



# Agenda for Democracy, Human Rights and Reform



"The Government of Maldives is implementing a number of reforms to promote and protect human rights in the country. Just as the Maldives has enjoyed remarkable development in all fields, important steps have also been taken with regards to promoting human rights."

*From the Statement by President Gayoom on the occasion of International Human Rights Day  
10 December 2004*

"The organisation is encouraged by a number of legal and institutional reforms initiated by the government aimed at improving the human rights situation in the country."

*Amnesty International Report on the Maldives,  
24 February 2005*

"The delegates [of Amnesty International] noted that a number of developments had already provided substance to some of the government's promises for reforms."

*Amnesty International Public Statement (AI Index: ASA 29/002/2005)  
Titled "Maldives: Put human rights at the heart of the political reform process  
24 February 2005*

"The Government of the Maldives has taken positive steps towards democratic reform, including the registration of political parties."

*Official Statement of the United Nations  
25 August 2005*

"Measures to allow the registration of political parties for the first time was an important democratic step forward."

*Declaration by the Council of the European Union 11905/05 (Presse 219)  
2 September 2005*



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On 9 June 2004, President Gayoom announced historic plans to make sweeping changes to the Constitution to usher in a 21st century democracy in the Maldives.

The People's Special Majlis, empowered to amend the Constitution, was convened in July 2004, and is now finalising its rules of procedure.

On 14 February 2005, the President presented his 31-point Proposals for Constitutional Amendment to the Speaker of the People's Special Majlis. He said that he would like the Special Majlis to complete its work in about a year.

The Maldives has seen a tremendous rate of development and progress over the past two decades. The per capita has increased dramatically from less than US\$ 400 to US\$ 2,400, the highest in South Asia.



On 27 February 2005, President Gayoom announced the finalisation of the Criminal Justice Action Plan 2004 - 2008. The Plan will overhaul the entire criminal justice system to bring it in line with international standards, and the first package of the Plan will be tabled in the People's Majlis (the Parliament) during its Third Session, which commences in October 2005.

On 2 June 2005, the People's Majlis, on the request of the President, debated on its 2001 decision to disallow the formation of political parties, and voted unanimously in favour of endorsing the introduction of political parties in the country. Given the slow pace of progress in the People's Special Majlis, the President sought to fast track the delivery of the reform package by a mix of measures involving legislation in the People's Majlis and the exercise of executive prerogative. To date, three parties have attained full registration to operate as political parties in the country.

# 1 - The President's Proposals

## Fundamental Rights of Citizens

1. The following are to be added to the chapter on the fundamental rights of Citizens.
  - 1.1. To stipulate that all citizens are equal before and under the law and are entitled to equal rights without regard to their sex or race.
  - 1.2. Every citizen has the right to seek just compensation for loss or injury suffered due to unlawful acts, regardless of who may have committed them.
  - 1.3. Everyone has the right to be free from subjugation to slavery and from involuntary servitude without recompense.
  - 1.4. Every citizen shall have the freedom to seek, acquire and disseminate knowledge and information as provided for by the law.
  - 1.5. Amend Article 16 (2) of the Constitution where it states "The right to defend himself in accordance with Shari'ah" to "The right to defend oneself in accordance with the laws of the country".
  - 1.6. While providing guarantees of freedom of expression, the Constitution should also stipulate that the following does not constitute as freedom of expression.
    - a. Inciting or promoting war
    - b. Calling for or supporting murder, violence, vandalism, and other similar militant acts
    - c. Inciting or promoting hatred and enmity among the people on the basis of gender, race, residency or on other basis.
2. To provide for the right to form and carry out the activities of political parties.



## The Presidency

3. To change the way the President is elected so that all candidates for the presidency will face direct election by the public rather than being subject to winning the nomination by a vote in the parliament.
4. To remove the gender bar in contesting for the presidency.
5. To limit the number of terms anyone can hold the office of president to two terms of five years.
6. To divest the presidency of its role as the head of the judiciary.

The President addressing the People's Special Majlis at the swearing-in ceremony. Seated on the right is the Chief Justice, Mr. Mohamed Rasheed Ibrahim, and on the left is the *then* Speaker of the People's Majlis, Mr. Abdulla Hameed.  
*15 June 2004*



## Vice Presidents

7. To confer upon the President the right to appoint a Vice President or Vice Presidents to discharge the duties and responsibilities assigned by the President.

## The President and the Prime Minister

8. To create the office of Prime Minister and to enumerate the functions of the President (Head of State) and Prime Minister (Head of Government) separately.


9. To include the following among the powers and functions of the President:

- a. To defend Islam, the Constitution, and national independence and sovereignty
- b. To appoint and dismiss, on the advice of the People's Majlis, the Prime Minister, the Chief Justice, the Commissioner of Elections and the Auditor-General, and to appoint and dismiss on the advice of the Prime Minister, Ministers, the Attorney-General, Envoys of the State sent abroad with special privileges, and Atoll Chiefs.
- c. To appoint and dissolve the Council of Ministers
- d. To make a statement outlining government policy at the annual opening of the parliament
- e. To give assent to bills passed by the People's Majlis, the Senate and the People's Special Majlis
- f. To conduct public referendums on matters where the President requires to consult public opinion
- g. To grant pardon to persons convicted of offenses
- h. To declare war and to declare peace

10. To include the following among the powers and functions of the Prime Minister:

- a. To preside over the Council of Ministers
- b. To advise the President as required by the Constitution



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- c. To plan, organize and carry out public services and national development programmes
  - d. To promulgate regulations, decrees, directives and decisions as are required for the proper conduct of the affairs of government
  - e. To make an annual report on the work of the government to the parliament
  - f. To submit a statement of income and expenditure annually to the parliament and to secure approval of the budget by the parliament

## The People's Majlis

- 11. To abolish the category of appointed members in the People's Majlis
- 12. To increase the number of constituencies on the basis of population strength and make all constituencies single-member constituencies
- 13. To re-organise the Male' constituency for a more proportionate representation for Male'
- 14. To increase the number of female MPs in the People's Majlis
- 15. To provide that the Speaker of the People's Majlis and Deputy Speaker of the Majlis shall be elected by the Majlis from amongst its members
- 16. To strengthen the role of the People's Majlis. In this regard, to provide that the President will appoint and dismiss the Prime Minister, the Chief Justice, Judges of the Supreme Court, the members of the Human Rights Commission, the Auditor-General, and the Commissioner of Elections on the

advice of the Majlis. Further, also to provide that the President will appoint and dismiss the members of the Supreme Judicial Council on the advice of the Majlis.

17. To add to article 89 an authorization for the President to extend the life of parliament, for a specified period, in situations of natural disasters which impede the conduct of parliamentary elections within the stipulated timeframe for holding such elections

## The Senate

18. To make the legislature bicameral, consisting of a People's Majlis and a Senate, and for the Constitution to stipulate the number and the basis of the composition of the Senate.

The President presenting his proposals  
for Constitutional Amendment, to the  
Speaker of the People's Special Majlis,  
Mr. Abbas Ibrahim  
*14 February 2005*



## The People's Special Majlis

19. To stipulate that the People's Special Majlis shall comprise a joint sitting of the Senate and the People's Majlis and would be empowered to formulate and amend the Constitution

20. To provide that amendments to the Constitution shall enter into force when amendments are passed by People's Special Majlis, and are ratified by the President after such amendments are approved in a public referendum.



The People's Special Majlis  
in Session



## The Judiciary

21. To stipulate the power of administering justice is vested in the Chief Justice and the courts
22. To provide for the establishment of a Supreme Judicial Council in the Maldives, and further that one-half of the membership of the Council shall comprise members appointed by the President on the advice of the People's Majlis and that the other half shall be elected by judges of the courts from their benches.
23. To provide for the establishment of a Supreme Court presided by the Chief Justice
24. To stipulate that the High Court shall consist of a Senior Judge and bench of specified number of judges and that the Senior Judge and the members of the bench shall be appointed and dismissed by the Chief Justice on the advice of the Supreme Judicial Council
25. To provide that the Chief Justice, acting on the advice of the Supreme Judicial Council will have the authority to determine the number of courts to be established and the places they are to be established, and further that the judges to such courts will be appointed and dismissed by the Chief Justice on the advice of the Supreme Judicial Council
26. To stipulate that judges shall determine cases before them in accordance with Islamic Shari'ah and the laws of the Maldives and that no power or influence may be exercised over the work of the judges



## **The Human Rights Commission**

27. To stipulate that there shall be a Human Rights Commission and to stipulate in the Constitution the powers of the Commission and the manner in which the members of the Commission are to be appointed

## **The Atoll Chief**

28. To provide that in every atoll there shall be an Atoll Chief appointed and discharged by the President on the advice of Prime Minister, and further that he shall administer the Atoll as directed by the Prime Minister

## **The Commissioner of Elections**

29. To provide that the Commissioner of Elections shall be appointed and dismissed by the President on the advice of the People's Majlis.

## **The Auditor-General**

30. To provide that the Auditor-General shall be appointed and dismissed by the President on the advice of the People's Majlis.

## **Leasing or otherwise giving possession of Maldivian territory to a foreign person or party**

31. To amend the existing Article 77 (2), in order to extend beyond 25 years the period for which parts of the territory of the Maldives may be leased or given possession of to a foreign person or party.

## 2- The Wider Reform Programme; A Human Rights Focus

The proposals for constitutional amendment comprise a wider set of reforms that the President has accelerated in his current term of office. In the main, these focus on strengthening fundamental rights, increasing transparency and accountability, and improving the criminal justice system and the penal system.

### 2.1) Measures Recently Implemented:

a) A Human Rights Commission was established on 10 December 2003, and granted statutory powers on 18 August 2005.

The President meeting with the Chairman and members of the Human Rights Commission of Maldives. The Commission was established on 10 December 2003 by Presidential Decree.



b) Codification of arrestable and non-arrestable offences in February 2004.

c) UN Convention Against Torture acceded in April 2004.

d) A Public Complaints Bureau established in June 2004.

e) Police separated from the security services and made a civilian force in September 2004.

f) Provision for legal representation strengthened in April 2004.

g) A Jail Oversight Committee of Judges and MPs formed in April 2004.

h) Jail system re-organised, with the separation of remand centres from the prison.

i) Agreement signed with the International Committee of the Red Cross in October 2004 to give the ICRC access to prisons.

j) Amnesty International given free and unfettered access to prisons in October 2004.

k) US National Democratic Institute (NDI) carried out a study in developing a legal framework for a multiparty democracy, in October 2004.

l) Bail system introduced in 2005.

m) Parole board reorganised and strengthened in 2005.

n) Cabinet approval for the establishment of a Judicial Service Commission, and additional measures to separate the judiciary from the executive.

o) Commissioner of Elections assigned as the Registrar of Political Parties in August 2005.

p) Formulation and publication in 2005 of a five year Criminal Justice Action Plan.

## **2.2) Measures Underway:**


a) The Penal Code to be tabled at the Third Session of the People's Majlis commencing in October 2005.

b) Formulation of a Political Parties Bill, to replace the Political Parties Regulation 2005 under which political parties have been registered for the first time since June 2005, by decree. The Bill to be submitted to the Third Session of the People's Majlis commencing in October 2005.

c) Formulation of a Police Act.

d) Criminal Procedures Act, tabled in the People's Majlis in 2005.





e) A Parole and Prisons Act to be tabled at the Third Session of the People's Majlis commencing in October 2005.

f) Electoral reform being undertaken with the assistance of the Commonwealth Secretariat, leading to a new Electoral Bill.

g) Bill on establishing defamation as a civil offence to be tabled in Parliament in the Third Session starting in October 2005.

h) Drafting of the Audit Bill, ensuring the independence of the Auditor-General. The Auditor-General to be appointed and dismissed by the President, on the advise of the People's Majlis.

i) Drafting of a Labour Law and establishment of a Labour Tribunal.

j) Acceding to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment during the Treaty Event at the Plenary Meeting of the UN's 60th General Assembly in September 2005.

k) 18 youths began higher education in 2005 to become the first batch of western educated judges.

l) Publishing a Civil Justice Action Plan by the end of 2005.

m) Drafting the First Amendment to the Human Rights Commission Act, to be tabled at the People's Majlis in its Third Session commencing in October 2005.

n) Establishment of a national programme of voter and civic education, with foreign expertise.

o) The Act on Privileges and Immunities of the People's Majlis, tabled at the People's Majlis in 2005.

p) Attaining the services of a special envoy of the Commonwealth

Secretary General, in promoting cross-party dialogue to strengthen multiparty governance.

q) Drafting a Referendum Act with the assistance of the Commonwealth.

r) Project underway to strengthen the judiciary, with Commonwealth Assistance.

s) Treasury Bill to be submitted to the Third Session of the People's Majlis commencing in October 2005, increasing public accountability.

t) Bill to be submitted to the Third Session of the People's Majlis commencing in October 2005, strengthening the role of Maldives Monetary Authority Board of Directors and increasing public accountability.

u) Drafting of the Freedom of Press Act, to be tabled in the People's Majlis in 2005.

A member of the general public casting his ballot for the new People's Majlis.  
*22 January 2005*



v) Drafting of the Freedom of Information Act, to be tabled in the People's Majlis in 2005.

w) Establishing by the end of 2005 of a Code of Ethics for Journalists.

x) Drafting of the Act on the Publication of Newspapers and Magazines, to be tabled in the People's Majlis in 2005.

y) Drafting the Press Council Act, to be tabled in the People's Majlis in 2005.



# 3 - A Quarter Century of Revolutionary Political Reform

The Maldives is starting from a very basic level of governance structures that had evolved over centuries of tradition unaffected by its limited colonial experience. The first Constitution was introduced in 1932.

Over the past twenty-five years, President Gayoom has promoted political modernisation in an evolutionary manner, through reform, innovation and development. These measures have evolved alongside and drawn synergies from the strident social and economic development of the past quarter century, and the major milestones include:

The President chairing a Cabinet Meeting.



## 3.1) Parliament and Governance:

- a) Introduction of parliamentary immunity.
- b) Introduction of the practice of presentation of annual statement of government policy to the parliament.
- c) Introduction of the practice of setting up parliamentary commissions and standing committees.
- d) Introduction of the practice of reporting to parliament on major issues of national interest.
- e) Introduction of independent foreign observation of elections to the parliament and the presidency.
- f) Development of Cabinet government.



g) Creation of oversight bodies such as the Anti-Corruption Board.

h) Election of Island Development Committees on every island to promote participatory local governance.

i) Establishment of advisory committees and councils comprising eminent persons from public and private sector to advise on policy formulation and decision-making.

j) Development of media and communications, including programmes to train journalists.

k) Introduction of political parties for the first time in the country's history, in June 2005.

l) Development of various pieces of legislature to promote the right of association in the country.

m) Programmes on civic and voter education established, to increase awareness among the electorate on pluralist democracy.

n) Reorganisation of the government structure in July 2005, to improve service delivery and inject further momentum into the reform process.

o) Ratification on 25 August 2005 of the Act on Questioning Ministers.

### **3.2) Re-organisation of the Courts:**

Numerous initiatives have been undertaken to re-organize courts to modernize the judicial system, increase efficiency, strengthen independence of judges, and increase appellate safeguards. They include:

a) Establishment of the High Court.



b) Establishment of a Court for Juveniles.

c) Establishment of an appellate panel of eminent judges and lawyers to review appeals.

d) Establishment of a Faculty of Shariah and Law.

The President presenting Diplomas to the Graduates of the Shariah and Law course, taught at the College of Islamic Studies. The President was also a lecturer for the students of the Course.

*10 December 2003*



e) Introduction of Training Programmes for Judges and Lawyers, including training programmes taught by the President himself.

f) Cabinet approval in June 2005 to establish a Judicial Services Commission, to further separate the judiciary from the executive.

g) Cabinet approval to assigned supervision, except in administrative matters, of the courts of first-instance to the Chief Justice, as a measure to increase independence of the judiciary.

### **3.3) Promotion of Human Rights:**

a) The jail system was re-organised and the facilities provided were improved.

b) The Maldives acceded to international human rights instruments, notably those promoting the rights of women and children.

c) The status of the populations in the outer atolls was given special priority, seeking to empower them through rapid development of the atolls.

d) A national Human Rights Commission was established in December 2003, and granted full statutory powers in August 2005.

The pavilion prepared for the promulgation of the first Constitution, which was introduced in 1932.



### 3.4) Revision of the Constitution 1980 - 1997:

The Constitutional Assembly sat from 1980 to 1997, in order to formulate a new Constitution for the Maldives. The new Constitution came into force in 1998, and provides for;

- (a) Multi-candidate elections for the presidency;
- (b) The strengthening the fundamental rights of the citizens.



The President ratifying the new Constitution of the Republic, in the presence of the Chief Justice, Mr. Mohamed Rasheed Ibrahim (on his right) and the *then* Speaker of the People's Majlis, Mr. Abdullah Hameed (on his left).  
27 November 1997

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The President's Office