who work full time.[12] A Secretary General appointed by the Commission's members heads the secretariat of the Commission.[13] Although the Broadcasting Act was enacted in 2010, the Maldives Broadcasting Commission was established, upon appointment of members, in April 2011.[14]

Furthermore, a Maldives Broadcasting Corporation (MBC) was established under the *Maldives Broadcasting Corporation Act 2010* as an independent statutory body with a separate legal identity, to fulfil the role of state media and public broadcaster.[15] The Act ensures the independence of the MBC as the state media, and prohibits the government from exerting any influence on the MBC or any of its staff in the exercise of their functions.[16] The MBC is governed by a board of directors comprising nine members appointed by and answerable to the Parliament.[17]

Maldives Journalists Association (MJA), a voluntary association of media professionals from both the state and private media that was established in 2009, plays a key role in the media sector as the only association for reporters and journalists. Its objectives are to improve media responsibility in the country, to advocate for the rights and protection of journalists, and to promote cooperation and professionalism among journalists.[18]

The Communications Authority of Maldives (CAM), established in 2003 under the Ministry of Transport & Communication, also exercises certain regulatory functions relating to telecommunications sector, including the provision of frequency registration, the licensing of transmitting stations, and the licensing of amateur radio.[19]

Private media has flourished in the last few years in print, broadcast and Internet mediums. The Broadcasting Commission has issued a total of 23 broadcast channel licenses for TV services and ten broadcast channel

1. *This Department was later shifted to Ministry of Human Resources, Youth and Sports*
2. *http://www.presidencymaldives.gov.mv/Index.aspx?lid=141*
3. *Maldives Media Council's Act, 2008 (Law No. 15/2008), section 2-3, 9 (the MMC Act).*
4. *MMC Act, section 5. All functions of the Ministry of Tourism, Arts and Culture relating to media registration and regulation were transferred to the Ministry of Youth and Sports in January 2014.*
5. *MMC Act, section 30.*
6. *Regulation of the Maldives Media Council 2011, section 35.*
7. *Broadcasting Act, 2010 (Law No. 16/2010), sections 3-4, 42.*
8. *Broadcasting Act, section 3.*
9. *Broadcasting Act, section 5(a).*
10. *Broadcasting Act, section 6.*
11. *Broadcasting Act, section 7.*
12. *Broadcasting Act, section 8(a).*
13. *Broadcasting Act, section 14.*
14. *Maldives Broadcasting Commission website at <www.broadcom.org.mv/home/images/upload/Broadcasting%20and%20Rebroadcasting,%202012.pdf*
15. *Maldives Broadcasting Corporation Act, 2010 (Law No. 6/2010), sections 3(a),(e) (the MBC Act).*
16. *MBC Act, section 4.*
17. *MBC Act, sections 11, 12(a).*
18. *Maldives Journalist Association MJA website at <www.mja.org.mv/index.php/mja>.*
19. *Communication Authority of Maldives, website at <www.cam.gov.mv>.*

licenses for radio services.[20] In addition, there are four daily newspapers, and 13 online news websites.[21] It is pertinent that ownership of both print and broadcast media is concentrated in the capital, Male', though most broadcast media has national coverage.

Assessment

10.1 Capacity

10.1.1 Resources (Law)

To what extent does the legal framework provide an environment conducive to a diverse independent media?

Score: 75/100

The legal framework is conducive to the establishment and operation of independent media in the Maldives. Registration and license requirements for the media are minimal, and do not seek to restrict the formation or registration of private media. However, there are a number of institutions involved in regulation. Broadcast licensing laws are conducive to enhancing the diversity of broadcast media ownership.

The legal framework, complemented by recent legislative developments, covers a broad range of media activities including regulations related to print media, television and radio broadcasting, and licensing and monitoring. All private media outlets are also required to be registered under respective laws, but there are different institutions and acts for print and broadcast media, and this can be better harmonized to use resources for regulation more efficiently.

The broadcast media is subject to both the *Broadcasting Act* and the *MMC Act*. Private broadcasters are required to obtain a license from the Maldives Broadcasting Commission.[22] Legislation facilitates licensing for three types: public service, commercial, and community broadcasting.[23] Broadcasting licenses are required to be issued by the Commission, either through open bidding or in response to applications in compliance with broadcasting policies and broadcasting frequency plans formulated by the Commission.[24] Requirements stipulated in the Act for applications for a broadcast license are minimal. Namely, the license must be issued to a registered business entity (either a company or cooperative society); this company must not have been formed for the purposes of promoting one single political party; and its shareholders should not include any senior policy-level officers of the Ministry of Transport and Communication.[25]

Further regulatory requirements stipulated in the *Regulation on Broadcasting 2012* seek to restrict ownership of broadcasters by prohibiting more than one company with same ownership from obtaining broadcast licenses. In this context, the Regulation stipulates that broadcast licenses will not be issued to a company with a shareholder owning more than 20 per cent of shares in another company or cooperative society with a broadcast license, or to a company with a shareholder who holds shares in two or more other companies with broadcast licenses.[26]

Conduct of the broadcast media is regulated principally by the Maldives Broadcasting Commission, which was established to formulate and

Minimum score (0)

The legal framework pertaining to the existence and operations of independent media is highly restrictive.

Mid-point score (50)

While the legal framework permits the establishment and operation of media entities, a large number of legal requirements must be met to establish a media entity and/or restrictions on media activities hamper their work.

Maximum score (100)

The legal framework pertaining to the existence and operations of independent media is very conducive.

20. *Maldives Broadcasting Commission, website at <www.broadcom.org.mv/home/images/upload/Broadcasting%20and%20Rebroadcasting,%202012.pdf>.*
21. *MMC, media directory at <http://www.mmc.org.mv/v2/en/Directory.aspx>.*
22. *Broadcasting Act, section 22(b).*
23. *Regulation on Broadcasting 2012 (No. 2012/R-11), sections 2, 8(a).*
24. *Broadcasting Act, section 24.*
25. *Broadcasting Act, section 29.*
26. *Regulation on Broadcasting 2012, section 4.*

implement broadcasting policies, licensing of broadcasters and regulating of the broadcast media in the country.[27] However the media sector as a whole is also regulated in part by the MMC, which was established with the objectives of promoting independent and responsible media and regulating actors in the media sector, including the professional conduct of those acting in the sector.[28]

The print media, on the other hand, is regulated in part under the archaic *Newspapers and Magazines Act 1978* as well as the more recent *MMC Act*. All forms of print media are required to be registered at the Tourism Ministry, and owners must notify the Ministry if they cease publication. The Ministry has the discretion to abolish any magazine or newspaper where the individual responsible faces a period of detention exceeding 15 days.[29] Legislation, however, does not explicitly cover online forms of newspapers or news media, and no legislative reforms have come about to regulate the conduct of online forms of media. Entry into the journalistic profession is not restricted by legislation.

Under constitutional provisions on fair administrative action, a party adversely affected by a negative decision on registration or licensing may submit the case to court.[30]

27. *Broadcasting Act, sections 3-4.*
28. *MMC Act, sections 2-3, 9.*
29. *Newspapers and Magazines Act, 1978 (Law No. 47/78), section 6.*
30. *Constitution, 2008, article 43.*
31. *For example, out of the 9 televisions stations in the MMC directory, five TV stations (VTV, VTV Extra, Sun TV, DhiTV and DhiFM Plus) are renowned to be owned by companies related to business magnates, leaders of political parties, Parliament members and/or presidential candidates; See also, Freedom House, Freedom of the Press 2013, page 260.*
32. *Freedom House, Freedom of the Press 2013, page 260.*
33. *See Freedom House, Freedom of the Press 2013, page 60.*
34. *Interview of Husham Mohamed, Member of the MMC, with lead researcher, Male', 18 December 2012.*
35. *See MBC website at <www.broadcom.org.mv/home/f/page.php?id=96&menu=3>; Freedom House, Freedom of the Press 2011.*
36. *Interview of Ibrahim Khaleel, President of MMC and CEO of VTV, with lead researcher, Male', 29 November 2012; Interview of Husham Mohamed with lead researcher, Male', 18 December 2012.*

Minimum score (0)

Media in the country is highly monopolized. Many important social and political interests do not find a voice in the media landscape of the country.

Mid-point score (50)

While there is a plurality of media sources (in terms of type, ideology, ownership), they do not cover the entire political and social spectrum.

Maximum score (100)

There is a plurality of media sources covering the entire political and social spectrum.

10.1.2 Resources (Practice)

To what extent is there a diverse independent media providing a variety of perspectives?

Score: 25/100

There exists a variety of diverse independent media, in several different forms of print, broadcast, and online media in the country. Diversity of views and coverage is evident. Adequate financial resources are however not always available, and there is no national training system for journalists and media professionals.

The evolution of a free media in the Maldives is closely associated with the political reform process that gained momentum in the country in the early 2000s, and has accelerated since the first democratic election of 2008. As a result, media coverage has tended to be dominated by political stories, sometimes to the detriment of coverage of broader social issues. This tendency is further exacerbated by the fact that businessmen, with personal political agendas and interests, primarily dominate private media ownership.[31] Greater media diversity is however evident both in terms of media ownership and editorial content, as demonstrated by improved coverage of major political events and issues, such as the coverage of elections and electoral campaigns.[32]

Print media has expanded to cover a fairly wide range of viewpoints. However, similarly to broadcast media, print media outlets are predominantly owned or financed by businessmen with political interests,[33] and their coverage is also not necessarily free from bias.[34] Moreover, the number of private radio stations has also increased in the last few years,[35] though the high annual licensing fees imposed on private media outlets overall pose further financial challenges to their efficient operation and ability to cover a broad range of social issues.[36]

Adequate financial resources are not always available to print media, and outlets often have to rely on financial backing from businessmen with strong political interests.[37] The significant lack of available finances has also led to an increase in the number of web-based news outlets in the recent years; 13 registered online news media outlets now exist, in contrast to just four registered for print media.[38] A lack of adequate financial resources also contributes to limiting media professionalism, and reduces the human resource capacity of the media industry. Media training cannot be provided to an adequate level to create qualified journalists,[39] a key reason being the lack of a national system to train professional journalists.[40] As most Maldives journalists are on-the-job trained, and have often developed their skills by working in a privately owned, politically partisan media environment, their analysis of the issues covered is often flavoured with the biases of their 'benefactors' who own or finance the particular media outlet.

10.1.3 Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

Score: 75/100

The Constitution establishes comprehensive legal safeguards to prevent unwarranted external interference in media activities.

The right to freedom of the press and other means of communication, including the right to espouse, disseminate and publish news, information, views and ideas is enshrined in the Constitution. The Constitution also provides that no person is compelled to disclose the source of any information that is espoused, disseminated or published.[41] Further, the Constitution guarantees the right to freedom of expression not contravening any tenet of Islam,[42] the freedom to acquire and impart knowledge and information,[43] and the right of every citizen to equal access to means of communication and the State media.[44] Freedom of expression is, however, subject to defamation laws; recent legal reforms have removed criminal liability in cases of defamation, limiting the liability to civil only.[45]

The legal framework for the regulation of some forms of media is not independent of the Executive. For instance, print media licenses are issued by the Tourism Ministry,[46] leaving room for state manipulation and undue influence. In contrast, the issuing of broadcast licenses and monitoring and regulating broadcasters is undertaken by the independent Maldives Broadcasting Commission,[47] which is less susceptible to political manipulation. Since the print media is regulated based on an Act from 1978, there is a need to review licensing requirements and regulatory framework.

Licensed broadcasters are bound by content restrictions, specified within the Act, regarding minimum local content. They include 10 per cent local content within six months, 15 per cent within two years, and 25 per cent within five years after the commencement of the Act.[48] Other than the regulatory aspects specified in legislation and mandated to regulatory bodies, the Government does not have any legal power to control the information disseminated by the media at any time.

The Maldives Broadcasting Commission is vested with powers to hear complaints and investigate breaches of code of practice by broadcast

Minimum score (0)

No legal safeguards exist to prevent unwarranted external interference in the media.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of media independence and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive legal safeguards to prevent unwarranted external interference in the media exist.

37. *Freedom House, Freedom of the Press 2013, page 261.*
38. *MMC, Media directory at <www.mmc.org.mv/v2/Directory.aspx>; Freedom House, Freedom of the Press 2013, page 261.*
39. *See MMC website at <www.mmc.org.mv/v1/?lid=137>; MMC website at <www.mmc.org.mv/v1/downloads/4e929c3405cc6_Enrolment%20for%20Media%20Training.pdf>.*
40. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*
41. *Constitution, article 28.*
42. *Constitution, article 27.*
43. *Constitution, article 29.*
44. *Constitution, article 23(e).*
45. *Regulation on Claiming Damages for Defamation 2007, section 46. The monetary amount specified in the Regulation refers to general damages. Although the Regulation provides that special damages may also be claimed, under section 47(a), a Court has yet to award special damages in a defamation suit.*
46. *Newspapers and Magazines Act, section 1 (Ministry has changed since Act enactment)*
47. *Broadcasting Act, sections 3-4, 42.*
48. *Broadcasting Act, section 32.*

Government's decisions were both declared by the Civil Court as clear breaches of the constitutional rights guaranteed to media

Minimum score (0)

Other actors, particularly the state, regularly and severely interfere in the activities of the media.

Mid-point score (50)

The state and/or other external actors occasionally interfere with the activities of the media. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of media.

Maximum score (100)

The media is free from any unwarranted external interference.

Ownership information of any private media is not publicly disclosed

media, and has powers to prescribe penalties stipulated in the Act, including ordering specific compliance, issuing a written warning, imposing a fine not exceeding two per cent of the broadcaster's income in the past year, and revoking the broadcast license upon an application to court.[49] The MMC, comprising members elected from registered media entities, also receives complaints regarding non-compliance with responsible media practices, and is mandated to investigate any such complaints.[50]

10.1.4 Independence (Practice)

To what extent is the media free from unwarranted external interference in its work in practice?

Score: 0/100

There is no credible evidence to support the assertion that the media is entirely free from all forms of political or external interference in practice, despite the existing constitutional rights.

There is a widespread belief that the media in the Maldives is generally biased, either in favour of or against the government of the day.[51] Despite legislative reforms that were aimed at creating more balanced news coverage, the Government continues to exert an undue amount of influence on the media's structure and on state-run organisations. The MJA, during mid-2010, claimed that the Government exerted influence on state media organisations including *Television Maldives* and *Radio Maldives* through the *Maldives National Broadcasting Corporation* (MNBC) by instructing state media to avoid broadcasting opposition views.[52]

The MJA and MBC have also raised concerns over problems in the Government's media licensing process, including problems with issuing media related permits. For example, in 2012 the CAM prevented *Raajje TV*, a licensed broadcaster affiliated with the opposition, from getting an up-link permit, based on questionable grounds.[53] In the same year, *Raajje TV* also faced further challenges of non–cooperation from the Government and the Maldives Police Service. Both the Government's decision to deny the station the right to participate in and cover events of the Government, and the Maldives Police Service's decision to not to cooperate with *Raajje TV* or provide any form of protection to its members during their coverage of protests and demonstrations were declared by the Civil Court to be clear breaches of the constitutional rights guaranteed to media.[54]

Although journalists are, by law, free from regulation by state bodies other than the MMC and the Maldives Broadcasting Commission, several media outlets still face intimidation from state authorities in practice. In early 2013, a journalist was summoned to the Judicial Service Commission (JSC) for questioning in relation to an article that criticised actions of the judiciary.[55] In November 2012, the MMC also criticised the Parliament for having summoned the board of directors of *DhiTV* to a parliamentary committee, and called upon the Parliament to resort to the MMC for regulatory matters relating to the media.[56]

As political rivalry and partisanship intensified following the unexpected change of Government in February 2012, the media industry and its personnel have also increasingly become targets of physical and violent attacks.[57] According to the Human Rights Commission of the Maldives

49. *Broadcasting Act, sections 4, 19, 42,44*
50. *MMC Act, sections 2-3, 9, 25, 26.*
51. *See for example, Freedom House, Freedom of the Press 2013, page 260; "Politics trying to influence media: Maldives Media Council" Haveeru News (web) 16 January 2012 at <www.haveeru.com.mv/maldives_media_council/39782>.*
52. *See Freedom House, Freedom of the Press 2011.*
53. *See "Raaje TV alleges political motivation behind satellite uplink delay" Minivan News (web) 3 July 2012 at <www.minivannews.com/politics/raaje-tv-alleges-political-motivation-behind-satellite-uplink-delay-40208>; "Communication Minister's comment on withdrawing broadcasting licences 'just advice'" Minivan News (web) 19 January 2012 at <www.minivannews.com/politics/communication-ministers-comment-on-withdrawing-broadcasting-licences-just-advice-30961>; "Raaje TV to commence satellite uplink service by mid-July as IFJ raises broadcast concerns" Minivan News (web) 5 July 2012 at <www.minivannews.com/politics/raaje-tv-to-commence-satellite-uplink-service-by-mid-july-as-ifj-raises-broadcast-concerns-40325>.*
54. *Raajje Television Pvt Ltd v. Maldives Police Service, Civil Court, 3 February 2013 (1609/Cv-C/2012); Raajje Television Pvt Ltd v. President's Office, Civil Court, 14 April 2013 (1459/Cv-C/2012).*
55. *"Adam Haleem summoned to JSC" Haveeru News (web) 3 February 2013 at <www.haveeru.com.mv/dhivehi/news/133778>.*
56. *"MMC appeals Majlis to stop summoning media persons to its committees" Haveeru News (web) 22 November 2012 at <www.haveeru.com.mv/dhivehi/maldives_media_council/130401>.*
57. *See Freedom House, Freedom of the Press 2011.*

(HRCM), during the last few years a reporter and a newspaper technician were attacked and injured by unknown assailants, two media channels' facilities were vandalized by a group of unidentified persons, and several journalists were summoned to police headquarters for questioning regarding sources.[58] In late 2012, the property of a private media organisation was vandalised and eight persons were reported to have been convicted accordingly.[59] At least two journalists have also faced murder attempts, one in 2012 and the other in 2013.[60]

Indeed, the Maldives' media freedom deteriorated from 50 in 2010 to 55 in 2013, according to the Freedom House annual ratings.[61] During the same period, the Maldives was downgraded on the Press Freedom Index from 52nd to 103rd place in the world by Reporters without Borders, plummeting to levels associated with those seen before the introduction of the new constitution in 2008.[62]

Minimum score (0)

In general, there are no legal provisions or individual rules and codes of media outlets which seek to establish transparency with regard to relevant media activities.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of the media and/or some provisions contain loopholes.

Maximum score (100)

In general, the legal provisions and individual rules and codes of media outlets seek to establish full transparency with regard to relevant media activities.

10.2 Governance

10.2.1 Transparency (Law)

To what extent are there provisions to ensure transparency in the activities of the media?

Score: 0/100

There is a significant lack of legislation to ensure the adequacy of transparency of the media.

Broadcasting licenses, for example, are issued by the Maldives Broadcasting Commission,[63] which is required by law to maintain a publicly available registry of all licensed broadcasters.[64] Whilst applicants for broadcasting licenses are required to submit ownership information to the Commission, for the purposes of ensuring compliance with licensing requirements, legislation does not require such information to be disclosed to the public.[65] The MMC, likewise, is required by law to maintain a directory of media entities, including broadcast as well as print media. However, ownership information of any private media organisations is not publicly disclosed.[66]

Similarly, applicants for registration of the print media are required to disclose to the Tourism Ministry particulars of ownership or the responsible person, as well as details of the editor of such media.[67] However, as the state body responsible for the registration of print media, the Tourism Ministry does not have a mechanism to provide a list of registered media outlets for public viewing. Nor is the ownership information on print media required to be made available to the public.

Significantly, legislation lacks requirements for the public disclosure of details of internal staffing, reporting and editorial policies of the media outlets. Such weaknesses in law and regulatory bodies limit the capacity of existing legal provisions to effectively ensure the transparency of media activities.

11.2.2 Transparency (Practice)

To what extent is there transparency in the media in practice?

Score: 0/100

58. *See Human Rights Commission of the Maldives, Shadow report on the International Covenant on Civil and Political Rights: In response to the Maldives Initial State Report (2012) page 54.*
59. *See "Eight men charged with VTV vandalism sentenced for seven years" Minivan News (web) 24 October 2012 at <www.minivannews.com/politics/eight-men-charged-with-vtv-vandalism-sentenced-for-seven-years-45979>.*
60. *Reports without Borders, "Journalist in critical condition after attacker cuts his throat", 5 June 2012, at <www.en.rsf.org/maldives-journalist-in-critical-condition-05-06-2012,42723.html>; "Slashed journalist claims attack was targeted assassination by Islamic radicals" Minivan News (web) 2 July 2012 at <www.minivannews.com/society/slashed-journalist-claims-attack-was-targeted-assassination-by-islamic-radicals-40078>; "Two men charged with attack on Raajje TV reporter" Minivan News (web) 24 May 2013 at <www.minivannews.com/politics/two-charged-with-attack-on-raajje-tv-reporter-%E2%80%98aswaad%E2%80%99-58440 >*
61. *Freedom House, Freedom of the Press 2013, page 39; Freedom House, Freedom of the Press 2010, page 16.*
62. *Reporters without Borders, World Press Freedom Index 2013; Reporters without Borders, World Press Freedom Index 2013.*
63. *Broadcasting Act, section 22(b)*
64. *Broadcasting Act, section 22(c).*
65. *Regulation on Broadcasting, section 5(b).*
66. *MMC website at <www.mmc.org.mv/v1/?lid=154>.*
67. *Newspapers and Magazines Act; Regulation on Registration of Newspapers and Magazines, sections 2, 9, 10.*

Minimum score (0)

In general, media outlets do not disclose relevant information on their activities.

Mid-point score (50)

While media outlets usually disclose relevant information on their activities, it is often partial and/or outdated information.

Maximum score (100)

In general, media outlets provide full and effective disclosure of relevant information on their activities.

Journalists have faced murder attempts

Whilst the media has seemingly flourished in the Maldives in recent years, with the number of media outlets having increased both in broadcasting and in print, information regarding their ownership, internal staff, reporting mechanisms and editorial policies is scant. In fact, media professionals in the country claim that the broadcasting media is even less forthcoming than the print media in this regard.[68] Such information is not readily available to the public, owing largely to the absence of adequate legal mechanisms to ensure transparency.

The only information available in this context is lists of licensed media organizations. A directory of licensed media outlets is maintained by the MMC, and publicly disclosed via its website.[69] Similarly, a list of all licensed broadcasters, re-broadcasters, and public service broadcasters is made available by the Maldives Broadcasting Commission via its website.[70]

A more serious issue arising from the deficiency of the legal mechanisms on transparency is the lack of protection it provides for reporters or journalists against indirect or unethical influences as well as unprofessional threats that they may face as a result of their reporting activities.[71]

10.2.3 Accountability (Law)

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Minimum score (0)

No provisions are in place to ensure the accountability of media employees.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the accountability of the media for their activities and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive mechanisms are in place.

Score: 100/100

Research finds that there is a comprehensive legal framework in place to ensure that media organisations are accountable for their activities. However, it would be beneficial to maintain a single entry point to receive complaints from media.

Recent legislative and regulatory developments for the establishment of a comprehensive regulatory framework for the media have been impressive, and include the establishment of the MMC, which has the mandate of promoting freedom of the media, resolving disputes of obstructions to media freedom, and investigating complaints regarding violations of the code of conduct by media personnel.[72] The independent Maldives Broadcasting Commission (MBC) was established in 2011, with the mandate of formulating broadcasting policies and regulating broadcast licenses. The MBC also investigates complaints relating to violations by broadcast media entities.

Licensed broadcasters are required to submit to the Commission an annual report of their activities, including audit reports, information on broadcast content, and employees' information, including staff training conducted during the year.[73] Applicants for broadcasting licenses are required to submit ownership information to the Commission for the purpose of ensuring compliance with licensing requirements rather than for disclosure to the public.[74] Broadcasters who violate the Commission's regulations are penalised through a points deduction system, their license being subject to suspension or revocation. However, such actions can be challenged in the courts, and the Maldives Broadcasting Commission itself does not have the discretion to revoke a broadcasting license; it must be submitted to the court by the Commission.[75]

68. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012; Interview of Husham Mohamed with lead researcher, Male', 18 December 2012.*
69. *MMC website at <www.mmc.org.mv/v2/Directory.aspx>.*
70. *Maldives Broadcasting Commission's website at <www.broadcom.org.mv/home/f/page.php?id=96&menu=3>*
71. *See, Mendel, Toby, Assessment of Media Development in the Maldives" Based on UNESCO's Media Development Indicators (2009) page 11.*
72. *Although the MMC Act was enacted in 2008, the MMC was established, upon its first election, in April 2010 – MMC website at <http://www.mmc.org.mv/v1/?lid=137>.*
73. *Regulation on Broadcasting, section 9(i), 44.*
74. *Regulation on Broadcasting, section 5(b).*
75. *Broadcasting Act, section 44.*

Whilst certain functions, such as the registration of newspapers and magazines, are still retained within the Executive branch – namely the Tourism Ministry – under the archaic *Newspapers and Magazines Act*, media personnel, including those in print media outlets, are also bound by the code of conduct formulated by the MMC,[76] and complaints relating to such media organisations are investigated by the MMC.[77] Moreover, activities of the public broadcaster, the MBC, are regulated by the relevant parliamentary committees.

The MBC is required to publish, make available to the public, and submit to the Parliament an audit report of its financial statements, and an annual report containing information about its policies, activities for the year, objectives and accomplishments, programme list, and information on complaints received, within two months of the end of each year.[78]

Conflicts of the mandate of regulatory bodies and create impediments to effectively establish an adequate regulatory approach

10.2.4 Accountability (Practice)

To what extent can media outlets be held accountable in practice?

Score: 50/100

Statutory regulatory bodies often face challenges to undertaking oversight functions and holding media organisations accountable in practice, largely due to the shortcoming of not having a sufficiently centralised media governance system. However, media regulatory bodies play an important and effective role in holding the media accountable due to a comprehensive set of legal provisions.

Conflicts in terms of the mandate of regulatory bodies such as the MMC and the Maldives Broadcasting Commission create impediments to effectively establishing an adequate regulatory approach.[79] This issue is further intensified by conflicts among media regulatory bodies and other regulatory bodies, such as the JSC or the parliamentary committees, as noted earlier in 11.1.4. Similarly, the MMS receives complaints for print publications which are not registered under them.

Media organisations in the Maldives today take a considerable degree of responsibility for their actions. The principal regulatory body, the MMC, has a complaints mechanism to enable the public to make inquiries and lodge complaints about the media,[80] which the MMC seeks to resolve in an effective and timely manner. In its work, the MMC also plays a key and effective role in ensuring and promoting a right of reply from media organisations.[81] Similarly, the Maldives Broadcasting Commission has a complaints mechanism to enable people to make inquiries and lodge complaints about broadcast media activities.[82] Most of the independent media organisations interact with the public in this respect when necessary.[83]

Although media ombudsman functions are relevant to holding media organisations accountable, the concept of an ombudsman itself is fairly new to the Maldives. In the media sector, ombudsman functions are generally carried out by regulatory bodies such as the MMC and the Maldives Broadcasting Commission. Interviews conducted with media personnel indicate that the MMC has a key role in acting as an ombudsman, and that having such mechanisms in place facilitates media sources in responding to complaints regarding erroneous information published in newspapers or broadcasted on television and radio. According to interviews, print

Minimum score (0)

In general, media outlets do not have to answer for their activities to stakeholders.

Mid-point score (50)

While some media outlets have effective accountability mechanisms in place, there is no effective sector-wide accountability system for the media sector.

Maximum score (100)

In general, media outlets have to answer for their activities to stakeholders. There are sector-wide accountability mechanisms, which work effectively.

76. *MMC, website at <www.mmc.org.mv/v1/downloads/4dfaa829ed707_ethics.pdf>.*
77. *MMC, website at <www.mmc.org.mv/v1/?lid=144>.*
78. *MBC Act, section 29.*
79. *See MMC, "Statement by MMC" (2012) at <www.mmc.org.mv/v1/downloads/4f9d5909a9328_6_2012%20Press%20release.pdf>.*
80. *See MMC, website at <www.mmc.org.mv/v1/?lid=144>.*
81. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012; Interview of Husham Mohamed with lead researcher, Male', 18 December 2012.*
82. *Maldives Broadcasting Commission, website at <www.broadcom.org.mv/home/f/page.php?id=62&menu=11>.*
83. *For statistics on lodged, adjudicated and pending cases, see Maldives Broadcasting Commission, website at <www.broadcom.org.mv/home/images/upload/Complaints%20Statistics%20(2011%20-%202012)%20as%20of%2015-7-2012.pdf>.*

Minimum score (0)

No provisions are in place to ensure the integrity of media employees.

Mid-point score (50)

While a number of provisions exist, they do not cover all aspects related to the integrity of media employees and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive mechanisms are in place.

media notably responds to public complaints or corrects incorrectly printed information printed when necessary in a timely manner.[84] A few do complain officially, and in such cases, media attends to correctting erroneous information.

10.2.5 Integrity Mechanisms (Law)

To what extent are there provisions in place to ensure the integrity of media employees?

Score: 75/100

A fairly comprehensive legal framework is in place to ensure the integrity of media agents.

Adequate codes of ethics and/or professional conduct for media personnel exist in the framework of laws and regulations relating to the media. The *Broadcasting Act* mandates the Maldives Broadcasting Commission to formulate a Code of Practice in consultation with broadcasting media entities to regulate broadcast content and ensure the integrity and ethics of broadcasters.[85] Accordingly, the Code of Practice formulated and published in June 2012 covers principles for compliance with the laws and the tenets of Islam, for maintaining social behavior, for the respect of privacy, reputation and other human rights, and for the fair disclosure of true information. The code also includes guidelines for the protection of minors, respect for women's rights, and coverage of natural disasters and tragedies.[86] The code is binding for all licensed broadcasters, and the Commission is mandated to investigate any complaints of violations of the code's provisions.[87] Moreover, all licensed broadcasters are required to formulate their own codes of conduct and notify to the Commission of these within 60 days of their license being granted.[88]

No requirement for ethics committees within media outlets is specified in law.

On the other hand, the *MMC Act* also mandates the MMC to formulate a Code of Conduct which is applicable to all media personnel.[89] As such, the MMC Code of Ethics, binding for all media personnel, covers aspects of compliance with the laws and tenets of Islam, national security, respect for human rights and social etiquette, being free from influences, revealing the truth fairly, and maintaining responsible journalistic professionalism.[90] A supplementary Guideline for Reporting on Children's Issues specifies principles applicable when reporting and disclosing information relating to children.[91]

The State media and public broadcaster, the MBC, is subject to the codes of conduct stipulated in the *MBC Act*,[92] in addition to the provisions of the *Broadcasting Act* and the *MMC Act*. The *MMC Act* outlines the general principles of promoting media freedom, as well as the responsibilities of the media, in accordance with international best practices.[93] Journalists are subject to the codes formulated by the MMC.[94]

84. *Interview of Husham Mohamed with lead researcher, Male', 18 December 2012; Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*
85. *Broadcasting Act, section 37(a).*
86. *Maldives Broadcasting Commission, Code of Practice on Broadcasting, 27 June 2012 at <www.broadcom.org.mv/home/images/upload/code%20of%20practice%20-%20gazette.pdf>.*
87. *Broadcasting Act, section 42(a).*
88. *Regulation on Broadcasting, section 28(b)*
89. *Regulation of the MMC, section 4.*
90. *MMC, Norms and Code of Conduct of the Maldivian Media, at <www.mmc.org.mv/v1/downloads/4dfaa829ed707_ethics.pdf>.*
91. *MMC website at <www.mmc.org.mv/v1/?lid=192>.*
92. *MBC Act.*
93. *MMC Act, section 22-23.*
94. *MMC Act, section 2; Regulation of the Maldives Media Council 2011 (No. 2011/R-4).*

10.2.6 Integrity Mechanisms (Practice)

To what extent is the integrity of media employees ensured in practice?

Score: 50/100

Although the legal framework provides a binding code of conduct for media personnel, it is difficult to ensure the level of adherence or compliance to the code.

The MMC is committed to working with State authorities in upholding the code to ensure free media and good behaviour amongst journalists,[95] and plays an important role in ensuring that media organisations follow proper codes of ethics.[96] However, a major shortcoming in the implementation of the Code is the inadequacy of the accreditation mechanism for journalists. Individual media entities do not have their own code codes of conduct, despite the legal requirement for this, and it is uncommon for media personnel to receive any training on journalistic ethics from independent professional sources.[97]

In addition to the MMC, the MJA also aims to increase media responsibility in the country. Its goals and objectives include, inter alia, advocating the rights and protection of journalists; promoting cooperation and professionalism among journalists and working towards establishing free and independent journalism; advocating for the establishment of easy access to information for journalists; and working towards promoting cooperation among journalists to establish a conducive atmosphere for free and independent journalism.[98] The MJA regularly issues statements regarding media freedom issues and journalists' rights.[99] However, its effectiveness and credibility are often questioned due to personality differences, personal rivalry and/or political leanings.[100]

In order to achieve best practice, journalists are supposed to look at both sides of the stories they report. Their ability to do so, however, depends on the issues being covered, and the information they receive from the respective state authorities on the issue. Some media organisations or reporters do not investigate the matter at hand before disseminating information. This limits the accuracy of the news reports.[101]

Minimum score (0)

There is a complete absence of actions which would aim to ensure the integrity of media employees, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

There is a piecemeal and reactive approach to ensuring the integrity of media employees, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

There is a comprehensive approach to ensuring the integrity of media employees, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff on integrity issues.

95. *See MMC website at <www.mmc.org.mv/v1/?lid=8&dcid=53>.*
96. *Interview of Husham Mohamed with lead researcher, Male', 18 December 2012.*
97. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*
98. *MJA website at <www.mja.org.mv/index.php/mja>.*
99. *Freedom House, Freedom of the Press 2013.*
100. *See for example, "MJA cancels executive council vote amidst chaos" Minivan News (web) 3 June 2014 at <www.minivannews.com/news-in-brief/mja-cancels-executive-council-vote-amidst-chaos-86346>.*
101. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012; Interview of Husham Mohamed with lead researcher, Male', 18 December 2012.*

10.3 Role

10.3.1 Investigate and expose cases of corruption practice

To what extent is the media active and successful in investigating and exposing cases of corruption?

Score: 0/100

Despite legislative developments towards progress in the media sector having been made, the media industry can still be considered to be at a very infant stage. It was only after the enactment of the new Constitution in 2008 that the Maldives' media began to engage in independent reporting on a broad spectrum of issues.

Yet, to date, the Maldives' media has not played a very pro-active or effective role in investigative journalism with regard to the exposure of corrupt practices. Even though the media industry has conducted some training

Minimum score (0)

In general, the task of investigating and exposing individual cases of corruption is neglected by the media.

Mid-point score (50)

While the media is somewhat active in investigating corruption cases, their work is generally focused only on a small number of cases and rarely results in charges and successful convictions.

Maximum score (100)

In general, the media is very active and successful in investigating and exposing individual cases of corruption.

Media attention on corruption appears to be limited to rare and special occasions

for professional journalists in recent times, specific training in the area of investigative journalism is still lacking. Consequently, Maldives journalists tend not to be very well versed in the conduct of investigative journalism,[102] a situation worsened by their inability to effectively practice the right to information afforded to them by law.

While some media persons or organisations endeavour to undertake investigative activities as part of their news coverage, such as following up on audit reports or cases being investigated by the Anti Corruption Commission (ACC), these have generally tended to be reactive to events. Evidence from research does not suggest that robust or active investigation by journalists or follow-up of reported incidents and cases of corruption is commonplace. There are no examples of high profile corruption cases having been exposed by investigative journalism or through active investigation by media personnel.

10.3.2 Inform public on corruption and its impact

To what extent is the media active and successful in informing the public on corruption and its impact on the country?

Score: 25/100

Despite the level of public rhetoric about the prevalence of corruption being unacceptably high, the amount of media attention given to corruption appears to be limited to rare and special occasions. The media may, for example, run a special programme on raising awareness about corruption issues on the Anti-Corruption Day, sometimes with the participation of high-level officials. In 2012, for example, the state media organization *TVM* aired a live panel discussion on corruption issues, with panelists including the President and Vice President of the ACC, the President of the Elections Commission and the Auditor General, to mark the Anti-Corruption Day.

It is also common practice for media outlets to cover news on current affairs involving issues of corruption, or to broadcast a public statement made by relevant institutions such as ACC or Auditor General, as part of their news coverage. Such coverage tends to become intensified during election time or during periods of debate on national or sensational issues relating to a corruption case. However, there does not appear to be any concerted effort by the media to report and disseminate information to raise public awareness on the ill effects of persistent corruption on society, or to educate them on combating such practices. The Maldives' media, especially private media, is not really a very profitable enterprise, yet and it appears that organisations prefer or are compelled to concentrate on maximizing commercial revenue rather than engaging in altruistic public service.[103]

Minimum score (0)

In general, the task of informing the public on corruption and its impact is neglected by the media.

Mid-point score (50)

While media outlets pay some attention to informing the public on corruption and its impact, reports are often limited, biased and/or of poor quality.

Maximum score (100)

In general, the media is very active and successful in informing the public on corruption and its impact.

102. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*
103. *See 11.1.2 above for limitations in resources.*
104. *See for example, Freedom House, , page 260; see also 11.1.2 above.*
105. *See above at 11.1.3 and 11.1.4.*

10.3.3 Inform public on governance issues

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

Score: 75/100

Media organisations in the Maldives are significantly affiliated to different political parties or interest groups.[104] In fact, the appointment of members to the various media regulatory bodies, as well as the public broadcaster MBC's governing board, is very much influenced by the prevailing political situation in the country, their independence being more nominal than practiced.[105]

Minimum score (0)

In general, the task of informing the public on the regular activities of the government and other governance institutions is neglected by the media.

Mid-point score (50)

While media outlets pay some attention to informing the public on governance issues, reports are often limited, biased and/or of poor quality.

Maximum score (100)

In general, the media is very active and successful in keeping the public informed on regular activities of the government and other governance institutions.

The evolution of media freedom has been closely associated with political developments in the country and as such, tends to focus a great deal of the coverage on political developments or Government activities. This nexus between political parties and media outlets was most evident during the events that led to the change of Government in February 2012. According to the President of the MMC, the Maldives' media is in fact very active and successful in informing the public about activities of the Government or state governance system. The live broadcasts of parliamentary sessions and the daily reporting of the Government's activities and policy decisions are patent examples of sometimes-excessive coverage of politics by the media.[106]

However, as noted above, the impartiality of media organisations or journalists varies significantly depending on the political interests they are affiliated with. Therefore, despite the strong commitment to regularly reporting on Government and governance activities, the quality of the material that is being reported, and its context, almost always depends on the political ideologies and interests of the respective media organisations.[107] Consequently, while the media may be said to be quite effective and comprehensive in informing the public oabout governance issues, news reports often tend be representative rather than comprehensive.

106. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*
107. *Interview of Ibrahim Khaleel with lead researcher, Male', 29 November 2012.*

Recommendations

1. Media to maintain a wider focus on issues of public interest, such as corruption, and to include pieces on awareness and education about how it can be overcome.

2. Media outlets to develop medium- to long-term strategic plans for raising resources to create a more independent media.

3. Executive and independent media regulatory bodies to enforce legal mechanisms to protect and preserve the rights of journalists.

4. The MMC to develop a transparent mechanism for enforcing the existing Code of Conduct. More checks to be put in place for the MMC to ensure that media outlets develop and implement their own codes of conducts.

5. Regulatory bodies, the MJA, and relevant government authorities to provide more and better training opportunities to create a professionally competent cadre of investigative journalists.

6. The MMC and the MBC to combine to create a single and more effective regulatory mechanism for the media sector.

VII 11. Civil Society

Summary

Civil Society Organisations (CSOs), especially in the area of governance, are a relatively recent phenomenon in the Maldives, given the freedoms introduced by the 2008 Constitution. Although there are no significant legal obstacles to the formation of civil societies, except for the limitations on religious freedom arising from the Constitutional provision which stipulates the state religion to be Islam, CSOs can be constrained in their activities due to a lack of funding and financial dependence on few sources. Transparency and accountability of CSOs need to be strengthened through improved legislation as well as better internal procedures. Poorly resourced and lacking in adequate professionalism both in terms of their operation and their staff, CSOs have not generally been very effective in influencing the Government's activities or public policy formulation. Moreover, their interactions with the general public have also been variable, depending on the nature of the CSO.

Score = 25/100

The table below presents the indicator scores that summarise the assessment of the civil society of the Maldives in terms of its capacity, internal governance and role within the integrity system of the country.

Dimension	Indicator	Law	Practice
Capacity	Resources	25	25
	Independence	50	50
Governance	Transparency	-	25
	Accountability	-	25
	Integrity	-	25
Role	Hold Government accountable	25	
	Policy reform	0	

Structure & Organization

The *Associations Act* enacted in 2003 provides a legal framework for the registration and regulation of CSOs in the Maldives. The *Associations Act* requires any such societies to be registered under the Act.[1] Upon registration, they are considered separate legal entities. In the country of fewer than 200 islands, the number of CSOs has grown from 1200 in 2011[2] to an estimated 1800 in 2013[3].

CSOs range from associations formed on a common theme of sports, music, arts or culture, to a common cause such as human rights or governance, and from profession-based associations such as groups of judges, lawyers, accountants, teachers, or medical professionals,, to simply island or community-based associations working for the development of that island or community.[4] It is well worth noting that the *Associations Act* does not differentiate between voluntary associations, interest groups and/or trade union associations, all being covered under one umbrella in the Act, with the exception of Maldivian Red Crescent which is covered by its own act.

The primary regulatory body of CSOs is the Ministry of Home Affairs (MOHA), which is mandated to administer the *Associations Act* and to maintain a registry of all associations. The Registrar of Associations, an official directly appointed by the President and based in the MOHA is the chief official in charge of administering the provisions of the Act. [5]

Minimum score (0)

The legal framework pertaining to the existence and operations of CSOs is highly restrictive.

Mid-point score (50)

While the legal framework permits the establishment and operation of CSOs, a large number of legal requirements must be met to establish a CSO and/ or restrictions on CSO activities hamper their work.

Maximum score (100)

The legal framework pertaining to the existence and operations of CSOs is very conducive.

Assessment

11.1 Capacity

11.1.1. Resources (Law)

To what extent does the legal framework provide an environment conducive to civil society?

Score: 25/100

The legal framework does pose some challenges to the formation of CSOs, and significant limitations exist in respect of CSO operation, including the requirement to obtain prior approval for all foreign funding for CSO activities.[6]

The right to form associations and societies is enshrined in the Constitution of the Maldives, which provides, inter alia, that everyone has the freedom to form associations and societies, including for economic, social, educational or cultural purposes, provided that such associations do not contravene the tenets of Islam.[7,8] CSOs, like political parties or individuals, have the right to freedom of expression, and to communicate opinions and expressions in a manner not contrary to any tenet of Islam.[9] Provisions relating to the registration and organization of societies are provided for in the *Associations Act* and the *Regulation on Associations*. The Act requires governmental authorities to promote and support the activities of such organisations in the conduct of policy formulation and implementation.[10]

Legislation imposes a requirement to register all CSOs,[11] with failure to do so punishable by imprisonment, banishment or house arrest for a period of 2-5 years under the *Associations Act*.[12]

Legislation does not oblige the Registrar of Associations to specify any reason for rejecting applications or for de-registrations. The Constitution, however, provides a right to fair administrative action by any public body, and anyone adversely affected by administrative action has the right to request reasons for such action, as well as the right to submit the matter to Court.[13]

The registration formalities are not extensive, requiring those wishing to register to lodge with the Registrar of Associations an application form, draft Articles of Associations, and particulars of members.[14] By regulation,

1. *Associations Act, 2003 (Law No. 1/2003), section 2; exception is given to societies or associations formed amongst students at secondary level and below: section 35.*
2. *FJS Consulting Pvt Ltd, Comprehensive Study of the Maldivian Civil Society (UNDP Maldives; Government of Maldives, 2011), page 14 (the "Comprehensive Study of the Maldivian Civil Society 2011").*
3. *http://www.fidh.org/en/asia/maldives/press-release-maldives-move-to-dissolve-about-70-of-the-ngos-would-13203*
4. *Comprehensive Study of the Maldivian Civil Society 2011, page 14.*
5. *Associations Act, sections 38, 39(b).*
6. *Associations Act, section 22.*
7. *Constitution, article 30.*
8. *Associations Act, section 13(a).*
9. *Constitution, article 27.*
10. *Associations Act, section 3.*
11. *Associations Act, section 2; exception is given to societies or associations formed amongst students at secondary level and below: section 35.*
12. *Associations Act, section 37.*
13. *Constitution, article 43.*
14. *Associations Act, sections 4-6.*

documents demonstrating that the founding members are free from criminal conviction and documents to prove that the office address proposed for the CSO belongs to the members are also required.[15] This can be a long and cumbersome process, as the documents are not all attainable from one agency, and having a police record is not an specified clause for the rejection of an application. A registration fee of MVR 100 (US$ 6.50) is payable on registration.[16] There are no annual or recurring fees for CSOs. Legislation, however, does not impose a deadline for the Registrar to make a decision on the applications being lodged.[17]

The recently enacted tax regime is favourable to the operation of CSOs. Under tax legislation, CSOs are not required to register and file returns under the business profit tax regime, as they are not deemed to be business entities carrying out profit-generating activities.[18] However, there is no blanket exemption from import duty or the *Goods and Services Tax Act* if associations were to conduct business transactions and satisfy the requirements of minimum sales revenue as defined in the GST law.[19] The business profit tax laws further provide a mechanism for Associations to register with the MIRA as charitable organisations, and any donations made by a business entity to any such registered association can be exempted from computing profits for the tax purposes of that business entity.[20] This mechanism is favourable to, and promotes, businesses making donations to CSOs.

15. *Regulation on Associations, section 3.*
16. *Associations Act, section 6(c).*
17. *Unlike the safe guard in place for applications for political party applications, which state that the party is deemed to be formed if the elections commission does not respond to the applicant within 30 days. See Political Parties chapter.*
18. *Business Profit Tax Act, 2011 (Law No. 5/2011), section 43(a).*
19. *Goods and Services Tax Act, 2011 (Law No. 10/2011).*
20. *Business Profit Tax Act, section 10(e).*
21. *Comprehensive Study of the Maldivian Civil Society 2011, pages 74-75.*
22. *Comprehensive Study of the Maldivian Civil Society 2011, pages 23.*
23. *Associations Act, section 22; Regulation on Associations, section 27.*
24. *Comprehensive Study of the Maldivian Civil Society 2011, page 31.*
25. *Comprehensive Study of the Maldivian Civil Society 2011, pages 74-75.*

11.1.2. Resources (Practice)

To what extent do CSOs have adequate financial and human resources to function and operate effectively?

Minimum score (0)

In general, most CSOs suffer from a serious financial and human resource problem threatening their survival.

Mid-point score (50)

In general, most CSOs tend to have some resources. However, significant resource gaps lead to a certain degree of ineffectiveness in carrying out their duties and/or threaten their sustainability.

Maximum score (100)

In general, most CSOs have a sustainable and diverse funding and support base.

Score: 25/100

CSOs in the Maldives face substantial challenges to securing the financial and human resources necessary to adequately carry out their activities.

CSOs often rely on multiple sources of funding, ranging from membership fees, fund-raising activities and sponsors to individual and business donors. A study of the Maldivian Civil Society conducted in 2011 finds that about 36 per cent of CSOs rely on their own fundraising efforts, while 34 per cent rely on sponsors, 26 per cent on individual donations and 24 per cent on business donations.[21] According to this study, only 14.3 per cent of income is obtained from external funding.[22] Findings of this survey reveal that the bulk of the income is derived locally, one of the reasons for this being the requirement to pre-approve from the MOHA any funding from foreign parties.[23] This is coupled with administrative delays and a lack of clarity in the procedure.[24]

Income levels of CSOs vary across the country, ranging from no income for 18.6 per cent, to a small number – about 5.7 per cent – generating income above MVR 250,000 (US$ 16,213), and most CSOs raising less than this amount (about 24 per cent).[25] Sports associations obtain the bulk of their funding from the government budget, for management as well as the organisation of tournaments and events. This enables the Government to influence to a large degree their annual activities and programmes. The Table Tennis Association of Maldives (TTAM), for example, receives a budget of approximately MVR 600,000 (US$ 38,911) annually from the Ministry of Human Resources, Youth and Sports (MHRYS). This represents its major source of funding, though some external funding is secured through the

No clear criteria of how CSOs are selected or eligible for such state assistance

Grounds for state intervention in the activities of CSOs are highly subject to discretion of the Executive

sponsorship of tournaments.[26] Sports associations are also granted access to office space and sports grounds, and allowed to rent out these sports facilities or charge the public for use or for lessons. Generally, allocations from the Government budget to CSOs are only made to sports associations that are affiliated with the MHRYS. There are also examples of selected other CSOs being given land by government with no clear criteria of how they were selected or are eligible for such assistance[27].

Similarly, membership of CSOs greatly varies, with general membership of an association ranging from 6 to 600.[28] The civil society sector is driven by a high level of volunteerism, with only 0.7 per cent of those engaged in activities of a CSO being paid for their service, though on average only 10-15 members were active on a regular basis in conducting activities.[29] This is characteristic of most, if not all CSOs, as was demonstrated by interviews with Ali Rilwan, co-founder of Bluepeace Maldives, an environmental NGO, and Ahmed Latheef, President of TTAM. Both interviewees confirmed that most of the activities of their respective associations were conducted with the support of their members, who participate on a voluntary basis.[30]

Private philanthropic donations account for approximately one quarter of the income derived by CSOs in the country.[31] However, not all CSOs benefit equally from such philanthropic donations, with the contributions received by some CSOs being quite insignificant. The lack of a developed culture of businesses being involved in corporate social activities also results in a significant loss of possible income for CSOs.

CSOs are staffed generally by "young people with a shared mission", with less than 40 per cent of CSOs having any staff members with technical competence in accounting or bookkeeping.[32] Furthermore, CSOs find it difficult to recruit skilled professionals as staff, and there is little incentive to train such staff owing to the difficulty of retaining them even after training has been provided.

Legislation permits CSOs to undertake income-generating business activities for fund-raising purposes within its objectives.[33] A third of CSOs' main source of funding is related to their own fundraising activities.[34] Fundraising activities varied, and included the operation of a cafe with monthly income, house painting, cleaning and fishing.[35] According to the study on civil society of the Maldives, and confirmed by the interviewees, funding was not adequate from all sources for CSOs to undertake their desired activities.[36]

26. *Interview of Ahmed Latheef, President of the Table Tennis Association of Maldives, with lead researcher, Male', 27 November 2012.*
27. *http://minivannews.com/politics/finance-ministry-causes-crisis-situation-for-care-society-ngo-53943*
28. *Comprehensive Study of the Maldivian Civil Society 2011, page 70.*
29. *Comprehensive Study of the Maldivian Civil Society 2011, page 69.*
30. *Interview of Ali Rilwan, Co-founder and executive member of Bluepeace Maldives, an environmental NGO, with lead researcher, Male', 27 November 2012.*
31. *Comprehensive Study of the Maldivian Civil Society 2011, page 23.*
32. *Comprehensive Study of the Maldivian Civil Society 2011, page 5.*
33. *Associations Act, section 21.*
34. *Comprehensive Study of the Maldivian Civil Society 2011, page 74.*
35. *Comprehensive Study of the Maldivian Civil Society 2011, pages 75-76.*
36. *Comprehensive Study of the Maldivian Civil Society 2011, pages 75.*
37. *Constitution, article 30(b).*

Minimum score (0)

No legal safeguards exist to prevent unwarranted external interference in the activities of CSOs.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of CSO independence and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive legal safeguards to prevent unwarranted external interference in the activities of CSOs exist.

11.1.3. Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Score: 50/100

The legal framework relating to CSOs is not conducive to the formation and operation of CSOs without unwarranted external interference. Permissible grounds for state intervention in the activities of CSOs are stipulated in legislation but highly subject to discretion of the Executive.

The Constitution of the Maldives guarantees everyone the freedom to form associations and societies, so long as they do not contravene any tenets of Islam.[37] This freedom includes the right to establish and participate in any association or society for economic, social, educational, cultural or

other purposes.[38] Neither the Constitution nor legislation bars anyone from participating on grounds of political ideology, religion or objectives, except for the limitations on religious freedom enshrined in the Constitution, which stipulates Islam as the State religion and requires all Maldivians to be Muslims.[39] With that caveat in place, the Constitution guarantees everyone equal rights and equal protection and benefits before the law,[40] and prohibits discrimination on grounds of, inter alia, political or other opinion.[41] The single requirement for membership of a CSO under the *Associations Act* is being at least 18 years of age.[42]

Likewise, the Constitution guarantees everyone the right to privacy, including the right to respect for private communications.[43] Such protection is afforded to natural persons as well as legal entities.[44]

Grounds for the non-registration of CSOs are listed in the *Associations Act*. They include CSOs whose objectives are deemed to be acts contradicting the tenets of Isla, or affecting the religious unity of the nation; acts contravening the provisions of the Constitution or laws; those affecting the independence or sovereignty of the country; acts that may have the effect of parting from any territory or jurisdiction of the country; any acts involving military exercise or training or conducting any military activity, except for that orchestrated by the State; and acts depriving any citizens any of the rights guaranteed in the Constitution.[45] The Associations Act does not specify any provisions for State membership on CSO boards, nor does it require State attendance at CSO meetings.

However the Registrar of Associations, who is granted the power to approve or cancel the registration of associations, is appointed and removed at the discretion of the President. There is also a legal requirement for CSOs to seek the approval of the Registrar for each and every foreign-funded project, and also any change in its internal governance regulations, even if the change is approved by the CSO[46]. Furthermore there is a lack of internal grievance mechanisms for delays or negative decisions made by the Registrar of Associations.[47] The Registrar is also vested with powers to cancel the registration of an association on the grounds of inactivity for a period exceeding two years.[48] An association may also be dissolved upon an order of the Court on the grounds of conduct in contravention to the laws.[49] The extent of permissions needed from the Registrar, along with the absence of a specified time for response for these permissions, can prove a possible limitation on CSO activities and development if enforced, or a tool for challenging selected CSOs if desired.

The extent of permissions needed from the Registrar... can be a possible limitation on CSO activities and development if enforced

38. Constitution, article 30(b).
39. Constitution, article 10.
40. Constitution, article 20.
41. Constitution, article 17(a).
42. Associations Act, section 6(b).
43. Constitution, article 24.
44. Constitution, article 274.
45. Associations Act, section 19.
46. Associations Act, Section 18
47. Associations Act, section 32(a).
48. Associations Act, section 32(a).
49. Associations Act, section 33.

11.1.4. Independence (Practice)

To what extent can civil society exist and function without undue external interference?

Score: 50/100

Given the various ways in which CSOs can be influenced, occasional intimidation and manipulation of CSO activities by the State and external actors does exist. These instances are usually non-severe, and do not have significant consequences for the behaviour of CSOs. However, this depends on the nature of the work being carried out by the CSO.

The Constitution does not prohibit CSOs from criticising governmental

Minimum score (0)

The state and/or other external actors regularly and severely interfere in the activities of CSOs.

Mid-point score (50)

The state and/or other external actors occasionally interfere with the activities of CSOs. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of CSOs.

Maximum score (100)

CSOs operate freely and are subject only to reasonable oversight linked to clear and legitimate public interests.

policies or any other activities of the government, or from criticising legislation, political parties and statutory bodies. Their engagement specifically in the public policy area of the state or political parties can, however, put CSOs in a position to suffer undue political influence, especially when they are involved in activities to promote the political agenda of a certain party or of the government.[50] The study on civil society in 2011 reported that about half of the CSOs surveyed had some experience or knowledge of incidents of the influence on CSO activities of political parties and figures, and 18 per cent of CSOs surveyed reported similar experiences from their donors.[51] Many CSOs often find themselves in a position of willing compromise due to their overwhelming dependence for financial assistance on politicians with vested interests to implement their activities.

Although there are no cases confirming the direct manipulation of CSOs by the state in the present day, there exist, nonetheless, instances of interference or intimidation. For example, the National Sports Council (a government body which acts as a regulatory body for all sports associations) can exert an undue amount of influence in determining where, when and how certain sports training programmes by sports associations may be conducted, based on furthering a political interest.[52] However, more severe intimidation or harassment of members of CSOs or in their activities is evident in the Maldives depending on the nature of the work being done by the CSO. There is there evidence of the detention or arrest of civil society actors because of their work. For instance, the Maldives Democratic Network, a CSO actively challenging the government's abuse of freedom and rights, found their office vandalised during 2008 general elections[53].

Furthermore, as senior representatives of CSOs are often at times members of political parties, if at any time the particular party is in government, there may be a hesitance from that CSO to criticise a government policy.

50. *Comprehensive Study of the Maldivian Civil Society 2011, pages 21-22.*
51. *Comprehensive Study of the Maldivian Civil Society 2011, pages 6-7.*
52. *RESEARCH UPDATE: In October 2013, the Registrar of Associations declared that the Tourism Employees Association of the Maldives (TEAM) and Transparency Maldives (TM) were under investigation for "unlawful acts" and warned NGOs that organisations acting outside of law would be dissolved, when these NGOs expressed concerns over the delay of presidential elections - <http://minivannews.com/politics/tourism-employees-association-and-transparency-maldives-under-investigation-67372>.*
53. *Information given to TM by Shahindha Ismail, Executive Director of Maldivian Democratic Network, June 2014*
54. *Comprehensive Study of the Maldivian Civil Society 2011, page 88.*
55. *Interview of Ali Rilwan with lead researcher, Male', 27 November 2012.*
56. *Interview of Ahmed Latheef, with lead researcher, Male', 27 November 2012.*

Minimum score (0)

In general, CSOs do not make relevant information on their activities publicly available.

Mid-point score (50)

While CSOs usually disclose relevant information on their activities, it is often partial and/or outdated information.

Maximum score (100)

In general, CSOs make relevant information on their activities publicly available.

11.2. Governance

11.2.1. Transparency (Practice)

To what extent is there transparency in CSOs?

Score: 25/100

Transparency in the activities of CSOs is weak, and relevant information on their activities is generally not publicly available. The available information is limited to that which informis the public of activities and projects being carried out, but does not include information about finances or board composition.

Generally, public awareness on the actual and on-going contributions of CSOs to Maldivian society is relatively low. As the study on Maldivian CSOs notes, this was a major challenge in respect of improving credibility and public confidence in the civil society sector.[54] With the advent of Internet and ICT, some CSOs have made use of the Internet and social media to spread information on their activities. Of the interviewees for this pillar, Ali Rilwan from Bluepeace Maldives, noted that information on the organisation's activities and work was published online, and that the group's website its key means of communication and information dissemination.[55] The President of TTAM, meanwhile, noted that the TTAM had no website but did promote its activities on Facebook.[56]

The legislation does not require CSOs to make annual reports publicly available, and public disclosure of such reports is notably absent within civil society.

The requirement to make available information about board compositions is also not explicit in law. Some CSOs which maintain regularly updated websites make this information available online, although it is not possible to make an assessment of the percentage of CSOs doing so.

11.2.2. Accountability (Practice)

To what extent are CSOs answerable to their constituencies?

Score: 25/100

In general, CSO boards and members are only partially effective in providing oversight of CSO management decisions. Breaches of oversight rules by CSO management are not uncommon.

Under the *Associations Act*, all registered CSOs are required to prepare an annual report into their activities as well as a financial statement of accounts, and to submit these to the Registrar within 30 days of the CSO's Annual General Meeting (AGM) and approval by the executive committee (governing body).[57] Many fail to submit the required reports as stipulated in law, and for the study of 2011, 14% reported that the requirements were too difficult.[58] More recently, in March 2013, MOHA announced that about 70 per cent of NGO's had failed to comply with this reporting requirement and therefore risked being dissolved.[59]

Prior research on the civil society sector of the Maldives indicates that separation between board/executive committees and management is negligible.[60] The *Associations Act* requires members of the executive committee to be members of that CSO, and at least 18 years of age.[61] Pursuant to this requirement, membership in the executive committee is almost never held by persons outside of the organisation. The executive committee of a CSO is generally comprised of 8-15 members, almost always elected by voting at the CSO's AGM, and holding their posts for between1 and 3 years.

The accountability mechanisms relating to executive committee members are, however, insufficient to address current challenges. For example, there are no provisions to prevent key members of a CSO from being involved in more than one CSO at a time, leading to CSOs becoming less active than possible, and to the potential routing of resources to their favoured CSOs.[62]

11.2.3. Integrity (Practice)

To what extent is the integrity of CSOs ensured in practice?

Score: 25/100

In general, CSOs are inactive in ensuring the integrity of their staff and board members. Enforcement of integrity rules and sanctioning of misbehaviour are relatively weak.

Minimum score (0)

In general, CSO management does not have to answer about its decisions to board and membership.

Mid-point score (50)

In general, CSO boards and members are only partially effective in providing oversight of CSO management decisions. Breaches of oversight rules by CSO management are not uncommon.

Maximum score (100)

In general, membership and boards exert strong supervision of management decisions.

57. *Associations Act, sections 28-29. An Audit Report is also required to be prepared for those NGOs that conduct its activities targeted for the entire country, or upon resolution to conduct an audit by majority decision of the AGM - Regulation on Associations, sections 31-32.*
58. *Comprehensive Study of the Maldivian Civil Society 2011, page 99.*
59. *International Federation for Human Rights (FIDH), "MALDIVES: Move to dissolve about 70% of the NGOs would seriously impact human rights activities in the country" Press Release (web) 26 April 2012 at <www.fidh.org/en/asia/maldives/press-release-maldives-move-to-dissolve-about-70-of-the-ngos-would-13203>.*
60. *Comprehensive Study of the Maldivian Civil Society 2011, page 5.*
61. *Associations Act, section 24. In case where an NGO's membership is held by another NGO, the member NGO may appoint a person to the Board of the principal NGO, to represent the member NGO.*
62. *Comprehensive Study of the Maldivian Civil Society 2011, page 59.*

Minimum score (0)

n general, CSOs are inactive in ensuring the integrity of their staff and board, so that misbehaviour mostly goes unsanctioned.

Mid-point score (50)

In general, CSOs have a piecemeal and reactive approach to ensuring the integrity of their staff and board, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

In general, CSOs have a comprehensive approach to ensuring the integrity of their staff and board, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff and board on integrity issues.

63. Comprehensive Study of the Maldivian Civil Society 2011, page 80. The Study further suggests that most of the CSO personnel interviewed was not aware of what such a Code of Conduct would involve, and often mistook the provisions of the Articles of Associations for Code of Conduct.
64. Comprehensive Study of the Maldivian Civil Society 2011, pages 79-80.
65. Interview of Ali Rilwan with lead researcher, Male', 27 November 2012.
66. Comprehensive Study of the Maldivian Civil Society 2011, page 88.
67. http://www.fidh.org/en/asia/maldives/press-release-maldives-move-to-dissolve-about-70-of-the-ngos-would-13203
68. Associations Regulations, 33
69. http://www.audit.gov.mv/v1/en/audit-firms/

The *Associations Act* requires certain provisions relating to the governance and management of NGOs to be included in their Articles of Associations. These requirements, however, do not amount to a comprehensive code of conduct for members of CSOs, and legislation does not prescribe a sector-wide code of conduct.[63]

CSOs generally follow some form of guiding principles or codes of conduct. These codes or principles include provisions on adherence to laws, respect for international standards, non-discrimination and inclusive participation and decision making, refraining from undue influence in its activities, and transparency and accountability in, and sustainability of, the activities of the CSO.[64]

In the absence of a comprehensive code of conduct subscribed to by the sector, very little or no formal mechanisms exist in terms of self-regulation. Most CSOs rely on the provisions of the Articles of Associations (governing regulations) to address governance and management concerns. Some NGOs, such as *Bluepeace Maldives*, may adopt internal policies to follow certain objectives; and while there may not be a written codebook, members do follow the applicable laws and regulations.[65] On the other hand, sports associations affiliated with the Government are regulated by the National Sports Council, which manages some functions of addressing integrity issues of all sports associations, though individual associations may not have any self-regulatory mechanisms. This lack of a binding and comprehensive code of conduct that is applicable across the board to all CSOs tends to weaken the integrity system of the whole sector.

Few CSOs are established to undertake a function related to policy level advocacy

The lack of governance principles relating to the operation of CSOs, and the lack of accountability mechanisms made binding through law or policies, contribute to undesirable outcomes. The UNDP study on civil society in the Maldives cites cases involving one CSO member running away with the CSO's funds, while a second CSO was accused of using its resources for political purposes, and another of using resources for personal use.[66]

Minimum score (0)

In general, CSOs are inactive and unsuccessful in holding government to account for its actions.

Mid-point score (50)

While CSOs are somewhat active in seeking to hold the government to account, the effectiveness of their actions is limited (e.g. due to limited competencies and/or resources).

Maximum score (100)

In general, CSOs are very active and successful in holding government to account for its actions.

11.3. Role

11.3.1. Hold Government Accountable

To what extent is civil society active and successful in holding government accountable for its actions?

Score: 25/100

In general, CSOs do not appear to be very active or successful in holding the government to account for its actions.

In terms of coverage of activities by the nearly 1800 CSOs[67], there is a requirement for any CSO undertaking activities on a national level to have its account annually audited by an auditor recognised by the State[68]. The fact that such auditors are few, and that they are based exclusively in the capital,[69] may be limiting the growth of some CSOs beyond their community, as well as raising more resources for such national activities, hence creating restrictions on the number of CSOs involved in national policy issues or those holding the government accountable.

Therefore, while CSOs have increased in numbers in recent years, few CSOs are established to undertake a function related to policy-level advocacy and

activism.[70] According to the CSO survey in 2011, only a small proportion – 5.8 per cent – of the CSOs surveyed had as their objectives activities to promote good governance, the rule of law and democracy, including anti-corruption.[71]

The general strategies employed by these CSOs were weak and inadequate and often less than effective to carry out a watchdog role. They included the expression of sentiments on a particular issue with a view to bringing it to the attention of relevant people, pressurising those in authority by attempting to make public issues of governance and decision making, seeking public opinion, and voicing desire for reform.[72]

Paradoxically, the rights to freedom of association and expression, since they were established in 2008 by the Constitution, have taken root firmly in the activities of the political parties, but this is not as actively evident within CSOs. Activities such as public-interest litigation, or petitioning the attention of the Parliament on a certain policy or governance issue, have been common practice within the political sphere, yet are new to CSOs. While a CSO like Transparency Maldives may be very active in advocacy, education and public awareness raising campaigns and may even have had some effect on a particular public policy, it is difficult to ascertain many instances of government policy having been influenced by CSO advocacy.

The lack of governance principles within the operation of CSOs, and lack of mechanisms through which to hold members of CSOs accountable to their own CSO may be further tested when key members hold places in government offices, other CSOs, or political parties. This may reduce the focused attention on the mandate of the CSO, or introduce hesitance to hold the government publicly accountable, especially given restrictions to the freedom of CSO operations in the Maldives.

70. *Comprehensive Study of the Maldivian Civil Society 2011, pages 53-54.*
71. *Comprehensive Study of the Maldivian Civil Society 2011, pages 35, 47.*
72. *Comprehensive Study of the Maldivian Civil Society 2011, page 56.*
73. *Comprehensive Study of the Maldivian Civil Society 2011, pages 35, 47.*

11.3.2. Policy Reform

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Score: 0/100

Barring a few exceptions, civil society is not very active or successful in engaging with the government on anti-corruption policies.

Only a handful of CSOs aim to work towards policy reform or promoting good governance, and only a smaller number of these CSOs work towards anti-corruption reform. As noted above, only 5.8 per cent of the CSOs had as their objectives activities to promote good governance, rule of law and democracy, including anti-corruption.[73] The few NGOs that do work in this specific area have regular engagement and good coordination with stakeholders.

With only a small fraction of CSOs working towards anti-corruption activities, their initiation of reform has been weak and largely unsuccessful to date. In fairness, it must be noted that the freedom to engage widely and independently in the governance arena is a relatively new experience for CSOs in the Maldives. As such, resource inadequacy, lack of technical expertise, poor accountability and the absence of governance mechanisms

Minimum score (0)

In general, civil society is inactive and unsuccessful in engaging with government on anti-corruption policies.

Mid-point score (50)

While CSOs do cooperate with other stakeholders on anti-corruption reform initiatives, their role is generally reactive and these initiatives are given neither much prominence nor support by their leadership.

Maximum score (100)

In general, civil society is very active in engaging with government on anti-corruption policies.

have meant that the role of CSOs as effective and influential agents of advocacy and reform is yet to be fully developed.

Recommendations

1. The government needs to create a more conducive environment for CSOs to raise funds through various means, including by encouraging unconditioned Corporate Social Responsibility initiatives and philanthropic donations. All CSOs must be given a fair chance for consideration of the receipt of any state resource, under a transparent set of criteria.

2. Restrictions on CSOs soliciting foreign funds need to be removed and replaced with clear guidelines about which funding cannot be sought, or what activities cannot be carried out.

3. CSOs must increase their transparency to the public especially in terms of financial reporting and ownership/leadership information.

4. Internal CSO codes of conduct and mechanisms to reduce conflicts of interest should be strengthened, especially for CSOs that are working to make government accountable.

5. More dialogue needs to take place between CSOs and the Registrar of Associations, to ensure that reporting and monitoring mechanisms are effective, and that challenges for all reporting requirements identified are addressed.

6. Regulatory aspects that encroach on the independence of CSOs should be regulated under transparent and publicly disclosed criteria.

VII 12. Business

Summary

The Maldives' business sector is dominated by a handful of public and private companies and few individual entrepreneurs, mainly engaged in the tourism industry. With the meteoric growth of the tourism industry since the 1970s, and the increasing presence of, and need for, attracting more foreign investments, the legal framework to conduct business has been improving, albeit slowly. There is presently a large number of transparency regulations, though these have not always be very effectively implemented in practice. A number of legislative proposals aimed at strengthening business practices in the country have been pending in the Parliament for quite some time. Businesses and businessmen are usually reluctant to sever useful connections with the State, and have not usually engaged with civil society organisations or State bodies in anti-corruption activities, or developed internal regulations and practices to encourage ethical transactions.

Average Score = 32/100

The table below presents the indicator scores that summarise the assessment of the business sector in terms of its capacity, internal governance and role within the integrity system of the Maldives.

Dimension	Indicator	Law	Practice
Capacity	Resources	50	50
	Independence	50	50
Governance	Transparency	100	25
	Accountability	75	75
	Integrity Mechanisms	0	0
Role	Anti-corruption policy engagement	0	
	Support for/engagement with civil society	0	

Structure & Organization

The Maldives is a capitalist economy enabling free market practices. Tourism business that evolved during the early 1970s and developed rapidly over the next few decades demonstrates the rapid growth of the free-market in the Maldives, evident from the growth of Gross Domestic Product (GDP) from US$42 million in 1980 to US$2.2 billion in 2012.[1] Whilst the tourism sector accounts for the largest business organisations, other sub-sectors inevitably linked to tourism, including construction, transportation, travel and food and beverages also account for a significant portion of businesses, especially in terms of their contribution to the GDP.[2]

Regulatory mechanisms for the business sector are established primarily through institutions of the Executive. The Ministry of Economic Development (MED) is responsible, by statute, for administration of the registration of companies, partnerships and cooperative societies, and for the monitoring and enforcement of businesses' reporting requirements.[3] The MED is also responsible for issuing trade permits and licenses such as import, export and re-export licenses.[4] Some of these functions and services have been decentralised and are now available through most atoll, island and city councils[5]. Other government ministries are responsible for granting licenses and permits, as well as for the monitoring and enforcement of businesses in their respective sectors. For example, the Ministry of Tourism issues licenses to tourist resorts, hotels, vessels and guest houses,[6] whilst the Ministry of Housing and Infrastructure is responsible for regulating the construction industry,[7] and the Ministry of Fisheries and Agriculture is responsible for issuing permits and licenses related to the fisheries sector.[8]

The Maldives Monetary Authority (MMA) issues licenses to banks and insurance companies under Banking Act 2010.

Private businesses strive to self-govern independently and collectively through broader organisations, most notably the Maldives Association of Tourism Industry (MATI), the Maldives Association of Construction Industry (MACI), the Maldives National Chamber of Commerce and Industries (MNCCI) and the like.[9]

The Capital Market Development Authority (CMDA), a statutory body, is a semi-independent body established by statute, and is mandated to regulate and develop capital market in the Maldives.[10] The CMDA is governed by a board, comprising directors appointed by the President, and those representing the MMA and Finance Ministry.[11] The CMDA is autonomous in relation to operation and the exercise of its functions, and regulates the public companies listed on the Maldives Stock Exchange (MSE) under the Financial Securities Act 2006.

The MSE is a private company licensed by the CMDA to manage and regulate the Maldives' stock exchange.[12]

Assessment

12.1 Capacity

12.1.1. Resources (Law)

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

Score: 50/100

The legal framework for the registration of businesses and business licensing is broad, although much of it dates back a few decades and is in need of amendment, modernization and harmonization.[13] The World Bank ranks the Maldives at 95th in the world, and 2nd in South Asia, for ease of doing business.[14]

The *Companies Act 1997* provides for the incorporation of private and public companies, regulatory matters including reporting requirements, and

1. *Ministry of Economic Development (MED), Maldives Economic Diversification Strategy (2013), page 4.*
2. *Department of National Planning (DNP), website at <www.planning.gov.mv/yearbook2012/yearbook/National%20Accounts/16.4.htm>.*
3. *Companies Act, 1996 (Law No. 10/96); Partnerships Act, 2011 (Law No. 13/2011); Cooperative Societies Act, 2007 (Law No. 3/2007).*
4. *Export Import Act, 1979 (Law No. 31/29); Trade in Imported Goods, Restaurants, Cafes and Canteens Act, 1978 (Law No. 60/78).*
5. *See MED website at <www.trade.gov.mv/?lid=32>.*
6. *See Ministry of Tourism website at <www.tourism.gov.mv>.*
7. *See Ministry of Housing and Infrastructure website at <www.housing.gov.mv>.*
8. *See Ministry of Fisheries and Agriculture website at <www.fishagri.gov.mv>.*
9. *See for example, website of MNCCI at <www.mncci.org.mv/about-us/>.*
10. *CMDA website at <www.cmda.gov.mv/cmda/about-cmda/>.*
11. *CMDA website at <www.cmda.gov.mv/cmda/board-of-directors/>.*
12. *See MSE website at <www.maldivesstockexchange.com.mv/#mse_about>.*
13. *See for example, Revenue Stamp Act, 1970 (Law No. 4/70); Trade in Imported Goods, Restaurants, Cafes and Canteens Act; Import and Trade in Pharmaceuticals Act, 1978 (Law No. 75/78); Health Safety of Restaurants, Cafes and Places of Food Preparation Act, 1978 (Law No. 27/78); Maritime Transport Act, 1978 (Law No. 69/78); Export Import Act; Foreign Investments Act, 1979 (Law No. 25/79); Registration of Foreign Businesses Act, 1979 (Law No. 4/79) (Repealed on 13 May 2014); Maritime Vessels Fees Act, 1983 (Law No. 19/83); Fisheries Act, 1987 (Law No. 5/87); Contracts Act, 1991 (Law No. 4/91); Mortgage Act, 1993 (Law No. 9/93); and the Consumer Protection Act, 1996 (Law No. 1/96).*
14. *World Bank, Doing Business 2013.*

Minimum score (0)

The laws pertaining to the start, operation and closing down of individual businesses are extremely cumbersome, unreasonable and/or unclear.

Mid-point score (50)

The laws pertaining to the start, operation and closing down of individual businesses contain a number of problems regarding unclear, unreasonable and/or complicated provisions.

Maximum score (100)

The laws pertaining to the start, operation and closing down of individual businesses are clear, straightforward and easy to apply and include only reasonable requirements for applicants.

winding-up procedures. A registration fee (dependent on the authorised capital amount), approximating to MVR 1,500 (US$ 97), and a stamp fee of MVR 500 (US$ 32) are payable at registration. An annual fee of MVR 2,000 (US$ 130) must also be paid by private companies. Public companies incur an annual fee of MVR 10,000 (US$ 649). Registration requirements are relatively simple, amounting to submission of an application form, memorandum and articles of association, and copies of identity cards or passports.[15] Similar procedures exist for the registration of cooperative societies under the *Cooperative Societies Act 2007*, and partnerships under the *Partnerships Act 2011*. Cooperative societies are required to pay MVR 200 (US$ 13) at registration and an annual fee of MVR 200 (US$ 13).[16] The recently amended partnerships law introduces modern concepts including the registration of limited liability partnerships, and repeals the requirement for partnerships to pay annual fees.[17] The registration of a business in the Maldives involves five procedures, compared to the South Asian average of seven.[18]

The procedures relating to the liquidation and winding-up of companies, as stipulated in the *Companies Act,* provide adequate mechanisms for the insolvency of businesses. A company may be dissolved voluntarily by a decision of the Company, by a court of law, or by the Registrar of Companies, for inactivity.[19]

The existing framework for the approval of foreign investments is currently under the *Foreign Investments Act*, which dates back to 1979, and is regulated in part by the Ministry of Tourism and the MED.[20] Although the law requires foreign investors to seek pre-approval of foreign investments, no clear guidelines or criteria are available for granting approval, and much is left to the discretion of the prevailing Government or Minister.

Property rights are guaranteed by the Constitution, which provides that private property shall be inviolable, and may only be compulsorily acquired by the State for the public good, as authorised by an order of the court, and with fair and adequate compensation.[21] The intellectual property rights protection regime is a recent addition to the MED's functions, with the enactment of the *Copyrights Act* in 2010.[22] Whilst the law facilitates effective protection of copyrights and related rights, the intellectual property rights legal regime is incomplete and inadequate, and legislation to protect other areas of intellectual property rights such as trademarks, patents and industrial designs is absent.

Although the *Contracts Act 1991*, together with court's acceptance of modern common law concepts, seeks to ensure the enforcement of civil contracts through the judicial system, the lack of independence of the judiciary and the absence of alternative dispute resolution mechanisms both weaken overall effectiveness and certainty for businesses. In 2011, the Government embarked on a financial and economic legislative programme which sought to reform key legislations aimed at facilitating ease of business, and to overhaul and harmonize the existing bureaucratic legal regime pertaining to business permits and licenses. Key business-related legislation, including a Business Registration Bill, Sole Trader Registration Bill, Small & Medium Enterprises Bill, Arbitration Bill, Mercantile Court Bill, and amendments to the Companies Act, Foreign Investments Act, Export Import Act, Land Act, and Mortgage Act were submitted to the Parliament. However, only four of the 18 bills submitted had been passed as of 2012.[23]

15. *Companies Act, (Law number 10/96)*
16. *Cooperative Societies Act (Law number 3/2007) section 13.*
17. *Partnerships Act. (Law number 13/2011)*
18. *World Bank, Doing Business 2013.*
19. *Companies Act, section 75.*
20. *Foreign Investments Act. (Law 25/79)*
21. *Constitution, article 40(b).*
22. *See Copyrights Act, 2010 (Law No. 23/2010).*
23. *Research Update: Business Registration Act was passed by the Parliament in April 2014 and ratified into law on 13 May 2014 (Law No. 18/2014); Sole Trader Act was passed by the Parliament in April 2014 and ratified into law on 13 May 2014 (Law No. 19/2014); Small and Medium Enterprises Act was passed by the Parliament in March 2013 and ratified into law on 14 April 2013 (Law No. 6/2013); Arbitration Act was passed by the Parliament in June 2013 and ratified into law on 3 July 2013 (Law No. 10/2013).*

Minimum score (0)

In general, to start, operate and close a business is extremely costly in terms of time and money involved.

Mid-point score (50)

In general, to start, operate and close a business involves a moderate investment in terms of time and money.

Maximum score (100)

In general, to start, operate, and close down a business is very straightforward and does not involve significant time or financial resources.

12.1.2. Resources (Practice)

To what extent are individual businesses able in practice to form and operate effectively?

Score: 50/100

The business registration process and procedures, whilst minimalistic and inexpensive, leave room for improvement, while obstacles to business operations mainly stem from difficulties in settling legal disputes in an efficient manner. Both registration and licensing regimes have yet to institute a number of global best practices,[24] such as introducing online applications or electronic filing,[25] establishing a one-stop shop for prospective investors to obtain information, or enabling prospective businesses to register and obtain all requisite trading licenses from a single window.

The registration of a business is, in practice, simple and cheap. In order to register a company, an applicant is required to submit a completed application form, accompanied by constituent documents such as the Memorandum and Articles of Association.[26] Depending on the application (i.e. whether or not complete documentation is provided) the business is registered by the MED within one to two working days. The same procedure applies to partnerships and other forms of businesses.[27] The time required to register a business is nine days, compared to the South Asian average of 16.2 and an OECD average of 11.1. The cost of registering a business is also low, at 6.2 per cent of income per capita, compared to an average of 19.2 per cent for South Asia.[28]

Although registration is simple, it lacks innovative processes to ensure convenience, resulting a lower overall ranking of 63 for starting a business.[29] Similarly, the Heritage Foundation's *Economic Freedom Index 2013* observes that the overall regulatory environment is not conducive to new business formation and operation. Although the "Business Freedom" indicator, one of the 10 economic freedoms measures in the Index, received a high score of 88.7 with a world rank at 19th, the report notes the weak investment climate, which is hampered by the underdeveloped labour market and lack of competition, along with time-consuming licensing requirements, and heavy bureaucracy in the investment approval process.[30]

Mechanisms in place for insolvency of businesses are, in practice, simple and cost effective. The Maldives is ranked at 40th in the world by the World Bank. According to *Doing Business 2013*, resolving insolvency in the Maldives takes about 1.5 years, compared to 1.7 years on average for OECD, and 3.0 years for South Asia. The cost of resolving insolvency is estimated at 4 per cent of estate, compared to 9 per cent for OECD and 10 percent for South Asia.[31]

Property rights are to some extent protected in practice as far as business-related property is concerned, especially with regard to the tourism sector.[32] However, limitations exist in respect of regulations for setting clear boundaries and definitions of property rights. Likewise, the Maldives lacks adequate processes to address property rights issues. For example, property rights are dealt with differently between tourism and agricultural activities, with more adequate processes being in place for tourism activities, perhaps because of the high level of foreign investments in the sector.[33]

The enforcement of contracts and resolution of disputes within businesses takes place through the judicial process. The World Bank ranks the Maldives at 88th in terms of the enforcement of contracts, taking an average 665

24. *For international best practices, see for example: World Bank, Doing Business 2013: Smarter Regulations for Small and Medium-Size Enterprises (2013) page 13.*
25. *MED introduced for the first time in 2012, online submission of companies' annual returns – <www.trade.gov.mv>.*
26. *See MED website at <www.trade.gov.mv/?lid=30>.*
27. *See MED, Application for Company Registration, at <www.trade.gov.mv/downloads/4dd24e734dc7a_Application%20for%20Company%20Registration.pdf>.*
28. *World Bank, Doing Business 2013.*
29. *World Bank, Doing Business 2013: Smarter Regulations for Small and Medium-Size Enterprises (2013) page 179.*
30. *The Heritage Foundation, 2013 Index of Economic Freedom, page 310.*
31. *World Bank, Doing Business 2013 - <www.doingbusiness.org/data/exploreeconomies/maldives/#starting-a-business>*
32. *Interview of Salah Shihab, prominent businessman and Executive board member of MATI, with the lead researcher, Male', 4 January 2013.*
33. *Interview of Salah Shihab with the lead researcher, Male', 4 January 2013.*

days, compared to 1,075 days average for South Asia, costing 16.5% of claim, compared to 27.7% average for South Asia and 21% average for OECD, and taking an average of 41 procedures, compared to the 43 procedure average for South Asia.[34]

The lack of adequate regulations, such as a proper civil procedure code, the lack of independence of the judiciary,[35] and the absence of alternate dispute resolution mechanisms[36] contribute to the ineffectiveness of the complaints mechanism available to resolve disputes.

12.1.3. Independence (Law)

To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?

Minimum score (0)

No legal safeguards exist to prevent unwarranted external interference in the activities of private businesses.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects of the independence of private business and/or some provisions contain loopholes.

Maximum score (100)

Comprehensive legal safeguards to prevent unwarranted external interference in the activities of private businesses exist.

Score: 50/100

Legislative framework is not comprehensively conducive to adequately safeguarding private businesses from unwarranted external interference. However, constitutional provisions enshrine the right to fair and adequate compensation.

The registration and operation of businesses are administered through statute. Many of these functions are exercised by agencies of the Executive,[37] rather than through independent bodies, although some functions relating to business regulation are exercised by independent bodies. The chief official responsible for the administration of the *Companies Act*, the *Partnerships Act*, and the *Cooperative Societies Act*, the Registrar of Companies (ROC), is not independent of the Executive; he is directly appointed and removed by the President, and staffed with civil service employees.[38]

The intellectual property rights protection regime is also held in principal by the MED, though it is limited to the registration of copyrights, business names and logos. A *Consumer Protection Act* is also administered by the MED, though it covers limited scope such as the display of pricing, and the prohibition of misleading or false advertisement. A revised consumer protection regime relevant to today's context is much needed.

Apart from the Government Ministries, a few independent statutory bodies retain certain functions related to business operations. For example, the Maldives Inland Revenue Authority (MIRA) is responsible for collecting all taxes,[39] the Maldives Customs Service is responsible for import and export duty and customs related functions,[40] and the MMA regulates banks, insurance companies and foreign currency exchangers.[41]

There are no specific complaints mechanisms established under business laws, though each Executive agency exercising regulatory functions has its own ad hoc mechanisms to hear out public complaints. Redress for breaches of statutory provisions, or breaches of rights entitled to businesses, is mostly available through the judicial process, for the business registration laws as well as for copyright protection and consumer protection issues.

The Constitution stipulates that private property shall be inviolable, and may only be compulsorily acquired by the State under the authority of a court's order, and with fair and adequate compensation. The Constitution further

34. *World Bank, Doing Business 2013 at <www.doingbusiness.org/data/exploreeconomies/maldives#enforcing-contracts>.*
35. *See Judiciary pillar.*
36. *The Arbitration Act was passed by the Parliament in June 2013 and ratified into law on 3 July 2013 (Law No. 10/2013). The Maldives International Arbitration Centre is yet to be established and its board of directors yet to be appointed.*
37. *The Ministry of Economic Development administers the Companies Act, the Partnerships Act, the Cooperative Societies Act, the Export Import Act, and the Trade in Imported Goods, Restaurants and Cafes Act.*
38. *Companies Act, section 102.*
39. *See MIRA website <www.mira.gov.mv>.*
40. *Maldives Customs Service website at <www.customs.gov.mv/en/>.*
41. *MMA website at <www.mma.gov.mv/mma.php>*

Minimum score (0)

The state and/or other external actors regularly and severely interfere with the operations of the business sector.

Mid-point score (50)

The state and/or other external actors occasionally interfere with the activities of the business sector. These instances of interference are usually non-severe, such as threatening verbal attacks, without significant consequences for the behaviour of businesses.

Maximum score (100)

There is no unwarranted external interference in the operations of the business sector.

provides that any action or decision of a public body can be contested in a court of law on the basis of fair administrative action.[42] The *Arbitration Act* enacted in July 2013 seeks to introduce arbitration as an alternative dispute resolution forum, including for commercial disputes. A bill on the establishment of a Mercantile Court for business-related disputes, submitted to the Parliament in 2011 to facilitate ease of business, is still pending in the parliamentary committees.

12.1.4. Independence (Practice)

To what extent is the business sector free from unwarranted external interference in its work in practice?

Score: 50/100

The research did not find indisputable evidence to support the assertion that Government officials or State authorities exercise regular or frequent unwarranted interference with business practices in the Maldives. Businesses are, however, not perceived to be operating free from corruption.

Notwithstanding, the private sector is affected by indirect interference or influence on occasions.[43] There is also evidence that a handful of businesses may be protected through privileged, but not visible, connections with State authorities,[44] though it is difficult to make a firm assertion regarding the impartiality of State oversight authorities in dealing with individual businesses in the politically competitive environment of the Maldives.[45] In the experience of a business professional, some authorities, for example the Food and Drug Authority, can be noticeably biased against some businesses.[46] Such authorities tend to create an environment less conducive to some businesses operating and undertaking their business activities effectively.[47] Such activities indicate that there are weaknesses in State oversight authorities, caused by the failure of broader business institutional frameworks to provide adequate organisational mechanisms to enable independent and best business practices.[48]

The *Global Corruption Barometer Survey 2013* indicates that 27 per cent perceives businesses and the private sector to be corrupt, while 28 per cent perceives the public official or civil servants to be corrupt. According to the survey, three percent paid a bribe in the last 12 months; of which six per cent paid a bribe for land services, while four percent paid a bribe to obtain a registry or permit.[49] However, these bribes may not all be directly related to business transactions. The Maldives ranked the lowest for reported bribes in South Asia for the GCB 2013[50].

The legal framework, in practice, permits private sector businesses to file complaints against public administration bodies,[51] and to bring about civil claims for compensation in the courts. Similarly, the Maldives is ranked 80th in terms of protecting investors.[52]

42. *Constitution, article 43.*
43. *FJS Consulting Pvt Ltd, Baseline Study on Corporate Social Responsibility Practices in Maldives (2010), pages 49-50.*
44. *Interview of Anonymous with lead researcher, Male', January 2013.*
45. *See political and economic foundations chapters for overview of political economy of the Maldives.*
46. *See "MFDA raises concerns over poor hygiene during city-wide food inspections" Minivan News (web) 6 June 2011 at <www.minivannews.com/business/mfda-raises-concerns-over-poor-hygiene-during-city-wide-food-inspections-21095>. See also for example, "Club Faru resort to be closed within two months: Tourism Minister" Minivan News (web) 6 January 2013 at <www.minivannews.com/politics/club-faru-resort-to-be-closed-within-two-months-tourism-minister-50573>; "Gasim's Royal Island Resort sues government" Minivan News (web) 26 December 2011 <www.minivannews.com/politics/gasims-royal-island-resort-sues-government-30036>.*
47. *Interview of Anonymous with lead researcher, Male', January 2013.*
48. *See political and economic foundations chapters for a perception of political economy of the Maldives.*
49. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
50. *Transparency International, Global Corruption Barometer*
51. *ACC (see ACA pillar) is one independent statutory body that receives such public complaints regarding corruption allegations.*
52. *World Bank, Doing Business 2013 at <www.doingbusiness.org/data/exploreeconomies/maldives#enforcing-contracts>.*

12.2. Governance

12.2.1. Transparency (Law)

To what extent are there provisions to ensure transparency in the activities of the business sector?

Minimum score (0)

No such provisions/rules exist.

Mid-point score (50)

While a number of laws/provisions exist, they do not cover all aspects related to the transparency of business activities and/or some provisions contain loopholes.

Maximum score (100)

There are comprehensive disclosure rules for business activities, in particular for financial records.

Score: 100/100

The legal framework for business operations provides for strong reporting mechanisms to ensure transparency.

Under the *Companies Act*, all registered companies are required to file with the ROC annual financial statements, audit reports and directors' reports outlining activities undertaken for the year. A penalty fine of MVR 10,000 (US$ 649) is prescribed for non-compliance.[53] More stringent reporting requirements are applicable to public companies listed on the stock exchange, including filing annual and quarterly reports to the CMDA and MSE, and making those reports available to the public, with a penalty of fine for non-compliance.[54] Recently introduced taxation legislation prescribes further reporting requirements for all businesses in relation to tax filing, including the filing of audit reports and financial statements to MIRA.[55]

A regulatory mechanism to register and license auditors was introduced in 2012, especially in relation to the recently introduced taxation requirements. Currently practiced in duplicate by the Auditor General's Office and MIRA, auditors are required to register with both these institutions. Distinct classes of auditors are created based on qualifications, and qualified to audit businesses according to size.[56] The *Regulation on Audit and Assurance Services,* enacted in 2012 by the Auditor General, prescribes effective regulatory provisions for the code of conduct of auditors and the audit practice. Both regulatory bodies require auditors to follow International Financial Reporting Standards (IFRS) or equivalent standards.[57]

Several other sectoral regulatory bodies continue to regulate businesses, ensuring transparency of the businesses operating within those sectors. For example, all travel agencies licensed by the Ministry of Tourism are required to file annual reports with the Ministry by end of January of the subsequent year. Should they fail to do so, the Ministry reserves the right to cancel travel agency licenses.[58] The MMA, an independent statutory body responsible for regulating the banking sector, also prescribes regulatory reporting and prudential requirements.[59] The Banking Act 2010 requires all licensed banks to report to the MMA details including statements of assets and liabilities, assets-liabilities ratio, audit reports and other information specified by MMA, annually.[60]

53. *Companies Act, section 69. Non compliance for filing annual accounts results in a fine of MVR 10,000 for private companies, and MVR 30,000 for public companies, imposed on the Managing Director.*
54. *Regulation on Securities (Continuing Disclosure Obligations of Issuers) 2010, sections 5, 17.*
55. *Regulation on Business Profit Tax.*
56. *Regulation on Business Profit Tax; MIRA, Tax Ruling- Business Profit Tax: Submission of Financial Statements and Appointment of Auditors (revised) (TR-2013/B28) 31 January 2013.*
57. *Regulation on Business Profit Tax, section 8; MIRA, Tax Ruling- Business Profit Tax: International accounting standards acceptable to the MIRA (TR-2013/B4) 15 April 2012.*
58. *Regulation on Travel Agency Operations, section 8; see also, Ministry of Tourism, Announcement [(IUL)88-QAR/88/2013/2] 16 January 2013 <http://www.tourism.gov.mv/downloads/announcements/2013/IUL%2088%20QAR%2088%202013%2002.pdf> accessed 8 February 2013.*
59. *MMA website, <http://mma.gov.mv/mpolicy.php>.*
60. *Banking Act, 2010 (Law No. 24/2010), section 47.*
61. *See MED website at <www.trade.gov.mv/index.php?lid=30>.*
62. *See MED website at <www.trade.gov.mv/index.php?lid=30>.*
63. *"More than 4000 companies need to be dissolved: Economic Ministry" Haveeru News (web) 31 August 2011 at <www.haveeru.com.mv/dhivehi/business/109512>.*

12.2.2. Transparency (Practice)

To what extent is there transparency in the business sector in practice?

Minimum score (0)

In general, businesses do not make either their financial accounts or reports on activities publicly available.

Mid-point score (50)

While businesses usually disclose relevant information on their activities, it is often partial and/or outdated information.

Maximum score (100)

In general, businesses make their financial accounts publicly available.

Score: 25/100

In practice, transparency in the business sector is weak. Whilst information about registered businesses is made available upon request, compliance to reporting requirements by companies is weak.

Data on registered businesses are maintained by the MED, including a

registry of all companies, partnerships and cooperative societies.[61] Legal provisions do not require public disclosure of general data about registered companies, and general data is not readily available from the website of MED either. However, information on businesses, including information on shareholders, directors, owners, etc, is also made available to anyone upon a written request to the MED.[62]

The ROC enforces annual report filing requirements for all companies, and imposes a fine for non-submission and late filing. Compliance with reporting requirements, however, is relatively low, with less than half of all registered companies filing all their required reports.[63]

Compliance to annual reporting requirements by the few listed companies in the country is also weak. In 2011, for example, all four listed companies failed to produce their annual reports by the deadline of 30th April, and the CMDA granted an extension to the publication deadline.[64] Such reports, once published, are made publicly available as required, and are publicly available on the CMDA website.[65] Legislation does not require any third party verification of the financial reports submitted by companies to regulatory authorities.

Not much information is made available by businesses, whether large corporations or small and medium businesses, on corporate social responsibility activities, although businesses sponsor various events, including sports competitions, the activities of NGOs, or developmental projects on islands. No specific information in relation to countering corruption is required to be disclosed to the public by businesses. For instance, declaration of the owners of businesses would be useful, as some State positions do not allow other businesses to be carried out by State officials. It would also facilitate assessments of control over media by business owners.

64. *See for example, CMDA, Press Release, 16 May 2011, <www.cmda.gov.mv/docs/Press%20release%20Annual%20report.pdf>, accessed 8 February 2013; and CMDA, Press Release, 3 May 2011, <www.cmda.gov.mv/docs/Press_release_on_listed_companies_Annual_Reports_3.5.2011.pdf>, accessed 8 February 2013.*
65. *CMDA website at <www.cmda.gov.mv/investor-info/listed-companies-annual-reports/>, accessed 8 February 2013.*
66. *See CMDA at <www.cmda.gov.mv/regulatory/enforcement/>.*
67. *CMDA, Corporate Governance Code (14 January 2014); CMDA website at <www.cmda.gov.mv/corporate-governance/overview/>.*

12.2.3. Accountability (Law)

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?

Minimum score (0)

There are no provisions for oversight of businesses in the respective laws.

Mid-point score (50)

While a number of laws/provisions exist to govern oversight of the business sector, they do not cover all aspects of accountability of businesses and/or some provisions contain loopholes.

Maximum score (100)

Legal provisions for appropriate oversight of corporate governance are established, including rules on how companies should be governed, formation of companies, roles of the board, management and owners, insolvency, and dissolution.

Score: 75/100

The business regulatory regime provides sufficient provisions to ensure oversight and regulatory matters pertaining to businesses, although certain shortfalls need to be addressed in relation to the oversight and governance of businesses.

Listed companies are also required to comply with the Corporate Governance Code, formulated by the CMDA.[66] The Corporate Governance Code ensures that companies are directed and managed at board and management level in a fair and transparent manner, and provides guidance on how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimized. The Code provides an adequate framework for shareholders' rights and ownership functions, the role of stakeholders, disclosure and transparency standards, and critical duties and responsibilities of the Board.[67] However, private companies are not legally bound to comply with the Corporate Governance Code, except for those provisions expressed in the *Companies Act*.

In general, relevant legislation also outlines governance rules, such as the responsibilities and powers of shareholders, directors and the secretary

under the *Companies Act* and the *General Regulation on Companies*. Similar provisions are present in the *Partnerships Act* as well as the *Cooperative Societies Act*. All three legislations are administered by the MED, with the ROC as the principal official responsible for registration and compliance.

12.2.4. Accountability (Practice)

To what extent is there effective corporate governance in companies in practice?

Score: 50/100

The existing mechanisms for regulation and oversight of businesses are not fully effective in practice, particularly by the primary regulator of businesses, the ROC.

The legislation does not divest adequate powers for the ROC to effectively monitor and compel compliance by companies.[68] An amendment to the Companies Act constituting required changes to provide effective oversight was proposed by the Government but rejected by the Parliament in 2011.[69] A central business registration bill requiring all businesses to register with the ROC, and providing the ROC with powers of monitoring and inspection of businesses, was submitted to the Parliament in 2011.[70] The CMDA, on the other hand, is generally effective in compelling compliance by the six listed companies on the stock market. Other Government departments with licensing and regulatory functions are considerably effective in holding business organisations accountable for their business activities.[71]

Companies are not required by legislation or otherwise to disclose any particular information relating to anti-corruption, and no incentives are provided by the State for businesses to make such disclosures. Accordingly, in practice there is a lack of disclosure of information relevant to anti-corruption by businesses. One useful tool could be to disclose ownership of businesses to regulate State officials who are not allowed to conduct business, or to identify any bias in procurement processes.

It would be true to say that concepts of corporate governance are relatively new to the Maldives' business community, as it has been since the take-off of the tourism industry in recent years that the private sector has become engaged in really "big business". Almost all businesses have some form of corporate governance and self-regulatory mechanisms as part of their organisational structures. Whether or not such mechanisms are effective will depend, however, on the governance or administrative capacity of individual businesses. Therefore, given the ineffective monitoring by the Executive, business members of such organisations engage with different business activities and are accountable only to their respective business owners and partners.[72]

12.2.5. Integrity Mechanisms (Law)

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

Score: 0/100

Minimum score (0)

In general, corporate management does not have to answer about its decisions to board and shareholders.

Mid-point score (50)

In general, investors and boards are only partially effective in providing oversight of corporate management decisions. Breaches of oversight rules by corporate management are not uncommon.

Maximum score (100)

In general, investors and boards exert strong supervision of management decisions. Corporate governance provisions are always followed.

68. *"Amendment proposed to grant powers to Registrar to dissolve companies" Haveeru News (web) 11 August 2011 at <www.haveeru.com.mv/dhivehi/business/108620>; "Registrar's interview: Purpose of amendment is to modernize companies regulation" Haveeru News (web) 18 August 2011 at <www.haveeru.com.mv/dhivehi/registrar_of_companies/108937>*
69. *"Companies bill submitted to parliament" Haveeru News (web) 16 August 2011 at <www.haveeru.com.mv/dhivehi/companies_bill/108860>; "Parliament rejects companies bill" Haveeru News (web) 12 October 2011 at <www.haveeru.com.mv/dhivehi/companies_bill/111404>*
70. *The Business Registration bill was passed by the Parliament in April 2014 and ratified into law on 13 May 2014 (Law No. 18/2014).*
71. *Interview of Salah Shihab with the lead researcher, Male', 4 January 2013.*
72. *Interview of Anonymous with lead researcher, Male', January 2013.*

Minimum score (0)

No mechanisms are in place to ensure the integrity of those acting in the business sector.

Mid-point score (50)

While a number of regulations/provisions exist, they do not cover all aspects related to the integrity of business actors and/or some provisions contain loopholes.

Maximum score (100)

Appropriate mechanisms and procedures are established for the correct, honourable and proper performance of the activities of businesses and the prevention of misconduct, and for the promotion of the use of good commercial practices among businesses.

73. CMDA website at <www.cmda.gov.mv/corporate-governance/overview/>.
74. Negotiable Instruments Act, 1995 (Law No. 16/95), section 39.
75. Prevention and Prohibition of Corruption Offences Act, 2000 (Law No. 2/2000), sections 2-11.
76. See Civil Society chapter and Political Parties chapter
77. Interview of Salah Shihab with the lead researcher, Male', 4 January 2013.
78. For example, the number of Maldivian businesses that have joined the United Nations Global Compact is significantly low, with 16 participants as of May 2014. United Nations Global Compact at <www.unglobalcompact.org/participants/search?commit=t&country%5B%5D=136&page=1&per_page=100> [accessed 31 May 2014]

Although effective legal mechanisms exist to ensure the integrity of Government officials working in the business regulatory sector, such mechanisms are yet to be enacted for private sector personnel acting in the larger business environment.

Existing integrity mechanisms applicable to private sector businesses are rather weak. The corporate governance code formulated by the CMDA is binding only for public listed companies, of which there are only six at present.[73] Other private companies are not subject to this code, except for the governance related provisions expressed in the Companies Act and the General Regulation on Companies.

Corporate responsibility, although existent in practice, is not comprehended expressly in legislation. Corporate bodies are liable in civil suit. However, criminal liability for corporate bodies is primarily absent, except for provisions existing in specific statutes espousing corporate liability. For example, the Negotiable Instruments Act 1995 deems it an offence to issue a cheque without sufficient funds in the bank account. Depending on the issuer, criminal liability is applicable to individuals as well as corporate bodies.[74]

Private businesspersons are, however, subject to the corruption prohibition provisions listed in the Prevention and Prohibition of Corruption Offences Act 2000, including prohibitions on bribery, undue influence and other conduct deemed to be corrupt, as are the ROC and other government ministries regulating private sector. Bribery is considered a criminal offence whether done by a public official or private person, and is punishable by three to 10 years of imprisonment, banishment or house arrest.[75] Legislation, however, does not expressly specify that bribery is an offence when conducting business abroad. No sector-wide anti corruption codes exist other than these legislative provisions to regulate actions of businesses. Moreover, no legal mechanisms exist to require bidders for public contracts to have in place ethics programmes such as anti-corruption agreements or business principles, nor are there compliance mechanisms in place.

12.2.6. Integrity Mechanisms (Practice)

To what extent is the integrity of those working in the business sector ensured in practice?

Minimum score (0)

In general, there is a complete absence of business actions which aim to ensure the integrity of those working for them, such that misbehaviour goes mostly unsanctioned.

Mid-point score (50)

In general, there is a piecemeal and reactive approach by businesses to ensuring the integrity of those working for them, including only some of the following elements: enforcement of existing rules, inquiries into alleged misbehaviour, sanctioning of misbehaviour and training of staff on integrity issues.

Maximum score (100)

In general, businesses have a comprehensive approach to ensuring the integrity of those working for them, comprising effective enforcement of existing rules, proactive inquiries into alleged misbehaviour, sanctioning of misbehaviour, as well as regular training of staff/board on integrity issues.

Score: 0/100

There is a lack of adequate integrity mechanisms in practice for private sector businesses.

The business sector in the Maldives is dominated by a handful of public and private companies and individual entrepreneurs, which account for the lion's share of the country's economy. This is worrying as CSOs and political parties rely significantly on funding from businesses.[76] Whilst there may exist a nexus between the business and political elites that is mutually supportive, it is equally important for businesses to maintain their own integrity in order to promote and sustain business activities.[77]

Although there has not been an increase in criminal prosecution on corruption charges for private sector businesses, there has been an increase in the number of reported allegations of corruption involving private sector businesses.[78] For example, the arrest of three persons from

private businesses in February 2013, for allegations of corruption within the Disaster Management Centre involving MVR 24 million,[79] is an indication that businesses are not corruption-free. In Transparency International's assessment of public opinion about corruption, the business institution scored a relatively high score of three out of five, indicating the existence of corruption in the eyes of the public.[80] The Global Corruption Barometer Survey 2013 also indicated that 27 per cent perceived businesses to be corrupt. According to the survey, three percent paid a bribe in the last 12 months; of which six per cent paid a bribe for land services, while four percent paid a bribe to obtain a registry or permit.[81]

Moreover, whistleblower protection is not adequately effected in practice to induce and encourage reporting on corruption cases. In early 2012, for example, an employee of Housing Development Finance Corporation Plc. (HDFC) was dismissed for reporting corruption allegations to the Police and the ACC, which the Employment Tribunal later declared as unfair dismissal in contravention of the applicable employment laws.[82] The Global Corruption Barometer Survey 2013 revealed that 11 per cent would not report an incidence of corruption, of which 22 per cent would not report for fear of the consequences.[83]

Generally, there is no evidence to suggest that internal procedures or monitoring mechanisms are adopted by companies to prevent cases of bribery, as no regulation or code requires it from private sector companies. Nor is there any training of employees on integrity issues in the private sector. There is no record of a blacklist of companies that engage or have previously engaged in corrupt practices and money laundering.

The illegal labour practices of construction companies have become a serious issue in the country. The head of MACI stated that almost half the employees in the Maldives' construction industry are unregistered.[84] These migrant workers are victims of human trafficking and are often mistreated and abused.[85]

79. *"Five arrested in relation to Disaster corruption" Haveeru News (web) 7 February 2013 at <www.haveeru.com.mv/dhivehi/news/134027>.*
80. *Deborah Hardoon and Finn Heinrich. Daily Lives and Corruption: Public Opinion in the Maldives (2011) Transparency International.*
81. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
82. *"HDFC ordered to re-employ its Manager who reported fraud" Sun Online (web) 8 January 2013 at <www.sun.mv/25912>.*
83. *Transparency Maldives, Global Corruption Barometer Survey 2013.*
84. *See, "Corrupt immigration practices, unregulated agencies fueling migrant worker abuse" Minivan News (web) 2 February 2013 at <www.minivannews.com/politics/construction-chief-not-ruling-out-%E2%80%9Corganised-crime%E2%80%9D-behind-foreign-worker-surge-52971>.*
85. *See, "Construction chief not ruling out "organised crime" behind foreign worker surge" Minivan News (web) 16 February 2013 at <www.minivannews.com/society/corrupt-immigration-practices-unregulated-agencies-fueling-migrant-worker-abuse-52121>.*
86. *See for example, "Corrupt immigration practices, unregulated agencies fueling migrant worker abuse" Minivan News (web) 2 February 2013 at <www.minivannews.com/society/corrupt-immigration-practices-unregulated-agencies-fueling-migrant-worker-abuse-52121>.*
87. *See "Construction chief not ruling out 'organised crime' behind foreign worker surge" Minivan News (web) 16 February 2013 at <www.minivannews.com/society/corrupt-immigration-practices-unregulated-agencies-fueling-migrant-worker-abuse-52121>.*

12.3. Role

12.3.1. Anti-corruption policy engagement

To what extent is the business sector active in engaging the domestic government on anti-corruption?

Score: 0/100

The Maldives lacks a sufficient institutional framework for businesses to be engaged in anti-corruption activities with the Government. There are neither incentives nor adequate protection mechanisms in place to enable individuals or business entities to conduct such engagements. However, there have been some instances of business associations raising the issue of corruption.

The Tourism Employees Association of Maldives (TEAM), for example, has raised the issue of corrupt immigration practices and the use of unregulated employment agencies by private and State employers.[86] The MACI has also called for the Government to help remedy the increasing problem of illegal immigration in the construction industry.[87]

Minimum score (0)

In general, the issue of anti-corruption is absent from the business sector's agenda of engagement with government.

Mid-point score (50)

In general, while anti-corruption features on the business sector's agenda of engagement with the government, it is generally not a priority. Only rarely are there public statements by senior business people calling on government to do more to fight corruption.

Maximum score (100)

In general, anti-corruption is a cornerstone of the business sector's agenda of engagement with government

Moreover, engaging the Government on anti-corruption issues has not been considered a crucial agenda item of business organisations, and there is no evidence to suggest that anti-corruption is on the agenda of the Government when it meets with large business associations. As corruption is perceived to be a political matter, businesses tend to keep a distance from political matters, and it will not be in the interest of businesses to call on the Government to fight corruption unless such corruption affects the productivity of their business.[88]

Despite the lack of engagement in anti-corruption activities at official levels, some businesses are engaged in international level activities that can address anti-corruption in broader aspects, such as signing up to the UN Global Compact. The number of businesses that have signed up, however, is significantly low, at 16 as of May 2014.[89]

12.3.2. Support for/engagement with civil society

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?

Minimum score (0)

In general, the business sector does not engage with or provide support to civil society in its task of combating corruption.

Mid-point score (50)

While the business sector occasionally cooperates with CSOs on anti-corruption reform initiatives, its role is generally reactive, symbolic and/or it rarely provides financial support to help further initiatives.

Maximum score (100)

In general, the business sector is actively engaged with civil society and provides significant support to civil society initiatives seeking to combat corruption.

Score: 0/100

When it comes to issues related to corruption, there is no evidence to suggest that businesses engage with civil society.

A baseline survey on corporate social responsibility (CSR) practices in the Maldives in 2010 identified that the concept of CSR was not widely understood in the business sector, and that the links between businesses and civil society were weak, with no NGO existing that specifically targeted CSR promotion. The survey further noted that the primary targets of CSR by businesses were underprivileged individuals within society, who received, for example, financial assistance towards medical treatment, and were involved in employee welfare activities. The Government does not have a CSR policy and generally does not play a significant role in CSR promotion.[90]

A possible reason for the weak nexus between private sector businesses and the Maldivian civil society is that, with a few exceptions, civil society has not developed to comprehend the actual effects of corruption.[91] Although civil society organisations such as Transparency Maldives (TM) have a broader agenda to address corruption in the Maldives, there is no credible evidence indicating specific engagements of businesses with TM to combat corruption.

88. *Interview of Salah Shihab with the lead researcher, Male', 4 January 2013.*
89. *United Nations Global Compact at <www.unglobalcompact.org/participants/search?commit=t&country%5B%5D=136&page=1&per_page=100> [accessed 31 May 2014]*
90. *FJS Consulting Pvt Ltd, Baseline Study on Corporate Social Responsibility Practices in Maldives (2010).*
91. *Interview of Anonymous with lead researcher, Male', January 2013; See also, Civil Society pillar.*

Preliminary Recommendations

1. Pending legislation related to improving and strengthening the business sector should be addressed by the Parliament and other regulatory bodies as a matter of urgency.

2. Integrity mechanisms applicable to private sector businesses should be strengthened, for example by encouraging whistleblower protection policies, blacklisting corrupt or fraudulent companies, and strengthening the legal framework for corporate offenses.

3. Compliance with the reporting requirements of businesses should be strictly enforced.

4. Regulatory mechanisms for the business sector should encourage and incentivize disclosure of anti-corruption related information by private sector businesses, such as ownership information.

5. Businesses should be encouraged to become more engaged in combating anti-corruption efforts through greater interaction with civil society and State bodies.

6. Public knowledge of financial literacy should be increased, to encourage demand for information on businesses.

7. Governance standards which are differentiated for different business types, such as SOEs and private companies, should be established.

VIII Conclusions

The conceptual framework of the National Integrity System (NIS) stresses the role and interplay of a broader institutional framework of the state including 'anti-corruption agents in government, civil society, the business community and other relevant sectors in 'building momentum, political will and civic pressure for relevant reform initiatives' required to reduce and eliminate corruption in public service. Therefore, in assessing the National Integrity System (NIS) of the Maldives, it is important that the assessment must consider that process and outcome of interplay of institutions investigated. This study draws up conclusions and recommendations with due consideration to that interplay. Recommendations provided in this study should be read reflecting on the factors that affect this interplay and its outcome.

Legal framework, starting with the Constitution that provides with provisions and guarantees basic rights of people in the Maldivian society, sets a notable legislative framework for good governance of socio-economic activities. However, the broader legal framework lacks adequate organisational structures and capabilities that weaken the adaptive efficiency of that legal framework to practically execute the institutional tasks in the most effective manner. This institutional weakness furthermore lies with weak historical institutions or traditionally-transmitted historical undemocratic constitutional rules embedded in the current political system. The Maldives only created a democratic political system after the enactment of its first-ever democratic Constitution in 2008. Prior to that, the Maldives followed a Constitution that was built on pre-1965 monarchical practice encompassed of a Constitutional Government with weak political institutions vesting excessive powers on the rulers or policy-makers. Although the Constitution 2008 created a democratic Constitutional Government, the traditionally-transmitted undemocratic political practices are also embedded in the new politico-institutional framework, thus weakening the overall institutional framework and giving room for misgovernance and political malpractices. Hence, the political and legal institutions in place to govern the society are also weakened, reducing their capacity to create and uphold national integrity.

NICSA pillars: key strengths and weaknesses

The following presents summaries of the noticeable strengths and weaknesses of the Maldives National Integrity System pillars.

Legislature

Key strengths

- There are adequate legal provisions providing for sufficient resources for functioning of the Legislature.

Key weaknesses

- Although the broader legal framework provides adequate provisions for the allocation of resources, the Legislature lacks adequate organisational mechanism to obtain necessary recourse to function effectively.
- The Legislature lacks adequate mechanism to function independently without political bias.
- The mechanisms in place are weak in holding the Legislature accountable in practice.
- Despite the legal framework for a transparent and independent Legislature, the existing mechanism lack the capacity to create transparency and independence in the functions of the Legislature whereby reducing its integrity in practice.

Executive

Key strengths

- There is a clearly stated constitutional structure with legal and human resources for the Executive to execute its duties as required by the Constitution and legislation.

Key weaknesses

- Although the broader legal framework provides adequate provisions to function independently, in practice, political bias in the Legislature and Judiciary affects Executive's capacity to function independently.
- The legal framework does not provide sufficient provisions for transparency in the work of the Executive.
- Despite the constitutional mandate, the Executive cannot be held accountable in practice, due to the observable culturally-transmitted undemocratic practices within the political system.
- The Code of Ethics applicable to Executive Officials appointed by the President does not adequately address issues to ensure integrity of its members.
- There is lack of Executive's role in anti-corruption activities.

Judiciary

Key strengths

- There is a notable level of transparency in the activities of the Judiciary.
- There is a notable legal framework to address integrity of members of the Judiciary, to effectively ensure the integrity of judges.
- The Judiciary has sufficient legal machinery in the oversight of the Executive.

Key weaknesses

- The Judiciary also has a weak human resources framework and infrastructure to undertake its functions. Although judges are appointed for life, the system lacks stability of administrative staff associated with structural problems mostly caused by a weak staff development system.
- The legal framework's endeavours to provide for the independence of the judiciary face major deficits, and the existing mechanisms do not adequately ensure judicial independence in practice.
- The Judiciary lack adequate legal mechanisms to ensure accountability.
- The organisational framework of the Judiciary lacks sufficient capacities to ensure integrity of judges in practice.
- There is lack of Judiciary's role in anti-corruption activities.

Public Sector

Key strengths

- There is a notable legal system to ensure independence of the Civil Service.
- There is a notable level of transparency in activities of the Civil Service.
- There are adequate legal mechanisms to ensure accountability of the Civil Service in practice.

Key weaknesses

- The Civil Service lack adequate financial resources to function effectively.
- The Civil Service lacks an adequate organisational mechanism to manage resources to facilitate effective delivery of public service.
- There is a lack of Civil Service's active role in anti-corruption activities.
- The Civil Service lack sufficient mechanisms to educate the public in the impact of corruption.

Law Enforcement Agencies

Key strengths

- The broader legal framework addresses provisions to ensure accountability in the Law Enforcement Agencies.

Key weaknesses

- Despite the legal framework's provisions to address independence of the Law Enforcement Agencies, in practice, there is room for political bias within its functions.
- The legal framework does not provide sufficient provisions for transparency of the Law Enforcement Agencies.
- The legal framework does not provide adequate mechanism to ensure integrity of the functions of Law Enforcement Agencies.
- Law Enforcement Agencies overall lacks sufficient legal framework to ensure prosecution of corruption in public service.

Electoral Management Body

Key strengths

- The Elections Commission (EC) has adequate legal, human and financial resources to practically undertake its functions effectively and independently.
- There are relevant legal provisions to ensure that the public can obtain adequate information on the activities of the EC.
- The EC maintains a high level of public accountability as there are notable legal provisions to make it accountable for its actions.
- The EC is notably successful in conducting free and fair elections, and maintains integrity.

Key weaknesses

- Due to notable shortfalls in the legal framework, the EC lacks sufficient capacity to practically regulate election campaigns very efficiently.

Supreme Audit Institute

Key strengths

- There is sufficiently strong legal provision to ensure independence of the Auditor General.

Key weaknesses

- Although there are adequate legal provisions to ensure transparency, the weaknesses in the organisational structure, caused by limitations of financial and human resources, reduces the capacity of Auditor General to have an adequate mechanism for reporting.
- Despite adequate legal framework, in practice, there is a lack of adequate provisions to hold the Auditor General accountable for lack of reporting.
- The Auditor General has notable weaknesses in maintaining integrity as it lacks a set of codes of conduct to maintain ethical standards and integrity.
- There are no established mechanisms in place to follow-up on its recommendations presented in the audit reports. No review mechanisms or assessments are present.

Anti-Corruption Agencies

Key strengths

- There is an adequate legal framework to ensure independence of the Anti-Corruption Commission (ACC).
- The transparency of ACC's activities is notably strong.
- The legal framework ensures holding the ACC accountable in practice.
- A high level of integrity is maintained by the ACC through strong legal framework with sufficient regulations providing adequate codes of conduct.

Key weaknesses

- The ACC lacks adequate financial and human resources to undertake its functions most effectively.
- There are shortfalls in the legal framework to provide sufficient provisions for the ACC undertake preventative actions in practice.

Political Parties

Key strengths

- There is an adequate legal framework to, in practice, ensure accountability and independence of political parties.

Key weaknesses

- Although there are legal provision to support financial and human resource base for the functions of political parties, the institutional mechanisms lack adequate financial capacity to support their management as well as regulator functions in practice.
- The legal framework in place lacks adequate legal provisions as well as implementation mechanisms to ensure transparency and integrity in the functions of political parties.
- There is a lack of political commitment in political parties to fight and eliminate corruption in their activities.

Media

Key strengths

- There is a strong legal framework with sufficient provisions to practically hold the media accountable.
- The media has strengthened in reporting on political issues.

Key weaknesses

- Despite a notable legal framework for media practices in the Maldives, the lack of sufficient financial and human resources reduces its capacity to function independently and has to significantly depend on political parties or individuals with some political interest, making the media less impartial.
- The shortcomings in the legal mechanisms on transparency also reflect a lack of protection for reporters or journalists against indirect influence as well as unprofessional threats they face.
- The lack of technical expertise reduces the capacity of the media to have strong reporting and hence reduces the overall integrity.
- The Media lacks adequate legal provisions and technical expertise to conduct investigations to expose cases of corruption practices.

Civil Society

Key strengths

- There is a notable legal framework to ensure independence of CSOs in the Maldives.

Key weaknesses

- Despite a strong legal framework to ensure CSO independence, the lack of resources available for CSOs in the Maldives to undertake its functions reduces their capacity to practically function independently.
- Transparency in the activities of CSOs is relatively weak, and relevant information on their activities is generally not publicly available.
- There are notable shortfalls in the legal framework to hold CSOs accountable for their actions.
- The lack of transparency and accountably linked to the weak legal framework further reduces the overall integrity of CSOs.
- The CSOs in the Maldives have no adequate legal or political mandate to hold government accountable and to engage in policy reform initiatives of anti-corruption.

Business

Key strengths

- Recent legal reforms are conducive to the creation and operation of businesses in the Maldives.
- There is a notable legal framework requiring Businesses to maintain transparency in their activities.

Key weaknesses

- There are shortfalls in the state institutional mechanism including state organisations in providing provisions for independent functioning of Businesses in the Maldives.
- Despite a strong legal system to regulate Business, the existing Business practices lack sufficient level of transparency in their activities.
- Although there have not been an increase in criminal prosecution on corruption charges of private sector businesses, there have been an increase in the number of reported allegations of corruption involving private sector businesses.
- There is a lack of proactive measures taken by Businesses on anti-corruption activities.
- When it comes to issues related to corruption, businesses do not have much interest to engage with Civil Society.

IX Key recommendations

Recommendations provided in this study should be read reflecting on the factors that affect the interplay of all institutions investigated here and its outcome, bearing in mind that these are directed towards strengthening the national integrity system, not necessarily strengthening the institution.

Legislature

- The Government must strengthen and adequately manage its resource base to support functions of the Legislature.
- The Law Enforcement Agencies must strengthen its functions to hold the Legislature more accountable and ensure transparency in its functions.

Executive

- The Executive should propose legislative amendments to the Parliament in order to create more effective legal provisions to prevent political bias in statutory bodies of the State.
- The Executive must ensure that the public gets complete access to comprehensive public information.
- The Executive must be answerable to the public.
- The Executive must create a more transparent and structured code of conduct to enhance the integrity of its members.
- The Executive must take initiatives at a national level to conduct anti-corruption activities.

Judiciary

- The Judiciary must strengthen its organisational and management capacity and improve its human resources.
- The Judiciary must ensure more transparency within the justice administration to enable independent judicial decision-making.
- The Judicial administration must be strengthened in practice to ensure accountability of judges.
- The Judiciary must strengthen its organisational capacity and the codes of conduct to ensure integrity of judges.
- The Judiciary must take initiatives at national level to conduct anti-corruption activities.

Public Sector

- The Government must provide adequate resources for the Civil Service to function effectively.
- The Civil Service must strengthen its organisational capacity through development of technical expertise to manage resources to facilitate effective delivery of public service.
- The Civil Service must take initiatives to conduct anti-corruption activities and create mechanisms within the Civil Service system to educate public on the impact of corruption.

Law Enforcement Agencies

- The Legislature should review the functions of Law Enforcement Agencies and make amendments to the existing legal framework to eliminate room for political bias and to ensure transparency, accountability and independence.
- The Legislature as well as the Executive should review the criminal justice system and make amendments to the existing legal system to ensure prosecution of public sector corruption.

Electoral Management Body

- The EC must propose legislative reforms to strengthen the existing legal framework to enable the EC to effectively regulate election campaigns more efficiently.

Supreme Audit Institute

- The Auditor General must strengthen its resource base to ensure efficient and timely reporting.
- The Auditor General must be held accountable for the lack of adequate reporting.
- The Auditor General must create codes of conduct with strong ethical standards to ensure integrity of his staff.
- The Auditor General must strengthen its enforcement mechanism apart from reporting mechanisms.

Anti-Corruption Agencies

- The Government must provide adequate resources for the ACC to undertake its functions effectively.
- Legislative reform needs to address adequate powers for the ACC to undertake effective prevention of corruption in the country.
- The ACC must create mechanisms to undertake preventative actions on corruption cases.

Political Parties

- The Legislature, as the body that has most vested interest in the affairs of the political parties should create mechanisms to ensure legal financing for the effective functioning of political parties.
- Noting the lack of political commitment to fight and eliminate corruption, the Legislature as well as other Law Enforcement Agencies

along with Ombudsman should review the existing legal framework and make necessary legislative amendments to strengthen the mechanisms in place to ensure accountability, transparency and integrity of political parties.

Media

- The Government and the Parliament must ensure the Media has adequate financial and human resources.
- The Government and the Parliament must strengthen the legal framework to protect and strengthen Media and its activities.
- The Media must focus on strengthening its expertise in order to strengthen reporting which in turn can help enhance integrity.
- The Media must focus on strengthening investigative journalism to expose cases of corruption practices.

Civil Society

- The Government and the Parliament must provide adequate resources for CSOs to undertake its functions effectively and independently.
- CSOs must strengthen its reporting mechanism and ensure transparency in its activities.
- The Government and the Parliament must create transparent legal mechanisms to hold CSOs accountable.
- The CSOs must create adequate codes of conduct to ensure their integrity.

Business

- The state authorities must create transparent and unbiased mechanisms to facilitate independent Business activities.
- The Business must create mechanisms within their businesses to increase transparency in their activities.
- The Government and the Parliament must create legal frameworks to hold businesses more accountable for corrupt activities.
- The Businesses must create mechanisms to encourage anti-corruption activities through civil society engagements.

ANNEX 1

List of Participants at Stakeholder forum for NIS, June 17th 2014

PARTICIPANTS OF NATIONAL INTEGRITY SYSTEM ASSESSMENT STAKEHOLDER FORUM June 17th 2014		
Maurifa Hassan	Research Officer	Anti Corruption Commission
Muruthala Moosa	Advocacy and Outreach Manager	Advocating the Rights of Children (ARC)
Uz.Faina Fayyaz	Deputy State Attorney	Attorney General›s Office
Azleema Ahmed	Director General Market Development	Capital Market Development Authority
Ahmed Tholal	Commission Member	Human Rights Commission of the Maldives
Ahmed Hamdhaan	Program Officer	International Foundation for Electoral Systems
Mohamed Ajmal	Policy Secretary	Jumhooree Party
Anas Abdul Sattar	Secretary General	Maldives Bar Association
Ahmed Raashid	Director	Maldives Broadcasting Corporation
Fathimath Rasheeda	Director General, Human Resources	Maldives Inland Revenue Authority
Ali Rasheed	Vice President	Maldives Media Council
Nasra Ibrahim	Assistant Manager, Financial Intelligence Unit	Maldives Monetary Authority
Ahmed AbdulRahman	Chief Superintendant of Police	Maldives Police Service
Aishath Jennifer	President of Adh.Dhangethi constituency	Maldivian Democratic Party
Dr.Abdul Waheed	Commission Member	Police Integrity Commission
Uz. Aminath Rukshana Ibrahim	Commission Member	Police Integrity Commission
Abdulla Muiz	Previous Attorney General	Private
Aishath Velezinee	Previous member of Judicial Service Commission	Private
Abdulla Nahidh	President of Law Student Society (MNU)	Private
Uz. Aishath Lua Shaheer	Assistant Public Prosecutor	Prosecutor Generals Office
Mariyam Aleem	Assistant Director General	Prosecutor Generals Office
Mauroof Zahir	Secretary General	Tourism Association Employees of Maldives

List of other invited institutions
Auditor General›s Office*
Democracy House
Department of Judicial Administration
Elections Commission of the Maldives
Haveeru
Judicial Services Commission
Maldives Democratic Network*
Ministry of Economic Development / Registrar of Businesses
Ministry of Finance and Treasury*
Ministry of Home Affairs / Registrar of Companies
Maldives National Chamber of Commerce and Industries
People›s Majlis
President›s Office*
Progressive Party of Maldives
Supreme Court

*Comments received to draft report separately from these institutions

ANNEX 2

List Of Interviewees for Report

Name	Designation
Mohamed Nasheed	MP for Kulhudhuffushi south constituency
Ibrahim Ismail	Former MP; former President of MDP; former leader of SLP
Husnu Al-Suood	Former Attorney General; former member of JSC
Abdulla Muizzu	Former Attorney General; former Vice Chair of JSC
Ahmed Hassan Didi	Vice President of Civil Service Commission
Ahmed Solih	Permanent Secretary at Ministry of Tourism
Ahmed Muizzu	*Prosecutor General
Asim Abdul Sattar	Secretary General of Elections Commission
Hussain Siraj	Former Vice President of Elections Commission
Mohamed Shafaz Wajeeh	Former Legal Director at HRCM
Niyaz Ibrahim	Auditor General
Rifaath Jaleel	Former President of CPA Maldives (accountants' association)
Muavviz Rasheed	Vice President of ACC
Ali Azim	Former Legal Officer at ACC
Ali Shiyam	Deputy Chairperson of MDP
Ibrahim Khaleel	*President of Maldives Media Council; CEO of VTV
Husham Mohamed	President of Table Tennis Association of Maldives
Ahmed Latheef	President of Table Tennis Association of Maldives
Ali Rilwan	Co-Founder and Executive of Blue Peace Maldives
Salah Shihab	Prominent Businessman and Executive Committee Member of MATI

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