

Maldives

Country:

Maldives

Year:

2016

Freedom Status:

Partly Free

Political Rights:

4

Civil Liberties:

5

Aggregate Score:

43

Freedom Rating:

4.5

Overview:

Despite recent presidential and parliamentary elections, the functioning of democratic institutions in 2015 was weakened by a lack of progress in the implementation of critical reforms. The widely condemned arrest of former president and opposition leader Mohamed Nasheed in February and ongoing persecution of other opposition politicians raised concerns about the deterioration of rule of law and the openness of the political arena. The forced disbandment of a series of opposition-led demonstrations, during which hundreds of participants were arrested and detained, jeopardized an already restricted space for civil society, while politicized actions by the Supreme Court against Human Rights Commission of Maldives (HRCM) led to widespread concern about judicial independence and protective mechanisms for human rights. Protections for women remained thin, and there appeared to be a resurgence in the enforcement of prohibitions on same-sex sexual activity during the year.

Trend Arrow:

↓

Political Rights and Civil Liberties:

Political Rights: 19 / 40 (-1) [Key]

A. Electoral Process: 7 / 12

Under Maldives's 2008 constitution, the president is directly elected for up to two five-year terms. The unicameral People's Majlis is composed of 85 seats, with members elected from individual districts to serve five-year terms.

In tumultuous presidential elections in 2013, President Abdulla Yameen, a half-brother of former president Maumoon Abdul Gayoom and leader of the Progressive Party of Maldives (PPM), won the run-off against Nasheed of the Maldivian Democratic Party (MDP). The Supreme Court halted the voting process three times, including to order a new first-round vote, and designated the police to play a substantive role in handling logistics for the election. The final process was nevertheless deemed free and fair by both local and international monitors.

Parliamentary elections held in 2014 were largely transparent and competitive. Yameen's PPM won 33 of 85 seats, while the MDP captured 26. The Jumhoore Party won 15 seats, the Maldives Development Alliance won 5, and independents took an additional 5. The Adhaalath Party won the remaining seat. Turnout was almost 77 percent, and both local and international monitors deemed the process free and fair.

Two weeks before the 2014 elections, the Supreme Court removed two of the four members of the Election Commission (EC), one of whom was the commission's head, claiming they had not properly followed election guidelines. It also sentenced all four members to six-month suspended prison sentences. The move was widely criticized as unconstitutional. Members of the EC had criticized the court's rulings on the presidential election the previous year. The main opposition party considered boycotting the 2014 elections, though it ultimately participated. One day prior to the elections, the head of the Jumhoore Party requested the Supreme Court to delay the voting because the EC was not complete, but the Supreme Court denied the request. Extensive preparations allowed the EC to carry out the process despite losing half its members, and international observers lauded the commission's performance during the elections and in overcoming the setbacks.

B. Political Pluralism and Participation: 6 / 16 (-1)

Following several decades of rule by Gayoom, Maldives's first multiparty presidential election was held in 2008, and Nasheed, a former political prisoner, triumphed over the incumbent. A number of political parties operate despite administrative obstacles and harassment by authorities. The 2013 Political Parties Act restricted parties from registering and accessing official funds unless they have more than 10,000 members. As a result, 11 of Maldives's 16 parties were dissolved when the law came into force.

In 2015, the political landscape was shaken by the arrest, trial, and eventual conviction and imprisonment of Nasheed on terrorism-related charges. These developments prompted widespread condemnation by critics, who saw them as an attempt by the PPM government to suppress opposition. Following a trial that was widely criticized by international monitors for violating due process, Nasheed was sentenced in March to 13 years in prison. Later that month, the PPM-led People's Majlis amended the 2013 Prisons and Parole Act to ban inmates from membership in political parties. The move effectively ousted Nasheed from the MDP and jeopardized political opportunities for many others. In October, the UN Working Group on Arbitrary Detention concluded that Nasheed's sentence resulted directly from the exercise of his rights as a political opposition leader to express views contrary to the government, to associate with his own and other political parties, and to participate in public life. Separately, several opposition politicians were among those arrested for participating in demonstrations during the year.

The Maldivian constitution and legal framework grant the right to vote and opportunity to contest elections only to Muslim citizens and specifically to adherents of Sunni Islam, thus excluding the

Christian minority and other religious groups.

C. Functioning of Government: 6 / 12

The government appeared to be functioning more coherently in 2015 following the previous year's parliamentary elections. Nevertheless, political polarization and uncertainty continued to limit elected officials' effectiveness in crafting policy and passing legislation. For instance, long-delayed draft laws intended to strengthen rule of law and judicial independence remained stalled in 2015.

An Anti-Corruption Commission (ACC), established in 2008, is empowered to investigate corruption by officials, but its work is hampered by inadequate legislation and lacking resources, and the vast majority of cases do not result in convictions.

The Right to Information Act grants the public access to government information, but enforcement remained unclear in 2015.

Civil Liberties: 24 / 60 (-4)

D. Freedom of Expression and Belief: 6 / 16

The constitution guarantees freedom of expression provided it is exercised in a manner "not contrary to any tenet of Islam." This clause may be interpreted widely, leading to restraint and censorship by journalists and avoidance of critical reporting on religious issues. In April 2015, legislators passed the Public Service Media Act, which called for an extensive overhaul of public broadcasting. Press freedom advocates criticized the move, calling it a government attempt to institute control over the national public broadcaster and transform it into a mouthpiece for the ruling party.

Harassment and intimidation of journalists restricts the space for freedom of the press. In March, three journalists covering opposition-led demonstrations were arrested for "obstructing police duties" and detained for five days without charge. Separately, the August 2014 disappearance of prominent journalist Ahmed Rilwan Abdulla remained unsolved. In 2015, Rilwan's family and supporters—who have persistently criticized the government's failure to provide information about the case—reported being intimidated and harassed by police. Security forces also prevented a press conference about the disappearance from taking place in July; the organizers had intended to use the event as a push for investigations. In December, President Yameen announced that an inquiry into the case would be launched.

Freedom of religion remains severely restricted. Islam is the state religion, and all citizens are required to be Muslims. Imams must use government-approved sermons. Non-Muslim foreigners are allowed to observe their religions only in private. In recent years, the rise of conservative strands of Islam has led to more rigid interpretations of rules for behavior and dress, particularly for women, as well as an increase in rhetoric—and occasional physical attacks—against other religions and those who espouse more tolerant versions of Islam.

There are no reports of direct restrictions on academic freedom, but many scholars engage in self-censorship.

E. Associational and Organizational Rights: 5 / 12 (-2)

The constitution guarantees freedom of assembly, but a restrictive 2012 law limited the ability to protest outside of designated areas, required the media to have accreditation to cover protests, and defined “gatherings” as a group of more than one person. Preemptive detention is sometimes used to deter citizens from participating in protests. In the weeks following Nasheed’s arrest in February 2015, opposition supporters organized a series of demonstrations but were met with force by police, who disbanded the gatherings and arrested hundreds of participants, including prominent politicians and activists. Nearly 200 were arrested during a mass May Day protest in Malé calling for the release of detained opposition figures, which turned violent and led to clashes with security forces. A number of participants remained in detention at year’s end, some of them facing charges of assaulting police officers during the clashes. Separately, during a protest in November, some participants were reportedly hospitalized after police used pepper spray to disperse crowds.

Nongovernmental organizations (NGOs) also faced setbacks during the year, particular in regard to their ability to operate freely and comment on human rights, among other sensitive issues. In June, the Supreme Court issued a ruling against the HRCM, which since September 2014 had faced accusations of treason and “undermining the constitution” following its submission to the UN Human Rights Council for Maldives’ 2015 Universal Periodic Review. The Supreme Court found the submission—which highlighted legitimate concerns that the judicial system was unduly influenced by a politicized Supreme Court—to be unlawful, and accused the HRCM of encouraging terrorism and undermining judicial independence. Independent watchdogs widely denounced the proceedings for undermining the HRCM’s impartiality as a human rights monitor and discouraging local organizations from engaging with international bodies.

The constitution and the 2008 Employment Act allow workers to form trade unions and to strike, and a labor tribunal enforces the act. Strikes do occur, though workers can sometimes face repercussions for industrial action.

F. Rule of Law: 6 / 16 (-1)

The constitution provides for an independent judiciary, and a Judicial Services Commission (JSC) was established in 2009 to separate the judicial branch from the executive. In practice, however, judicial bodies act with limited transparency and are subject to influence from the executive and legislative branches. In 2013, UN special rapporteur Gabriela Knaul raised concerns about transparency and politicization in the judiciary, particularly the JSC. In March 2015, Knaul noted a serious deterioration in the independence of the justice system since her initial investigation. Knaul highlighted the lack of due process in the Nasheed case as a sign of judicial degradation and dysfunction. Given the magnitude of violations in the high-profile proceedings, the potential consequences for rule of law could be substantial. In December, Nasheed’s lawyers announced their intent to appeal his conviction and sentence.

The constitution bans arbitrary arrest, torture, and prolonged detention without adequate judicial review. The abuse of individuals in custody remains a problem. While the HRCM investigates some cases of maltreatment, its independence and capacity have been substantially threatened by the Supreme Court case.

Civil law is used in most cases, but it is subordinate to Sharia (Islamic law), which is applied in matters not covered by civil law and in cases involving divorce or adultery. As a result, the testimony of two women is equal to that of one man, and punishments such as internal exile and flogging continue to be carried out. Access to justice remains difficult for the substantial number of migrant workers in the country. A small percentage of religious minorities do not enjoy equal protection under the law, as the constitution and legal framework favor Sunni Muslims.

While same-sex sexual acts are prohibited by law and can draw draconian penalties, private consensual conduct has gone largely unregulated in recent years. However, in August, police made arrests for the first time since 2013 for same-sex sexual activity, prompting fears that there would be efforts to enforce the criminal prohibitions.

G. Personal Autonomy and Individual Rights: 7 / 16 (-1)

Freedom of movement is provided for by law and generally allowed in practice. Property rights are weak, with most land owned by the government and leased to private owners or developers.

During its 2015 analysis of the government's implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women, the review committee noted a significant lack of progress in the implementation of national laws designed to ensure equal treatment of women. In particular, given the widespread prevalence of gender-based violence in Maldives, the committee expressed concern that the government had not yet implemented or enforced the 2012 Domestic Violence Prevention Act or the 2013 Prevention of Human Trafficking Act. Moreover, although the authorities took a positive step in 2013 by issuing a strategic action plan on gender equality, the deteriorating political landscape in recent years has significantly worsened the government's institutional capacity to develop and execute gender equality policies.

Efforts to address human trafficking have been sporadic and largely ineffective, and the exploitation of migrant workers, who comprise an estimated quarter of the country's population, is widespread. Maldives appeared in the Tier 2 watch list in the U.S. State Department's 2016 *Trafficking in Humans Report* due to a lack of new efforts by the government to combat trafficking and prosecute perpetrators.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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