



United Nations
Educational, Scientific and
Cultural Organization

ASSESSMENT OF MEDIA DEVELOPMENT IN THE MALDIVES

BASED ON UNESCO'S MEDIA DEVELOPMENT INDICATORS

May 2009

TOBY MENDEL
SENIOR LEGAL COUNSEL

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FOREWORD

UNESCO's initiative to develop Media Development Indicators framework lies at the very heart of the Organization's unique mandate to promote media development.

The focus on the importance of media development is clearly linked to media's potential to strengthen democratic processes which are participatory, transparent and accountable, and encompass all actors of society. Evidence shows that a free, independent and pluralistic media environment is essential for fostering democracy. Media development assistance is therefore an indispensable component of development strategies, although it has still to gain a wider recognition and adequate funding from the international donor community.

It is within this context that UNESCO's Intergovernmental Council of the International Programme for the Development of Communication (IPDC) decided that it was important to identify the key characteristics of a media environment in which freedom of expression, independence and pluralism of the media can flourish.

Central to the UNESCO Media Development Indicators framework is the notion that freedom of expression - a core aspiration of the Universal Declaration of Human Rights - underpins all other democratic freedoms.

The UNESCO Media Development Indicators framework builds upon a previous analysis of existing initiatives to measure media development, which employed a diverse range of methodologies. It does not prescribe a fixed methodological approach, but, rather, offers a 'toolkit' approach in which indicators can be tailored to the particularities of the national context.

The UNESCO Media Development Indicators 'toolkit' suggests five major categories of indicators that can be used to analyse the media landscape of a country. The five principal media development categories are:

- **Category 1: A system of regulation conducive to freedom of expression, pluralism and diversity of the media**
- **Category 2: Plurality and diversity of media, a level economic playing field and transparency of ownership**
- **Category 3: Media as a platform for democratic discourse**
- **Category 4: Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity**
- **Category 5: Infrastructural capacity is sufficient to support independent and pluralistic media**

Each category is broken down into a number of component issues which in turn contain a series of broad indicators. These indicators are diagnostic tools designed to help stakeholders assess the state of the media within a given national context and evaluate the impact of media development programmes, as well as serve as an instrument to guide them in their media development assistance efforts.

The current report is a first attempt to apply the 'toolkit' with a long term objective of helping to build up a national mechanism for regular monitoring of media development in the Maldives, particularly media pluralism and diversity which contribute to the sustainable media development and good governance.

It should be clear that this report as well as the Media Development Indicators are intended as living documents that will be adjusted on the ground by its ultimate intended users – the journalists and news organizations and citizens' groups working to strengthen media on the local level.

It is our hope that media development practitioners will take advantage of the possibilities offered by this

diagnostic tool and that it will become a reference for all those committed to building free, independent and pluralistic media.

Iskra Panevska
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INTRODUCTION

The Maldives is a very unique country geographically, with its population of approximately 300,000 being spread among some 1200 tiny coral islands, of which about 200 are inhabited. These islands form an archipelago of 21 Atolls (or collections of islands), which stretches 820 kms from north to south and 120 kms from east to west. This unique geography has to some extent dictated the economic structure of the Maldives – which is heavily dependent on tourism and fishing – and it also poses special challenges in terms of media development.

Islam is the religion of all Maldivians; indeed, according to the Constitution, only Muslims may be citizens (Article 9(d)). The language of the Maldives is Dhivehi, a mixture of Arabic and Asian languages, written in a local script, Thaana, although English is also widely spoken, particularly among elites, many of whom are educated abroad.

The Maldives has the highest literacy rate in South Asia, of 96.3% in 2005 according to the UNDP *Human Development Report, 2007–2008*.¹ It also boasts the highest GDP per capita, of USD 5,261, in the same year.² Some 466 out of every 1000 people are cell phone subscribers, according to the UNDP, but only 59 access the Internet. Overall, the Maldives was 100th in the UNDP's Human Development Ranking of countries in its 2007–2008 Report.

Recent years have seen significant improvements in terms of the political environment and respect for freedom of expression. Maumoon Abdul Gayoom was first elected President of the Maldives in 1978

and was subsequently re-elected for six more five-year terms, losing office only in elections of October 2008. Gayoom handed over the reigns of power to Mohamed Nasheed and his Maldivian Democratic Party (MDP) on 11 November 2008, 30 years after the former had first come to power. Elections to the People's Majlis, conducted on 8 May 2009, resulted in a stalemate between the two main parties, Nasheed's Maldivian Democratic Party (MDP) and Gayoom's Dhivehi Rayithunge Party (DRP), with no party taking a commanding lead.

Pressure for reform had been building since a September 2003 riot in Maafushi prison, sparked by the death of a prisoner, allegedly due to torture by prison officials. In June 2004, President Gayoom announced a broad programme of political reforms, which included the establishment that month of a Special Majlis (Constitutional Parliament), tasked with drafting a new constitution. It took four years, but the new constitution was finally ratified by President Gayoom on 7 August 2008. Political parties started operating for the first time in June 2005, following on from a unanimous vote in the People's Majlis to allow multi-party politics.

In July 2005, the procedures for registering newspapers were significantly relaxed, and all pending applications were approved in one day. On 28 March 2007, the government sent out a call for applications to operate private broadcasting stations, and the first stations were licensed in June 2007, finally bringing to an end the State monopoly over broadcasting.

In an official report of May 2007, the government highlighted four main pillars of the media reform process, namely confidence building measures, introducing private media, creating a legal framework for the media and undertaking training. There has

¹ Available at: <http://hdr.undp.org/en/>.

² An official government report suggests that the GDP *per capita* in 2006 was just USD 2,668, but this is presumably not based on 'purchasing power parity', as in the UNDP report. *Maldives Media 2006 and Moving Forward: Towards establishing a stable media environment* (May 2007: Ministry of Information and Arts).

been some progress in all four areas, although far more needs to be done in the area of training, and the legal framework remains incomplete.

In its 2007 report, the government refers to the formulation of six media-related bills, on freedom of information, freedom of the press, the media council, broadcasting, registration of publications and cable TV services.³ So far, only the Media Council Law has actually been adopted. A right to information bill was rejected by the People's Majlis in November 2007, while a broadcasting bill has been considered by the Majlis.

Prior to the adoption of the 2008 Constitution, the rule had been that you needed laws to implement rights, and this had led in recent years to a proliferation of 'rights' bills, including on freedom of expression, freedom of publication, freedom of the press and freedom of assembly, as well as bills on civil defamation.

Nasheed's government has promised to continue the reform efforts in the area of freedom of expression. Some signs of success are already visible. In its publication, *Freedom of the Press 2009*, released on

1 May 2009, Freedom House states: "The Maldives made the study's largest jump, moving to the Partly Free category".⁴ However, as this quote demonstrates, the Maldives still has some way to go; it has not yet attained the 'Free' category.

This Report assesses the overall state of media development in the Maldives, based on UNESCO's *Media development indicators: a framework for assessing media development*.⁵ The indicators are based on five main Media Development Categories, broken down into more detailed Issues and Key Indicators. This Report follows the same format, providing a synopsis of the key strengths and weaknesses at the end of each of the five main sections. The assessment of the Maldives relative to the indicators takes into account the special situation of the country, particularly in terms of its size and consequent relative lack of capacity.

The preparation of this Report is based on unstructured interviews conducted during a mission by the author to the Maldives from 12–22 April 2009, supplemented by information provided on an informal basis by email, and a review of the available literature. A list of those met during the mission is provided in the Annex.

³ *Ibid.*

⁴ The press release is available at: <http://www.freedomhouse.org/template.cfm?page=70&release=811>. The Department of Information proudly displays this quote on its website. See: <http://www.maldivesinfo.gov.mv/home/index.php>. It may be noted that the 2009 Report refers to press freedom developments in 2008.

⁵ Available at: http://portal.unesco.org/ci/en/ev.php-URL_ID=26032&URL_DO=DO_TOPIC&URL_SECTION=201.html.

A system of regulation conducive to freedom of expression, pluralism and diversity of the media

A. LEGAL AND POLICY FRAMEWORK

Freedom of expression is guaranteed in law and respected in practice

The Maldives adopted a new Constitution in August 2008, after a long process of social consultation and debate. It includes strong guarantees of freedom of expression (Article 27), of the media (Article 28), and to acquire and impart knowledge and information (Article 29). The right to freedom of expression must, however, be exercised in a manner that is "not contrary to any tenet of Islam". The Constitution also guarantees other rights, including the rights to privacy (Article 24) and to protection of good name and reputation (Article 33).

The Constitution permits limitations on rights, but only where these are provided for in a law passed by the People's Majlis and to the extent "demonstrably justified in a free and democratic society", although a law to protect the "tenets of Islam" shall not be contrary to the Constitution. The Constitution also lists a number of factors to be taken into account when determining whether or not a law meets these standards, and places the onus on the State or person asserting a limitation to prove that it is constitutional (Article 16).

Taken together these represent strong constitutional guarantees. The standard of 'demonstrably justified' in a democratic society may be assumed to be similar to that of 'necessity' posited under international law. At the same time, the limitation in favour of protecting the tenets of Islam is problematical, among other things because it is completely undefined.

The Maldives acceded to the *International Covenant on Civil and Political Rights*, the main international convention guaranteeing freedom of expression, on

19 September 2006. It has also ratified most other key international human rights treaties.

Awareness of the right to freedom of expression appears to be somewhat limited in the Maldives. The new Constitution was just adopted recently and respect in practice for freedom of expression by the authorities is of relatively recent vintage. Media workers remain concerned that various bad practices of the past, such as harassment by the police, might be employed again in the future, even though they are clearly unconstitutional. Furthermore, the very recent vintage of the Constitution means that there has not yet been an opportunity to assess existing laws against it, many of which probably breach its freedom of expression guarantees. At the same time, there is an active if small media sector which appears willing to engage in strong criticism of the government and officials, and election campaigns are undertaken in a vibrant fashion.

In terms of institutional structures, there is no independent broadcast regulator, information commissioner or ombudsman, but there is a Human Rights Commission of the Maldives, originally established on 10 December 2003 as an autonomous statutory body created by Presidential Decree. Its founding documents were revised to bring them into line with the 1991 Principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles), and it now operates under the Human Rights Commission's Act.⁶

The right to information is guaranteed in law and respected in practice

It is not entirely clear that the guarantee in favour of acquiring information in the Constitution, noted above, refers to the right to access information held

⁶ Law No: 6/2006.

by public bodies. So far it has not been relied upon to this end and, if this is the intention, it could be made far more explicit.

There is no right to information or freedom of information law. A draft presented to the People's Majlis was defeated by just one vote in November 2007. In response to this, the President adopted a decree in May 2008 establishing the right to information as a regulation. However, this does not appear to be implemented in practice, or relied upon by citizens or civil society groups as a means to access information, and there is clearly a need for a fully-fledged right to information law.

Some government ministries operate fairly sophisticated websites offering a range of information about services and related public information, while the websites of other ministries are less developed.⁷

Editorial independence is guaranteed in law and respected in practice

Apart from the constitutional provisions noted above, there is no specific guarantee of editorial independence in law. Indeed, there is no law regulating broadcasting which might provide for editorial independence for that sector.

In the newspaper sector, there appears to be significant influence by owners over content, particularly politically sensitive material. I was informed of several instances of conflicts between editors and business owners, and of attempts by owners to impose their political will on newspapers, and this was strongly corroborated by other information. Only a small number of newspapers appear to be profitable, and even then almost entirely as a result of government advertising, which in the past, at least, had been associated with some degree of control. This leaves newspapers open to influence by owners, and many owners have strong political connections.

Journalists' right to protect their sources is guaranteed in law and respected in practice

The right to protect confidential sources of information is specifically protected by the Constitution, which states, in Article 28: "No person shall be compelled to disclose the source of any information that is espoused, disseminated or published by that person." This would appear to be respected in practice, and I was not told

⁷ These are available via: <http://www.themaldives.com/government/>.

of any instance where someone had been required to divulge a confidential source of information.

The public and civil society organisations (CSOs) participate in shaping public policy towards the media

In the past, there appears to have been very little consultation around laws or policies relating to the media or to freedom of expression more broadly. Indeed, even the People's Majlis operated, in the past, largely as a rubber stamp for legislative initiatives put forward by government. This is clearly changing now, and the new Constitution has shifted the balance of power strongly in favour of the People's Malis. The new People's Majlis is expected to take its oversight functions far more seriously.

As at the time of writing, the election results appear to be settled, with the Dhivehi Rayithunge Party (DRP) taking 28 seats, the largest number, just ahead of President Nasheed's Maldivian Democratic Party (MDP), which won 26 seats. Independent candidates won 13 seats and the Peoples Alliance (PA) party took 7 seats. The Dhivehi Gaume Party (DQP) won 2 seats while Republican Party took one seat, for a total of 77. It remains unclear who will lead the new parliament and negotiations on this are presently underway.

There are few local civil society organisations with a specific mandate to work on media-related issues. One exception is the South Asia Free Media Association, which has a local branch in Malé, although their current focus is more on the social role of the media and media reporting than on engaging in legislative processes.

B. REGULATORY SYSTEM FOR BROADCASTING

Independence of the regulatory system is guaranteed by law and respected in practice

At present, there is no broadcasting law and no independent system for regulation of the broadcasting sector. Instead, the granting of licences and other regulatory functions are undertaken directly by the Minister of State for Information, which functions under the Ministry of Tourism Arts and Culture, an approach which clearly lacks independence. This is compounded by the fact that broadcasters are required to have their licences renewed on a yearly basis. Existing broadcasters did not report any problems with licence renewal, but the potential for interference is clearly present.

The adoption of a broadcasting law which would put broadcast regulation on a more secure and independent footing has been a priority for the government and People's Majlis. A draft Broadcasting Bill, discussed by the Majlis early in 2009, would have established a largely independent Broadcasting Commission, appointed by the President but upon the recommendation of the People's Majlis. However, pursuant to this draft, most key powers were to have been exercised by the Minister, with the Commission playing a largely advisory role. A new draft has been prepared on behalf of the Social Affairs Committee of the previous Majlis, which that Committee has forwarded to the new Majlis with its commendation. Under this draft, the independent Commission and not the Minister would have direct responsibility for regulating broadcasting.

Regulatory system works to ensure media pluralism and freedom of expression and information

As noted above, broadcast regulation is undertaken directly by the Minister of State for Information in the Maldives, and so any accountability to the public is through the Minister and President, who appoints ministers.

There is no formal framework for broadcasting and hence no formal obligation to promote pluralism or freedom of expression through broadcast regulation. In practice, these goals do not appear to have been taken explicitly into account when licensing broadcasters. Instead, a more first-come, first-serve approach appears to be in place. I was informed that there are no formal obstacles to the licensing of community broadcasters, but that no one had as yet applied for a community broadcasting licence. At the same time, there is no effort to promote or support community broadcasting, to put in place a licensing system which is 'friendly' to community broadcasters, or to reserve frequencies for this tier of broadcasters. There also appear to be few any other rules in place to promote pluralism.

C. DEFAMATION LAWS AND OTHER LEGAL RESTRICTIONS ON JOURNALISTS

The state does not place unwarranted legal restrictions on the media

Notwithstanding the strong constitutional guarantees, there are a number of unwarranted legal

restrictions on the media and freedom of expression more generally in the Maldives, for example in the Criminal Code. There is, as noted above, a particular concern with the protection of Islam, which is found not only in law, but also in the Constitution. It was highlighted to me in interviews that Islam places a high degree of importance on protection of reputation.

There are no legal restrictions on who may practise journalism. There do not seem to be any accreditation procedures in place in the Maldives. This may be a result of the small population and number of journalists, which minimises the need for such systems.

Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

Defamation is currently a criminal offence, contrary to better international practice in this area. In practice, these rules appear to be applied very infrequently; none of the media practitioners I spoke to were aware of any actual convictions for criminal defamation.

The former Attorney General made a commitment three or four years ago not to bring criminal defamation cases. More recently, however, a new Prosecutor General has been appointed pursuant to the 2008 Constitution, who has threatened to reinstitute criminal defamation cases, claiming that it is his duty to apply the law. Much concern was expressed about this during the mission and it is likely to exert a direct chilling effect on the media, leading to less open criticism of officials.

There have been a number of threats to apply defamation laws, in some cases leading to out of court settlements. I was told of one case, for example, in which a newspaper was threatened with a defamation action for publishing a picture of a half naked sports star. Although the case was dropped, incidents like this are likely to bolster the chilling effect of defamation laws.

There have been a number of attempts to introduce defamation law reforms over the past few years, including attempts to introduce civil defamation rules. These have not, however, purported to do away with criminal defamation and the most recent 'civil' defamation drafts still envisage imprisonment for defamation (i.e. they are not really civil in nature).

In addition, these drafts fail to protect criticism to the degree required under international law. Among other things, they lack sufficient defences for those alleged to have defamed someone.

Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

The Media Council Law, signed into law in November 2008 by the outgoing Gayoom government, establishes a Media Council to address complaints against the media. There have been complaints about the degree of independence of the Council as established by the Media Council Law, although the Law does include a number of measures to promote independence. The Council has the power to investigate complaints and to order media outlets to publish its adjudications.

The Media Council Law includes a number of "Fundamental Policies of the Council", most of which are in the form of restrictions on what media outlets may disseminate. There is a particular focus on accuracy of information but the Fundamental Policies also refer to such things as respect for privacy and honour. The standards set out are vague and do not, in important respects, conform to international standards regarding restrictions on freedom of expression. The Media Council Law also imposes a number of restrictions on how information may be obtained.

I was not able to obtain a copy of the Criminal Code in English, but it is very likely that it includes a number of rules which may be challenged as excessive restrictions on freedom of expression as guaranteed under the Constitution and international law. There may also be other laws which restrict freedom of expression.

In addition to the laws which are actually in force, a number of restrictions on media content are found in draft laws or bills which have been either proposed or reconsidered recently, including the Broadcasting Bill, the Freedom of the Press Bill, and the Bill on Freedom of Publication. The Freedom of the Press Bill, for example, prohibits the publication, among other things, of material which offends against social standards or Islam, may 'brutalise' children, promotes illegal drugs or alcohol, portrays women in an indecent

fashion, invades privacy, contains false information, is defamatory, or which constitutes an act against the State or discloses a State secret. As with the Media Council Law rules, these prohibitions are unduly vague and at least potentially overbroad.

D. CENSORSHIP

The media is not subject to prior censorship as a matter of both law and practice

There is no system of prior censorship of either the print or broadcast media in place in the Maldives, either in law or in practice. Books, however, are still legally subject to a system of prior censorship.

Newspapers are required to obtain registration to operate and, although this is no longer used as a system to control the establishment of newspapers, it had been used in this way in the past. Given that the rules on registration are not set out in law, and appear to be largely at the discretion of the Department of Information, the system could be abused again in future.

In a May 2007 official report, the government admitted that it had been difficult to register a newspaper or magazine prior to July 2005. An application, which was so complicated it apparently took two full days to complete, needed to be submitted to the Ministry of Information, along with a 'court clearance certificate' for the person designated as editor. An inter-departmental committee advised the Ministry as to whether or not to issue a licence. This process was apparently revised and, on 17 July 2005 the Ministry registered all pending applications. According to the report, newspapers and magazines are now registered on the same day the application is submitted.⁸

The state does not seek to block or filter Internet content deemed sensitive or detrimental

There does not appear to be any central government blocking or filtering of Internet content. Indeed, a 2006 report by the International Mission reported that even at that time there was no evidence of international websites being blocked.⁹

⁸ *Maldives Media 2006 and Moving Forward: Towards establishing a stable media environment*, note 2.

⁹ *A Vibrant Media Under Pressure: An Independent Assessment of Press Freedom in the Maldives* (July 2006: International Press Freedom and Freedom of Expression Mission to the Maldives).

Recommendations

- Right to information legislation in line with international standards should be adopted and implemented fully.
- Measures should be put in place to stop owners undermining editorial independence.
- A comprehensive broadcasting law should be adopted which puts regulation in the hands of an independent broadcast regulator rather than the Department of Information.
- Criminal defamation should be abolished and the rules on civil defamation should be revised to bring them into line with international standards.
- Undue restrictions on media content should be removed from laws such as the Media Council Law and the Criminal Code, as well as any draft Bills, such as the Freedom of the Press Bill.
- The system for registration of newspapers should be abolished or substantially revised so that it is a technical registration system; the system of prior censorship of books should be abolished.

Plurality and diversity of media, a level economic playing field and transparency of ownership

A. MEDIA CONCENTRATION

State takes positive measures to promote pluralist media/State ensures compliance with measures to promote pluralist media

At present, there are no specific rules to control concentration of ownership of the media, either within one media sector or in terms of cross-media ownership. Furthermore, as noted, there is no legal framework for licensing of broadcasters, so this system cannot be used to address media concentration issues. There are also no rules providing for transparency of media ownership. The government does not appear to monitor media ownership actively and there is also little civil society activity in this area.

At the same time, there does not appear to be a great degree of concentration of media ownership in practice. Instead, a main model of ownership appears to be individuals owning media outlets, often with the support of certain businesses, which bolster their financial stability. I was informed that there is very little cross-ownership, although this is starting to manifest itself; at least one television company also owns a newspaper and a few existing media are seeking to develop new media enterprises in other media sectors.

Similarly, although there are no formal rules requiring transparency of ownership, in general knowledge about who owns which media outlets is reasonably widespread due to the very small population and effective informal systems of information sharing.

In terms of number of media outlets, in addition to the public broadcaster, which operates one television and one radio station, there are two private television stations and six private radios. All of the private broadcasters are based in Malé although, according to a 2008 report by International Media

Support,¹⁰ some have national licences. There are also at least five dailies, along with a larger number of magazines and other publications. According to an official report published in May 2007, at that time, 6 daily newspapers, 15 magazines and over 70 other publications were registered, out of which 25 publications were in regular circulation.¹¹

B. A DIVERSE MIX OF PUBLIC, PRIVATE AND COMMUNITY MEDIA

State actively promotes a diverse mix of public, private and community media

There is currently no legal framework governing broadcast regulation. There do not appear to be any other measures in place to promote a diverse mix of broadcasters, other than a commitment to licence private broadcasters.

Independent and transparent regulatory system

As noted, the regulatory system for broadcasting is run by the Department of Information. This means that the process of allocating licences is not independent of government. There is no formal system for the publication of licence applications, or for public participation in the process and, to date, this has not been the practice.

State and CSOs actively promote development of community media

As noted above, there are no community broadcasters, radio or television, in the Maldives.

¹⁰ *Assessment Report on Current Press Freedom Trends and Media Support Options in the Maldives*, January 2008.

¹¹ *Maldives Media 2006 and Moving Forward: Towards establishing a stable media environment*, note 2.

A project to develop community radio, apparently supported by UNESCO, was discussed about two years ago but did not come to fruition. There do not appear to be any active plans currently to develop community broadcasters in the Maldives, although this was envisaged in the Broadcasting Bill considered by the People's Majlis recently.

C. LICENSING AND SPECTRUM ALLOCATION

State plan for spectrum allocation ensures optimal use for the public interest/State plan for spectrum allocation promotes diversity of ownership and content/Independent and transparent regulatory system

The two private television stations disseminate their signals via cable and satellite, but not via terrestrial transmission. The six private radio stations, all FM, transmit terrestrial signals mainly to Malé. The public broadcaster, which carries one television and one radio channel, broadcasts terrestrially, as well as via cable and satellite.

Frequencies for broadcasting are allocated not by the Department of Information but by the Ministry of Communication, Science and Technology. Indeed, aspirant broadcasters apply first for a frequency licence and then follow up to get a broadcasting licence. There do not appear to be any cases where 'friction' in this system, through someone with a frequency licence being refused a broadcasting licence, has been a problem.

There does not appear to be any plan for allocation of broadcasting licences among the different types of broadcasters (community, commercial and public, radio and television, and broadcasters of different geographical reach). There have been no public consultations around a broadcasting frequency plan and no such plan has been made publicly available. At the same time, the relative geographic isolation of the Maldives, as well as its small media market, means that there is not yet much pressure on the use of broadcasting frequencies.

Cable television operators are required to carry the public television channel, Maldives Television (MTV). Commercial broadcasters, on the other hand, must pay a fee to have their channels carried by the cable operators.

In an official report on the media in 2007, the then Ministry of Information and Arts indicated that licences come with conditions requiring them to carry minimum quotas of local content which start at 12% in the first year and work up to 75% by the tenth year. The report also claimed that the government had formed a Content Adjudication Committee, "consisting of nine members from different walks of life", to "deliberate contentious issues" disseminated over the airwaves. It is not clear whether this body ever existed but it no longer appears to be in existence.

There would appear to be little or no monitoring of broadcasters by official bodies – in this case the Department of Information – to ensure that they respect their licence conditions. The Department lacks the capacity to do this and there is no proper complaints system to facilitate public monitoring.

D. TAXATION AND BUSINESS REGULATION

State uses taxation and business regulation to encourage media development in a non-discriminatory manner

There is no discrimination against media enterprises through business or taxation systems. This means that media are subject to the same levels of taxation as other businesses. It also means that all media are subject to the same levels of taxation (i.e. there is no internal discrimination among media outlets). At the same time, there are no taxation or business benefits to encourage the development of the media sector, such as tax-free importation of materials necessary for media enterprises and the like.

E. ADVERTISING

State does not discriminate through advertising policy

The allocation of public advertising, which reportedly makes up around 75%–80% of all advertising, is a matter of much debate in the Maldives currently, with a number of ideas and developments in play. There is no formal system for the allocation of advertisements, in the sense of a system based on a published official policy, but there is an established and respected practice (see below). There is also no independent monitoring of the allocation of public advertising, but

media outlets appear to monitor, and be quite aware of, public advertising quotas in other outlets, through a sort of internal monitoring system.

Historically, and this essentially remains the case today, a large majority of all public advertising went to the two or three market leading newspapers, as well as the public (State) broadcasters. At the same time, these newspapers were close to the government, led at the time by Gayoom. The current government claims to have asked public bodies to allocate advertisements more equally among public bodies.

During the latter part of the Gayoom regime, a number of newer newspapers emerged, some supporting the then opposition and some trying to be more politically independent. These newspapers have smaller circulations and market shares, and so the objective rationale for placing advertisements with them is smaller. At the same time, some complain that the more established newspapers are dominant precisely because they have historically benefited from political patronage, including in the allocation of public advertising, and, to redress this situation, more advertising needs to be directed towards the new newspapers.

In parallel to these developments, the government has put forward a plan to shift at least some public advertising from commercial newspapers to the *Official Gazette*, a weekly publication published by the government and distributed for free in stores and through libraries. The rationale for this is that it is much cheaper to advertise through the *Official Gazette*; the government claims this would cost only one-third as

much as the current system. The government also claims that disseminating public advertising, which consists mostly of public employment offers and tenders, via the *Gazette* will not undermine access by the public to that advertising.

Naturally, the media industry is unhappy with this proposal. One idea to offset, at least partially, the impact, is to pay monthly subsidies to newspapers for a period of two years, during which time they are expected to put in place adjustment measures, although it is unclear what these might consist of. A similar idea was reflected in an official May 2007 government report on the media, which stated that all regular, local daily newspapers which were less than 2 years old received 5,000 Rufiyaa (approximately USD 400) per month, and then 3,500 Rufiyaa in their third year.¹²

There does not appear to be a problem of unfair competition in relation to advertising from the State broadcaster, although there are no specific rules on this and it is not formally monitored. At the same time, the State broadcaster is in a relatively unique position as the only the only television channel to broadcast terrestrially and the only radio channel to broadcast nationally.

Effective regulation governing advertising in the media

There are no formal rules governing advertising in the media, whether as to total amounts of advertising, separating advertisements from other content or what is acceptable advertising content.

Recommendations

- Clear and enforceable rules should be put in place limiting concentration, and requiring transparency, of media ownership.
- The legal framework for broadcasting should provide specifically for the licensing of community broadcasters, and support should be given to promote the actual development of community broadcasters in the Maldives.
- A plan should be developed for the allocation of broadcasting frequencies which envisages an equitable sharing of these frequencies among public, commercial and community broadcasters.
- The broadcast licensing system should be used to promote diversity in the airwaves.
- A set of clear and fair rules for the allocation of public advertising should be adopted.

¹² Note 2.

3

PLATFORM FOR DEMOCRATIC DISCOURSE

Media as a platform for democratic discourse

A. MEDIA REFLECTS DIVERSITY OF SOCIETY

The media – public, private and community – based – serve the needs of all groups in society

The Maldives is a relatively homogenous society, with Dhivehi spoken throughout the country, although accents and dialects do vary somewhat. Almost all local media reporting is in either English or Dhivehi. I was informed that most reporting is in standard or formal Dhivehi, although increasingly local accents are being heard.

As noted above, there are currently no community broadcasters in the Maldives. However, it would appear that newspapers, local radio, the local private television stations and the public broadcaster do all provide a significant amount of content of relevance to people living in the Atolls outside of Malé.

According to the Managing Director, the public broadcaster provides a mix of news, current affairs, health and technology programmes and programmes aimed at children, in addition to more entertainment-oriented programming. Dhi TV, for its part, provides coverage of the Majlis, 4 daily news bulletins, music, drama and movies. They produce the news and some of the other programming, but also commission much of it.

Media organisations reflect social diversity through their employment practices

As noted, there are not really any ethnic minorities in the Maldives. Individuals from different Atolls around the country are represented in the media and some media have stringers in different Atolls. The representation of women in the media is, while distinctly lower than men, particularly among editors and managers, significant and growing.

B. PUBLIC SERVICE BROADCASTING MODEL

The goals of public service broadcasting are legally defined and guaranteed

The public broadcaster, the Maldives National Broadcasting Corporation (MNBC), was created recently by a Presidential Decree which merged the pre-existing public broadcasters, Television Maldives and Voice of Maldives. The new broadcaster does not have a mandate clearly set out in law, or a code of conduct to govern its operations, although it is under a duty to operate in a politically impartial manner.

The lack of a clear legal framework for MNBC means that it lacks formal guarantees of independence, including editorial independence. The current government has made a commitment to respect the independence of the broadcaster, but this lacks a legal underpinning and so remains a political commitment for now.

The above also applies to funding which presently consists mostly of a stipend from the Ministry of Finance, along with advertising, much of which comes from government as well. Funding for MNBC was roughly halved this year, over the previous combined income for its component television and radio parts, apparently due in part to a sense that it should become more commercially self-sustaining. The current stipend is 62m Rufiyaa, or about USD 5m, down from 113m Rufiyaa last year.

In terms of actual output, a wide range of views were expressed as to the independence of the public broadcaster. The Managing Director claimed that MNBC's news was 100% independent. Some commentators suggested that the public channels were biased towards the government, some suggested

they were getting better, and yet others suggested that they needed to be more critical and professional when reporting the news. According to the latter view, MNBC only airs different views on matters of significant public importance – such as the budget – but otherwise often simply presents the government's view.

MNBC has few systems of direct accountability to the public. The Board is appointed directly by the President and there is no other formal chain of accountability. There is no complaints system either.

The operations of public service broadcasters do not experience discrimination in any field

There does not appear to be any discrimination against the public broadcaster in relation to carriage by cable or satellite operators. It is disseminated terrestrially, over cable and satellite, and at least some content is available over the Internet.

Independent and transparent system of governance

As noted above, MNBC lacks an independent and transparency system of government. Members of the Board are, under the current arrangements, appointed directly by the President and the last appointments were not the subject of open public consultations. The Managing Director reports to the Board, and claims that in practice he does not suffer any government interference at all. Formally, however, the opportunity for interference clearly exists. The staff of the public broadcaster are currently civil servants, although there is reportedly some idea of reforming the system. As such, they are subject to Civil Service Commission rules, and cannot easily be removed or replaced.

PSBs engage with the public and CSOs

As noted, MNBC has neither a public complaints system nor has the public been involved in appointments to the Board. The station does receive comments by SMS, email and phone which may be transmitted or addressed on air via programmes focusing on public feedback.

C. MEDIA SELF-REGULATION

Print and broadcast media have effective mechanisms of self-regulation

There do not appear to be any systems for self-regulation in place in the Maldives. Neither the previous Maldives Media Association nor the recently founded Maldives Journalist Association count self-regulation among their activities and, as noted, MNBC does not have a complaints system in

place. A Media Council Law, providing for a statutory complaints system, was adopted in November 2008. The Department of Information called for applications for the public members of the Council in January 2009 but they have not yet been appointed.

Some journalists indicated, when questioned, that they felt there was no point in forming a self-regulatory system in light of the Media Council, although this does not explain why one was not formed earlier. A more likely reason for the lack of self-regulation may be that the media is not sufficiently united to put in place such a system.

Most media do, however, appear to respond to complaints on an informal and essentially *ad hoc* basis, for example through apologies or by publishing letters of complaint.

Media displays culture of self-regulation

A culture of self-regulation has not yet taken root in the Maldives. Such media associations as exist, and these remain very weak and nascent (see below), see their objectives as being more to advocate in favour of media freedom than to promote professionalism, although the Maldives Journalist Association did indicate that it might, in due course, engage in some training activities.

D. REQUIREMENTS FOR FAIRNESS AND IMPARTIALITY

Effective broadcasting code setting out requirements for fairness and impartiality/Effective enforcement of broadcasting code

As noted above, there is no code of conduct for broadcasters, either as provided for by law or at a self-regulatory level, so the question of enforcement of such a code does not arise. The Media Council Law does include some provisions on content, but these focus mainly on issues of accuracy and protection of individuals (against invasions of their privacy and defamation). However, I was informed that all broadcasters have a requirement of balance and impartiality in their licences and MNBC is also under an obligation in this regard.

There does not appear to be a separate set of rules on media coverage of the elections. In previous elections, the public broadcasters provided at least some free time to parties, but in the May 2008 elections parties were required to pay for their advertising. It may be noted that the large number of parties and independent candidates – some 12 parties and a very large number of independent candidates contested the last elections – presents a challenge in this regard.

There does not appear to have been any bias in the allocation of advertising to parties and candidates by MNBC or by other media in the May 2008 elections.

E. LEVELS OF PUBLIC TRUST AND CONFIDENCE IN THE MEDIA

The public displays high levels of trust and confidence in the media

This is an issue that is difficult to measure accurately even where specific audience research on it is produced. There has not yet been any independent audience research in the Maldives, although some media outlets did report on having conducted their own research. One NGO reported that a survey they conducted in January 2009 suggested that trust in the media is low. On the other hand, one media outlet suggested that a survey of 600 people indicated that more than 90% thought they were not biased, although it is difficult to assess the independence of this survey.

Most media interviewed claimed, predictably, that they had strong audience support and trust. It would appear that the media do not report much on social issues, a key concern for some media NGOs. For example, reporting on crime, drug use, women's issues and the like appears to be relatively limited, although these are key issues facing the country.

Otherwise, it would appear that many media outlets have political biases or tendencies and almost all media representatives interviewed attributed these to other media outlets, at least, if not to their own. In many cases, specific links of family or friendship were drawn between senior media staff and political figures, something which is probably inevitable in such a small country.

There would appear to be a reasonable level of audience participation in different media, for

example with direct access shows on television and radio, and, as noted above, informal systems for responding to complaints.

Media organisations are responsive to public perceptions of their work

As noted, there are informal systems for responding to public complaints and concerns at most media outlets, but no formal system for this. It is not clear how responsive media outlets are to this sort of input in the larger sense of adapting or adjusting their practices.

F. SAFETY OF JOURNALISTS

Journalists, associated media personnel and media organisations can practice their profession in safety/Media practice is not harmed by a climate of insecurity

The Maldives is generally a safe country and this applies to the exercise of journalism as well as other pursuits. There have been no reports of physical attacks or threats thereof against journalists in recent years that I am aware of. However, a few years ago, there were credible reports of media workers being harassed by both private actors and official security forces (the police and the paramilitary Star Force group).¹³

At the same time, it was suggested to me that journalists avoid reporting on certain issues, in particular drug trafficking, organised crime, gangs and sometimes religious issues, out of fear of the repercussions, including, potentially, threats and attacks. Representatives of some media outlets confirmed that they have witnessed an increase in complaints on religious grounds, for example in relation to television fashion shows. It is not clear whether or not this has resulted in self-censorship.

Recommendations

- Legislation should be adopted providing for a clear legal framework for MNBC, and which provides formal guarantees for its independence, defines its mandate clearly and ensures that it has adequate funding which is protected against interference.
- Support and encouragement should be provided to media workers and organisations in the Maldives to develop systems of self-regulation.
- The regulatory framework for broadcasting should require all broadcasters to respect requirements of balance and impartiality and a code of conduct for broadcasters – whether statutory or self – regulatory – should be developed.
- Support should be provided to the media to promote more reporting on social issues.

¹³ See, for example, *A Vibrant Media Under Pressure: An Independent Assessment of Press Freedom in the Maldives*, note 9.

4

PROFESSIONAL CAPACITY BUILDING

Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity

A. AVAILABILITY OF PROFESSIONAL MEDIA TRAINING

Media professionals can access training appropriate to their needs/Media managers, including business managers can access training appropriate to their needs/Training equips media professionals to understand democracy and development

There are a number of training opportunities available in the Maldives, offered by international trainers (the UNDP and BBC were mentioned), the Department of Information and individual media houses. It would appear that, for the most part, these courses are basic training courses, which aim to give journalists generic skills, rather than more specialised training. Several media also claimed to offer some form of in-house training, although this is probably more on-the-job learning than formal training as such.

At the same time, almost everyone I met complained about the lack of trained journalists and the difficulty of finding qualified staff. The growth in the number of media outlets in the Maldives has undoubtedly exacerbated this problem. Some smaller outlets complained that once they trained staff, those staff were likely to head on to another larger outlet, able to pay them a higher salary.

B. AVAILABILITY OF ACADEMIC COURSES IN MEDIA PRACTICE

Academic courses accessible to wide range of students/Academic courses equip students with skills and knowledge related to democratic development

The availability of academic media training opportunities inside the Maldives is presently rather limited, although that is hopefully set to change soon. At present, neither a degree nor a diploma in

journalism is available through the only local degree-granting educational institute, the Maldives College of Higher Education.

At earlier attempt to set up a degree course was unsuccessful as it failed to attract the requisite number of 10 students with A-levels (of the 28 applicants, only eight had five A-levels). A more modest programme is now being developed, with a 2-year diploma course in journalism, for which only O-levels is required, due to be offered in January 2010 (followed by a 1-year course for those with A-levels, due to be offered from January 2011). This training programme aims to provide a solid grounding in basic journalism skills to students. But it will not go beyond that; investigative journalism, for example, is unlikely to figure in the curriculum.

Many Maldivians have studied abroad and this is an important way in which such a small country can supplement the educational opportunities it is able to provide internally. At the same time, there would appear to be few media workers who have journalism degrees. *Haveeru*, the largest daily newspaper, for example, has just 3 journalists/editors with university degrees out of a total of about 22, and several media outlets indicated they did not have any trained journalists on staff. Apparently none of the staff of the former Voice of Maldives had even a diploma in journalism while the Managing Director of MNBC highlighted poor training as one of his biggest challenges. He has plans to sponsor a number of students both abroad and at the new diploma course in the Maldives as one way of addressing this.

C. PRESENCE OF TRADE UNIONS AND PROFESSIONAL ORGANISATIONS

Mediaworkers have the right to join independent trade unions and exercise this right

There is no trade union serving journalists. It was suggested that it was actually illegal to establish a trade union although I was not able to verify this.

Trade unions and professional associations provide advocacy on behalf of the profession

The Maldives Media Association was formed in October 2006, but never really appears to have gotten off the ground and now seems to be largely defunct. Its two leading officers are currently the Minister of State for Information and the Managing Director of MNBC, respectively.

The Maldives Journalists Association was registered with the Ministry of Home Affairs on 1 April 2009, and it is currently trying to build its membership, so it is still too early to assess its activities. A meeting with two of its three founders described its focus as being to advocate on behalf of media freedom, rather than to act as a complaints body or to develop professional or ethical standards, which it saw as being the responsibility of the Media Council. A longer-term possibility was that it might engage in some training activities as well.

D. PRESENCE OF CIVIL SOCIETY ORGANISATIONS

CSOs monitor the media systematically/CSOs provide direct advocacy on issues of freedom of expression/CSOs help communities access information and get their voices heard

There is little in the way of civil society organisations focusing on the media in the Maldives. One exception

is the local branch of the South Asia Free Media Association (SAFMA), an international NGO, which was established two years ago in Malé. Their main activities are a series of conferences on social issues and the media, with a view to trying to promote more media coverage of these issues, and bringing together senior editors on World Press Freedom Day to discuss current media issues, including defamation.

The International Press Freedom and Freedom of Expression Mission to the Maldives is a group of fourteen international organisations which have engaged in advocacy to protect and promote freedom of expression in the Maldives. Local media organisations and some political figures have also engaged in such advocacy, and the local journalists associations include it within their mandate. According to some reports, the Human Rights Commission of the Maldives has made statements on the right to information, but rarely if ever on media freedom issues. Taken together, however, there is a reasonable amount of such advocacy being undertaken.

Civil society organisations do not, however, appear to monitor the media, in terms of either output or ownership, and there appears to be little advocacy directed at the media. I am not aware of any groups promoting media literacy *per se*, and civil society groups do not appear to be very involved in media training (see below).

Recommendations

- Support, both financial and in terms of building capacity, should be provided for the continued development of academic qualifications in journalism, as well as professional development courses for journalists.
- Support and encouragement should be provided for the development of a trade union to serve journalists.

Infrastructural capacity is sufficient to support independent and pluralistic media

A. AVAILABILITY AND USE OF TECHNICAL RESOURCES BY THE MEDIA

Media organisations have access to modern technical facilities for news gathering, production and distribution

There are no restrictions on access to modern technologies or equipment, other than cost, in the Maldives. Major newspapers have their own printing facilities while broadcast media are disseminated via cable (for television) or terrestrially (for radio and the public broadcaster). All media have access to the Internet, for example, and most operate online as well as through more traditional means of dissemination. At the same time, training on the use of information and communication technology (ICT), for example computer assisted journalism, would appear, like training overall, to be weak. ICT, including email and mobile phones, is used by media outlets to engage with citizens.

B. PRESS, BROADCASTING AND ICT PENETRATION

Marginalised groups have access to forms of communication they can use

The national broadcaster is available nationwide through terrestrial transmission which appears to reach all Atolls and most citizens. The geographic reach of the television stations, which go out over cable and satellite, is unclear. It would appear that cable is accessible on all Atolls, although not necessarily on all inhabited islands. Claims about how many households have access to cable ranged from around 50% to 75%, although some of those interviewed

also suggested that cable was too expensive for many living on the islands. It was not possible to get accurate figures on this and the higher estimates are at odds with the UNDP figures for access to mobile phones and Internet. Radio broadcasters distribute via FM terrestrial transmission, and so access is relatively limited in geographic terms. Newspapers do not distribute outside of Malé and in some cases a few nearby islands.

The television stations and newspapers also go out via the Internet. As with cable, different views were presented as to the availability of Internet but UNDP gives the fairly low figure of 59 per 1000 in its 2007–2008 report. It appears that Internet, like cable, is available in all Atolls although not necessarily on every island. Furthermore, many Atolls appear only to have dial-up access, which would probably not provide enough bandwidth to stream television programmes.

The educational system has extended Internet reach and every secondary school is supposed to have a computer linked to the Internet, while 20 Teacher Resource Centres around the country each have 22 wired computers available. Computer literacy training is supposed to be provided to all students and some schools have specific courses in computers.

The country has a coherent ICT policy which aims to meet the information needs of marginalised communities

The government does not have a published plan to enhance access to the Internet, although efforts are being made in that direction. There is no plan currently in place regarding the transition to digital broadcasting. It is unclear whether or to what extent there is cooperation between government, civil society and business to enhance access to the Internet.

Recommendations

- The plan for the allocation of broadcasting frequencies, in tandem with the licensing system, should be used to promote private broadcasters, including community broadcasters, outside of Malé. Other support, including financial support, should be considered for this as needed.
- Measures should be taken to promote greater access of the poor to television and the Internet.
- A longer-term ICT policy and plan should be developed and adopted.



ANNEX

List of People Met

1. Ali, Noora, Ministry of Information
2. Mohamed, Abdulla Maseeh, Chair, Social Affairs Committee
3. Midhath, Mr., Manager, Dhi TV
4. Shihab, Mohamed, Speaker, People's Majlis
5. Ahmed, Aneesa, Deputy Speaker, People's Majlis and Member, Social Affairs Committee
6. Members, Public Affairs Committee
7. Sattar, Irushaadha, Country Coordinator, South Asia Free Media Association Maldives
8. Boserup, Thomas, EU Elections Monitoring Team
9. Fayyaz Faisal, Editor, *Jazeera Daily*
10. Irushadha, South Asian Free Media Association
11. Khaleel, Ibrahim, Managing Director, MNBC
12. Mohamed, Ilham, Executive Director, Transparency Maldives
13. Mohamed, Naima, UNDP Maldives
14. Naseer, Ahmed, Journalist and Member of the MNBC Board
15. O'Grady, Paul, EU Elections Monitoring Team
16. Omid, Maryam, Journalist, Minivan News
17. Rafeeq, Ali, Editor, *Haveeru Daily*
18. Rath, Tiare, Journalist
19. Salih, Zindu, UNDP Maldives
20. Shamaan, Ali, Editor, *Hafthaa* (weekly), Maldives Journalists Association
21. Shameem, Aly, Deputy Secretary General, People's Majlis Secretariat
22. Thoyyib, Mohamed, Minister of State for Information
23. Yasir, Ahmed, Deputy Director, Ministry of Information, Secretary General, Maldives National Commission for UNESCO
24. Zahir, Ahmed, Maldives Journalists Association

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