



Assessment of the Opportunities and the Challenges to the Development of Political Parties in the Maldives

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International cooperation is key to promoting democracy effectively and efficiently. It also conveys a deeper message to new and emerging democracies that while autocracies are inherently isolated and fearful of the outside world, democracies can count on international allies and an active support system. Headquartered in Washington D.C., with field offices in every region of the world, NDI complements the skills of its staff by enlisting volunteer experts from around the world, many of whom are veterans of democratic struggles in their own countries and share valuable perspectives on democratic development.

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NDI would also like to thank the individuals with whom the delegation met. We spoke with a wide range of Maldivian men and women, including the President, government ministers, representatives of the opposition Maldivian Democratic Party (MDP)¹, detainees, religious activists, journalists, lawyers, civil servants, business people, fishermen, and youths. The participants were assured that their remarks would not be specifically attributed to them. In general, the delegation found that individuals were willing to speak out for the views that they believe in. The delegation was impressed by their courage and willingness to speak up for what they believe to be the best interests of the country. This commitment and courage bodes well for the long-term democratic development of the Maldives.

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ACRONYMS

CPA	Commonwealth Parliamentary Association
EU	European Union
HRC	Human Rights Commission
MP	Member of Parliament
MDP	Maldivian Democratic Party
NDI	National Democratic Institute for International Affairs
NSS	National Security Service of the Maldives
SAARC	South Asian Association for Regional Cooperation
UNDP	United Nations Development Programme

SECTION I

Executive Summary

This assessment report was prepared at a sensitive and critical juncture in the political life of the Maldives. Although the Maldives has experienced positive economic development relative to its neighbors during the past decades, similar progress in political life has been lacking. On June 9, 2004, the long-standing president of the Maldives, Maumoon Abdul Gayoom, announced a program of political reforms to be presented to the Special *Majlis*, or Constitutional Assembly. The genuine application of the principles stated in the President's speech has the potential to transform the Maldives from a state that does not allow political parties to a forward-looking, multi-party democracy. The assessment team found strong public demand for the types of reforms referenced in the President's speech, coupled with skepticism about the sincerity and pace of the reform process. A

Public demand for reform is both broad and deep. Although the President is to be commended for his reform proposals of June 9, 2004, experience with past reform proposals, the detention of leading opposition figures and perceptions of continued political intimidation have created a deep public skepticism regarding the sincerity of the reform process.

A clear, ambitious timetable for reform could help to build public confidence in the reform process. The assessment mission found that there are citizens on all sides of the political landscape who want genuine reform; it is the assessment team's hope that the government will allow these democratic reformists the political space needed to move the reform agenda forward.

Political tension in Maldivian society remains high. On July 19, 2004, the first session of the People's Special *Majlis* was held. In this first session, 23 members of the People's Special *Majlis* walked out in protest over the rejection by the Interim Speaker of demands for electing the permanent Speaker by secret ballot.² On August 11, 2004, the Criminal Court held a hearing of Ibrahim Fareed who had been charged with inciting religious disunity; this led to street protests. On Thursday, August 12, 2004, a crowd gathered at *Jumhooree Maidhaan* to demand the release of Mohamed Yoosuf Fulhu, who was brought in earlier in the day in connection with the hearing of Ibrahim Fareed. This crowd continued to grow and the protests against the government continued into the next day.

Despite efforts by many protestors to ensure that the demonstration remained peaceful—including some who were subsequently detained by the government—tensions remained high. There were demands for the resignation of the President. The situation continued to escalate and, by the time the demonstrations were over, tear gas had been used, over 185 individuals had been arrested,³ SMS messaging and internet services had been banned for a 24-hour period in the country, two police officers had been stabbed, and there had been some limited property damage.⁴ A state of emergency was declared

and 11 members of the Special *Majlis* were placed in detention. Although the state of emergency was officially lifted on the first day of the assessment mission, a curfew remained in place. At the beginning of the assessment mission, 11 Special *Majlis* members remained in detention without charge, as well as an unknown number of individuals who had been critical of the government.⁵

Based on a request for assistance from the government to UNDP and with UNDP funding, NDI conducted an independent assessment of the political situation as it pertains to the opportunities and challenges for the development of political parties in the Maldives. The request came before the August demonstrations and the subsequent government crackdown; the assessment was carried out roughly two months after these events. NDI's assessment was conducted during the period from October 9, 2004, to October 20, 2004, by a four-person delegation headed by the Honorable Dr. Zlatko Lagumdžija, former Prime Minister and former Foreign Minister of Bosnia, member of parliament and leader of the largest multi-ethnic party in Bosnia. The other members of the delegation were: Dr. Nour Farahat, an Egyptian human rights lawyer; K. Scott Hubli, the Director of Governance Programs at NDI; and Terry Hoverter, a Senior Program Officer on NDI's Asia Team. The assessment delegation met with a broad range of Maldivian society, including the President, ministers and civil servants, opposition groups in the Maldives and abroad, religious activists, journalists, business people, lawyers, civil society representatives, local leaders, and citizens. The methodology used by the assessment is discussed in detail in Section III of this report.

Summary of Findings. A number of socioeconomic issues provide a complex setting for political reform in Maldives. Under the President's leadership, the country has experienced substantial economic growth over the past 25 years. Literacy rates are well over 95 percent. In recent decades, a significantly larger number of Maldivians have had the opportunity to study abroad and have grown up with a greater degree of exposure to the outside world. This has created a sharp cultural division between the "old guard" and a younger generation, many of whom are frustrated with the lack of space that they have to participate freely in political life. There is also a major division between Male', the capital, and life in the other atolls. The potential for political intimidation by the appointed atoll and island chiefs is much greater in the atolls than in Male'. In addition, the levels of political awareness and sophistication, as well as education and levels of social development are significantly lower outside of Male'. Beyond the capital, there remains a fairly traditional, hierarchical view of the role of government. Patronage relationships are strongly engrained throughout the country, particularly in the public sector. The reach of the government, and individuals connected with the government, affects lives and livelihoods either directly or through family or business arrangements. The delegation heard from a broad range of individuals on how this dependence is used to influence voting behavior and to control political activity. The Maldives has had only limited experience with grassroots political movements.

The Maldives has traditionally practiced a tolerant version of Islam. However, many interviewees noted that they felt that Islam has been used by both the government and opposition groups as a tool in achieving their political aims. The frustration of

citizens with their inability to influence government has also contributed to the growth of Islamic fundamentalism within the country. Outward signs of a more conservative version of Islam, such as wearing the full *hijab* or a long beard, are one legal and permissible form of showing difference from, and opposition to, the current government. This has led to a concern by some that Islamic fundamentalist groups will use an opening up of the political system to incite religious division and the imposition of a narrow version of Islam that is imported from abroad.

Against this socioeconomic backdrop, President Gayoom has publicly indicated an interest in enacting a broad package of constitutional reforms. On the anniversary of the country's independence on July 26, 2004, he announced plans to amend the constitution to reflect movement towards a pluralistic democracy. In his speech of June 9, 2004, and the subsequent press release from his office, the President proposed a number of changes, including: a change to the manner in which the President is elected; changes in the separation of powers; the creation of a Supreme Court in the Maldives; and elimination of the appointment by the President of members of the People's *Majlis*.

Based on interviews, the delegation believes that support for genuine political change within the country is both broad and deep, extending well beyond the opposition MDP and the opposition leaders that have been detained by the government. A wide range of civil servants and government officials are also sharply critical of governmental leadership, although many were reluctant to discuss this openly. There is also widespread skepticism that genuine reforms will be carried out; many individuals noted that the actions of the government appear inconsistent with the content of the government's reform proposals. Above all, the detention of the opposition leaders has prompted many of those interviewed by the assessment team to dismiss the government's reform measures as cosmetic. Among the reasons that people cite for their skepticism are the 26 years of rule by the current President; the strong network of family relationships that permeates government and other aspects of political life, including control of the media; and the alleged conditioning of government employment and government benefits on political support for the government. Among the people NDI interviewed, there was also a degree of fear and uncertainty about what reforms will mean in terms of stability, but the level of aspiration and frustration is such that most of the interviewees felt that reforms must go ahead nonetheless. The demonstrations on August 12 and 13, 2004, have further polarized the political landscape and have created an extremely tense situation. The full findings of the assessment team are included in Section IV of this report.

Substantial, substantive concrete action will be required on the part of the government if the reform process is to have credibility with the public; reforms that do not allow for genuine participation by opposition voices are likely to be viewed by the public as cosmetic.

Summary of Recommendations. The President's reform agenda should be commended. However, if the government wishes to demonstrate its sincerity and restore a degree of confidence in the reform process, it will need to take prompt, bold and concrete actions. In particular, the assessment team has grouped its recommendations into five main areas:

- **Confidence Building.** If the government is to regain public trust with respect to reform, it must proceed quickly and aggressively with reforms that are viewed as genuine, rather than merely cosmetic. Treatment of the detainees has been one factor that has affected public confidence in the government's reform agenda. There is a perception among those interviewed that these detentions are politically motivated. Perceptions that detentions and threats of prosecution have been used to dissuade individuals from competing in the elections, or to silence opposition, only serves to undermine the credibility of the reform process. Individuals must be able to act politically without fear of reprisal for political engagement. Members of the special *Majlis* who are under house arrest should be allowed to participate fully in the Special *Majlis*' deliberations on constitutional reform. Similarly, if prosecutorial discretion is used to proceed against opposition leaders on corruption issues, and there is no similar action taken against government figures for corruption, such actions are likely to be perceived in the current environment as politically motivated. Other actions, such as the failure of the government to license opposition-oriented media, will also limit the credibility of the reform process in the eyes of the public. Further judicial and penal system reforms are urgently needed to guarantee compliance with requirements of the Constitution and international practice, including due process, access to legal counsel and news while in detention, and further protections against the possibility of physical and mental abuse.

Specifying a clear timetable for the enactment of specific reforms would also begin to restore a degree of confidence in the reform process. The sincerity of the government's reform efforts will be judged both in terms of their speed⁶ and their inclusiveness. The proposed timetable should include a timeframe for early multi-party elections as soon as necessary constitutional reforms are enacted. Given the public skepticism of the genuineness of the government's reform initiatives, Maldivians may also wish to request greater involvement of the international community in monitoring elections and the political reform process. For example, the government may wish to involve the international community in cases where political rights are alleged to have been abridged by the creation of a temporary international tribunal for protecting political rights during the transition process.

- **Legal Framework for the Development of Political Parties.** De facto political parties or groupings already exist in the Maldives. As a result, the question faced by the assessment team was not whether political parties should exist, but what legal framework should be used to legitimize and regulate their existence. There

are a number of factors that should be considered in legalizing political parties: 1) the commitments that political parties must make in their registration (renunciation of violence, support for the constitution, etc.); 2) registration criteria (number of members, national reach, etc.); 3) a democratic internal structure (party bylaws, election of party leaders, etc.); and 4) transparency of political party funding and financial disclosure requirements. Given the history in the Maldives of using technical registration requirements to limit political dissent—particularly with respect to the media, the delegation generally recommends a minimalist approach with respect to regulation of political parties. Moreover, while there are a number of important issues that need to be considered in the design of a political party law, the assessment team determined that many of these issues were subordinate to the larger issue of political freedom.

- **Other Changes in the Legal Environment Necessary for Effective Parties.** An effective multi-party system is impossible if people fear reprisal for speaking out against the government. As a result, a number of legal framework issues must be addressed for the development of an effective multi-party system, including: 1) creating of a civil service system that allows government employees (below the level of ministers or other defined political appointees) to be dismissed only for “cause” and protects them from dismissal on the basis of political affiliation; 2) creating a media environment that is accessible by all segments of political opinion, by licensing media outlets that represent the full range of public opinion in the Maldives; and 3) ensuring a fair pre-election environment and fair elections. Other concerns relate to the police force and the local governance structures. The delegation understands that a limited amount of time will be available to implement these types of changes; however, failure to institute these types of reforms may further limit the credibility of the reform process with Maldivian citizens and the international community.
- **Improved Mechanisms for the Enforcement of Constitutional and Political Rights.** The inability to effectively and impartially enforce constitutional rights is a significant threat to the credibility of the reform process. Separation of the judiciary from the executive is essential. Steps must also be taken to prevent the use of politically-motivated prosecutions. It was reported to the delegation that judges, in practice, require approval from the Ministry of Justice to acquit a defendant. Interviewees noted that, since the Maldives recognizes Shari’a and since Shari’a is not codified, judges are given a wide range of discretion that has the potential for abuse. Currently, constitution lacks self-implementing provisions. many political rights are subject to further definition by law, which can significantly limit the rights granted under the constitution. The appointment, tenure and salary of High Court judges should also be reviewed with a view to providing for greater independence from the executive and greater representation of lawyers with advanced training in positive law. Lastly, given the fact that many people view the court system as having limited credibility with respect to the protection of political rights, Maldivians may wish to strengthen the

credibility of these bodies by providing for international or UN engagement or observation, particularly in cases involving political rights.

- **Capacity Building.** Given the Maldives' limited experience with political movements and grassroots democratic participation, capacity building will be required to ensure an effective and ordered transition to a more open democratic and pluralist multi-party system. With respect to political parties, capacity building is required both among the citizen population and within political party leadership. With respect to civic education, there will need to be greater education for citizens on the role of political parties in a democratic system, as well as citizens' rights to engage politically and how these rights can be protected. One way to achieve this result could be to incorporate units on political and civil rights within the national curriculum.

Capacity building will also be required of party leadership. Current political movements will need assistance in transforming into democratic political parties; this applies to both government and opposition groups. In addition, a number of new parties are expected to be established, each of which would also require training. Pending steps towards the genuine application of the principles stated in the President's June 9 speech, organizations like NDI would be willing to assist the government in creating a party structure or structures, on the condition that NDI is permitted to provide the same range of assistance to parties within the full political spectrum. Topics for which parties may wish to request training include: 1) party organization and structure; 2) membership recruitment; 3) fundraising; 4) ensuring party integrity and anti-corruption mechanisms; 5) platform development; 6) strategic communications; and 7) coalition-building (particularly if many parties are registered).

SECTION II

Introduction

The Maldives has operated without legally recognized political parties since its independence in 1965. Although the Maldives has experienced positive economic development during the past decades relative to its neighbors in the region, similar progress in political life has been lacking. Its current head of state, President Maumoon Abdul Gayoom, has held office since 1978. In recent years, this lack of progress in political development has resulted in increasing tension in society and in political life. In recognition of the need for reform, the President announced a sweeping program of political reforms on June 9, 2004, to be presented to the Special *Majlis*, or Constitutional Assembly. Among other things, these reforms include the development of a political party system. As part of this reform initiative, the government requested an assessment of the opportunities and challenges to the development of political parties in the Maldives. This request was supported and funded by the UNDP, which contracted with NDI to conduct the assessment.

This introductory section provides basic background information, intended primarily for readers of the assessment report who are not familiar with the government structure or recent political history of the Maldives.

This introductory section provides basic political background information, intended primarily for readers of the report who are not familiar with the recent political history of the Maldives. It reviews the basic elements of government structure in the Maldives, and summarizes some aspects of country's recent political history. Section III describes the methodology used in conducting the assessment. Section IV contains the principle findings of the assessment team, and Section V contains the primary recommendations of the assessment team.

Government Structure. Under the constitution, the President has significant executive, judiciary and legislative authority, and is both head of government and chief of state. President Gayoom was first elected in 1978 and is now the longest-serving head of government in Asia, having survived two coup attempts (in 1980 and 1988).⁷ The President appoints the members of the Cabinet of Ministers. The President also appoints and removes the Speaker and Deputy Speaker of Parliament, as well as the Secretary General of Parliament. The President is the supreme authority for propagating the tenets of Islam in the country, and, under the Constitution, is also the highest authority for administering justice. He appoints the Chief Justice, the Attorney General, judges, the Auditor-General and the Commissioner of Elections. He has the ability to promulgate decrees, declare war and peace and hold public referendums on major issues. Local government of the administrative atolls is in the hands of each *atolhuverin* (atoll chief), who are appointed by the President. The *gazi* joins the island/atoll chief in deciding legal

matters. Each island also has its own chief, or *kateeb*, who is appointed by the Ministry of Atolls Administration in consultation with the atoll chief.

The primary legislative body, the People's *Majlis*, is composed of 50 members of parliament (MPs), 42 of whom gain their posts through nationwide elections (two MPs from each atoll and two from Male') and eight of whom are appointed by the President. Since many members of the People's *Majlis* are also government employees or, in the case of the eight MPs, are appointed by the President, the independence of parliament is perceived as limited. The power of the President to appoint the Speaker and Deputy Speaker also contributes to this perception. The People's *Majlis* has the power to pass legislation, which is sent to the President for his assent. If assent is not granted, the legislation is returned to the People's *Majlis* for reconsideration. If, after reconsideration, it is passed by a two-thirds margin, the President will assent to the bill. No taxation can be levied, except by legislation enacted by the People's *Majlis*.

Elections. Elections to the People's *Majlis* have been held at regular intervals since the nation's first Constitution was adopted in 1932. At present, both presidential and parliamentary elections are held every five years, though not simultaneously. Although de facto political groupings exist, formal political parties are not allowed. The Office of the Commissioner of Elections was established under the current Constitution, which came into effect in 1998. The Commissioner of Elections is appointed by the President, as are the members of the Committee of Elections, which advises the Commissioner. The president is nominated by the People's *Majlis* and reconfirmed in a public referendum; his authority to appoint eight of the 50 MPs is a significant power, considering that his re-election only requires the nomination of one-third of all members of the People's *Majlis*. As stipulated by the present election laws, candidates for election to the People's *Majlis* must be Muslims, Maldivian citizens, 25 years of age or older, and be able to read and write the Arabic and Dhivehi script. No candidate may contest more than one seat in any election, and any individual convicted of an offense "for which a *hadd* is prescribed in Islam or of criminal breach of trust" is prohibited from running for office.⁸ For the People's *Majlis* elections, voters cast their ballots to elect two representatives from each of the 20 administrative atolls, and two members from the capital, Male'. The system has the effect of substantially underweighting the votes of the citizens in the capital city, who have been more supportive of opposition groups. Although Male' contains nearly a third of the country's population, its two representatives constitute four percent of the vote in the People's *Majlis*.

The Constitution adopted in 1997 allows candidates to compete for the Presidency, although the People's *Majlis*, which has been largely controlled by the executive⁹, selects a single candidate who is presented to the public for ratification by referendum. In the event the candidate selected by the People's *Majlis* does not get 50 percent of the vote, the process of accepting applications for consideration by the *Majlis* restarts. Elections in the Maldives typically draw a high voter turnout. According to the reports of regional election monitors in 2003 and 2004, elections have been orderly, fair, and free of violence; however, the reports do not appear to include a comprehensive assessment of the fairness of the pre-election environment. Moreover, based on

comments from assessment interviewees, the observer's characterization of the election as fair does not appear to be a universally shared opinion in the Maldives. President Gayoom has won elections every five years since taking office, receiving a reported 90.3 percent of the vote in the last election held in 2003. He has survived two coup attempts (in 1980 and 1988).¹⁰

Organized Political Opposition. The Maldives has functioned without political parties since its independence in 1965. The President has previously claimed that a multi-party system would necessitate constitutional amendment and would disrupt the "homogeneous nature of the [Maldivian] society." The first attempt to register a political party came in 2001, when a group of 42 intellectuals and prominent social figures, including members of parliament, a former cabinet minister, business leaders and academics founded the Maldivian Democratic Party (MDP). The MDP submitted a petition to the Minister of Home Affairs to register as an official political party in February 2001, but the government withheld permission on the grounds that the current Constitution contained no provisions for rules and regulations regarding political party registration and formation.

In response to the MDP request, the then-Attorney General, Dr. Mohammed Munavvar, prepared an opinion stating the Attorney General's belief that the current constitution was not drafted with a view to accommodating political parties. Article 27 of the current Constitution guarantees the freedom to "form societies and associations, unless prohibited by law in the interest of the protection of sovereignty of the Maldives and the maintenance of public order." Moreover, Act 26/82, as it read at the time, governed the "registration of clubs, associations, parties and similar societies." The position was taken that the reference to parties did not refer to political parties, but to an earlier type of association referred to as "Maulood parties." The opinion also noted that the centralization of power in the Presidency is inconsistent with a multi-party system. The matter was referred to the *Majlis*; the *Majlis* repealed Act 26/82, replacing it with a new associations act that omits any reference to parties. The assessment team met a wide number of lawyers during the assessment mission. Privately, virtually all indicated that the decision not to allow the registration was driven by politics rather than the law. However, many also noted that the opinion was correct in noting that broader constitutional change would be necessary for political parties to operate effectively.

This decision not to allow MDP to register as a political party, along with other political developments, led the MDP to relocate its headquarters to Colombo, Sri Lanka on November 10, 2003, where it now operates in exile. The opposition does not have a comprehensive, coherent policy platform, but is supportive of democratic reform and skeptical of the government's willingness to deliver this reform without outside pressure. Because criticism of the government's lack of progress on democratic reform is one of the unifying elements of the MDP, it is unclear whether it would remain unified if political parties were allowed.

Political Unrest: 2003-2004. On September 20, 2003, violent riots broke out in Maafushi jail after an inmate was reportedly tortured to death by prison staff. When knowledge of the man's death was made public, riots erupted in the streets of Male' and several government buildings were burned, including the election office. Four additional inmates were killed when prison guards opened fire on the inmates in an attempt to quell the unrest. In February 2004, a rally organized by members of the banned MDP was halted by the government and several protestors were arrested. The political situation has remained tense since then, as the government has continued to detain many political activists who view the president's democratic overtures with skepticism.

On July 19, 2004, 23 members of the People's Special *Majlis* walked out in protest over the Interim Speaker's rejection of demands to elect the permanent Speaker by secret ballot. On August 11, 2004, the Criminal Court held a hearing in the case of Ibrahim Fareed, a popular religious leader accused of inciting religious disunity. The deadlock in the People's Special *Majlis*, the decision of the Criminal Court, and the detention of Fareed and Mohamed Yoosuf Fulhu, in connection with the hearing of Fareed, resulted in protests on August 12 and 13 at *Jumhooree Maidhaan* calling for the release of Fulhu. Despite efforts by many protestors—including some who were subsequently detained by the government—to ensure that the demonstration remained peaceful, tensions remained high, demands were made for the resignation of the President, and the situation escalated. By the time it was over, tear gas had been used, over 185 individuals had been arrested,¹¹ SMS messaging and internet services had been banned for a 24-hour period in the country, two police officers had been stabbed, and there had been some limited property damage.¹² A state of emergency was declared and 11 members of the Special *Majlis* were placed in detention. Although the state of emergency was officially lifted on the first day of the assessment mission, a curfew remained in place. At the commencement of the assessment mission, 11 Special *Majlis* members remained in detention without charge, as well as an unknown number of others who had criticized the government

Constitutional Reform. This increasing political unrest has put added pressure on the government to move forward with constitutional reform. The Constitution of the Republic of the Maldives has been amended several times since the first modern version was adopted in 1968, most recently in 1997. A number of assessment interviewees expressed frustration with the constitutional reform process that led to the current constitution, citing the fact that the process took well over a decade. Many noted that the process is more accurately referred to as "constitutional change," rather than "constitutional reform" given the perceived lack of significant forward movement in that process. Under the constitution, constitutional change is considered by a Special *Majlis*, which includes the People's *Majlis*, but also includes the members of the Cabinet (appointed by the President) who are

"Increasing the choice for the people in electing a President of the Republic and the further separation of powers are among the ideas for constitutional reform that I have proposed. . . . Likewise, our political system must further incorporate modern democratic practices."

—President Gayoom, June 9, 2004

not already represented, as well as an additional 50 Special *Majlis* members. These 50 additional Special *Majlis* members consist of eight presidential appointees and 42 elected members, two from each atoll and Male'. The exact number of members of the Special *Majlis* depends on the number of Cabinet Ministers who are not separately elected to the People's *Majlis* or one of the 50 additional Special *Majlis* members. Because of the President's appointment of number of Special *Majlis* members directly appointed by the President, because of the large under-representation of the capital (which has tended to be more openly critical of the government), and other perceived mechanisms of indirect control over the Special *Majlis*, few of those the delegation spoke with view the Special *Majlis* as a truly representative, independent body.

President Gayoom has publicly indicated an interest in enacting a broad package of constitutional reform. On the anniversary of the country's independence on July 26, 2004, he announced plans to amend the constitution to reflect movement towards a pluralistic democracy. In his speech of June 9, 2004, the President proposed a number of changes, including: a change to the manner in which the President is elected; changes in the separation of powers; the creation of a Supreme Court; and elimination of the appointment by the President of members of the People's *Majlis*. Most importantly for purposes of this assessment, President Gayoom specifically suggested providing for the "right to form and carry out the activities of political parties in accordance with the law."¹³ It was in the context of these proposed changes that the government requested that NDI conduct an assessment of the opportunities and challenges to the development of the political parties in the Maldives.

SECTION III

Methodology and Scope of Assessment

Based on interest from the government of the Maldives and the UNDP, NDI was asked to conduct an assessment of the opportunities and challenges to the development of political parties in the Maldives. The request was made after the President's speech of June 9, 2004, which outlined his intended program of political reform, including the right to form political parties. Discussions with the government, and the UNDP, which funded the assessment, began in early August, shortly before the demonstrations of August 12 and 13, 2004. Although the government response to the demonstrations and the subsequent detention of a number of key opposition figures raised issues in the minds of many individuals regarding the government's commitment to reform, NDI decided to proceed with the assessment, to support efforts by reformists in both government and opposition who wish to proceed expeditiously with needed political reform.

The in-country assessment was conducted from October 9 to October 20, 2004, during a critical period in the political life of the Maldives. In the wake of the civil unrest on August 12 and 13, 2004, the government had imposed a state of emergency in the country. Although the government lifted most of the provisions of this state of emergency at the beginning of the assessment mission, a curfew remained in effect. Moreover, a number of individuals, including members of the Special *Majlis*, remained in detention without charge. The terms of reference for the assessment were negotiated with the government and UNDP. In order to ensure an impartial assessment, NDI insisted on a number of guarantees as a condition of conducting the assessment. In particular, NDI insisted on access to political actors across the political spectrum, including those in detention. The scope of the mission was also negotiated. NDI worked with UNDP to develop the list of individuals to be interviewed; additional names were added during the course of the assessment. The delegation expresses its gratitude to the Attorney General's office for facilitating the delegation's meetings. In general, the delegation was granted access to all individuals with whom it requested to meet.¹⁴ The delegation was not permitted to see the conditions of the facilities where the detainees were being held. Instead, interviews were held in a shelter selected by the prison officials outside the prison. Some of the detainees requested additional discussions outside the shelter, as the detainees feared that the shelter might contain listening devices.

The NDI assessment team consisted of a four-person delegation headed by the Honorable Dr. Zlatko Lagumdžija, former Prime Minister and former Foreign Minister of Bosnia. The other members of the delegation were Dr. Nour Farahat, an Egyptian human rights lawyer; K. Scott Hubli, the Director of Governance Programs at NDI; and Terry Hoverter, a Senior Program Officer on NDI's Asia Team. Short biographies of the delegation members are attached (Appendix I). In advance of the assessment, the delegation reviewed a number of documents relating to the current political situation of the Maldives. Additional materials were received and reviewed during the course of the

assessment mission. A list of some of the materials reviewed by the assessment delegation is included (Appendix II).

The delegation met with a range of individuals in the course of its assessment mission—in Male’, in Kulhudufushi and Baarah in the North, and in Hithadhoo and Gan in the South. The delegation met with the individuals listed in Appendix III. The names were determined in consultation with a number of actors, including the government, UNDP and opposition groups. They were intended to provide a cross-section of political and social life. In addition to the individuals listed in Appendix III, the delegation discussed politics with a number of average Maldivian citizens, in restaurants and in the streets. On the islands outside Male’, members of the delegation met with fishermen under a shelter on the beach and with other citizens. Separately from the official assessment, members of the delegation met with opposition figures and the international diplomatic community in Colombo. Unfortunately, in the context of a short assessment mission, it is only possible to meet with a limited number of people; however, the list was designed to include a cross-section of individuals. Therefore, while the delegation made every effort to accurately reflect the sentiments that were expressed to the delegation members, the opinions represented in this report do not represent a scientific sample of public opinion in the Maldives.

Despite the politically charged atmosphere and the apparent fear that many interviewees had about government retaliation, interviewees were extremely frank about their concerns. In some cases, senior government officials were themselves critical of the government leadership. In other instances, it was clear that individuals were not comfortable speaking freely, particularly in group settings, and subsequently indicated their views to the delegation in private. A member of the delegation also observed the session of the Special *Majlis* on Tuesday, October 12, 2004.

Although the interview team asked certain questions of most all interviewees, interviews varied based on the background of the individual being interviewed. Portions of the interviews were left unstructured, in order to allow for a free-flowing discussion. All interviews were conducted off the record and participants were informed that any statements made would not be for attribution. In order to protect the identity of some of the sources of information received by the assessment team, NDI has not included all information collected by the assessment team in this report. The assessment believes the statements in the report are based on credible information. In order to put participants at ease, recording equipment was not used by the delegation. Some interviewees asked whether we could assure them that the meeting rooms were not being bugged by the government. We indicated that we could not, but that the international community would view extremely negatively any retaliation taken against individuals for what they said to the delegation. Because we did not record these sessions, the exact wording of certain quotes may not be verbatim. The assessment team believes that statements in the report attributed to interviewees accurately reflect the sentiments of specific individuals interviewed by the assessment team.

Political developments continued to unfold during the preparation of this report. Elections were called while the in-country mission was in progress. The finalization of the report took longer than expected for several reasons, including a desire to evaluate the impact of ongoing political developments and a desire to allow the government an opportunity to comment on the draft report. However, a decision was made to keep the release of the report as close as possible to the original timetable for the assessment.¹⁵

SECTION IV

Assessment Findings

Although the assessment focused specifically on the development of political parties, this issue cannot be considered in isolation from the broader political environment, and the will for political reform. As a result, the assessment team also asked numerous questions in the interviews regarding the socioeconomic context for reform, the general political situation, and the political will for reform. Because interviewees often referred to the treatment of the opposition leaders and the detainees in discussing the level of political will for the development of a multi-party system, the delegation's meetings with the detainees are also specifically discussed in the report. The assessment delegation has divided its findings into four main areas: 1) the social context for political reform; 2) public perceptions about the political situation and the political will for reform; 3) public perceptions about specific reform measures, particularly the development of a multi-party political system; and 4) the delegation's discussions with the detainees.

A. SOCIO-ECONOMIC CONTEXT FOR POLITICAL REFORM

Under the President's leadership, the country has experienced substantial economic growth over the last 25 years. Despite this progress, a few individuals stated that they did not believe that Maldivian society was ready for the legalization of political parties, and that additional social and political development was necessary before political reform and political parties would be able to be successful. The delegation found this to be the minority view. Although the delegation found a need for civic education in some areas, the delegation found that Maldivians were not only ready for a greater role in political life but were demanding that this happen quickly.

Demographics and Geography. The Maldives is a young society, and this younger generation has grown up in a different environment than the older generation. According to the 2000 census, 82 percent of the population is under 40. Yet, despite this demographic profile, there is a perception that control of the government remains firmly in the hands of the "old guard," creating a deep frustration among much of the younger generation. Surprisingly, older individuals often shared this view as well. One older man questioned why the Maldives has bothered to invest so heavily in the younger generation, if all of the decisions affecting them are to remain in the hands of the older generation. The delegation understands from several sources that the first foreign-trained Maldivian lawyer arrived in the Maldives in 1986; there are now well over 100 foreign-trained lawyers.

"We have invested so heavily in some of our younger people, why don't we have the benefit of them running our government? It is time for the next generation to help make decisions for us."
—Assessment interviewee,
in his 50s

The combination of a young society together with limited opportunities for youths has also helped fuel a problem with narcotic abuse in the country, particularly “brown sugar,” a cheap, illicit drug.

In addition to the generational divide, there is also a socio-economic divide between Male’ and the Atolls. In the 2000 census, Male’ had 74,069 people and was the only island with more than 10,000 inhabitants. The remaining 196,032 people in the country are spread out widely among the atolls. Only three islands (excluding Male’) have a population greater than 5,000, 15 islands (excluding Male’) have a population between 2,000 and 4,999. There is a large number of very small islands: 76 islands have a population of between 100 and 499; and 66 have a population from 500 to 999. The huge disparity between Male’ and the rest of the country has created a number of tensions, as well as cultural divergence. As one person indicated, “Why is Male’ protesting, when they have everything and we have nothing?” The island nature of the country creates the potential for serious conflict if social tensions in the country are not resolved. As one senior official pointed out, every island is a harbor to bring in narcotics, weapons or explosives.

Education and Political Awareness. The Maldives has made impressive progress with respect to levels of education and social development in recent decades, particularly compared with neighboring countries. Literacy is nearly universal. Although a number of primarily pro-government individuals indicated that the level of education in the Maldives was insufficient for political parties, the level of education is certainly much higher than in many countries with effective, functioning democracies. Despite high levels of literacy, there is clearly a need for more civic education, both at the secondary school level and at the adult continuing education level. Relative to most other countries, there is a lack of historical experience of ideologically based mass organizing. For example, unlike many other countries in the region, there was no independence movement, since the country was not a colony except for a brief period of Portuguese rule. Similarly, there was no significant communist movement or labor movement. The society is relatively homogeneous, culturally and ethnically; it is 100 percent Sunni Muslim.

Political awareness varies throughout the country, often depending on the issue being discussed. In some of the islands, there is greater reliance on media that is under government control, whereas in Male’ there is greater access to other sources of information. Political awareness in the islands seems to be greater on issues of international news, where government-controlled media may be more open. In the islands, members of the delegation had reasonably informed discussions with ordinary fishermen about the relative standing of Senator Kerry and President Bush in the U.S. presidential race, and about their desire to see reform of the veto power of permanent members of the UN Security Council. Although coverage of domestic political events is limited, there is no general lack of political information. There is, however, a lack of awareness about how to engage politically. Because there are limited methods of engaging politically, several individuals expressed a feeling of helplessness about their ability to influence politics. As a result, interest in some aspects of domestic news is

limited, particularly in the atolls. For example, although many interviewees in the atolls had heard about the President's reform package, they had forgotten some of the items in it and were unsure if it would make any difference to them.

Media and Sources of Information. Media has remained firmly in control of the government, with the three major print media sources being owned by government ministers or their families. One individual stated his perception that the government papers do not have real news about domestic issues, just government announcements. The individuals in the islands visited by the assessment team indicated that they felt that that most newspapers and the radio were biased in favor of the government, although many of their opinions seemed to have been colored by these media. Individuals viewed as not supportive of the government have been unable to obtain licenses for media within the country. They have now started a radio station from London, although the broadcast cannot be heard in all parts of the country. Where internet journals have cropped up without licenses, the government has banned the publications and many of the alleged contributors to these journals have been detained or charged by the government.

Given skepticism about the official media, the population has turned to other sources of information. Many received their news of the demonstrations on August 12 and 13, 2004, from family and friends and by rumor. One local government leader received a call at 2 am on the morning of August 13 about the demonstrations; he notified the police and members of the Island Development Committee the next morning. One individual in the atolls noted that he did not get word by the newspapers until three days after the events, but had heard earlier from family and friends. SMS messaging, which was disconnected by the government during the August demonstrations, is another method of disseminating information. Conspiracy theories and rumor thrive in environments where there is no access to reliable information from media. For example, some believe that the entire reform effort of the government was a ploy by the government to get opposition sympathizers to identify their allegiance publicly.

Role of Government in Society. Many interviewees indicated that it is difficult to survive in the Maldives without the goodwill of the government or a wealthy business owner or some other patron. Government controls access to health care, a significant percentage of employment opportunities, many educational opportunities, and many licenses necessary for livelihood. There is no social security system that provides people with a minimum income as a matter of law; access to government benefits is viewed by many as dependent on the good will of the government. Dependence on appointed island chiefs and atoll chiefs for licenses, employment, health and other services, creates a firm patronage structure in the atolls that makes it more difficult for candidates that are perceived to be affiliated with the opposition to compete fairly in the atolls. Employees within government are dependent on the goodwill of their superiors. Until recently, employees of the state were referred to as being employed in the government's service, rather than in public or civil service. There is a culture of the "sultan's men," with

"Everyone in the Maldives needs someone else to depend on."
—Assessment interviewee

individuals in the government accountable to the ruler, rather than the people. The National Security Service (NSS) has a large presence in society, and, until recently, the police were under the military or NSS. Many individuals were concerned that their interviews were being bugged by the NSS. Although the police are no longer under the NSS, interviewees are skeptical that much has changed.

The Business Community. Tourism is a substantial part of the Maldivian economy. One senior government official noted that the economy needed to be democratized, noting that economic control is vested in a handful of people. Only three companies are listed on the country's stock exchange, and control of these shares is not widely held. It was noted by several interviewees that some companies operate like little countries, with their own systems of patronage. Several interviewees indicated, however, that there were few businessmen with sufficient economic power to challenge the patronage resources available to the government—some pointed out that the one individual that does have this power is currently being held in detention by the government. Others who have challenged the government were perceived by some interviewees as having had their business interests dismantled over time; some interviewees cited this as a reason why the business community has been somewhat reluctant to challenge the government. However, as in many countries, the business community has a primary concern in ensuring stability and protecting the international reputation of the Maldives. They are concerned about continued civil unrest similar to that which occurred in August 2004, or about the possibility of a tourism boycott being pushed by opposition groups in exile.

Role of Islam. There is a growing gap between some popular Islamic leaders and the Supreme Council of Islamic Affairs, the government ministry that is responsible for propagating the faith. As people perceive corruption in the government and individuals know that corruption is against Islam, some individuals that the assessment team met with have begun to differentiate between the Islam of the government (“the government’s religion”) and an alternative, often more fundamentalist, version of Islam. Often, these individuals have criticized the lack of oversight over government spending and the lack of citizen participation in government decision-making. Government delay or failure to move forward in addressing issues of corruption and political reform runs the risk of strengthening more fundamentalist strains of Islam in the Maldives.

Many interviewees also expressed concern that, political parties might use Islam as a political tool. Certain individuals felt that both the government and the opposition have used religion to advance their position. Many citizens were opposed to the use of Islam as a political tool by any party, feeling that this was divisive. These people noted the historic religious unity of the Maldivian people, which adopted Islam as a national religion in 1153. Although there was concern about how political actors do and might continue to use religion for political purposes, this did not generally extend to a belief that parties themselves were in any way un-

“We should be free to talk about religion. ‘There is no compulsion in religion.’ ”

—Assessment interviewee, quoting from the Holy Qu’ran (2:256)

Islamic. Many interviewees have noted the fact that many members of the younger generation of Maldivians have had a chance to study abroad, in a range of countries. Many of these individuals have brought back different perspectives regarding Islam. There is a desire for people to be free to talk about Islam freely, and without interference either from government or from outside the country. Many expressed worry that this traditional unity about Islam would be undermined by more extremist views brought in from abroad.

Role of Women. The role of women in the Maldives varies widely, but is generally more progressive and democratic than in many Islamic societies. For example, the government should be congratulated on its accession to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), as well as the on the number of women appointments to the Special *Majlis*. Attitudes regarding gender roles vary widely with the level of urbanization and development, with traditional views being more prevalent on the less developed islands. On some of the smaller islands, the hijab is worn by all of the women, although this has not historically been the case. One of the proposed changes in the government's reform package involves removing the bar against women serving as President. Many women were in favor of removing the bar and many men were in favor of retaining it. Some men in the islands indicated that they had no concerns with women serving as ministers or in the *Majlis*, but were unsure whether Islam allowed a woman to serve as the head of a country. Another individual pointed out that the Islamic country was ruled in the past by a number of female Sultans or Queens, one reigning for roughly 30 years.

Nature of Civil Society. Although the Maldives has several civil society organizations, they appear to avoid "advocacy" that could lead to conflict with the government. For example, one of the individuals interviewed is a director and founder of an organization that works with the disabled, while another individual spent his/her time working with people suffering from drug additions. In addition, many of these organizations receive government funding, limiting their activities to programs that the government condoned. These organizations are regulated by an associations law, which was enacted in 2001, after the previous law was repealed, in part to delete references to parties. However, some civic organizations have heeded the President's call to discuss constitutional reform, particularly the Law Society of the Maldives. The Law Society prepared a fairly lengthy submission to the President on issues of constitutional reform. The submission was strongly supportive of the President's initiative in proposing reform of the constitution, agreeing that the Maldives was at a cross roads and that it needed to clearly move in the direction of greater democracy and active participation of the people. The submission specifically suggests a new article in the constitution on the right to form and join political parties.

B. THE POLITICAL ENVIRONMENT FOR REFORM

In order to make recommendations regarding political parties and political reform, the assessment team assessed the level of political will on the part of the government and on the part of opposition, for genuine, rather than cosmetic, reform. Although there is extremely strong public demand for reform, it is unclear whether senior levels of government appreciate the degree of discontent with the current system.

Public Demand for Reform. The desire for reform is nearly universal among the public; in fact, the delegation did not meet with a single individual who felt that reform was not needed. Many interviewees suspected that demonstrations by the public, such as the one in September 2003 over the death of a prisoner, as well as this year's civil unrest in August, will continue and worsen, unless significant changes are adopted. Moreover, many interviewees thought that reform was important enough to risk reprisal. This demand for change exists not only in Male', but also in the atolls. A number of senior individuals within government were surprisingly candid, in private settings, regarding the degree of dissatisfaction with the pace of reform.

The desire for reform is nearly universal among the public; in fact, the delegation did not meet with a single individual who felt that reform was not needed.

Several interviewees indicated that it did not matter whether it was the government or the opposition that delivers reform, as long as it comes soon, is genuine and is not merely cosmetic. Many of the signatories to the original MDP request for registration as a political party indicated that they did so, not necessarily out of support for any specific policy of the MDP, but because they felt that multiple parties were important and would help move political reforms forward. Many people, even those who disagree with some of the individuals associated with MDP, are appreciative of the effect that it has had in pressuring the government for reform.

*"It doesn't matter who brings change; it should be something that we do for the country."
—Assessment Interviewee*

Perceptions of the Government's Political Will for Reform. Despite the broad support for reform, there is also a high degree of cynicism regarding the government's seriousness regarding reform. A few interviewees indicated that, given the President's public commitment to the reform agenda in June, it would be difficult for the President to back out of this reform process without serious damage to his reputation and the reputation of the Maldives. However, although most interviewees thought that the reforms would go ahead, they also felt that reforms would move forward at an extremely slow pace and would be largely cosmetic. Many interviewees cited the long tenure of the current government as incriminating, noting that the government has had plenty of time to reform already, but has chosen not to do so. Many interviewees, including opposition, pointed to the treatment of opposition voices by the government as evidence of a lack of willingness to engage in genuine reform. A few individuals indicated their belief that the

some citizens feel that the President lied to the people—encouraging the public to go out and discuss constitutional reform in public forums—and then detaining many of the people who criticized the government in these forums. A few interviewees went so far as to suggest that there was never any real political will for reform and that the President’s reform proposals were part of a plan to trick opposition-oriented individuals into publicly declaring their political leanings. Virtually all individuals with whom the delegation met noted that the government is not monolithic. There are hardliners and reformers. There are also divisions along family lines; observers noted the existence of two camps—one composed of the President’s brothers and the other composed of his in-laws.

In meetings with government members, the assessment team found a mixed picture. Although there are individuals within government who are genuinely interested in reform, their level of influence on fundamental decisions by the government remains unclear. The assessment team met with a number of people who are generally considered as the more “hard-line” elements within the government. Although these individuals do not appear to represent the views of the broader population, they have control over several key ministries. Often, these hard-line elements emphasized the strict legality of a government action, rather than whether that action is the best legal option in the interests of pursuing reform or whether the action is in the best interest of the people.

The majority of the interviewees feel that the government lacks credibility with respect to reform. They ask how the government can be serious about reform, if it has had 25 years to reform and has not done so. They also ask how it can be serious about reform if it invites people to discuss reform, and then detains those who are critical of it. Bold action will be required by the government to build confidence in any reform process.

There was often unwillingness by hard-line elements to publicly recognize instances in which informal pressures and intimidation can subvert the democratic process. They often seem to view actions as legitimate as long as they are technically legal—regardless of whether a law is viewed as legitimate by the public. The discussion on the secret ballot in the election of Speaker reflects some of this tension. More hard-line elements sought to argue that their actions were technically legal in having the assembly vote (by a public show of hands) on whether to hold a secret ballot for the Speaker of the Special *Majlis*. One individual, who is often viewed as one of the more hard-line elements within the government, refused to recognize why individuals may want a secret ballot. He minimized concerns about political retribution and intimidation. When told by the assessment team that remarks in the interviews would not be directly attributed, he indicated that, “there is no point in not being quoted for attribution, if you are truly interested in transparency.”

Political Will for Reform within the Opposition. The MDP has been the most vocal critic of the government and many people credit the MDP with creating pressure for the government to reform. There are clearly voices within the MDP that are pushing for democratic change. The most common demands heard from the MDP representatives were: 1) immediate release of the detainees; 2) immediate legalization of political parties; 3) postponement of the *Majlis* elections, which would then be conducted with political

parties; and 4) establishment of a clear timeline for further reform. Public perceptions about the MDP were mixed, particularly on whether the opposition was interested in changing the rules of the game or on coming to power. Most interviewees seemed to appreciate the effect that MDP has had in maintaining pressure for reform, even if they disagreed with some of their highly personal attacks on government officials and with their inflammatory rhetoric. Some of the members who signed the original MDP petition for registration of MDP as a party have indicated that their support for the petition was to support the creation of an opposition rather than their support of the MDP in particular. Perhaps the most common perception of MDP was that it does not have a well-defined policy agenda, other than opposition to the current government.

Like the government, the MDP is not monolithic, and there are a variety of perspectives within the opposition. Unlike the government, there is no clear leader of the party to provide the party's official position. There is a Spokesperson, but the opposition does not always appear to speak with a single voice. In some instances, the opposition representatives sought to dissociate itself from some more extreme statements in the London-based tabloid, the Dhivehi Observer, noting that it has no formal connection to the party. These opposition representatives noted that they cannot limit what another member of the MDP's governing council says in his or her private capacity. In other instances, opposition representatives associated itself with these more extreme statements and attacks in the Dhivehi Observer. As part of its further development, the MDP will need to determine who speaks for it and whether the party associates itself with highly personal attacks on government officials made in the Dhivehi Observer or not. It will also need to state a clear platform for the party, which extends beyond pointing out the deficiencies and problems with the current government. The limited development of MDP as a party is understandable, since it has not been able to operate legally within the country. Nonetheless, as political space opens up, the MDP must take steps to move from an opposition movement to a genuine political party. This means the development of a clear leadership structure and the designation of a party leader who is able to negotiate on behalf of the party and represent its membership.

“Many people are for the MDP, only because they want a change. The MDP doesn't have a particular policy agenda, other than opposition to the government.”

—Assessment interviewee

The Impact of the Demonstrations on the 12th and 13th of August. The events of August 12 and 13, 2004, were unprecedented in history of the Maldives. Although some parallels can be made with the demonstrations in September 2003, many interviewees noted a difference in magnitude and feel. Many interviewees felt that the August 2004 demonstration marked an important watershed in the political history of the Maldives. Demands made by a public gathering were listened to and acceded

The tragedy of August 12th and 13th is that people began to lose faith in both sides. People are angrier than ever before; even though many are also more scared of taking action. It will be difficult for many to trust the government's calls for public discussion again.

to by police, demonstrating the power of mass action. This convinced many of the hard-line elements that the government had gone too far in opening the door for citizen debate. At the same time, the severity of the government response to what were largely nonviolent protests served to radicalize elements of the opposition as well.

One interviewee noted that the events of August have left people more frightened of the government, but also much more angry at it. Among a few elements within the opposition, the level of rhetoric is inflammatory; some have labeled the government as Saddamist and Hitlerite. There have also been direct personal attacks on major government figures. Hard-line elements within the government have also used inflammatory rhetoric—portraying elements of the opposition as fundamentalist Islamic terrorists to some audiences, and, to other audiences, as Western-influenced individuals pushing to introduce Christianity into the island. Elements of the Islamic camp are alleged to have called the President apostate.

A few individuals cited the nature of this inflammatory rhetoric as a reason why the Maldives is not mature enough for multi-party democracy. Despite some extreme rhetoric from the margins, highly inflammatory rhetoric does not appear to be the norm. One delegation member observed a session of the Special *Majlis*. Although there were sharp differences of opinion expressed, the parliamentary proceedings were more respectful than in many developing democracies, with individuals waiting patiently until they had the floor. Members of opposition groups used respectful terms in addressing the Interim Speaker. Even the detainees were able discuss the political situation rationally and without resort to personal attacks on individuals.

While there is a level of inflammatory rhetoric and personal attacks by some hard-line elements on both sides of the political divide, this rhetoric has been fueled by a lack of room for opposition voices to be heard.

International Pressure for Reform. International pressure for reform seems likely to grow, unless the government undertakes concrete reforms. On September 15, 2004, 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 [Maldivian] government and other officials... from entering the EU." The EU Parliamentary Resolution has had an impact on the government's actions, although this may have been reduced by an expectation that the nonbinding Parliamentary Resolution will not be acted on. However, the EU Parliament Resolution has placed greater international attention on the situation in the Maldives. Shortly before the assessment mission took place, an EU delegation visited the Maldives. During the course of the assessment mission, in addition to the NDI delegation, there were delegations from Amnesty International and the UK Branch of the Commonwealth Parliamentary Association. The US Ambassador and staff of the US Embassy visited the Maldives and also met with the detainees shortly before the NDI in-country assessment mission. The Secretary General of the Commonwealth arrived shortly after the NDI delegation.

It is expected that all of these organizations will follow events closely in the Maldives. The Maldivian government has recently acceded to certain international human rights conventions, and interest in the government's compliance with these agreements is also likely to continue. As evidence that the government is concerned about its image in the international community, many cite the government's retention of the communications firm Hill & Knowlton to advise it on communications matters. Opposition groups have been critical of the amount of money spent for these services, and whether the communications firm has sought to improve the image of the Maldives internationally, or the President and the current government.

Expectations Regarding Timing and Process for Constitutional Reform.

Despite the strong public demand for expeditious, concrete reform, the assessment team found significant differences between government and opposition representatives regarding the timing of reform. The government has not announced an official position on the timetable for constitutional reform. During the in-country assessment mission, the government set elections for the People's *Majlis* for December 31, 2004, to be conducted under the current constitution. This would mean that the next parliamentary elections, presumably under a multi-party system, might not be held for another five years. Opposition figures note that the previous constitutional reform process took 17 years, with meager results. It is clear that substantial delays in the reform process will be interpreted by the opposition, and likely by a substantial range of the population, as a lack of political will for reform. Many interviewees stated their belief that the government is stalling for time.

There were also concerns about the process to be used for constitutional reform. Several interviewees noted that they felt that the structure of the Special *Majlis* discourages reform. Sixteen of the Special *Majlis* members are appointed directly by the President. The number of direct Presidential appointees is further augmented by the Cabinet, which is also appointed by the President and also sits in the Special *Majlis*. The elected members give a disproportionate voice to the atolls relative to Male', which has only four of the 94 elected members, even though its population is close to 30 percent of the country's population. Many have questioned the fairness of elections in some of the atolls, given the ability of the presidentially-appointed atoll and island chiefs to influence these elections.

C. PERCEPTIONS REGARDING SPECIFIC POLITICAL REFORM ISSUES

There is relatively little disagreement on the broad outlines of the political reform. Instead, the disagreement between government and opposition focuses more on the pace of reform and on ensuring that the reforms will result in genuine changes in the political system. Discussion with interviewees focused both on perceptions of the context for political parties and possible regulation of political parties.

1. *The Context for Political Parties*

Although the assessment focused on political parties, many of the interviewees noted that political parties would ultimately be effective only if a broader range of reforms were made. In particular, interviewees raised the following four issues: increased separation of powers, improvement of election processes, more independent mechanisms for the protection of political rights, and civil service reform.

Separation of Powers. Interviewees consistently noted the need for clear separation of powers. There was virtually unanimous agreement that the current system overly centralizes power in the hands of the President, and even the President's reform proposals call for a more clear separation of power. One interviewee indicated that, although the country changed its name from a sultanate to a republic, the degree of centralized power vested in the head of state has changed little from the days of the sultanate. Many pro-government supporters discussed the possibility of a Prime Minister position, and a separation between the head of state and the head of government. Most respondents felt that the country was too small to warrant the extra layer of staff and bureaucracy of a Prime Minister, asking whether there would be a need for a Prime Ministerial residence in addition to the Presidential residence. Given the degree of skepticism about the government's reform proposals, many individuals with whom the delegation met noted how the Prime Minister position could be misused. Several interviewees thought that a Prime Minister would allow a President to continue to exercise power behind the scenes, but also allow the President to have a public figure to blame if his policies were not popular. The Law Society's paper on constitution reform recommended the retention of a presidential system, although it also suggested reducing the powers of the presidency and adding checks against the abuse of Presidential power.

“What is needed is a change in the system, not just a change in the government.”

—Assessment interviewee

There was nearly unanimous agreement that the *Majlis* and the judiciary must be made more independent from the executive. Interviewees supported the elimination of the appointed members of the *Majlis*. They also noted the underrepresentation of the capital, noting that, although Male' represents roughly 30 percent of the population, it has only two of the 42 elected seats in the *Majlis*. A few *Majlis* members noted that the Speaker and Deputy Speaker of the *Majlis* should be elected by secret ballot of the members, rather than appointed by the President. The method of electing the Speaker of the Special *Majlis* (by open vote or by secret ballot) was a critical issue at the time of the assessment; as a result, several interviewees cited the need to protect against informal methods of intimidation by the executive branch in the *Majlis*. Many of those questioned saw conflicts inherent in being simultaneously a civil servant and a member of the *Majlis*. In his paper on constitutional reform, Professor Mohammed Hasim Kamali observes that some 80 percent of the members of the *Majlis* are also civil servants.¹⁶ A few individuals noted their belief that it is useless to give members of the *Majlis* the right to question ministers if, after the plenary session, they have to go to work for the very minister they questioned.

Discussions regarding constitutional reform of the judiciary focused on how judicial reform could better protect political rights. The interviewees highlighted a number of issues. Many lawyers noted that there is too much room in the law for interpretation. Some noted that the constitution is filled with provisions that say “as defined by law” or “in accordance with the law.” Many of these laws are themselves elaborated on by rules or regulations. Several barristers indicated that these qualifications on constitutional rights allow the executive, and an executive-influenced *Majlis*, to dilute these rights. Several jurists and advocates noted that Shari’a, in particular, allows for a broad range of interpretation. Interviewees cited other practical limitations on the judiciary. Some interviewees noted the lack of judges on the High Court with substantial experience in positive law, as well as Shari’a. Several interviewees indicated that the salary of High Court judges is significantly lower than attorneys in the private sector and viewed this as a reason for a lack of positive law expertise on the High Court.

Elections. Elections for the People’s *Majlis* were announced during the assessment mission. The elections process was viewed by many political stakeholders, including those within the government, as in need of serious reform, with many questioning the credibility of the elections that are scheduled for December. One individual characterized the election process as an “informal system that enables the government to get its person elected.”

The delegation believes that any monitoring of the elections will not only need to monitor events on election day, but will also need to closely examine the pre-election environment in determining the credibility of the elections.

Interviewees expressed several concerns about the pre-election environment. Several of those interviewed believe that the government, through the Minister of Atolls Development, canvasses the atolls in the pre-election period to push certain individuals to run as candidates and discourage others from running. Meaningful elections cannot take place if the pre-election environment is characterized by political intimidation and the detention of leading opposition figures without charge. Many interviewees indicated their belief that the detentions were intended to dissuade certain candidates from competing in the *Majlis* elections, and noted that government control of the press limits the fairness of elections. It is essential that any international monitoring of the electoral process also address the nature of the pre-election environment.

Similar concerns were expressed by interviewees about the conduct of elections. Interviewees from both inside and outside government indicated their belief that the Election Commission is heavily influenced by the President’s office. One interviewee categorized the electoral process as “directly and heavily influenced by the President.” For example, the Election Commission prepares the notification for candidate applications and receives candidate applications for approval, but its decisions on these matters are reviewed by the President’s office. Therefore, the government, in effect, can influence the decision as to who is on the ballot and can help ensure that those who are

opposed to the government are not selected as candidates in parliamentary and presidential elections.¹⁷ Some interviewees indicated their belief that there is no effective appeals process for individuals who are turned down from being a candidate, and that the government turns down opposition candidates on technicalities. The Election Commission also prepares the voter list, which also has to be approved by the President's Office.

Many interviewees cited the role of the presidentially appointed atoll chiefs in the conduct of election. While the Election Commission has the authority to administer the elections, it does not have adequate human resources to carry out the elections. Therefore, the atoll and island chiefs administer the elections at the island/atoll level and transport the ballot boxes to the election commission following the election. Until the ballot boxes reach the Election Commission, the commission has no control over the security and integrity of the ballots or the ballot boxes. Several interviewees indicated that the atoll and island chiefs and their associates are present in the election areas to ensure that the elections go "according to plan." Many citizens with whom the delegation spoke indicated a lack of faith in the electoral process. Some interviewees mentioned improprieties by the atoll and island chiefs on election day, including stuffing ballot boxes, reviewing citizens' ballots to make sure there were no "mistakes," and using of undue influence. A range of individuals indicated that if they vote against the government-backed candidate, they would find it difficult to obtain government services such as medical attention, government loans, necessary licenses, etc. As one interviewee put it, "I may not be put in jail, but I would be on the black list."¹⁸

Protections for Exercise of Political Rights. The legalization of political parties will accomplish little without effective constitutional protections for the exercise of political rights. In addition to strengthening judicial independence, many pro-government officials and reformists mentioned the need to strengthen other mechanisms for protecting human rights, including political rights. Many interviewees referred to the Human Rights Commission (HRC) as an example of the lack of protections for human rights. The HRC is a quasi-independent organization established following the September 20, 2003, prison death. According to its regulations, the HRC's objectives are to protect, preserve and promote human rights in the Maldives in accordance with Islamic law, the Constitution, and international treaties ratified by the Maldives, and to assist private associations promoting human rights.¹⁹ To date, the HRC's activities have been generally limited to fact-finding missions concerning prison abuse. Although the HRC was created to be an independent body, the President maintains significant control over it. Article 4 of the HRC Regulations stipulates that the President maintains the right to appoint the Chairperson and the members of the Commission. In addition, the President has the power to dismiss the Chairman at his discretion (Article 9). As a result, the HRC lacks sufficient political space to fulfill its mission. Several individuals mentioned, as an example, the HRC press release criticizing the conditions of detention of the detainees, including members of the Special *Majlis* and a member of the HRC. Interviewees indicated that the HRC press

"The current constitution gives more rights that it does remedies."

—Assessment interviewee

release was originally denied publication by local media—a decision that was later reversed after the press release was made public outside the country.

Civil Service Reform. Many government and opposition representatives cited the need for civil service protections. They noted that a professional civil service system does not exist, and that government jobs are widely perceived as being a reward for political loyalty. Many cited the need to put in place protections for government employees so that they could be dismissed only for “cause.” Others cited the need for protections to ensure merit hiring, so that ministry jobs are not distributed as patronage. In the words of one individual, “even the office boy is a political appointee.” Nonetheless, the delegation met with many government employees who were surprisingly critical of the government, particularly in private settings where they felt they could express their views in confidence.

“Even the office boy is a political appointee.”
—Assessment interviewee

Civil service reform was also seen as necessary to protect expertise within the ministries in the event of a change in government. Some interviewees feared that the introduction of political parties could result in problems in government administration. Many individuals with whom the delegation met noted that there are simply not enough qualified individuals in the country to staff the ministries if each change in government requires a change in ministry personnel. Interviewees disagreed as to where the distinction should be drawn between political appointees (who would be subject to appointment by the government and who would typically change as a result of a change in government) and career civil servants (who would remain in the event of a change in government). However, most people believed that the number of political appointees to a ministry should be limited to the minister and perhaps one or two deputies, depending on the size of the ministry.

2. The Regulation of Political Parties

The delegation’s mandate was to assess the opportunities and challenges regarding the development of political parties, rather than to make recommendations on the specific content of a political party law. Discussions with assessment interviewees regarding the role of political parties were wide-ranging, but tended to center on the following issues: 1) general perceptions regarding political parties; 2) the relation between legalization of political parties and conflict, particularly on small islands; 3) the issue of Islamic-based parties; 4) the scope of regulation of political parties; and 5) the need for civic education regarding political parties.

General Perceptions Regarding Political Parties. There are a range of opinions regarding political parties, depending in part on the interviewee’s level of exposure to the functioning of political parties in other countries. Many observers noted that there are de facto political parties in the Maldives, even if they are not legally recognized and regulated. Some suggested that family affiliations have played a role in Maldivian

politics that are analogous, in their opinion, to political parties. When asked what parties would form if parties were legalized tomorrow, almost all interviewees thought that the MDP would register as a party, as would one or two government parties. Some also thought there might be one or more parties that identified themselves as Islamic parties. A small number of interviewees also thought that there might be a Green party. Occasionally, individuals noted that parties might be drawn around specific industries such as the tourism industry or the fishing industry, perhaps indicating confusion about the roles typically played by political parties and those played by interest or pressure groups. Some interviewees expressed concern that parties would further fragment political life. Several reformists and MDP supporters indicated that the MDP would become less unified after the legalization of parties, since the struggle to form political parties has been a unifying factor for the MDP. Similarly, some suggested that government forces were unlikely to remain as a single party, absent the unifying force of the President.

Given the skepticism that many interviewees had regarding the government's commitment to reform, many suggested that the government would form two parties, both of which would take direction from the President, but which could be used by the President to present a democratic face to the outside world. There are mixed perceptions about whether parties will in fact be adopted as part of a political reform process. Several interviewees indicated that the President would like credit for proposing the issue, but that he may seek to influence members of the Special *Majlis* to reject the proposal for establishing political parties if he believes that this would be in his interest.

Parties and Conflict. The most common argument against the development of a political party system was that parties would fuel conflict, particularly on smaller islands. This argument has repeatedly been used by the more conservative elements in the government, and was also raised as a concern by the President in his remarks on the proposal to introduce political parties. Often interviewees—particularly in the smaller islands—would mention rivalries that developed regarding past elections of atoll chiefs. Others noted rivalries among sports clubs on small islands. Given that families have been the main organizational unit on these islands and that individuals in government positions have controlled access to wealth, several interviewees were concerned that political parties would heighten conflict among families on small islands, particularly on islands where there is less than 500 or 1,000 people. Some noted instances of low-level conflict between two wards or sports clubs on a single island.

“Some families are still divided as a result of the election of atoll chiefs in the 1970s.”
—Assessment interviewee

Often, when these examples were discussed further, the delegation noted that these conflicts stemmed from the “winner-take-all” nature of the contest, rather than the organization of people along shared interests and common concerns. For example, although there was concern about electing island chief through multi-party elections, there was less concern about multi-party elections of an island council that would include representation by several parties, and which would either have a rotating presidency or

supervise a nonpolitical island administrator. Similarly, the conflicts caused by the election of atoll chiefs had little to do with political parties (since these were not multi-party elections); it had more to do with the fact that the winning party controlled access to government services and benefits. If the winning party in an election is given sole control over the distribution of government resources and benefits, and the losing party is completely disenfranchised, conflict is likely to result. To some extent, the existing conflict in the Maldives, as expressed in the demonstrations of August 2004, can be interpreted in this light. Many people would characterize the current system as a one-party system, rather than a no-party system, where the party in power controls distribution of government benefits and services.

If implemented well, political parties could be an important mechanism for diffusing conflict within the Maldives. Minority opposition voices are less likely to resort to conflict if there is a viable mechanism for representing their interests in the *Majlis* after losing an election. Civil service

Many of the concerns raised by some interviewees regarding the potential for conflict seemed to have less to do with the participation of political parties, and more to do with the “winner-take-all” nature of the contest.

protections and more definite standards for the distribution of government benefits can further mitigate the potential for conflict by reducing the “winner-take-all” characteristics of the Maldivian political system. Moreover, there is room for a range of options that might be considered for smaller islands. In very small islands, where individuals can be consulted directly, political parties may not be needed. One interviewee advocated a system of direct democratic decision-making for the smallest islands, where decisions would be taken by a vote of the island population. For slightly larger islands, the interviewee suggested governance by a representative council, supervising a nonpartisan island administrator.

Political Parties and Islam. Very few individuals saw any tension, per se, between Islam and political parties. However, many were concerned about the potential for political parties to deepen religious division within the country. In particular, when

asked about what parties would form if they were legalized, a large number mentioned the possibility of an Islamist party. Some interviewees noted that both the government and the MDP currently develop their identity around an individual

Both the government and MDP parties must move away from developing their identity around an individual, or around opposition to an individual. Both will need to develop a clear ideology and platform. Unless this happens, the only likely party that will be based on ideology will be a group advocating a fundamentalist version of Islam that is somewhat at odds with traditional Maldivian culture.

—or around opposition to an individual. As parties are introduced, both parties will need to develop a clearer ideology and political platform. Until this happens, the only likely party that would be ideology-based, would be one founded on a more fundamentalist version of Islam. When asked about this possibility, many interviewees felt that the creation of an Islamist party could be divisive in the Maldives. They noted that, since the

country is 100 percent Sunni Muslim, all parties would naturally be Islamic. When asked whether “Islamist” parties should be allowed to register as such, most seemed to think that parties should not be permitted to advocate a particular version of Islam.

The Scope and Nature of Regulation. There were several discussions with interviewees regarding the scope of political party regulation. Most interviewees thought that it was appropriate to require political parties to agree to several conditions upon registration, such as the renunciation of violence and intimidation and swearing to uphold the values and principles of the Constitution. Given the potential for a large number of parties, most commentators thought it appropriate to require a specified number of signatures for registration. Many expressed a desire for internal democracy within parties, and responded positively when asked whether parties should be required to have a clear platform, to have regular party Congresses to elect party leadership by secret ballot, and to have mechanisms for rank-and-file party membership to set the direction of the party.

When asked more specifically about political party regulation, several interviewees were concerned about the use of regulation and registration requirements to limit opposition and dissent. Many cited the way that the media licensing requirements have been used to limit media licenses, so that all main media outlets are controlled by ministers or their families. There was a concern that technical legal requirements could be used as a tool by the government to suspend or cancel the registration of opposition parties. Many of the lawyers with whom the assessment team met mentioned how constitutional rights have been watered down by implementing laws, which have, in practice, narrowed the rights and freedoms granted in the Constitution. There was concern that this not be allowed to happen with respect to political parties.

Most interviewees were supportive of including provisions regarding transparency of funding. In some cases, there were concerns that money from foreign sources might be used to support political parties. Many were concerned about corruption in the political party system. However, there was also a strong concern about the use of state resources by the party that is in control of government. If strict controls are placed on the funding of political parties without equally strict protections against the use of state resources to benefit governing party, the advantages of incumbency will be hard to overcome. Many people expressed concern about the practice of “vote buying” or other inducements by a political party to vote for them. In general, the assessment team feels that the best way to deal with this issue is to ensure the integrity of the voting process, so that an individual’s ballot choices are confidential. “Vote buying” is often an inefficient form of influencing elections, since voters are able to accept gifts from one or more parties and can vote the way he or she chooses without it being known how they in fact vote. Opposition members often expressed their view that charitable giving by wealthy candidates is the only way that the opposition can compete with the use of state resources by the government party.

Need for Education About Parties. There is a significant need for civic education regarding political parties, both within political circles and more broadly throughout the citizenry. Many ordinary citizens developed their views about political parties from neighboring states; a few expressed concerns about the political party system in Bangladesh. As in many parts of the world, many interviewees appeared to have a slightly negative view of parties, viewing parties as potential vehicles for advancing individual interests, rather than representing the public. There were also questions regarding the role of political parties, relative to advocacy and lobbying organizations. The assessment team met with a number of teachers, and discussed ways that democratic principles, and the role of political parties, could be introduced into the national educational curriculum. Several discussions noted the importance of combining more abstract discussion and readings about democracy and political parties, with hands-on, active participation by students. The potential usefulness of student government, as a way of building a spirit of citizen engagement and teaching the basics of government, was also discussed.

“There should be education so that political parties don’t bring conflict among us.”

—Assessment interviewee

Significant education and training will also be needed among political party leadership and members. Given the lack of formal political parties, it was difficult for many individuals to answer questions about the types of training that political parties would need. A number of potential training topics were mentioned. These include 1) party organization and structure; 2) membership recruitment; 3) fundraising; 4) party integrity and anti-corruption mechanisms; 5) platform development; 6) strategic communications; and 7) coalition-building (particularly if many parties are registered). In general, it was thought that capacity building in all of these areas would be helpful, if training was provided impartially and across the political spectrum.

D. DISCUSSIONS WITH THE DETAINEES

While the purpose of the assessment was not to evaluate human rights abuses or examine the Maldivian government’s compliance with international human rights conventions, interviewees repeatedly mentioned the treatment of the detainees as a challenge to the encouragement of open political discussion and the development of political parties. In addition, as the public views many of the detainees as key opposition figures, their treatment directly bears on the struggles that would be faced by opposition political parties. For these reasons, the delegation feels it is important to specifically address the question of the treatment of the detainees. NDI insisted on access to the detainees as a condition of conducting the assessment. The request was granted, subject to certain conditions—namely that the discussions would focus primarily on their views on the opportunities and challenges for establishing a political party system—rather than on the specifics of their particular case. The list of detainees who the delegation wished

to interview was given to the government and access was granted to all of those individuals.

The delegation met with seven of the detainees from the August demonstrations at Dhoonidoo prison island.²⁰ No strict time limits were placed on the delegation's meetings with the detainees; each lasted approximately 45 minutes. The meetings were held just outside the formal prison structures, under a permanent shelter that appeared to be set up for personal visits. The tent was easily observable by the guards; several sat nearby during the meetings, just outside earshot. The detainees appeared comfortable speaking with the delegation and did not decline to answer any questions. However, some of the detainees requested additional discussions outside the shelter, as the detainees feared that the shelter might contain listening devices. The delegation felt that the discussions with the detainees were very candid, and that the detainees made some important points concerning the development of political parties in the Maldives.

The delegation expresses its deep concern regarding the treatment of opposition leaders in detention and believes that it is not conducive to the democratic development that has been publicly advocated by the government. Although some of the investigations of the detainees had been completed, none of the detainees had been charged with any crimes. Many had been held in solitary confinement for over 60 days. The Human Rights Commission of the Maldives has reported that the detainees were not permitted reading materials other than the Qu'ran; access to doctors and family members was denied; solitary confinement was the primary method of containment for the detainees; and physical abuse was utilized. The delegation heard some of these complaints directly from the detainees. One of the detainees interviewed, Gasim Ibrahim, was concerned that he was being improperly medicated. Mr. Ibrahim had been denied access to his personal doctor, and a request for a blood sample was reportedly denied. Based on a review of videotapes of speeches made by Mr. Ibrahim prior to his detention and based on direct observation of his condition, the delegation expresses its concern regarding his health and the lack of access to his own doctors. Although Mr. Ibrahim has since been transferred to house arrest, the threat of similar treatment for speaking out against the government is likely intended to create a chilling effect on political expression.²¹

Politically-motivated detentions are inconsistent with the development of an open, pluralistic, multi-party political system. While several of the detainees NDI met with were transferred to house arrest or released after the conclusion of the assessment mission, four members of the Special *Majlis* have subsequently been charged with treason. It can be expected that this may have a chilling effect on opposition participation in the December 2004 elections. Similarly, the legal proceedings against opposition leaders who have been charged with treason must not be manipulated in order to influence opposition participation in the elections.²²

SECTION V

Assessment Recommendations

The assessment delegation recognizes that change within the Maldives will ultimately need to come from the Maldivian people. External delegations and advisers can only offer suggestions and advice, based on international comparative experience and good practice. They can also offer an international perspective on how reform efforts within the Maldives are likely to be perceived by a wider international community. In the spirit of international cooperation and based on its discussions and the varied experiences of the delegation members, the assessment team makes the following recommendations.

A. CONFIDENCE BUILDING AND DEVELOPMENT OF AN ENVIRONMENT CONDUCTIVE TO CONSTRUCTIVE DIALOGUE ON POLITICAL REFORM

As previously discussed, the government reform process lacks credibility with many Maldivians. Although virtually all Maldivians are supportive of reform, there is a belief that government will simply dictate the reform that it wants, which will be limited to primarily cosmetic changes. In order for the government to regain credibility with respect to the reform process, the government will need to take steps towards concrete confidence-building actions. The assessment team offers the following suggestions regarding confidence building in the reform process.

“The success of the reform efforts may ultimately depend on the credibility of the reform process.”
—Assessment interviewee

Release Remaining Political Detainees. Detentions that are viewed as politically motivated are extremely damaging to the credibility of the reform process. Opposition figures must be able to act without fear of reprisal for political engagement. For example, members of the Special *Majlis* who are under house arrest should be allowed to participate in the *Majlis*' deliberations on constitutional reform. Candidates for the *Majlis* elections must be able to campaign freely. The threat of transferal from house arrest back to prison, or threat of imposition of charges of treason, will be perceived in the current climate as an effort by the government to silence opposition, and will not help restore confidence in the process. Moreover, further judicial and penal system reforms are urgently needed to guarantee compliance with requirements of the Constitution and international practice, including due process, access to legal counsel and news while in detention, and further protections against the possibility of physical and mental abuse. Similarly, if prosecutorial discretion is used to proceed against opposition leaders on corruption issues, and there is no similar action taken against government figures who are also believed to have engaged in corrupt practices, such actions are likely to be perceived in the current environment as politically motivated.

Specify a Clear Timetable for Reform. Specifying a clear timetable for the enactment of specific reforms would also begin to restore a degree of confidence in the reform process. The timetable must be aggressive, and should have benchmarks for interim accomplishments, as well as an outer limit for the entire process of reform. Ideally, confidence in the process would be built by reaching a negotiated agreement with opposition leaders on the timetable for reform. Although a number of larger-scale institutional changes (such as a strengthened, impartial judicial system) will take time to fully implement, these longer-term reform proposals must not be used as an excuse to stall the entire reform process. There are a number of actions that can be taken quickly, given the broad agreement on the direction of reform. Given the strong government majority in the Special *Majlis*, it seems likely that the government would be able to move its reform agenda forward quickly if it so desires.²³ International practice has shown that Constitutional or Constituent Assemblies have been able to create new constitutions in periods of less than a year. If the government has the political will to move forward, the delegation believes that the government could move a package of substantial constitutional reforms through within a year. This timeframe seemed to be within the range of what might be acceptable to many of the interviewees. In some situations, NDI has informally facilitated inter-party discussions to establish common expectations for an electoral or reform process, i.e., negotiation of an electoral code of conduct agreed upon by all of the main political parties. Other organizations, such as the Commonwealth Parliamentary Association, could also perhaps assist this effort. It would be important for the government to identify a number of actions that it can take quickly to begin to restore confidence in the reform process.

Hold Early Multiparty Elections. The proposed timetable should include a timeframe for early multi-party elections as soon as necessary constitutional reforms can be enacted. New elections should be held as soon as possible after the constitutional reform process is complete and a framework for multi-party elections is established. Failure to provide for elections immediately after amending the constitution would be perceived by some as confirmation of the opposition's view that the constitutional reform process was a ploy to buy time for the government until after the People's *Majlis* elections—which would allow the government to continue to hold power for another full legislative term. Furthermore, holding timely elections under a new constitutional system is common international practice when introducing any major constitutional change, such as the introduction of a multi-party system.

Ensure the Constitutional Reform Process is Inclusive and Participatory. As one interviewee noted, democratic reform cannot be dictated in an undemocratic manner. If the constitutional reform process continues without an opportunity for reform voices to be fully heard, it is likely that excluded voices will criticize the product of the reform process, regardless of its quality. Because the Special *Majlis* is currently perceived as "stacked" in favor of the government, it is important that the opposition representation that does exist in the Special *Majlis* be able to participate fully in the constitutional reform process, without threats of retaliation. If this is not done, the government must consider other means of proceeding with constitutional reform that includes a representative range of political opinion.²⁴

In any case, the government must also look for structured ways of eliciting citizen input in the constitutional reform process, together with a mechanism for addressing complaints of retaliation for statements made in these forums. Because many people feel that the invitation to speak out on constitutional reform was not respected by the government, and that many of the detainees were detained for expressing their views, it seems unlikely that it will be possible to have open public forums without also putting in place additional protections with respect to the free expression of opinion in these forums. There are a number of ways in which this could be done. The government could hold these forums under the auspices of an international organization or body, which might give people greater confidence in the process. In addition, it might be appropriate for the government and opposition groups to agree to a set of ground rules for these forums, which would explicitly commit all parties to respecting constitutional protections on free speech, including setting up a mechanism for adjudicating (perhaps with international observation or participation) claims of retaliation by either party as a result of statements made in the forum. The ground rules could also specify some limited parameters for the forums, such as prohibiting calls for violence.

“Democratic reform should not be dictated undemocratically.”
—*Assessment interviewee*

Involve the International Community. Given the public skepticism of the genuineness of the government’s reform initiatives, Maldivians may also wish to request greater involvement of the international community in monitoring elections and the political reform process. For example, the government should continue to engage with international human rights organizations to monitor the government’s progress in addressing alleged infringements of political rights. The government may also want an international organization to assess the entire elections process, including the pre- and post-election periods, and to facilitate the development of a domestic monitoring organization that could independently assess elections at the national and local levels.

Support Local Monitoring of Constitutional Reform and Elections Processes. The HRC has conducted limited monitoring of human rights abuses in connection with the reform process. Bolstering the independence and scope of the HRC’s activities, together with the resources that they can draw on, is one short-term method that the government could use to help contribute to improved confidence in the protection of human rights throughout the constitutional reform process. However, it may also be appropriate for a respected NGO group to take on monitoring adherence to the reform timetable, as well as monitoring claims of political intimidation or other acts inconsistent with a positive environment for constitutional reform. The NGO could also assist in disseminating public information regarding the reform process and facilitate public debate regarding the reforms. In this regard, the delegation notes the constructive nature of the Law Society’s contribution to the constitutional reform debate. International organizations and similar domestic organizations in other countries could be used to provide training, comparative approaches, and lessons learned.

In addition, a comprehensive and credible election monitoring effort could improve public confidence in the genuineness of reforms, for both the December *Majlis* elections and any elections held immediately after the completion of the constitutional reform process. Such an effort would need to address an array of issues in both the pre- and post-election period in order to alleviate public skepticism about the electoral process. Any election monitoring effort would need to determine: whether the election laws were clearly defined, met international standards, and were well-understood by election officials, political contestants and the public; whether election authorities were impartial and adequately trained; whether state resources were directly or indirectly being used to support the incumbent party; and whether the news media are prepared to provide balanced and objective coverage of the elections. Election monitoring organizations would also need to be trained in providing qualified volunteers for monitoring at polling stations on voting day and conducting a post-election evaluation to provide the government, the public and the international community with an impartial statement on the fairness of the election process.

B. LEGAL FRAMEWORK FOR DEVELOPMENT OF POLITICAL PARTIES

In addition to creating confidence in the political process, a legal framework will need to be created to govern political parties in the Maldives. It should be noted that de facto political parties or groupings already exist in the Maldives. As a result, the question faced by the assessment team was not whether political parties should exist, but what legal framework should be used to legitimize and regulate their existence. Given the statements by the interviewees, the delegation makes the following recommendations for a legal framework for a multi-party system.

Ensure that Formal Legal Restrictions are Not Used to Limit Dissent. Clear and concise rules that establish and protect the rights of individuals to establish, join, and operate a political party should be enshrined in the constitution, and should not be subject to further qualification. Given the perception that licensing and other registration requirements have been used to limit dissent in other areas, such as the regulation of the media, a minimalist regulatory approach would appear to be appropriate. As a result, the burdens for registering a party should be kept to a minimum. Many political party laws require parties to make certain commitments as part of their registration, such as supporting the constitution or renouncing political violence and intimidation. However, if similar commitments are included in a political party law in the Maldives, it is critical that any sanctions for not complying with these commitments be placed in the hands of a truly independent body. Otherwise, the delegation fears that these requirements could be used to intimidate opposition parties.

Encourage Internal Democracy within Parties. Although there were concerns about use of regulatory provisions as political tools for the government against opposition parties, there was also a desire to ensure that parties follow democratic practices. There are a number of basic guarantees that could be introduced into political party legislation in a clear, unambiguous manner to help promote internal democracy within parties, but

still protect against the use of these regulations against opposition groups. Such provisions may include: requirements to publish each party's internal rules or bylaws; clear voting rights for party members; requirements for election by secret ballot of key offices within party leadership; and requirements for periodic party congresses or meetings.

Consider Negotiation of a Voluntary Code of Conduct among the Political Parties. Some of the interviewees indicated that, without commitments by both the government and the opposition, the status quo—inflamed rhetoric with severe crackdowns by the government—would continue. Others, however, expressed concern that if these commitments were placed in a political party law, the government would be in a position to selectively enforce their application. One alternative would be for all registered parties to work with each other to negotiate and adopt a code of conduct to which all of the parties would adhere. Commitments that could be covered by a code of conduct include: renouncing violence; protections to ensure that state resources are used legitimately; respecting certain norms of decorum and refraining from certain types of personal attacks; etc. Adherence to a Code of Conduct, which would be signed by all the political stakeholders, could be monitored by an impartial civic group. Although the Code of Conduct would not be legally binding, it would hold parties accountable through pledges to the public and the media. The impartial civic group would be responsible for pointing out breaches in the code, with sanctions implanted from the public rather than a judicial administration that might be perceived as controlled by the governing party.

Ensure that Provisions Dealing with Party Finance are not Biased in Favor of the Governing Party. A number of proponents of the government mentioned concerns about opposition distribution of resources for the purpose of "vote-buying." It is important to balance any restrictions on charitable giving by parties and party leaders with recognition that incumbent parties often have the ability to direct government resources, services and programs for their political advantage. It is the delegation's view that the best way to protect against "vote-buying" is to ensure the integrity of the secret ballot, reinforced with voter education programs regarding voter rights and freedoms. Any provisions that limit spending by political parties should be complemented with protections against the direct or indirect use of government resources to benefit a political party.

Address the Issue of Religion and Parties. It may be appropriate for the legal framework to directly address the role of religion and political parties. The delegation members had different views concerning this point—some thought it was enough to say that political parties must comply with the Constitution while others felt that a legal framework, or a similar mechanism, would clarify this issue. Two clear positions of agreement were heard by the delegation from the government and the opposition concerning this issue. First, all agreed that Islam does not prohibit the development of political parties. Second, most believe that there should be a prohibition on parties that primarily advocate a particular version of Islam. There was a widely held view that, in an all-Islamic country, all parties would be Islamic, and that identification of only a certain party or parties as Islamist could be used to incite religious division. Although

there was concern that the mixture of political parties and Islam could be used to threaten religious harmony within the country, there was an equally strongly held view that people should be free to openly debate and discuss Islamic principles.

C. **BROADER LEGAL AND CONSTITUTIONAL FRAMEWORK ISSUES**

Although the issues associated with a political party law are important, the assessment team determined that most of these issues were subordinate to larger issues of political freedom and political participation. A political party law legalizing parties will do little to move the Maldives toward an effective multi-party system unless there are other significant changes in the political system, including stronger guarantees of political freedoms. Although the following list is nonexclusive, based on the interviewee comments, the delegation sees the following issues as the most pressing areas for reform if a multi-party political system is to function effectively.

Open Up Access to the Media. As noted above, the public's access to neutral, independent news sources is non-existent. The print and television media remains under the control of the government or of ministers' families. This results in news reports that are favorable to the government's policies and initiatives, with no coverage of alternative or opposition policies. Employees of these sources use self-censorship to remain in their positions, and are often given the actual news articles and pieces by the government. Internet sources are also controlled, albeit reactively in the form of detention and formal criminal charges against those who operate websites that are critical of the government. Opposition radio operated from outside the country is reportedly jammed in parts of the Maldives. In order to create an environment conducive to the development of a multi-party system, freedom of the media must be guaranteed. This would include, among other things: 1) allowing all parties to access major media outlets to get their views out to the public; 2) removing burdensome licensing and other regulatory requirements that are designed to limit the creation of new print media outlets that may be critical of the government; and 3) protecting free speech rights with respect to internet websites.

Create a Civil Service System with Protections for Public Sector Employees. The delegation witnessed numerous instances of how government employment is used to maintain political control by the government. Many of the members of parliament are also civil servants and therefore employees of the executive branch of government. This is inconsistent with the notion of separation of powers. It is difficult to expect a parliamentarian to exercise oversight over a minister in parliament, if that parliamentarian may be supervised by that same minister when he or she is not sitting in parliament but working for that ministry as an employee. Government jobs are widely perceived as a tool for rewarding political loyalty to the government. As a result, many civil servants feared reprisal for expressing criticisms of the government to the assessment delegation. Others feared that a change in government might result in a wholesale change in ministry personnel, and noted that, given the limited human resources in the Maldives, the country could not afford to change all employees of all ministries every time there was a change in government.

Civil service protections enable government employees and bureaucrats to perform their jobs independently without fear of reprisal or threat of removal. Typically, civil service employees cannot be fired from a ministry without "good cause," such as gross incompetence or habitual tardiness. An independent civil service commission is often empowered to review cases of dismissal where there are allegations that the discharge was politically motivated. Similar protections apply to promotions and salary adjustments. Civil service systems also ensure that public employment hiring is done on the basis of merit and is not used for purposes of political patronage. The assessment team sees the development of a civil service system as an important component of a transition to an equitable, effective multi-party system.

Strengthen the Electoral System and Process. There was a great deal of criticism of the nature of elections in the Maldives. There was a range of criticism regarding the quality of elections, including from sources within the government. Several noted the lack of oversight over ballots before they are transferred to Male' and placed in the custody of the Election Commission. Others stressed the role of government-controlled atoll and island chiefs in helping to ensure outcomes (particularly in less populated atolls) favorable to the government. Still others cited the need for greater control over the use of public resources to favor government candidates. These concerns are likely to become even more problematic in a multi-party system. In addition to strengthening the independence of the Election Commission, as well as its ability to supervise all aspects of the election, it will be important to build capacity for party poll-watchers to ensure that all parties have confidence in the nature of the electoral outcome. Although it is possible to have a democratic system that represents interests by region, many noted the disproportionately low representation by citizens of Male' in elections as a source of concern, particularly in an environment where the government is perceived as having more methods of influencing electoral outcomes in the atolls outside of Male'. Many felt that Male', which has roughly 30 percent of the population and only roughly 3 percent of the elected members of the *Majlis*, needed greater representation. There was unanimous recognition of the need to abolish seats appointed by the President in the legislature.

Democratize Governance Structures at the Atoll and Island Levels.

Atoll chiefs and island chiefs are controlled by the central government and are used to limit dissent at the island level. Many individuals noted that if an individual wants to receive some sort of government service—health care, education, employment—they must remain in favor with the local and national government. Many felt that their local government leaders were not necessarily representative of the local community, since they were appointed by the government rather than elected by the community. Several cited the role that atoll and island chiefs play in the elections process, suggesting that they have been used to help the government obtain particular outcomes in elections. Regardless of the validity of these claims, which the assessment team was not in a position to directly evaluate, the perception is, itself, a problem. The assessment team is not in a position to recommend a particular alternative to the problem.

“Unless you are in favor of those who are ruling, you can’t do anything.”
—*Assessment interviewee*

Numerous options exist, and different options might be appropriate for different sizes of islands. However, interviewees noted things such as limiting the role of the atoll and island chiefs in the allocation of government benefits and greater use of directly elected, multi-party atoll and island councils that would supervise the provision of local government services to ensure that government services were being delivered appropriately.

Further Reform of the Police. The Maldives Police Service was previously administered by the military and the NSS, rather than being subject to civilian control. As of September 1, 2004, the police have been brought under the administration of the Ministry of Home Affairs. However, many of the interviewees noted that this reform remains incomplete. Many cited the need for more comprehensive legislation that specifies: the roles and responsibilities of the police; their powers of arrest; their ability to conduct searches and seize property; the nature of the chain of command; and the mechanisms that exist for review of complaints. International organizations can advise on the elaboration of a police act. They can also provide assistance with its implementation by helping the police to: (1) enhance professional capabilities to carry out investigative functions; (2) assist in the development of academic instruction and curricula for law enforcement personnel; (3) improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures; (4) improve the relationship between the police and the community it serves; and (5) create or strengthen the capability to respond to new types of crime and emerging criminal justice issues.

D. MECHANISMS TO ENFORCE CONSTITUTIONAL AND POLITICAL RIGHTS

A law is little more than a piece of paper, unless the legal rights and duties that it creates are capable of being enforced in an effective and impartial manner. The inability to effectively enforce constitutional issues is a significant threat to the credibility of the reform process in the Maldives. Despite constitutional guarantees for freedom of

association and speech, there is a widespread perception in the Maldives that there is no commitment or mechanisms to protect these freedoms. Many lawyers interviewed by the delegation noted how the

“Constructive criticism by the opposition is not viewed as a threat, but what can raise difficulties is the lack of a developed legal system to regulate and protect this criticism.”

—Assessment Interviewee

Constitution grants rights but not remedies. If political parties are to be developed in the Maldives, mechanisms will need to be created to enforce political rights fundamental to a multi-party system. A number of useful reports have been prepared on these issues, including the submission of the Law Society on Constitutional Reform and the paper on constitutional reform by Professor Mohammed Hashim Kamali (both sponsored by the UNDP). The intent of the delegation is not to duplicate or restate these works, but merely to indicate their importance with respect to the development of a multi-party system. In particular, the delegation recommends the following actions:

Clearly Separate the Judiciary from the Executive. Under the current constitution, the president has the power to directly appoint and remove the Chief Judge and judges, and to determine which cases the High Court shall hear. One lawyer indicated that, if a judge would like to acquit someone in a case, the judge needs to receive permission for acquittal from the Ministry of Justice. The lawyer noted that no such approval is required for conviction. The assessment team found a widespread perception that legal outcomes are influenced by political imperatives; as long as this is the case, political opposition will not perceive that it has equal access to justice, a prerequisite for an effective multi-party system. Although a review of all of the issues associated with judicial independence is outside the scope of this report, the following issues need to be considered: 1) the mechanism for appointing judges, and the possible creation of an independent Judicial Services Commission to review qualifications for office; 2) the term of judicial appointees and protections against their removal for decisions that do not reflect the wishes of the government; 3) the structure of the judiciary and the Supreme Court; 4) reduction of the role of the Minister of Justice in judicial administration; and 5) vesting the interpretation of the Constitution exclusively in the Supreme Court.

Make Constitutional Protections on Political Rights Self-Implementing. A number of provisions in the constitution provide for the protection of civil and political liberties: due process (Article 15); freedom of expression (Article 25); freedom to assemble (Article 26); and freedom to associate (Article 27), which appears to authorize political parties. On their face, these provisions appear self-implementing. In practice, however, the limiting language within these provisions creates a constitution dependent on law.²⁵ For example, while Article 27 can be interpreted to permit the creation of political parties, subsequent decisions and statutes do not. The right to form political parties, as well as the political rights and freedoms necessary for parties to function effectively, should be self-implementing and not subject to dilution by law or administrative regulation.

Improve Selection and Salary of High Court Justices. Many attorneys cited the lack of judges with substantial experience in positive law, as well as Shari'a, on the High Court. Judges trained in positive or civil law are generally attracted to the private bar because it is more lucrative, and lawyers who leave government service often go into private practice for this reason. Because judicial disputes relating to political parties and to political freedoms in a multi-party political system generally raise issues of positive law rather than Shari'a, it is essential that there be substantial experience in positive law on the High Court. Because of the salaries available to trained lawyers in the private bar, this may require increasing the salaries for justices.

E. HUMAN CAPACITY BUILDING

Given the Maldives' limited experience with political movements and popular political participation, capacity building will be required to ensure an effective and

ordered transition to a more open democratic and pluralist multi-party system. With respect to political parties, capacity building is required both among the citizen population and within political party leadership.

Support Civic Education on Political Parties. The delegation does not support the view, expressed by a few in the government, that the Maldives is not "ready" for political parties, or that educational levels are too low for political parties to function effectively. However, as with the introduction of any new set of laws or political arrangements, civic education efforts to promote awareness of the changes are appropriate. This is especially important in the atolls, where there is generally less exposure to international media. There is a broad range of mechanisms, as well as target audiences that could be used to deliver civic education on political parties. The high levels of literacy mean that written materials on political parties will be more effective than in many countries. Given perceptions of the bias of existing mass media outlets, it would be important to supplement any use of these media for civic education with other methods—ideally methods that also involve opposition groups. There are a broad range of international organizations, including NDI and the CPA, which can assist in providing models of civic education materials that have been used in other countries. Given concerns expressed by some individuals regarding political parties and conflict, civic education efforts may need to specifically address this issue. In addition to adult civic education programs, it may make sense to include units within the national curriculum on democracy and civic rights and responsibilities.

“The educated elite understand political parties, but the general public, even in Male’, do not understand them.”
—*Assessment interviewee*

Support Provision of Training to all Political Parties. Capacity building will also be required of party leadership and party members. Current political movements will need assistance in transforming into democratic political parties; this applies to both government and opposition groups. In addition, a number of new parties are expected to be established, each of which would also require training. Pending genuine application of the reform principles stated in the President’s speech of June 9 and subject to the availability of resources, organizations like NDI could assist the government in creating a party structure or structures, on the condition that they are also permitted to provide the same range of assistance to parties (and groups seeking to register as parties) representing a broad political spectrum. Topics on which newly established parties may wish to request training include: 1) party organization and structure; 2) membership recruitment; 3) fundraising; 4) ensuring party integrity and anti-corruption mechanisms; 5) platform development; 6) strategic communications; 7) advancing participation of youth and women in political parties; and 8) coalition-building, particularly if many parties are registered. The training could be provided in a range of formats, including: the provision of single and multi-party workshops, consultations with party leaders; and study missions and consultations abroad with peer political parties.

SECTION VI

Conclusion

In assessing the opportunities and challenges for the development of political parties in the Maldives, the delegation found the country to be at a critical juncture in its political development. Although the legalization and regulation of political parties could be a positive step, the success or failure of political parties in the Maldives will be determined by larger issues in the political system. The content of a political party law is secondary to larger questions regarding the nature of the political system and the ability of citizens to meaningfully participate in political life without fear of intimidation or reprisal. As a result, the focus of the assessment was far broader than the specific content of a political party law.

Opportunities for reform, and the development of political parties, clearly exist. It is clear from the cross-section of the population that the delegation met with that the need and will for reform is broad and deep. Although there are a few significant constitutional reform issues where there are significant differences of opinion (e.g., whether to create the position of Prime Minister), there is a broad general consensus on the general direction of the reforms. This consensus includes strengthening of the independence of the judicial and legislative branches of government, as well as providing greater protections for the exercise of political rights and the development of a freer media. This consensus outweighs disputes on some of the particular aspects of reform. The President's speech on June 9, 2004, is generally consistent with this consensus for reform and the government will ultimately be judged on its ability to deliver these reforms for the benefit of the Maldivian people.

However, time is short. The events of August 2004 have raised the stakes for the country and indicate the depth of support for prompt reform. Based on the individuals interviewed by the delegation, public frustration at the weaknesses in the current political system remains high, as does public skepticism that the government will move quickly to enact and implement genuine reform. The events of August 2004 have polarized positions within more conservative elements of government, as well as among opposition groups. If the government is to regain public confidence regarding the reform process, it will need to take swift action to specify a clear timetable for reform, and a process for genuine citizen input that protects people from reprisal for the expression of their political views. Although a number of confidence building measures are recommended in the report, the treatment of political detainees was viewed by many interviewees as a test of the government's political will for reform. Given the weaknesses in the current political environment, the delegation also believes that a timetable for completion of constitutional reform processes, and a timetable for early multi-party elections under the new constitution would also be critical in restoring public confidence in the government's desire for genuine reform.

Decisions regarding the future of the Maldives must ultimately be taken by the men and women of the Maldives; the international community can only play a supporting role. Organizations like NDI stand ready to support Maldivians, both within and outside the country, with their democratic development efforts. Should Maldivians request further outside assistance, NDI would be prepared to assist Maldivians with the following, subject to resource constraints: 1) civic education on what political parties are and how they function in a democracy; 2) consensus-building among the major political groups; 3) political party training; 4) political party law drafting and implementation; and 5) implementation of the other reforms mentioned in the recommendations section. It is important to note that while the development of a political party law is critical to the development of a vibrant multi-party system, it is only one element of a larger package of necessary reform measures for the creation of an effective, democratic multi-party system. During the assessment mission, the NDI delegation had the privilege to meet with many dedicated Maldivians—within and outside government, and within and outside the country—who are committed to further peaceful democratic development for the betterment of their country. NDI supports their efforts, and stands ready to assist them where appropriate.

APPENDIX I

Members of the Assessment Delegation

DR. ZLATKO LAGUMDZIJA is a former Chairman of the Council of Ministers of Bosnia and currently serves as a Member of the Parliamentary Assembly House of Representatives and President of the Social Democratic Party of the Republic of Bosnia-Herzegovina. Dr. Lagumdzija also served as a member of the International Advisory Committee for the Congress of Democrats from the Islamic World, the Director of the Management and Information (MIS) Technology Centre in Sarajevo, and the Head of the Department of Business Informatics and Professor of Management Information Systems in the School of Economics at the University of Sarajevo. Prior to these posts, Dr. Langumdzija was the Chairman of the Council of Ministers and the Minister of Foreign Affairs. Dr. Langumdzija is the author of four books on MIS and numerous articles on Bosnian political and economic issues.

M. NOUR FARAHAT is a Professor of Law at Zagazig University in Zagazig, Egypt, and an Attorney in Cairo. Mr. Farahat is as a Member of the Legal Committee for the Egyptian Academy of Science, the Legislative Committee of the Egyptian National Council of Women, the Legislative Committee of the Egyptian National Council for Childhood and Motherhood, and the Chief of Copy Rights before the Egyptian Supreme Council of Culture. In 1984, he was selected as a part-time manager of the legal research center of the Arab Lawyers Union (ALU), a federation including advocates from 22 Arab countries. From 1988 to 1992 he served as the Co-coordinator of the standing legal committee of the Arab Organization for Human Rights (AOHR). In 1990, Mr. Farahat was elected as a Member of the Executive Board of the Egyptian Organization for Human Rights. Over the past nine years, he has worked on United Nations programs in Mongolia, Uzbekistan, Sudan and was a member of the team that prepared the 2003 Arab Human Development Report. From 1989 to 2003 he served as a Member of the Board of Administrators to the Arab Institute of Human Rights (AIHR) in Tunis. Mr. Farahat won the Egyptian State Award for Excellence in 2001 and for Appreciation in the field of social science in 2004. Mr. Farahat is the author of seven books on legal history, sociology and philosophy and numerous articles on human rights.

K. SCOTT HUBLI serves as senior technical advisor for NDI's parliamentary strengthening and public integrity programs worldwide. In this capacity, he has spoken widely at international conferences on the issue of parliamentary strengthening and has conducted training sessions for USAID and UNDP personnel on governance issues. He has conducted numerous parliamentary assessments and training missions in over 30 countries. Before joining NDI, Mr. Hubli served as the senior technical advisor with Associates in Rural Development, Inc. in Ramallah, West Bank under a USAID-funded contract to assist the Palestinian Legislative Council. From 1993 to 1999, Mr. Hubli served as a non-partisan legislative attorney and administrator with the Legislative Reference Bureau at the State of Wisconsin Legislature. While at the Wisconsin Legislature, Mr. Hubli was responsible for drafting all legislation considered by the

Wisconsin legislature dealing with state finance or financial institutions, securities or commercial law. He also took numerous leaves of absence to do consulting on parliamentary development with a range of organizations in West Africa, the Middle East and Asia. From 1989 to 1993, Mr. Hubli practiced international corporate law with the New York law firm of Debevoise & Plimpton. Mr. Hubli received his Juris Doctor degree with Honors from the University of Wisconsin Law School, and holds a Masters of Public Policy and Administration from the Robert M. La Follette Institute of Public Affairs. A portion of his legal studies were completed at the Justis-Leibig Universitaet in Giessen, Germany.

TERRY HOVERTER is a senior program officer with NDI's Asia team, focusing on initiatives in Nepal and Bangladesh. In addition to his work at NDI, Mr. Hoverter is a senior research associate with the Public International Law & Policy Group. He is also pursuing a law degree at the Washington College of Law at American University where he is the Senior Symposia Editor of the *Administrative Law Review*. Previously, Mr. Hoverter designed and implemented exchange programs for Russian entrepreneurs while working for the Center for Citizen Initiatives in San Francisco. In addition, he has worked with the U.S. Environmental Protection Agency on environmental programs in Central and Eastern Europe; with the U.S. Department of State in London on bilateral environmental issues; and with World Cup USA 1994 as a public affairs assistant. Mr. Hoverter earned his M.A. in International Affairs from the George Washington University and his B.A. in International Relations from Fordham University.

APPENDIX II

Selected List of Documents Reviewed**Government Documents**

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Latheef, Mohamed, *Setting the Record Straight*.

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APPENDIX III

Selected List of Individuals Interviewed

Members of the assessment team met with a broad range of individuals in gathering information. Some of these discussions were extremely informal; others were more structured. Not all of the individuals with whom the assessment team met are listed below; some individuals contacted the assessment team separately and spoke with the assessment team off the record and on the condition of anonymity. The assessment team also held informal discussions with fisherman and villagers in some of the islands; these individuals have also not been listed.

<i>Abas, Ahmed</i>	Opposition Member
<i>Abdulla, Abdul Bari</i>	UNDP Programme Coordinator
<i>Afeef, Hussain</i>	Elected Member, Special <i>Majlis</i>
<i>Ahmed, Ibrahim Fareed</i>	Detained Opposition Member
<i>Allen, Graham</i>	MP, Labour Party, Nottingham North, United Kingdom
<i>Ali, Ahmed Thasmeen</i>	Elected Member, Special <i>Majlis</i>
<i>Ali, Jameela</i>	Teacher
<i>Aslam, Ahmed</i>	Principal
<i>Azza, Fathimath</i>	Teacher
<i>Bari, Abdul Majeed</i>	Dean, Center for the Holy Quran
<i>Blankhart, Susan</i>	Ambassador, Embassy of the Kingdom of the Netherlands
<i>Child, Christopher</i>	Deputy Director, Political Affairs Division, Commonwealth Secretariat
<i>Didi, Ali Hussain</i>	Civil Servant
<i>Didi, Aminath Mohamed</i>	Appointed Member, Special <i>Majlis</i>
<i>Doraid, Moez</i>	UNDP Officer In-charge
<i>Entwistle, James</i>	Deputy Chief of Mission, Embassy of the United States
<i>Gardner, Simon</i>	Reuters
<i>Hameed, Abdulla</i>	Minister of Atolls Development
<i>Hameed, Fathin</i>	Assistant Director General, Ministry of Agriculture, Fisheries and Marine Resources
<i>Hameed, Hamdun</i>	Minister of Planning and National Development
<i>Hameed, Shaheen</i>	Vice Chair, Law Society of Maldives
<i>Hana, Aishath</i>	Journalist
<i>Hassan, Hussain Rasheed</i>	Detained Opposition Member
<i>Hicks, Colin</i>	Third Secretary, British High Commission
<i>Hussain, Mohammed</i>	Minister of State for Presidential Affairs
<i>Ibrahim, Ilyas</i>	Minister of Transport and Civil Aviation
<i>Ibrahim, Mohamed Rasheed</i>	Chief Justice and President of the Supreme Council for Islamic Affairs
<i>Ibrahim, Qasim</i>	Detained Opposition Member
<i>Ijazulla Abdulla Ali</i>	Care Society, NGO Representative
<i>Ismail, Ibrahim</i>	Detained Opposition Member

<i>Jameel, Azmath</i>	NGO President
<i>Jameel, Fathulla</i>	Minister of Foreign Affairs
<i>Jayawickrama, Nishana</i>	Senior Programme Officer, Political Affairs Division, Commonwealth Secretariat
<i>Kaleyfaanu, Naseema Mohamed</i>	Former First Lady, Historian
<i>Khaleel, Ali</i>	Civil Servant
<i>Latheef, Hassan</i>	Senior Island Chief
<i>Latheef, Jennifer</i>	Opposition Member
<i>Latheef, Mohamed</i>	MDP
<i>Mahoney, Patricia</i>	Political Officer, Embassy of the United States
<i>Mohamed, Ahmed Farook</i>	Supreme Council for Islamic Affairs
<i>Mohamed, Ibrahim</i>	Maldivian Association of Tourism and Industry
<i>Moosa, Lucia</i>	Civil Servant
<i>Muizzu, Mohammed</i>	Lawyer
<i>Mujuthaba, Ahmed</i>	Chairperson, Human Rights Commission
<i>Mujthaba, Ahmed</i>	Civil Servant
<i>Munavvar, Mohamed</i>	Detained Opposition Member
<i>Munthasir, Mohamed</i>	Dramatist
<i>Nasheed, Mohammed</i>	Secretary General, People's <i>Majlis</i>
<i>Nasir, Ibrahim</i>	Lawyer
<i>Nazim, Ahmed</i>	Opposition Member
<i>Neuhaus, Matthew</i>	Director, Political Affairs Division, Commonwealth Secretariat
<i>Ramnathsing, Dr. Asha</i>	Second Secretary, Embassy of the Kingdom of the Netherlands
<i>Rashaad, Ibrahim</i>	Commissioner of Elections
<i>Rasheed, Ibrahim</i>	School Administrator, Hithadhoo
<i>Saeed, Abdulla</i>	Opposition Member
<i>Saeed, Dr. Hassan</i>	Attorney General
<i>Saeed, Juwairiya</i>	Civil Servant
<i>Saleem, Ahmed</i>	Human Rights Commission
<i>Sattar, Ahmed Nazim</i>	MDP
<i>Sattar, Nashida</i>	UNDP Programme Officer
<i>Shah, Shuaib</i>	Lawyer
<i>Shaheed, Abdulla</i>	Executive Secretary to the President
<i>Shaheed, Ahmed</i>	Chief Government Spokesperson
<i>Shafeeu, Ismail</i>	Minister of Defense and National Security
<i>Shakoor, Aaishath Azima</i>	Deputy Director, Legal Affairs, Attorney General's Office
<i>Shareef, Ibrahim</i>	Elected Member, Special <i>Majlis</i>
<i>Shihab, Mohamed</i>	Elected Member, Special <i>Majlis</i>
<i>Sobir, Hassan</i>	Maldivian Ambassador to the Britain and the European Union
<i>Solih, Ibrahim Mohamed</i>	Elected Member, Special <i>Majlis</i>
<i>Solih, Mohamed</i>	Chamber of Commerce
<i>Waheed, Mohamed</i>	Member, Human Rights Commission
<i>Wajdee, Mohamed Saeed</i>	Reporter, Haveeru News

<i>Waseem, Mohamed</i>	Businessman
<i>Yameen, Abdulla</i>	Minister of Trade and Industries
<i>Yoosuf, Abdul Azeez</i>	Doctor
<i>Zahir, Adam</i>	Commissioner of Police
<i>Zahir, Ahmed</i>	Speaker of Parliament
<i>Zahir, Umar</i>	Minister of Home Affairs
<i>Zaki, Ibrahim Hussain</i>	Detained Opposition Member
<i>Zaki, Mohamed</i>	Detained Opposition Member
<i>Zareer, Zahiya</i>	Minister of Gender, Family Development and Social Security
<i>Zuhair, Mohamed</i>	NGO Executive

APPENDIX IV

Endnotes

¹ As described in further detail in the report, the government's position is that political parties are not permitted in the Maldives. The Maldivian Democratic Party has not been able to register as a political party in the Maldives, and currently operates from outside the country, based in Sri Lanka.

² Under the current Constitution, the Special People's *Majlis* is responsible for enacting constitutional change. It is composed of members of the regular People's *Majlis* (which is composed of eight Presidential appointees and 42 elected members, with two members elected from each atoll), the Cabinet members (who are appointed by the President) and 50 additional members (eight of whom are appointed by the President, and 42 of whom are elected, again two elected from each atoll). Because of the number of Presidential appointees and the inclusion of the Cabinet, many view the Special People's *Majlis* largely as an extension of the government. Others note the fact that Male', which has roughly 30 percent of the population and tends to be more supportive of opposition, has only 2 of the 42 elected seats in the *Majlis*, i.e., roughly three percent. Lastly, others note the ability of the Atoll and Island Chiefs, which are appointed by the government, to influence election results.

³ The exact number of detentions remained also subject to dispute, but press reports indicated that the government initially admitted to detaining some 185 individuals.

⁴ The assessment mission was not a fact-finding mission into the specific events of August 12th and 13th. These events are important, however, with respect to the impact that they have on the possible development of political parties in the Maldives. In this regard, perceptions are as important as reality. It should be noted that perceptions of these demonstrations vary widely between government representatives, the opposition and the general public. At the time of the in-country assessment mission, some interviewees noted that the person viewed as responsible for stabbing the police officer was not detained, although roughly 200 opposition figures were detained for investigation. Other interviewees expressed their belief that the government exaggerated claims of property damage, citing government video of a burned door in the police headquarters. The door in the video was heavily burned, although there is no evidence of burning around the door in the video. A number of individuals with whom the assessment team met believe that the violence was instigated by elements linked to the government to provoke an excuse to crack down on an otherwise peaceful demonstration. While the delegation was not able to fully evaluate these claims, the existence of these perceptions should be recognized.

⁵ As of December 12, 2004, the government indicated that all detainees arrested on August 12 and 13 have been released, except for five individuals. As of December 12, 2004, the government reported that it continued to detain Mr. Ilyas Ibrahim Hussein, Mr. Ibrahim Ismail, Mr. Ibrahim Hussein Zaki, and Mr. Ahmeed Shafeeq under house arrest and continued to detain Mr. Mohamed Iyaz in jail. In addition, the government noted that it held three individuals who were arrested on August 12 and 13, 2004, but were being held in connection with charges that predated the events of August 12 and 13, 2004.

⁶ Government representatives noted that they had no control over the duration of the constitutional reform process. However, for a number of reasons discussed in more detail in the report, the delegation is confident that the government has a clear majority in the Special *Majlis* and that the government could promote a very expeditious process, if it felt this was a priority.

⁷ The 1988 attempted coup was instigated by Sri Lankan Tamil mercenaries reportedly led by a disgruntled Maldivian businessman. Gayoom suppressed the coup in less than 24 hours with assistance from Indian Prime Minister Rajiv Gandhi, who sent 1,600 Indian paratroopers to drive the mercenaries back to Sri Lanka.

⁸ Office of the Commission of Elections, *Introduction to Parliamentary Elections*: <http://www.com.gov.mv/General%20Elections.htm>.

⁹ The People's *Majlis* is composed of 50 MPs. The president has the authority to appoint eight MPs, a significant power, considering that re-election only requires the nomination of one-third of all members. MALD. CONST. ch. II, art. 64. The presidential election, therefore, is a referendum where Maldivians can vote yes or no to the presidential choice of the *Majlis*. In addition, the President has the

power to appoint and remove the Speaker (Article 68) and the Deputy Speaker (Article 70); to approve or resend legislation back to the People's *Majlis* (Article 79); to extend the term of the People's *Majlis* under a state of emergency (Article 89); and to promulgate and execute legislation by presidential decree (Article 90).

¹⁰ The 1988 attempted coup was instigated by Sri Lankan Tamil mercenaries reportedly led by a disgruntled Maldivian businessman. Gayoom suppressed the coup in less than 24 hours with assistance from Indian Prime Minister Rajiv Gandhi, who sent 1,600 Indian paratroopers to drive the mercenaries back to Sri Lanka.

¹¹ The exact number of detentions remained also subject to dispute; but press reports indicated that the government initially admitted to detaining some 185 individuals.

¹² *See, supra* note 4.

¹³ These amendments are part of an effort President Gayoom has called Vision 2020, a campaign to make the Maldives "one of the top ranking nations amongst middle-income developing countries" by the year 2020.

¹⁴ Upon arrival at Dhonidoo prison, the delegation requested to add Fatima Nasreen to the list of individuals it would like to meet with. This request was not granted, although the Attorney General did indicate that, had we coordinated with him, he would have arranged this meeting.

¹⁵ The original completion date for the report was December 1, 2004. A final draft was provided to the government on December 7, 2004, five business days after the original deadline. Comments were received from the government on December 13, 2004. These comments were reviewed and some comments were incorporated, resulting in a release of the report on December 16, 2004.

¹⁶ Kamali, Professor Mohammed Hashim, *Constitutional Reforms in the Republic of Maldives: What are the Issues?*, p. 6.

¹⁷ The *Majlis* selects the presidential candidate and the public only votes on whether that candidate is acceptable or not.

¹⁸ The Attorney General has indicated a number of steps that the government intends to take to ensure that the December 31 election is free and fair. The Attorney General notes that the government has invited observer groups from the European Union, the Commonwealth and SAARC. The Attorney General also noted that the Election Commission has established a three-member committee for every island to hear election-related complaints. However, the committee is comprised of members of the executive-dominated judiciary and the Island Development Committee—a body that many interviewees viewed as linked to the government system of island and atoll administration, rather than an independent body. The Attorney General noted that the election will occur on a Friday, and will require a break for afternoon prayer. He noted that the ballot boxes would be kept in a secure location during the break with tamper proof tape to seal the entrances.

¹⁹ Article 3(a)-(c), Regulations of HRC.

²⁰ Upon arrival at the prison island, the delegation asked to see an additional detainee; the delegation also asked to see the conditions that the detainees were being held in. Prison officials denied both requests. However, the Attorney General indicated that had we contacted him, he would have made arrangements to ensure that our requests were granted. We have no reason to doubt him on this point; however, it does indicate that there remains a mindset within the prison system that the norm should be to restrict information and access.

²¹ The right to legal representation was suspended following the proclamation of a state of emergency on August 13, 2004. The Attorney General has noted that this right has been subsequently restored. The Attorney General also noted that, following recommendations by Amnesty International and the HRC, the government now provides detainees with access to daily newspapers and foreign magazines. The Attorney General also noted that the government has taken a number of steps to protect against abuse. The delegation is not able to comment on the impact of these actions after its in-country assessment mission.

²² Since the time of the in-country assessment mission, many detainees have been released. The government indicated in an e-mail of December 12, 2004, that five detainees were being held in connection with the August demonstrations, as well as three others who were arrested on August 12 and 13 but are being held in connection with terrorism-related charges from 2002. However, it should be noted that

several opposition figures have chosen not to run in the December 31, 2004, elections, and that four members of the Special *Majlis* have been charged with treason.

²³ The Attorney General notes that, although the government has a strong presence in the People's *Majlis* and the Special *Majlis*, the government is not a party nor does it have a whip system. The Attorney General noted several instances where the government has not gotten its way with the *Majlis*. The Attorney General also noted that, to date, no one linked to the government has engaged in any disruptive or delay tactics in the *Majlis*. Although these points are well taken, it is clear that the government has exercised significant influence over the People's *Majlis* and the Special *Majlis*. There is also a perception shared by a number of interviewees that the government may seek to take credit for proposing reforms, but at the same time use its influence over the *Majlis* to slow or kill reforms that it, in fact, does not wish to see enacted.

²⁴ The government, through its strong representation in the Special *Majlis*, could adopt a constitutional amendment that provides for a more representative forum for constitutional reform, i.e., changing the composition of the Special *Majlis* to include only directly elected members, elected by a system that does not underweight Male'. The risk of pursuing this course is that it would be viewed as yet another delaying tactic by the government.

²⁵ See, e.g., MALD. CONST. ch. II, art. 25-27. Article 25 states, "Every citizen shall have the freedom to express his conscience and thoughts orally or in writing or by other means, *unless prohibited by law ...*" (emphasis added). Article 26 states, "Persons shall be free to assemble peaceably and in a manner that *does not contravene the law*" (emphasis added). Article 27 states, "Persons shall be free to form societies and associations, *unless prohibited by law . . .*" (emphasis added).