



# The 2008 Constitution: Framework for the Future

Ministry of Foreign Affairs  
Government of Maldives  
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## The New Constitution

The new Constitution represents a quantum leap for democratic governance, rule of law and human rights in the Maldives. Drafted in cooperation with international constitutional experts from the Commonwealth and the United Nations, it provides for a clear and robust separation of powers between the legislative, executive and judicial branches of Government.

The new Constitution comprises of 14 Chapters. A brief summary of the substantial chapters are below.

- **Chapter 1 on *State, Sovereignty and Citizens***

Chapter 1 prescribes the democratic features of the Maldives as an independent and sovereign State. It defines the power of the people in the functioning of the State and the local characteristics unique to the nation such as the language (*Dhivehi*), territory, citizenship, national flag etc.

- **Chapter 2 on *Fundamental Rights and Freedoms***

Civil and political rights and fundamental freedoms introduced or strengthened under the new Constitution include, *inter alia*: the right to life; right to non-discrimination; right to fair and public trials; protection from arbitrary detention; freedom from forced confession; right to legal aid; prohibition of torture and other inhuman or degrading treatment; right to appeal; access to compensation for unlawful arrest or detention; right to vote (voting age reduced to 18) and to hold public office; freedom of opinion and expression; right to privacy; right to information; freedom of association; freedom of assembly; and provision of special protection to vulnerable groups including children, adolescents, elders, and people with special needs.

Economic, social and cultural rights and fundamental freedoms introduced or strengthened under the new Constitution include, *inter alia*: the right to adequate, nutritious food and clean water; right to adequate housing; the right to a good standard of health; adequate access to sewerage and electricity; right to marriage and family; the right to education; right to work; right to strike; right to enjoy a pension; the right to take part in cultural life;

and the right to enjoy property.

The new Constitution also introduces the express right, to live in a safe environment. This right is considered particularly important in the Maldives which is acutely vulnerable to the negative consequences of global climate change, and which is also heavily dependent - economically and socially - on its natural environment.

### - **Chapter 3 on the *People's Majlis***

Chapter 3 states that the legislative authority of the Maldives shall be vested in the People's Majlis, a unicameral chamber made of Members elected by secret ballot (two Members from each of the 21 electoral constituencies (the 20 atolls plus Male'), with an additional Member allocated to all constituencies with a population of more than 5000 at the rate of one additional Member per 5000 constituents for a term of five years. In a key departure from the previous Constitution, the Constitution stipulates that only elected Members shall sit in the People's Majlis (i.e. there will no longer be any appointed Members). It also states that Members of the People's Majlis shall not concurrently hold office in the Cabinet of Ministers, in an independent commission, in the civil service, in a corporation partly or wholly owned by the Government, in the armed forces, or in the police.

The People's Majlis shall be vested with strong legislative powers that will significantly improve its capacity to counter-balance the other principle branches of government – particularly the Executive. For example, the People's Majlis will have the power to amend or reject the establishment of ministerial mandates, to remove the President, to summon Ministers for no confidence debates and votes, and to set the salaries of people across all the branches of government and in Independent Commissions.

### - **Chapter 4 on the *Presidency***

Chapter 4 states that executive power in the Maldives is vested in the President and the Cabinet of Ministers. The President, who shall be elected directly by the people in a secret ballot (previously the people were only able to vote "Yes" or "No" to a candidate chosen by the People's Majlis), shall be the Head of State, Government and the Commander-in-Chief of the Armed Forces. The new Constitution sets a term-limit on the Office of the

Presidency of two five-year terms and also, importantly, removes the gender bar which previously prevented women from running for the Presidency.

Chapter 4 also creates the post of Vice-President to assist the President in the discharge of his or her duties.

- **Chapter 6 on the *Judiciary***

The power of the judiciary is vested in the Courts of the Maldives. The apex court under the Constitution shall be the Supreme Court headed by a Chief Justice. The President shall nominate the Chief Justice, on the advice of the independent Judicial Services Commission, and the nomination shall be confirmed by a vote in the People's Majlis.

- **Chapter 7 on *Independent Bodies***

Chapter 7 of the Constitution establishes a range of independent bodies and posts designed to improve democratic governance and strengthen human rights protection. They include a Human Rights Commission, Judicial Services Commission, Civil Service Commission, an Anti-Corruption Board, an Elections Commission, Auditor-General and Prosecutor-General's Office.

- **Chapter 8 on *Local Governance***

The Constitution, for the first time, introduces a system of local governance in the country. Local elections shall elect administrative councils in the region that would oversee the smooth functioning of the regions.

- **Chapter 14 on *Transitional Arrangements***

In a historic day for democracy, rule of law and human rights in the Maldives, on 20 April 2008, the Special Majlis adopted Chapter 14 of the draft new Constitution dealing with transitional arrangements and in-so-doing agreed on the immediate creation (at first on an interim basis; to be followed later by permanent standing bodies) of a range of independent oversight bodies and judicial institutions - a move that has major implications for the political and judicial landscape of the country.

The final Transitional Chapter clarifies that the first Presidential election under the new Constitution will take place before 10 October 2008 (exact date to be decided by the independent Interim Elections Commission). This will be the first multi-party Presidential election in the history of the Maldives. The first Parliamentary elections under the new Constitution must take place before 31 March 2009. Elections for all city, island and atoll councils shall be held before July 2009. The current President, Cabinet, Parliament and other persons elected or appointed under the existing Constitution will remain in place until their successors are elected or appointed under the new Constitution.

In order to guarantee that these vital first elections in a new democratic era for the Maldives are both free and fair; the Transitional Chapter creates a range of independent bodies to operate during the transitional phase. It also stipulates timeframes to eventually establish permanent versions of these bodies under the new Constitution.

Crucially, an Interim Election Commission will be created within 30 days of introducing the new constitution; and, in order to ensure the body's independence and impartiality and to build confidence in the electoral process, its members will be proposed by all registered political parties and adopted by Parliament. An Interim Judicial Service Commission will also be created within 30 days of introducing the new constitution; while an Interim Supreme Court will be created within 45 days of introducing the new constitution.

Justices of the Interim Supreme Court will be proposed by the Interim Judicial Service Commission and adopted by Parliament. Members of the interim Supreme Court would appoint a Chief Justice for the interim period from among themselves. All other justices, judges, and magistrates will remain in Office for a period of two years from the date of the new constitution until they are approved according to the process envisaged under the new constitution.

Finally, the Transitional Chapter states that an Anti Corruption Commission shall be created within 60 days of introducing the new constitution; while a Prosecutor General (in addition to the existing Attorney General post or director of public prosecutions), proper Judicial Service Commission, and proper Elections Commission must be created within 60 days from the first meeting of the newly elected parliament.

## Conclusion

The Reform Agenda of the Government continues to be pursued with a high degree of transparency, openness and international engagement. Assistance is being sought from the UNDP, the UN Office of the High Commissioner for Human Rights, the Commonwealth Secretariat and several bilateral partners and international NGOs.

The Government views that the adoption of new 21<sup>st</sup> Century constitution securing effective and democratic governance, protecting individual freedoms, and allowing for the smooth functioning of the Republic is essential to the future well-being and prosperity of the Maldives.

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