

EXPLANATORY NOTE

This is the Report of the Commonwealth Expert Team which was present for the Maldives Parliamentary Elections in January 2005.

It is reproduced here in the form in which it was signed by the Experts prior to their departure on Thursday 27 January 2005.

The Report was delivered to the Commonwealth Secretary-General on Friday 28 January 2005. During the following two weeks it was sent it to the President of the Maldives, the Commissioner of Elections, political organisations and Commonwealth governments. It was placed on the Secretariat's website and released to the media on Friday 11 February 2005. This version does not have all the annexes. Printed copies with all the annexes are available from:

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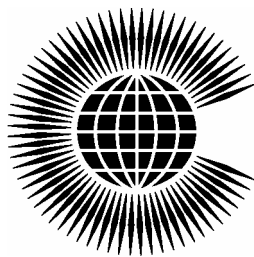
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The press release which follows was released by the Commonwealth Secretariat on Friday 11 February 2005.

**Maldives Parliamentary Elections
22 January 2005**

**REPORT OF THE COMMONWEALTH
EXPERT TEAM**



Commonwealth Secretariat

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26 January 2005

Dear Secretary-General,

We thank you for the opportunity to observe and report on the general elections which took place in the Republic of Maldives on 22 January 2005.

It has been a special honour as this is the first time that the Commonwealth has been invited to observe elections here.

The election itself has also been one of particular significance, as it is this Parliament (People's Majlis) which, together with the members of the Special Majlis, would be a driving force in implementing the constitutional reforms.

While Maldives' involvement in the Commonwealth has traditionally been focussed on furthering action on issues facing small states and small island developing states, we understand this engagement now extends further. It has included your full support to the Government of Maldives in its proposals for constitutional reform, institutional strengthening of the Office of the Commissioner of Elections and judicial reform.

We think other Governments and international agencies should support this initiative and provide assistance to Maldives.

This report attempts to set out the context of the elections and explain our work in pursuance of the task assigned to us in the terms of reference of the CET. It also aims to give some analysis of the challenges faced by Maldives as well as the Commonwealth and wider international community if the present situation is to become a platform not just for electoral success, but also of effective change and progress in this Indian Ocean nation.

In addition to providing our observations on the electoral process, our report also includes information which could assist Maldives to establish democratic institutions in accordance with their national requirements and Commonwealth best practice; as well as to meet the challenges they face.

Generally speaking, the elections were well organised and enabled a large number of people to exercise their right to vote. We were also impressed by the peaceful conditions in which the voting and counting took place. However, there were elements that could not be addressed, as these are the subject of the ongoing reform agenda which forms part of the broader democratic framework. We give attention to these and the necessary recommendations later in the report.

In line with our terms of reference, we have completed our task and submit this report for your consideration.

Last but not least, we express our appreciation to the Government and people of Maldives for the invitation to observe their elections and for their assistance in carrying out our mandate. We hope that the findings of our mission are taken in the spirit in which they are intended and we look forward to Maldives responding positively to the recommendations.

Cassam Uteem, GCSK
Former President
Mauritius

Andy Becker
Electoral Commissioner
Australia

Mahi Choudhury, MP
Member of Parliament
Bangladesh

Dr Hywel Francis, MP
Member of Parliament
United Kingdom

Mrs Pratibha Rao
Lok Satta
(Foundation
for Democratic Reforms)
India

HE Rt. Hon Don McKinnon
Commonwealth Secretary-General
Commonwealth Secretariat
Marlborough House, Pall Mall
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THE COMMONWEALTH EXPERT TEAM (CET)

The CET consisted of 8 persons: 5 eminent persons and 3 members of staff. The members of the CET were as follows:

Mr Cassam Uteem, GCSK
Former President
Mauritius **(Chairperson)**

Mr Andy Becker
Electoral Commissioner
Australia

Hon. Mahi Choudhury, MP
Member of Parliament
Bangladesh

Dr Hywel Francis, MP
Member of Parliament
United Kingdom

Mrs Pratibha Rao
Lok Satta (Foundation for Democratic Reforms)
India

We would like to mention that the original CET which was in Maldives in December 2004 had included Mr Jim Fitzpatrick, MP (Member of Parliament, United Kingdom) and Dr Jayaprakash Narayan (National Co-ordinator, Foundation for Democratic Reforms). However, they were unable to return in January 2005.

Commonwealth Secretariat Support Team

Mr Syed Sharfuddin	Team Leader and Assistant to
Observers	
Mr Shem Baldeosingh	Assistant to Observers
Ms Saiqa Razaq	Assistant to Observers

Terms of Reference

The Terms of Reference for the CET were as follows:

"The Commonwealth Expert Team for the Maldives Parliamentary Elections shall observe the preparations for the election; the polling, counting and results process; and the overall electoral environment.

The Expert Team will report to the Commonwealth Secretary-General with recommendations, if appropriate, for Commonwealth technical assistance. The Secretary-General will in turn send the Team's report to the Government of Maldives, the Commissioner of Elections, other interested parties in Maldives and Commonwealth Governments. It will then be made public".

Invitation

The Secretary-General's decision to constitute a Commonwealth Expert Team (CET) followed an invitation from the Government of Maldives, formally transmitted in a letter by the Minister of Foreign Affairs, Hon. Fathulla Jameel. See Annex F.

The Secretary-General sent an Assessment Mission to Maldives from 22 to 26 November 2004. The Mission met with the Commissioner of Elections, political figures, civil society and Commonwealth diplomatic missions in order to obtain a broader picture of the electoral environment and came to the conclusion that the CET should be constituted.

THE POLITICAL SYSTEM

Introduction to Maldives

The Republic of Maldives is located 675km southwest of Sri Lanka in the Indian Ocean. It consists of 1192 small, low-lying coral islands grouped into 20 administrative atolls. Around 200 of these islands are inhabited. Malé is the capital.

In 1953 Maldives became a republic within the Commonwealth when the sultanate was abolished. However this was restored within months. In 1965 Maldives gained full independence as a sultanate outside the Commonwealth. The republic was reinstated in 1968 but Maldives did not rejoin the Commonwealth until 1982.

Executive power is vested in the President and the Cabinet of Ministers. Legislative power is vested in the People's Majlis (People's Council) and People's Special Majlis. The latter is constituted to consider a given business item such as amending the Constitution.

The administration of justice is vested in the President and the courts.

The Constitution

The Citizens' Special Majlis was set up in 1980 specifically to amend the Constitution.

It took 17 years to complete its deliberations and in 1998, Maldives gained its current Constitution. The following were some of the main changes introduced:

- a formal multi-candidate contest was permitted for the legislature's nomination of the presidential candidate;
- the President was allowed to serve an unlimited number of terms;
- the number of atolls was increased from 19 to 20 for administrative purposes;
- the Majlis (henceforth known as the People's Majlis) was enlarged from 48 to 50 seats;
- the Citizen's Special Majlis was renamed the People's Special Majlis;
- parliamentary immunity was introduced;
- the post of Commissioner of Elections was given constitutional protection;
- parliamentary questions were introduced;
- judges and magistrates were obliged to take a special oath of loyalty to the state.

The President

The President is Head of State, Head of Government, Highest Authority Administering Justice and Commander-in-Chief of the Armed Forces and Police.

He (women are not allowed to stand for the presidency) is elected by a secret ballot of the People's Majlis and endorsed in office for a five-year term by a national referendum.

Only Sunni Muslims are allowed to stand for election as President and Vice-President.

The President has the power to appoint and dismiss the following public officers: the Vice-President, Chief Justice, Speaker and Deputy Speaker of the People's Majlis, Ministers, Attorney-General, Atoll Chiefs, Judges, Auditor-General and Commissioner of Elections.

The Cabinet

The Cabinet is appointed by the President and includes the Attorney-General.

The People's Majlis

Legislative power, except the enactment of the Constitution, is vested in the People's Majlis which consists of fifty members, eight of them, appointed by the President. Two Members are elected from Malé and two members from each atoll.

The duration of the Majlis is five years, with three regular sessions each year.

The Speaker is not a member of the People's Majlis, while the Deputy Speaker is appointed from among the Majlis members.

The last parliamentary elections were held in Maldives in 1999. More than 120 independent candidates contested that poll.

Qualifications for Election to the People's Majlis

According to Article 66 of the Constitution a person shall be qualified to be a member of the People's Majlis if that person:

- (a) is a Muslim;
- (b) is a citizen of the Maldives;
- (c) has attained 25 years of age;
- (d) is of sound mind;
- (e) is capable of reading and writing Arabic and Divehi script and numerals;

- (f) has not, during the past five years, been convicted of an offence for which a *hadd* is prescribed in Islam or of criminal breach of trust and
- (g) is not a citizen of a foreign country.

The People's Special Majlis

The Special Majlis has the power to draw up and amend the Constitution of Maldives. According to Article 93 of the Constitution, the Special Majlis consists of:

- (a) members of the Cabinet of Ministers;
- (b) members of the People's Majlis;
- (c) members elected from Malé and the Atolls in accordance with law. Members elected from each constituency shall be equal in number to members elected to the People's Majlis from each constituency; and
- (d) eight members appointed by the President.

The current 108-member People's Special Majlis is tasked with debating and finalising the proposed reforms in light of proposals received from the public.

The last election to the People's Special Majlis was held on 28 May 2004. Prior to that, President Gayoom announced on 26 February that he intended to seek constitutional amendments to usher in greater democracy in the country.

The Government states that it is committed to a policy of reform under which democratic rights will be introduced. These are set out below.

The Judiciary

There are three courts in Maldives: one for civil matters, one for criminal cases and one for family and juvenile cases.

In the area of the judiciary, for all practical purposes, power lies with the President. Under Articles 117 and 123 of the Constitution the President has the power to remove a judge from office. The President also has authority to review high court decisions, and may grant pardons and amnesties.

The High Court is in Malé handles a wide range of cases and also acts as the Court of Appeals. It is independent of the Justice Ministry but not, of the President as he has the power to appoint a five-member advisory council to review High Court rulings. He also has authority to affirm judgments of the High Court, to order a second hearing, or to overturn the Court's decision.

PRE-ELECTION EVENTS

Constitutional Reform

On 9 June 2004, President Gayoom announced a series of constitutional reforms intended to liberalise the political system. The proposed reforms include:

- a directly elected President from a choice of more than one candidate;
- divesting the President of his control over judicial appointments;
- permitting women to contest the post of President.
- placing a limit of two 5 year terms on the Presidency;
- having a Prime Minister who will be appointed by the President on the advice of the National Assembly.
- abolishing the category of appointed members of the National Assembly (currently 15% of the total);
- permitting the formation and activity of political parties;.
- establishment of a Human Rights Commission¹;
- establishment of a Supreme Court.

The opposition greeted the reform proposals with some scepticism and stressed that basic political freedoms should be granted and political parties permitted to function before any reform proposals were put on the table; so that there could be genuine public debate on the proposals.

On 16 July 2004, a day after the swearing in of the People's Special Majlis, the President held a press conference to reiterate his commitment to the reforms announced on 9 June.

A government press release setting out the reform proposals in detail is at Annex D. There was a series of events prior to the poll of 22nd January 2005, which provide insight into both the context of the election and the political environment of Maldives. These are outlined below.

¹ The Human Rights Commission (HRC) was established by Presidential decree in December 2003 under the chairmanship of Dr Ahmed Mujuthaba, and has been active in investigating the conditions of detention of those arrested in connection with the August protests. The HRC is to hold a public inquiry into the detention of individuals and the resulting allegations of torture and mistreatment.

The Tsunami Disaster of 26th December 2004

The poll, which was originally scheduled for 31st December 2004, was postponed after the Indian Ocean tsunami of 26th December 2004. The resultant damage saw 6 islands evacuated which became totally uninhabitable. More than 12,000 people were made homeless. 6,346 persons were moved within the same islands and 6,859 persons were accommodated in other islands. The cost of all this damage and displacement was estimated at several hundred million US dollars.

Despite this destruction and displacement, Maldives opted to adhere to the provisions of their Constitution and reschedule the general election within the time limit prescribed for electing the new People's Majlis. This could be seen as trying to move in line with international expectations in general and with the accepted principles of good governance of the Commonwealth, in particular.

International Spotlight

However, the tsunami was only one of a series of events that recently put Maldives in the international spotlight.

In August 2004 there were demonstrations and political unrest, which resulted in the declaration of a state of emergency by the President and the detention by the police of several political activists, some of whom were under detention or house arrest at the time elections were announced.

In September 2004 the Heads of Mission of European Union countries accredited to Maldives sent a delegation to the country to discuss the detention of Members of the Special Majlis and the events that led to their arrest. In a statement after the visit, the EU team expressed concern over "the continuing detention without charge" of the members of the Special Majlis and urged the Maldivian Government to "immediately repeal the emergency," imposed in August and "restore all fundamental rights" to the detainees. Heads of Missions welcomed the decision of the Government of Maldives to invite observer mission from the Commonwealth and the South Asian Association for Regional Co-operation.

Afterwards the European Parliament passed a resolution calling on all 25 member states to "immediately cease all non-humanitarian aid... and to impose an immediate travel ban in order to prevent members of the Government and other officials... from entering the EU". It proposed to block an aid package worth \$2m, called on the Government to end a state of emergency, and asked the EU to warn tourists about Maldives' poor human rights record.

In October 2004, the Commonwealth Secretary-General visited Maldives and confirmed assistance in response to a request by the Government of Maldives to provide an expert to advise on the institutional strengthening of the Office of the Commissioner of Elections. This study has since been completed. The Secretary-General also committed technical assistance to Maldives in support of the democratic reforms.

RECENT POLITICAL DEVELOPMENTS

2003

In October, President Gayoom won a record sixth term in office with 90.3% of voters endorsing his selection by the People's Majlis.

Shortly before his re-election however, riots broke out in September, sparked by the death in custody of two inmates. Another prisoner later also died of his injuries. Public anger at the deaths led to violent civil unrest and the burning of several government buildings including the office of the Commissioner of Elections, the High Court and police stations.

The President appointed a commission of inquiry into the deaths, which announced its findings in January 2004. Although the President sacked the Chief of Police and detained 11 security personnel following the commission's findings, the Maldivian Democratic Party (MDP) accused the administration of a cover-up because sections of the report naming those held responsible for the deaths had been edited out.

In November the government structure and public service procedures were reformed.

In December, the Human Rights Commission was established by a Presidential decree. The Commission has a mandate to protect and promote human rights in the country, in accordance with the Constitution and international conventions.

2004

In January an Independent Oversight Commission was established to scrutinize the administration of Maafushi jail.

In February, the President announced his intention to usher in constitutional reform and he defined the agenda for this in a speech given on 9 June. In the same month, the Arrestable and Non-Arrestable Offences Regulation, 2004 was promulgated into law. A number of prison reforms was initiated.

In April the regulation to enforce the right to legal representation was established.

In May members of the Special Majlis were elected. President Gayoom called on the public to submit recommendations for constitutional reform, which would be put forward to the Special Majlis.

A Public Complaints Bureau was established in June. Following the announcement of the reform agenda, public debate on constitutional reform was encouraged.

In July proposals from a U.S. scholar on the reform of the criminal justice system were considered. In the same month, 23 members of the Special Majlis which had been convened to debate the proposed constitutional reforms, walked out of the assembly's first sitting in protest at being denied a secret vote to elect their Speaker.

The Members' walkout attracted a large crowd outside the Parliament in support of their protest and led to the President agreeing that the Speaker would be elected by a secret ballot.

The President compiled two volumes of briefing papers on constitutional reform with the assistance of the Commonwealth Parliamentary Association and a former Attorney-General of Sri Lanka. This material was sent to the Members of the Special Majlis.

The review and reform of the Juvenile System began.

The first session of the Special Majlis was postponed because just prior to its resumption of its work the Government detained a number of its pro-reform members.

In August, public reaction to this manifested itself in a peaceful sit-in outside the main Government buildings in Malé. However, the numbers involved grew rapidly and the protestors began to call for more widespread political change including the resignation of the President and his ministers. After a day of large-scale protests the police were called in to disperse the crowd. Between 180-300 people were arrested and detained.

The Government's position was that the demonstrators had engaged in illegal activities, attacked two policemen and sought to burn down Government buildings.

Under the powers vested in him by the Constitution, the President imposed emergency rule on 13 August. Parliament was suspended, as was the Special Majlis and several fundamental Constitutional rights.² However, the state of emergency was lifted in mid-October.

² Namely, the freedom from arbitrary detention; right to legal representation; freedom from interception of letters, messages, telephone conversations and other means of communication; limits to time spent in detention by those charged with offences

(The Constitution provides that a state of emergency can remain in place for 3 months.)

In August, the Government requested the UNDP's assistance in inviting the National Democratic Institute to conduct an assessment of the political situation pertaining to the development of political parties. This study has since been completed.

In September the police was designated as a civilian force that functioned separately from the National Security Service.

As a result of the natural disaster, President Gayoom declared 26 December as a National Day of Unity. In an address to the nation on New Year's eve, he also announced the withdrawal of high treason charges and public disorder charges against those indicted for their alleged involvement in a demonstration at Republic Square in Malé in August, saying the nation needed unity to rebuild after the worst natural disaster in its history. The President declared the Government would no longer pursue investigations into the political activities of a number of other individuals, as he wanted to ensure that everyone was able to contribute sincerely to the reform programme initiated in 2003.

Maldivian Democratic Party (MDP)

In 2001, 42 prominent academics, intellectuals, businessmen and Members of Parliament petitioned the Government for permission to set up the Maldivian Democratic Party (MDP). Permission was denied and signatories to the petition were subject to government harassment and on occasion, arrested. Numerous MDP members were also detained in the aftermath of the August 2004 protests.

The MDP now operates in exile from Colombo and London. MDP supporters are also present in Maldives and are quite outspoken in their criticism of the Government.

There are some Maldivians, who do not wish to be identified with the MDP but want constitutional change and they are known as "reformists". They are not necessarily anti-government.

MDP sources maintain that out of the 149 candidates who contested the 42 seats of the People's Majlis, 39 candidates were endorsed by MDP.

ISSUES

The Tsunami

In those atolls which the CET visited, the tsunami appeared not to have affected the elections in any significant way although there were reports of some voters still being traumatized by it and there was a general concern over its ultimate long-term impact on tourism. The CET did witness evidence of destruction and the hardship experienced by some Maldivians.

It was also noted that great efforts had been made to minimize the effects of the tsunami upon the organisation of the elections.

The Government's Role

The 2005 parliamentary elections in Maldives were held during a period of great socio-economic, cultural and political change.

The country is undeniably on a journey of hope towards a democratic society with growing support for reform and wider participation in political affairs. Simultaneously, the current situation is developing within a historical context characterized by considerable powers, patronage and influence residing with the Executive.

These elections and the President's reform proposals of 9th June 2004 should also be seen against a background of a rapidly changing economy provided by the recent growth of tourism and the knowledge revolution provided through global telecommunications increasingly accessed by the educated young people of the Maldives. But none of these major issues, nor any serious social problems have been properly articulated or discussed during the elections because of severe limitation on political freedoms.

The influence of the Government, mainly through the Presidency, upon the state apparatus appears to have been the dominant issue, implicitly and explicitly. This manifests itself not simply through the denial of the fundamental freedoms of speech, assembly, association and the press but equally important, through the influence Government has over employment of everyone from teachers to Island Chiefs. This enduring and pervasive power, at all levels of society, means that there is a perception and widespread scepticism, especially among the younger generation, that the will and desire to deliver on the reform programme is not universal within the Government, particularly as no major democratic change has occurred since 1978 and no timetable had been set for implementation.

There are clearly different views within government circles with an increasing number of influential figures privately expressing the need for urgent democratic reforms.

The President's reform programme, particularly the separation of powers and the introduction of a multi-party system, was universally welcomed during the elections as pre-requisites for a democratic Maldives.

To sum up, one candidate reflected that the main issues focused on *'patronage rather than Parliament which still made the difference today, there was too much government power in people's lives and too many laws cutting across the Constitution'*.

Public Perception of the Elections

A dominant issue during the campaign and on polling day was the public perception of the fairness of the elections. This was fuelled by opposition allegations of bribery, harassment, victimization, multiple voting, complaints about the role of Island Chiefs and the dominance of government employees as election officers at most polling stations.

Accountability and Lack of Political Parties

The role of those to be elected was also an issue: the ability to be representative of and accountable to the voters, articulating their concerns and aspirations in contrast to government supporters who had, allegedly for the most part, remained silent.

The lack of a multi-party democracy meant that there were no real opportunities for candidates to campaign on political programmes and they generally found this a serious limitation to their ability to communicate with the voters.

Candidates whom the CET met did articulate clear social and economic demands particularly in relation to the lack of services and utilities in the remote islands (e.g. clean water, sewerage, health, education and electricity). Most acknowledged however that these were not publicly discussed.

Social and Economic Issues

Whilst public campaigning tended to be devoid of policy debate and focused more on personality and promises of development, there were major underlying social and economic issues which were raised by witnesses we met. These included planned and sustainable economic development in all the atolls to ensure the minimizing of population migration. Other major issues were the drugs problem, care of the disabled, the availability of housing as

well as the standard and accessibility of higher levels of education throughout the atolls.

Civil Society

Owing to the Government's dominance of the very large public sector, its relationship with civil society, particularly non-governmental organizations (NGOs), is highly problematic.

This is highlighted with the Island Development and Women's Development Committees as well as Teachers' Committees, which in democratic societies would be assumed to be central features of civil society and NGOs. However, one cannot assume this in Maldives. In discussion with such bodies an unequal power relationship with Government could be discerned. Nevertheless, such bodies, currently slow in raising democratic awareness, if allowed autonomy could be important features in democratic capacity building within civil society. Already among young groups of people, the emerging business class and homegrown intellectuals, there is the emergence of an increasing number of people who recognize the universality of humanitarian and democratic values and wish to apply them to the Maldives.

Religion

It is unclear what part religion and 'religious freedom' would play in the emerging democracy. There is general nervousness about Islamic fundamentalism inside and outside government circles but it is an issue which will not disappear. Although religion was not a major issue in the elections, there were examples of candidates being smeared as 'agents of Christian missionaries' and some undefined wariness about allowing great 'religious freedom'.

Of less concern to voters, but a factor that needs to be raised nevertheless, is the restricted franchise. It seems to the CET that Islam in its position as the national religion is extremely unlikely to be challenged, and were it to be, it would soon rise to meet it. Consequently the CET believes the People's Majlis should consider reviewing the citizenship requirements and with it the qualifications for the franchise.

Gender Equality

With the possible exception of the Women's Development Committees, there did not appear to be a major role played by women in society although they did occupy some middle ranking professional positions. That said, it was noted that there was a small number of female candidates, a few female voting superintendents and a large number of female election officers,

albeit overwhelmingly discharging clerical duties. Women did appear in large numbers to vote throughout the day.

Young People

Amongst young people there appeared to be a mixture of hope and expectation but also some concern over the fairness of the elections. There was a high degree of political awareness and within one group of witnesses the big issues were shelter and work, partly because of the long-term effects of the tsunami impacting on tourism. The widespread use of drugs was in part explained by the lack of local employment opportunities and lack of higher levels of local education provision for young people throughout the atolls. Many young people also mentioned that they would have wanted the count to take place locally to ensure transparency.

Media

In general, the media as a whole did not play a very active role in voter education and could not filter information for pre election polls nor even provide the electorate with basic election information.

It was also observed by the CET that during the election campaign pro Government candidates were provided with the majority of media coverage by the main Maldivian print media.

The Constitution of Maldives provide for freedom of expression and press, however, this right is not respected in practice.

The CET observed that law provides no protection to the journalists for their professional activity. State run and state sanctioned private media are dominant in Maldives. The electronic media such as Television Maldives and Voice of Maldives are both Government owned. The major share of the sole Internet Service Provider is also owned by the Government. Reportedly up to 200 newspapers and periodicals have been registered, but only three dailies are published on a regular basis.

The power to grant licences resides with the Ministry of Information and the Office of the President. The Ministry of Defence, the Ministry of Justice and National Security, the criminal court, civil court and even the family court must give their approval before a license is granted.

The CET also observed that since no code of ethics is laid out and there are no clarifications when and how criticism violates the law of Maldives, journalists practice self-censorship. The three dailies 'Afathis, Haveeru and Miadhu have direct influence from and within the Government.

The MDP has started an Internet newspaper, Dhivehi Observer and kept up its opposition of the Government through e-mails, and text messages. However, the Government has blocked its communication in Maldives. Government has also blocked the receipt of all electronic communication in Maldives generated by the Opposition. Journalists therefore tend to generally practice straight reporting and avoid any analysis as their security is not ensured by law.

The CET feels that the law should provide adequate protection and security for reporters so that they can carry out investigative journalism, partial / impartial analysis of political news and views. Journalists should also have access to information relating to governmental activities, including monetary and financial matters. Finally, a faculty of journalism should be established so that high quality journalism can be achieved.

ELECTIONS FRAMEWORK AND PREPARATIONS FOR ELECTIONS

- The Law
- The Constitution of the Republic of the Maldives 1997
- The Law on General Elections 1999
- Regulations on General Elections 1999

The CET is of the opinion the Law on General Elections is reasonably sound, but only in terms of process. It satisfies the basic requirements to elect a legislative body. However, the CET noted that it lacks detail on the impartiality of the staff conducting the elections, on the rights and obligations of citizens and candidates and on transparency and openness. These matters were of just as much concern to a number of the people with whom we spoke.

Of less concern to the people, but a factor that needs mentioning nevertheless, is the restricted franchise.

Appointment of the Commissioner of Elections

The Constitution provides for a Commissioner of Elections to be appointed and dismissed by the President, which leaves him vulnerable to political caprices. The CET believes the role of Commissioner is such as to require an open selection and removal process and that removal in particular should be a very transparent exercise.

Duties and Powers of the Commissioner of Elections

The duties of the Commissioner are to conduct elections and referendums and to prepare the Register of Voters. He is not required to conduct research, to advise the Majlis, to educate the electorate nor run publicity campaigns. He may well do those things but prescription in the primary legislation is a valuable form of protection.

The electoral law (S. 30) gives the Commissioner the power to make subordinate legislation some of which is prescriptive, but otherwise that power is unfettered. The CET found this anomalous in that there is the potential for the subordinate legislation, not only to qualify, enhance and clarify the law passed by the Majlis, but for it to exceed the primary power. The CET noted that a case in point is the constitutional right to free assembly being overridden by the Commissioner's regulation forbidding political rallies. The independence of the Commissioner in the conduct of the election is essential but not so as to compromise constitutional rights.

In the view of the CET, the Commissioner's powers should be clearly defined and it should be the People's Majlis that ratifies subordinate legislation.

The Committee on Elections (the Advisory Committee to the Commissioner of Elections)

The CET, having met the members of the Committee on a number of occasions, has considerable respect for their dedication and competence; but the need for such a body is difficult to see.

The Commissioner of Elections alone is responsible for his and his agency's decisions and actions, and if he feels the need to seek advice, then he alone should choose his adviser. As it stands the Committee has 'all care but no responsibility'. If the Commissioner were to take the advice of the Committee and it proved inappropriate, the Commissioner alone must take responsibility. If this body were intended to be a *de facto* Electoral Commission, it should be established as such and take responsibility for its actions.

The People's Majlis

The People's Majlis comprises 42 elected members and eight members appointed by the President.

The CET is mindful of the criteria that are generally accepted as having to be met in defining a free and fair democratic process. The direct election of all members by the people and the principle of one vote/one value are core issues that need addressing. So too is the matter of political parties. The CET understands some of the concerns which have led to equal representation for each atoll irrespective of population, for there is no doubt that Malé could dominate Majlis proceedings were proportionality the sole criterion. Of greater concern is the issue of appointed members. The CET has considerable difficulty in finding justification for any member taking his or her place in a Parliament without facing the people. The CET welcomes the President's proposal to discontinue the practice of appointing members to the People's Majlis.

We believe that an acceptable approach could be found to provide appropriate atoll representation whilst at the same time allowing all Maldivians some level of proportional representation. We note that the present reforms include consideration of a second chamber which could accommodate both popular and atoll representation.

The ability of political parties to form and campaign openly, is essential in a democracy. To this end, the CET welcomes the announcement by the President on 24 January 2005, that the Reforms' Package including multi-party democracy, will be

introduced in Maldives within a period of one year. It also recommends that the Commonwealth Secretariat and the Commonwealth Parliamentary Association provide technical assistance to Maldives as appropriate, to implement these reforms.

Candidates

The qualifications to stand for election require, citizenship of Maldives only, attainment of at least 25 years of age, possession of sound mind, literacy in Arabic and Dhivehi and lack of a conviction of a criminal breach of trust or an offence for which a *hadd* is prescribed.

Candidates may nominate themselves to contest any atoll seat. That is, there is no requirement to reside in the atoll for which he or she is standing. Nor is there any requirement for the nomination to be endorsed by locals. The CET believes that this situation could be improved by involving atoll electors in the nomination process by seeking the endorsement of a number of them for each nomination.

Atoll and Island Chiefs

Atoll and Island Chiefs are appointed by the President and previously have had a very close involvement with the conduct of elections within their domains. On this occasion the involvement was somewhat lessened. However, the CET believes that given the manner of appointment of the chiefs, any association they might have with the elections, is likely to be looked upon with suspicion. Consequently, no Chiefs should be involved in any way in the electoral process. The CET believes there should be a Returning Officer for each atoll and that s/he should be responsible for the conduct of their atoll's elections, including the appointment of local staff and polling places and the scrutiny of ballot papers at the end of the day.

The Commissioner of Elections must appoint Returning Officers solely on their merits.

Election Preparation

The interruption to the election proceedings by the tsunami was significant and the CET felt that rescheduling the event for 22 January imposed great pressure on the Commissioner of Elections and his staff. We recognise however, the concerns of the Commissioner in meeting the constitutional deadline for the election of the People's Majlis. Nevertheless, as we have seen, our concerns were largely unjustified.

The test of the mettle of an organisation and its leadership, is not simply about how well it performs when things are calm, but how

well it copes with unexpected and potentially catastrophic events. The CET believes it is fair to say that the Commissioner of Elections and his staff have performed admirably and need to be congratulated for their effort.

Throughout polling there were no reports that resources were inadequate or that supplies had failed to materialise. In fact, the condition in which ballot materials arrived appeared excellent.

Disputed Elections

If an election is disputed, the President convenes a body to resolve the dispute. In the opinion of the CET this role should fall to the Judiciary before whom the matter can be properly heard, where witnesses can be called, evidence led and issues debated. The appropriate level within the judiciary to hear the case would be Deputy Chief Justice.

THE POLL AND COUNT

Prescribed Process

A 10 member team consisting of a Voting Superintendent assisted by 5 polling officers and 4 other staff to control access to the polling station were appointed at each of the 387 polling stations across the country.

The polling officers for each island were selected from a list of names forwarded to the Commissioner of Elections by the Atoll Chief. This list was prepared by the Island Chiefs in consultation with the Atoll Chief. According to the regulations, the polls were to open at 7am and close at 7pm with no lunch break.

The polling officers were to report to the polling station at 6:45am to attend to the arrangements. Before the commencement of the poll, the empty ballot boxes would be shown to two voters. The ballot box would then be locked. There is no provision in the rules and regulations of the election manual for the candidates to have their representatives present.

On arrival at the polling station, the voter was required to show his/her ID card to the polling official who would check it against the voters' register. Voters belonging to one island may vote in another island of the same Atoll, and people from one Atoll can vote in another, provided the Office of the Election Commissioner is informed one month in advance. A provision is made for voters belonging to different Atolls but working in Malé, to vote in Malé.

While the ID card is being checked against the voters' register, a second officer enters the name and address and other particulars in a register. On completion of this, a third officer marks the left index finger with indelible ink. A fourth issues the ballot paper. Two booths, properly screened for privacy, are put up in every polling station. The voter takes the ballot paper to the screened booth and with the pen provided puts two check marks (in the boxes provided) against the two names of his/her choice. The voter then folds the ballot paper, drops it in the box and leaves the polling station.

At the official closing time, all voters already in the queue are allowed to cast their vote. Then the voting superintendent secures the box with special tamper proof stickers, sealing wax and string and signs the stickers. He pastes a paper giving details of the polling station, time of closing and signs his name. The box is again packed in cardboard and wrapped in paper in the same way in which it is brought in. Candidates' representatives may be present at the time of closing. Once all the paperwork has been properly

completed and all the equipment and materials packed away, the boxes are taken under the supervision of the voting superintendent and candidates' representatives, if any are present, to the Island office or the Atoll office for overnight custody or immediate transport to Malé. They are transported either by boat or plane depending on the distance and facilities available.

The counting is done centrally in Malé and begins at 9pm on the day of the polling. After an elaborate procedure of checking the seals, noting the accompanying material and opening the boxes, counting for each constituency (Atoll) begins. Ballot boxes are counted separately. After the count, the Election Commissioner announces the results.

An analysis of the process, based on the CET's observations is presented below.

Adequacy of Polling Stations

The layout and facilities of in most of polling stations were adequate and orderly; but it has to be mentioned that in some islands a few polling stations were out in the open grounds and no screened polling booths had been installed. There was at least one instance of the ballot box being removed during a rainstorm and put in an enclosed non-visible area. Proper shelter of the box should have been ensured at the outset.

Many people (including candidates, voters and polling staff) were unaware of the location of the polling stations even though the Island Office had the information weeks in advance.

Opening and Closing of the Poll

For the most part polling stations seemed to have opened on time. That cannot be said for the closing time. In a number of cases polling continued well into the night as booths were kept open apparently to allow any latecomer an opportunity to vote. In Malé it was the norm to remain open after the official closing time. However the law requires that all people within the confines of the polling place who are intending to vote, should have the opportunity to do so and the CET supports that approach. That however, does not imply that the polling place should remain open to people to enter its bounds after the hour for closing.

Adequacy of the Register

The voters' lists are compiled by the Commissioner of Elections from the manually maintained register. There were few complaints about the quality and completeness of the register; but a computerised enrolment system would simplify the maintenance of the lists. It

would also enable the complete list for the nation to be held in every polling station thus providing an opportunity for any person absent from his own electorate on polling day, to vote. Such a registration system could be provided free of charge from a neighbouring country (eg Australia).

The CET noted that polling staff were instructed to obtain proof of identity before issuing a ballot paper, yet this requirement is not mentioned in legislation. Nevertheless, we believe it is good practice and should be provided for in the law.

Turn-out

Except for a few polling stations where the voters complained of a long wait, the numbers were pretty manageable. Most islands being small transportation was not an issue.

In many islands the voter turnout was high, initial estimates being, at the time of writing, around 70% or more.

Ballot Papers

More books than are required were sent to each polling station, even though the Commissioner of Elections was aware that many people do not live nor work in the island of registration.

Polling Rules and Procedures

At most of the stations the CET visited, the voting superintendent seemed to be aware of the procedures governing the polling process. The CET however was concerned that in some polling stations rules and procedures were not followed. There were unauthorized people inside a few of the polling stations – for example, the Island Chiefs who were present both at the opening and closing and gave guidance to election officials albeit at their request. There were also instances of canvassing inside the polling station, and unauthorized people distributing food coupons.

In some polling stations the indelible ink was being applied on the finger even before checking the name in the register. There had been instances where a voter had his finger marked but his name was not in that particular polling station, and the officer of the Election Commission had to intervene to allow him to vote in another polling station.

We felt there was no need for the names and addresses of the voters to be entered by the polling officers in a separate sheet in spite of having a register of names. Simply crossing the name off the register would suffice.

Efficiency of Polling Officials

A number of the officers was not properly briefed and as a result they gave only approximate information. Any problem relating to polling was referred to the Island Office. Apart from a little confusion at the start of the day, the polling process was smooth but not fast. However, because of the relatively small number of voters in each island, this did not really have any adverse effect except in one polling station where the voters complained of a wait of more than 1 1/2 hours. The functioning of the polling staff was satisfactory, except for instances of an occasional casual attitude, like speaking on the phone or talking amongst themselves.

The Role of Candidates' Agents

There were no agents representing the candidates in many of the polling stations except in a small number of cases where candidates' representatives were allowed lawfully to be present at the close of the poll. Candidates expressed disappointment about not being allowed to have their representatives present during the polling.

Secrecy of the Ballot

The secrecy of the ballot during the marking process was assured in the vast majority of polling stations.

Voter Behaviour

Voters knew what to do. The polling stations were very orderly, the voters followed the queue system and waited calmly for their turn. There was no confusion as to where to go after getting the ballot paper. Incapacitated or illiterate voters had someone assisting them.

Security

There were up to four officials responsible for controlling access to the polling station. Their presence was discreet and helpful when required.

Logistics/Material

All the polling stations visited had a good supply of the required materials.

Domestic Observers

We came across several observers in the polling stations.

Women Voters

There was no particular pattern and they were seen at the polling stations all through the day. In one station where the queue was longest (about 35 people waiting) the numbers were equally distributed between men and women.

Centralised Counting of Votes

During the deployment phase of our mission the issue of local counting was raised by a number of people who believed that more credibility would be given to the result were the votes to be counted in situ, rather than in Malé. The CET has some sympathy with this view as there will always be scepticism about the rationale behind centralised counting, among people in outlying areas.

However, the CET was very impressed with the efficiency and effectiveness of this centralised exercise. It seemed that everything that could be done to keep the process accurate and secure, was done. The audit trail seemed exemplary. The unfortunate aspect of the whole exercise was that it was not visible to the majority of people. Had that been the case, the CET believes any criticism as to lack of transparency, would have been significantly lessened.

We are of the view that there is scope to accommodate the wishes of the people and allow a preliminary scrutiny to occur locally, whilst still enabling the boxes to be transferred to Malé for checking and result confirmation, using the same process in place for these elections. This would of course require that polling places close on time.

Media Coverage

The media's role in voter education or dissemination of information is limited to the bare minimum. Even when the Island Chief wanted some information to be broadcast, both radio and TV did not cooperate.

CONCLUSIONS

The parliamentary elections in Maldives have been conducted at a time when a parallel process of institutional reforms is underway in Maldives. Because of the cross cutting issues relating to both developments, and the impact of elections on the future composition and work of the Special Majlis on the review of the constitution, any assessment of the electoral processes cannot be complete without taking into account the overall democratic framework under which the 22 January 2005 elections were held. The conclusions and recommendations of the Expert Team do not seek to break any new ground but merely draw attention to good practice in support of proposals for bringing a positive change in the democratic governance of Maldives, including the processes for electing the People's Majlis. The Commonwealth Expert team (CET) stayed in Maldives from 24 to 30 December 2004 and from 18 to 27 January 2005. Earlier, the CET spent a working day in Colombo on 23 December 2004 meeting MDP representatives, the High Commissioner of Maldives in Sri Lanka, the US Ambassador and other Commonwealth High Commissioners resident in Colombo and accredited to Maldives.

The economic and social progress achieved by Maldives since independence is impressive. Maldives has the highest per capita income in South Asia. Maldives graduated from the Least Developing Country status on 20 December 2004, only a few days before the Indian Ocean Tsunami hit the country causing large-scale destruction and displacement of persons. Like the other small states and small island developing states in the Commonwealth family, Maldives' economic growth and development is highly vulnerable and overwhelmingly dependent on external factors and environment change.

The people of Maldives have traditionally displayed a remarkable degree of moderation, accommodation and respect for the rule of law. The CET was pleasantly surprised to learn that in the last ten years, there were only three murder cases in Maldives, out of which only one murder was committed by a Maldivian national, the others were committed by foreign nationals.

The CET found the electoral campaign lacking in lustre. In Malé, photographs of candidates were pasted on several shop windows and walls. The CET spotted a few posters, which were defaced with spray paint, presumably by the supporters of rival candidates. Some posters were in English and a few had the word 'Reform' printed on them. Some taxi drivers were seen distributing photographed flyers of their favourite candidates to passengers. There did not seem to

be any case of over-pasting or tearing of the posters. The experts also met individual candidates in Malé and in other islands. The campaign mostly comprised house-to-house contacts, and was orderly and peaceful. Apart from one incident in Malé, there was no reported case of pre-election violence or any disturbances on the polling day.

The CET observed that as part of the ongoing reforms, the police had been separated from the national security service. This, the CET were told, had resulted in improving the performance of the police and given them a clear chain of command in discharging their duties. We were also informed that the police normally do not vote in the elections, although there is no bar against essential services personnel exercising the right to vote. The CET was informed that there was no tradition of postal ballot in Maldives.

The CET welcomed the President's proposals currently before the Special Majlis for abolishing the category of appointed members (8) in the People's Majlis over and above the 42 elected members. This is equivalent to about one sixth of parliament or almost one third of the total needed for nominating the President. The CET was of the view that this proposal, when implemented, would make the People's Majlis a fully representative body. The CET also welcomed the proposals announced by the President in his 9 June 2004 speech regarding the elected status of the offices of the speaker and deputy speaker of the People's Majlis.

The CET also welcomed the fact that the Commissioner of Elections did not require, as in the past, the services of Atoll Chiefs and Island Chiefs on polling day. However, their indirect involvement in the polling process was still visible because most of the polling staff deployed for election duties, especially in the islands, came from the Island offices. The CET recognised that the Atoll Chiefs were requested to nominate officials for election duty but the final decision to accept them or not rested with the Commissioner of Elections.

The CET noted that there was some confusion about the presence of candidates' representatives or agents in the polling stations at the closing of the poll as well as during the transfer of the ballot boxes from the polling stations to the counting centre in Malé. Some candidates were under the impression that this had been allowed whereas as the Commissioner of Elections confirmed that access was allowed to candidates' representatives at the counting process in respect of one ballot box inside the counting centre. Nevertheless, they were not allowed to have a representative inside the polling station during the course of the polling. These measures

did not elicit an overwhelmingly positive response from the candidates.

The CET received numerous complaints from candidates both in regard to the clarity and implementation of these instructions by the polling staff and the restrictive nature of access provided to their representatives. This also did not help to remove the doubts of some candidates in the voting process.

The CET felt that voter education and information needed to be enhanced as many people did not know the location of the polling stations, and a number of ballot papers were spoilt because these were not properly filled out.

The election law requiring candidates to seek prior clearance of the Commissioner of Elections for publicity material was seen by many people as unduly restrictive and unnecessary, especially because elaborate guidelines exist on the content of such items. These general guidelines should be sufficient to regulate the dissemination of publicity material by candidates during the campaign period in accordance with law.

Concern was expressed to the CET about the absence of a level playing field and role of the media in elections. Due to shortage of time, we were unable to meet all media organisations to seek further information on this aspect. The CET however received contrary reports on media neutrality and the ability of candidates to print advertisements without difficulty. We also noted that there was no independent media authority to manage publicity issues during the election period.

The CET noted that while all the atolls had equal representation in the People's Majlis, including Malé, certain constituencies which had relatively large populations were not given due weighting in the People's Majlis. The CET was informed that the current proposals before the Majlis provided for various options, including the creation of an upper house to represent the atolls, and a lower house to proportionally represent the people in the various constituencies. Alternatively, in the event of a unicameral legislature, there could be other proposals to increase the number of members of the People's Majlis in order to represent each constituency in a suitably proportional manner.

The CET noted that under the constitution women are eligible to contest the parliamentary elections. However, given the very small proportion of women candidates to their male counterparts as well as the number of women ministers in the cabinet, their

representation in political institutions needs to be enhanced. We were, however, encouraged to see a healthy gender representation in the services sector and in social and economic activities. The reforms proposals envisage, among other measures, allowing women to take part in the Presidential election. These are welcome steps.

RECOMMENDATIONS

The CET noted that the Commissioner of Elections issued a number of notices and announcements to candidates to improve the conduct of elections. These circulars invited candidates' attention to the acts prohibited on the polling day, non-infringement of the electoral right of other candidates and non-use of vehicles to transport voters on the polling day. In support of these steps, the CET recommends that the Commissioner of Elections draws up a code of conduct for candidates. This would also help in developing a code of conduct for political parties after the adoption of the proposals for multi-party democracy in the new constitution currently under consideration. The CET further recommends a code of conduct for election officials to enhance the independence of the Election Commission.

The CET recommends that the Commissioner of Elections should issue similar advisories to the police and media and draw their attention to the rules and regulations concerning their respective roles and responsibilities in the elections. Regular press briefings addressed by the Commissioner of Elections immediately before the poll could also reinforce the authority of the Commission over the electoral process and enable it to enforce its regulations.

The CET welcomes the initiative of disengaging the Atoll and Island chiefs from the election process and recommends that at future elections this trend should continue and made more effective. In this context, the CET recommends that other options should be explored for selecting polling officers instead of requiring the Atoll Chiefs to send a list of names (as most the members of the polling stations were staff from the Island Chiefs' offices). If an alternative is not available, the staff selected from one atoll should be put on duty in another atoll to make the election process more free.

The CET recommends that at the next parliamentary elections, the Commissioner of Elections may allow the representatives or agents of candidates to have occasional access to the polling stations throughout the day, as well as to the counting centre until the compilation of results is completed. The CET further recommends that at the opening and closure of polls, the candidates' representatives or agents should be allowed to witness the closing and sealing of the ballot boxes both prior to and after the poll. Each candidate or party should submit the names of agents to the election commission well in advance of the poll.

The CET observed that the complaints procedure for candidates lacked confidence. The CET recommends that the Commissioner of Elections codify the complaints procedure and notify the

arrangements for receiving complaints to all candidates well in advance of the poll.

In addition, the CET recommends that:

- The list of polling stations for each of the islands should be made public several weeks ahead of elections.
- Adequate information should be available at multiple polling stations to direct voters to the polling station of their respective island/atoll.
- The Register of Elections should be made available for public inspection at the Island Offices several weeks before the election.
- More voting booths be provided at the polling centre where voters from multiple islands are voting. Officials should also be available to direct voters to their respective booths.
- Voters resident in an island other than their island of registration be made aware of the polling centres where they are eligible to cast their votes.
- The polling and counting staff should be provided adequate training and made aware of their responsibilities. All polling clerks should wear special badges for easy identification.
- There should be one Presiding Officer (voting superintendent) and an Assistant Presiding Officer for each polling centre and one Returning Officer per constituency.
- There should be a Returning Officer for each atoll. S/he should be responsible for the conduct of the elections in the atoll, including the appointment of local staff and polling places and scrutinising the ballot boxes at the close of the poll.
- The Commissioner of Elections should appoint such Returning Officers solely on merit.
- The Commissioner of Elections should make provision for members of the civil society to be selected as polling officers.
- Instructions on how to mark a ballot paper must not be ambiguous. Consideration may be given to providing voters a stamp with a √ mark instead of a pen to indicate their preference on the ballot paper. There should also be a saving

clause in the regulations which could be relied upon to enable the admissibility of a vote where there is a technical breach but a clear intention of the voter's choice.

- The entering of the name and address of each voter on a separate sheet could be eliminated in the interest of saving time as the name is already available in the voters' register.
- Polling staff should strictly follow the timing of the opening and closing of the polling stations. Sufficient publicity should be given to the timing and voters be made aware that any late arrivals would not be allowed entry into the polling stations after the closing time.

The CET recommends that the Commissioner of Elections maintain a continuous electoral register and make it publicly available. It also recommends that the voters' lists be computerised, ideally before the next election. The requirement of photo ID for establishing the true identity of the voter should be given the protection of the law.

The CET noted that the Commissioner of Elections had made adequate security arrangements on the polling day, and police presence was not unduly visible. However, in some places there were no checks on the entry of voters into polling stations. This led to allegations of breach of regulations regarding canvassing on the polling day and the 300 feet demarcation. The CET recommends that the entry/exit points at each polling station should be controlled to maintain the queues, discourage loitering and prevent re-admission of persons who have already voted.

It was encouraging to see a large number of women voters on the polling day. We were also impressed to see a large number of women officials at polling stations. However, most of the women staff were in subordinate positions, as the supervising officers of the polling station were invariably men. The CET recommends that consideration may be given at the next election to encourage more women to contest the elections for political empowerment, and also achieve a gender balance in the allocation of polling duties among election staff, especially in senior positions.

The CET recommends that the feasibility of counting the votes at the atolls in the presence of candidates' representatives or agents should be explored to make the counting process transparent and fast tracked. The results of the counting in each atoll could then be sent together with the official documents and ballot boxes to the election commission in Malé for official announcement by the Commissioner of Elections, after adding the result of the out-of-atoll

vote which should be compiled in a similar transparent manner at the central counting station.

The measure of the freedom of expression in a democratic society is the state of its media. The CET recommends that the law should provide adequate protection and security to reporters. There should also be access to information relating to government activities which include monetary and financial matters. A code of ethics should be established for media and training opportunities provided to nurture high quality journalism.

The election regulations issued by the Commissioner of Elections do not permit speeches by candidates in public places. A fundamental right guaranteed by the Constitution should not be subject to ordinary laws. We therefore recommend a suitable amendment of the relevant law and regulations to enable candidates to exercise their democratic right of freedom of speech in accordance with article 27 of the Constitution.

The CET recommends that an independent election commission be created under the Constitution, as envisaged in the President's reform proposals, and should be funded by Parliament. The Constitution should provide security of tenure to the Commissioner of Elections. Under an independent election commission, the Commissioner of Elections should also be provided with the necessary human and material resources to enforce regulations, including monitoring of campaign funding. Further, the Commissioner's powers should be clearly defined and the Majlis ratify subordinate legislation.

Under the Constitution of Maldives citizens are equal before and under the law and are entitled to the equal protection of the law. Notwithstanding the fact that Maldives is a 100% Muslim country and has no religious minorities, consideration may be given to reviewing the religion clause in article 134 of the Constitution, thereby ensuring the principle of franchise to all the citizens.

The CET was of the view that in reviewing the current Constitution, it was important to balance the relationship and responsibilities between the Three Branches of Government, in line with the Latimer House Principles approved by Commonwealth Heads of Government at their meeting in Abuja, Nigeria in 2003. The offices of the head of the judiciary and the head of the executive should not be combined in one person. In this context we welcome the proposals for divesting the President of his control over judicial appointments and the establishment of a Supreme Court headed by a Chief Justice.

The CET welcomed the establishment of the Human Rights Commission with a clearly defined role and powers. The CET recommends that Commission be provided the cover of the Constitution in order to perform its functions independently and have a parliamentary mechanism for appointing its members.

The CET appreciated the fact that at the time of independence, Maldives inherited a very small and fragile professional structure. Its reliance on public servants for the development of political institutions was therefore quite understandable and justified. However, since Maldives has reached a stage where professionals and other trained persons are able to manage institutions without their being part of the public service, they should not be eligible under law to take part in elections while being civil servants at the same time. A neutral civil service would help the development of political parties. We urge the Government to consider establishing an independent public service commission under the Constitution.

The existence of political parties is necessary for a vibrant democracy. The need for political parties to be able to function and campaign openly is also essential in a democracy. The CET recommends that the government create the enabling environment for registering political parties in Maldives in tandem with the ongoing debate on the constitutional reforms, which includes proposals for the establishment of political parties and the enabling framework for their smooth functioning in accordance with the Constitution.

The contribution of civil society in raising democratic awareness is recognised universally. Civil Society Organisations (CSOs), if allowed autonomy, could become a valuable partner of governments in democratic capacity building and delivering services necessary for the socio-economic development of a country. The CET recommends that every support may be provided to develop the local CSOs to play an active role in strengthening democracy in Maldives.

In conclusion, the CET believes that in the absence of multi-party democracy, fundamental freedoms and separation of powers guaranteed by the Constitution and undermined by secondary legislation, Maldives would continue to have a democratic deficit. The CET further believes that while elections are an important part of the democratic process, and must be made more transparent and fair to gain wider acceptability, the ongoing debate in the Special Majlis on several key proposals is crucial for the democratic future of Maldives. The Leaders of Maldives, including the Cabinet, the People's Majlis and the Special Majlis have a historic opportunity to

begin the task of reviewing the Constitution with a view to translating the President's initiative into action as soon as possible.

The CET looks forward to an inclusive discussion and implementation of the reform package by the Special Majlis within a period of one year, as announced by the President on 24 January 2005. It also requests the Commonwealth Secretariat, the Commonwealth Parliamentary Association, the Commonwealth Local Government Forum and other international partners of Maldives to actively support the ongoing reforms process with a view to strengthening democratic institutions in Maldives.

Hulhule Island Hotel, Maldives
26 January 2005

ACKNOWLEDGEMENTS

The CET is grateful to Rt. Hon. Don McKinnon, Commonwealth Secretary-General, for allowing us to have contributed in some small measure to Maldives' journey towards a democratic and inclusive society.

The various officials of the Maldives Government were helpful and kind to us on our travels around the islands and we wish to express our gratitude and appreciation to them. We are also grateful to the people of Maldives for sharing their opinions with us and offering their best wishes and support.

We are particularly grateful to those who took time out from their busy schedules to meet with us. This includes the staff of Island Aviation Services (IAS), Inner Maldives, and Hulhule Island Hotel, whom we thank for promptly responding to our many requests for assistance.

We also say a special thank you to the Commissioner of Elections, his staff and members of the Committee on Elections. We are most grateful to Messers Bandu Saleem and Intikab Ahmed of IAS and to Mr. Mohamed Nasheed, Secretary-General of the People's Majlis, for their support and their willingness to share their local knowledge. We are also thankful to the Commonwealth High Commissions in Maldives who provided us with briefings and hospitality.

We wish to acknowledge the work of our support team - Mr Syed Sharfuddin, Mr Shem Baldeosingh and Ms Saiqa Razaq - for the tireless efforts during our mission and for providing valuable administrative and logistical support since the inception of our work.

We are also grateful for the efforts of Mr Matthew Neuhaus, Director, Political Affairs Division, Ms Nishana Jayawickrama, and other members of Commonwealth Secretariat staff in London.

CET Biographies

H.E Mr Cassam Uteem (Chairperson) is a former President of Mauritius, a member of the board of management for the International Institute for Democracy and Electoral Assistance and a founder member of the Global Leadership Foundation.

Mr Andy Becker is the Australian Electoral Commissioner and has been involved in election administration for 38 years. Immediately prior to assuming his current post he was Australian Deputy Electoral Commissioner for 3 years and for 16 years the Electoral Commissioner for the state of South Australia. Internationally he has worked in ten countries.

Hon. Mahi B Choudhury is a member of Bangladesh National Parliament continuing his second term. A BSc in Political Science from Santa Clara University, California in 1994. He is also the organising Secretary of National Executive Committee and spokesperson of the Political Party called Bilkolpo Dhara Bangladesh. He is also Chairman of Entertainment Republic, a Trustee of B. Chowdhury Welfare Trust and Director of K.C. Memorial Clinic Ltd.

Dr Hywel Francis has been a Labour Member of the UK Parliament since 2001. He was previously Professor of Continuing Education at the University of Wales Swansea. He has specialised in carers, disability, education and Welsh affairs in Parliament and was the sponsor of the successful Carers Equal Opportunities Act in 2004. He is chairman of the Paul Robeson Wales Trust, vice-chair of the Bevan Foundation and vice-president of Carers UK.

Mrs Pratibha Rao is a member of the Board of Management of the Foundation for Democratic Reforms (FDR) and Director - Coordination of Lok Satta. FDR/Lok Satta is a non-partisan people's movement, based in the state of Andhra Pradesh, working for political and governance reforms in India. It is working with like-minded organisations across the country for a national campaign for political and governance reforms.

Three staff members assisted the CET:

Mr Syed Sharfuddin (Political Affairs Division, Commonwealth Secretariat), Mr Shem Baldeosingh (Commonwealth Parliamentary Association) and Ms Saiqa Tabassum Razaq (Political Affairs Division, Commonwealth Secretariat).

ANNEX B

Atolls and Islands visited by the CET from 20 to 22 January 2005

- Haa Alifu (North Thiladhunmathee): Dhidhdhoo; Baarah.
- Haa Daalu (South Thiladhunmathee): Hanimaadhoo; Vaikaradhoo; Kulhuduffushi; Nolvivaranfaru; Naivaadhoo.
- Noonu (South Miladhunmadulu): Velidhoo.
- Baa (South Malhosmadulu): Eydhafushi; Thulhaadhoo; Fulhadhoo; Goidhoo; Dharavandhoo; Dhonfan; Horubadhoo (Royal Island Resort); Kunfunadhoo (Sonevfushi Resort); Dhunikolhu (Cocoa Palm Resort).
- Lhaviyani (Faadhippolhu): Naifaru; Hinnavaru.
- Kaafu (Malé): Hulhule; Himmafushi; Huraa; Thulusdhoo; Dhifushi.
- Laamu (Hadhunmathee): Kaddhoo; Fonadhoo; Gan.
- Gaafu Alifu (North Huvadoo): Kolamaafushi; Viligili; Maamendhoo; Dhaandhoo; Gemanafushi.
- Gaafu Dhaalu (South Huvadoo): Fiyoari, Hoadedhdhoo; Madaveli, Thinadhoo.
- Gnaviyani (Fua-mulah): Fua-mulah.
- Seenu (Addu): Hulhudhoo; Gan; Maradhoo; Feydhoo; Hithadhoo.
- Malé Capital City and Polling Stations at the National Stadium; Galorhu School, Majidiyyah School; Aminiyah school; Iskandhar school and Central Counting Centre.