



**USAID**  
FROM THE AMERICAN PEOPLE



Strengthening Democracy  
Through Partnership

# Parliamentary Oversight of Constitutional Bodies in the Maldives

*Introducing an Autonomy and Accountability Framework with Global Comparative Practices*



**December 2020**

This publication was produced by IFES for the United States Agency for International Development concerning Leader Cooperative Agreement Award # AID-OAA-L-15-00007.

# **Parliamentary Oversight of Constitutional Bodies in the Maldives**

*Introducing an Autonomy and Accountability Framework with Global Comparative Practices*

**Publication: December 2020**

Research: July 2019 - February 2020

Authors:

Alexandra Brown

Erica Shein

Katherine Ellena

Field Assessment Team:

Silja Paasilinna

Alexandra Brown





Parliamentary Oversight of Constitutional Bodies in the Maldives: Introducing an Autonomy and Accountability Framework with Global Comparative Practices

Copyright © 2020 International Foundation for Electoral Systems. All rights reserved.

Permission Statement: No part of this work may be reproduced in any form or by any means, electronic or mechanical, including photocopying, recording or by any information storage and retrieval system without the written permission of IFES.

Requests for permission should include the following information:

- A description of the material for which permission to copy is desired.
- The purpose for which the copied material will be used and the manner in which it will be used.
- Your name, title, company or organization name, telephone number, fax number, email address, and mailing address.

Please send all requests for permission to:  
International Foundation for Electoral Systems  
2011 Crystal Drive, 10th Floor  
Arlington, VA, 22202  
Email: [media@ifes.org](mailto:media@ifes.org)  
Phone: 202.350.6700

*This report is made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of IFES and do not necessarily reflect the views of USAID or the United States Government.*

Cover Photo: Google Maps

## I. Introduction

Since the ratification of the 2008 Constitution, the governance structure of the Maldives has undergone substantial changes.<sup>1</sup> After decades of power centralized in the executive, the new Constitution introduced separation of powers and created “independent institutions to monitor the three branches of power and safeguard human rights.”<sup>2</sup> These independent institutions include the Election Commission, Anti-Corruption Commission, Human Rights Commission, Auditor General, Prosecutor General, Civil Service Commission and Judicial Service Commission.<sup>3</sup> As independent bodies, these institutions must have sufficient autonomy to operate effectively and carry out their mandates without susceptibility to undue influence, but they also still require oversight to ensure accountability to those mandates and to the public. The 2008 Constitution’s system of checks and balances vested an oversight mandate in the Parliament,<sup>4</sup> which includes these independent bodies as well as other government agencies.<sup>5</sup> **This comparative research paper responds to a request from Parliament to better understand the appropriate level of oversight of these independent institutions to prevent corruption and ensure they are effectively executing their respective mandates.** Research included an extensive literature review, analysis of comparative practices and in-person consultations with a range of stakeholders in Malé.

While the existing literature on parliamentary oversight of government is rich, international best practice for parliamentary oversight of independent institutions specifically has yet to be settled. This is, in part, due to the variety of types of independent institutions with different sizes, functions and necessary degrees of independence.<sup>6</sup> A taxonomy of so-called “arm’s length bodies” (independent institutions) in the United Kingdom, put forward by the Institute for Government, provides an example of the diversity of the functions of independent institutions and a proposed method of categorization (Table 1).<sup>7</sup> As illustrated by this taxonomy, the types of independent institution examined in this paper are sometimes referred to as *constitutional bodies*,<sup>8</sup> indicating “that these institutions are integral to the freedom and good government of the state, and that they are not to be tampered with for the sake of political expedience.”<sup>9</sup>

Type	Function
Constitutional Bodies	<ul style="list-style-type: none"> <li>• Constitutional oversight</li> </ul>
Independent Public Interest Bodies	<ul style="list-style-type: none"> <li>• Regulatory regime</li> <li>• Competition authorities</li> <li>• Guarantors of standards</li> <li>• Independent watchdogs</li> </ul>
Departmental Sponsored Bodies	<ul style="list-style-type: none"> <li>• Discretionary grant-giving</li> <li>• Discretionary enforcement and inspection</li> <li>• Stewardship of national assets</li> </ul>
Executive Agencies	<ul style="list-style-type: none"> <li>• Delegated implementation of government policy</li> </ul>

Accordingly, of all independent institutions, constitutional bodies require the most distance and autonomy from ministries and are often directly accountable to Parliament.

Although their specific portfolios vary, constitutional bodies all share mandates that seek to “improve the quality of governance, strengthen the rule of law, encourage transparency and accountability, prevent corruption and ultimately reinforce both the quality and the resilience of democracy.”<sup>10</sup> Some of these institutions in the Maldives, including the Election Commission, Prosecutor General and the Civil and Judicial Service commissions, seek to achieve these goals by insulating the administration and regulation of state functions from political manipulation.<sup>11</sup> Others,



like the Anti-Corruption Commission, Human Rights Commission and Auditor General, play important roles in holding government accountable within each of their mandates.<sup>12</sup>

Even though these institutions were established specifically to improve government integrity, they are not immune from corruption, poor leadership or partisanship.<sup>13</sup> Therefore, it is vital that they be held accountable for fulfilling their mandates, and Parliament can do this through careful application of some of its traditional oversight tools. However, Parliament also has a role to play in ensuring that these institutions have the *capacity* to be effective. Parliaments should actively ensure that the protections in place for institutional independence are respected and adequate to insulate the institutions from being used as political tools. Additionally, independent institutions may be unable to achieve their mandates due to inadequate funding, staff or expertise,<sup>14</sup> and Parliament should ensure that the necessary resources are made available.

Parliament also has a role to play in ensuring that these institutions have the *capacity* to be effective.

This paper explores how parliamentary tools and mechanisms for oversight can be effectively tailored to provide the appropriate level of oversight for constitutional bodies. As noted above, the authors drew on a desk study of best practice and comparative state examples and further explored the Maldivian context and related ongoing reform efforts through in-person consultations. This examination identified options for parliaments

looking to improve their oversight of independent institutions, some of which the People's Majlis, the unicameral legislative body of the Maldives, might consider. These high-level findings are summarized in Table 3 below. In Section II, the paper briefly outlines a theoretical framework for the autonomy and accountability of independent institutions with a focus on a parliament's role in ensuring that these two objectives are balanced effectively. In Section III, the paper explores the application of the specific oversight tools, highlighting their impact on an independent institution's need for autonomy and accountability as detailed in the respective frameworks.

**Table 2: Summary of the Mandates of the Independent Constitutional Bodies of the Maldives<sup>15</sup>**

<b>Election Commission</b>	To manage all elections and referendums, including oversight of the voter registry and constituency delimitation.
<b>Anti-Corruption Commission</b>	To investigate allegations of corruption and recommend prosecution to the Prosecutor General, make recommendations on prevention of corruption to other state authorities and conduct public awareness campaigns.
<b>Human Rights Commission</b>	To promote respect for human rights in the Maldives, investigate and report on allegations of human rights violations and educate the public.
<b>Auditor General</b>	To audit the financial statements and accounts of government institutions and publicize audit reports.
<b>Prosecutor General</b>	To supervise the prosecution of all criminal offenses in the Maldives; oversee the legality of preliminary inquiries and investigations into alleged criminal activity; issue policy directives for the prosecutorial process; and uphold constitutional order, the law and the rights and freedoms of citizens.
<b>Civil Service Commission</b>	To establish procedures and recruit, appoint, promote, transfer and dismiss members of the Civil Service, as defined by law; establish uniform standards of organization, performance management, and administration within the Civil Service.
<b>Judicial Service Commission</b>	To appoint, promote and transfer judges and to make recommendations to the President on the appointment of the Chief Justice and Judges of the Supreme Court; investigate complaints about the Judiciary, and take appropriate disciplinary action; and to advise the President and People's Majlis on any matter related to the Judiciary or administration of justice.

**Table 3: Summary of Findings and Recommendations for the Maldives**

Oversight Mechanism	Maldives Findings	Primary Recommendations
<b>Parliamentary Oversight Committees</b>	<p>While parliamentary committees have a clear legal mandate to oversee the constitutional bodies, their role in practice has long been limited due to both a lack of political will and limited capacity and resources. As the political landscape has shifted, this Parliament will need to ensure the resources are in place to bring a successful and sustained reform.</p> <p>While the People's Majlis is empowered to set up both standing and ad hoc committees, interlocutors have reported that standing committees have historically engaged in oversight only on an ad hoc basis when serious allegations or complaints regarding the constitutional bodies arose.</p>	<p>To improve the oversight capacity of standing committees, the People's Majlis might consider:</p> <ul style="list-style-type: none"> <li>Ensuring that there are adequate technical staff available to support each committee;</li> <li>Developing formal partnerships with universities, research institutions or other parliamentary libraries to expand access to independent research services; and</li> <li>Dedicating specific periods of time to oversight activities to ensure that committees have adequate time during each session to conduct systematic and thorough reviews of the institutions under their purview.</li> </ul>
		<p>To respond promptly and effectively to current events involving the independence or accountability of constitutional bodies, the People's Majlis could consider:</p> <ul style="list-style-type: none"> <li>Establishing ad hoc committees to respond to pressing issues, which would in turn ensure that the capacity of standing committees to fulfil their regular oversight activities is not adversely affected; and</li> <li>Setting up an ad hoc committee to assess the current accountability framework for constitutional bodies (or independent institutions more broadly), consider potential areas of improvement and issue targeted recommendations.</li> </ul>
		<p>To ensure that the political composition of parliamentary committees does not limit their capacity for oversight, the People's Majlis could consider amending its rules of procedure to:</p> <ul style="list-style-type: none"> <li>Require that members of the opposition chair committees integral for parliamentary oversight activities, including the Public Accounts Committee and Committee on Independent Institutions; and</li> <li>Allow for the submission of minority reports or a minority opinion following committee oversight activities.</li> </ul>
<b>Public Consultation</b>	<p>The committees of the new People's Majlis have consulted the public in the legislative drafting process but have not systematically included stakeholders in the review and assessment of the work of independent institutions.</p> <p>According to interlocutors in the Maldives, constitutional bodies do not regularly engage in public consultation when issuing regulations.</p>	<p>To bolster public consultation in oversight activities, the committees of the People's Majlis could consider:</p> <ul style="list-style-type: none"> <li>Inviting stakeholders to participate in public hearings, utilizing social media for outreach, issuing guidance on providing evidence to committees and framing requests for input by asking specific questions or highlighting specific issues for feedback;</li> <li>Making feedback widely accessible to enable the public to assess what has been assessed or integrated and what remains unaddressed; and</li> <li>Traveling to different atolls to consult with stakeholders and collect a broader range of feedback on the institutions under their purview from more diverse communities.</li> </ul>
		<p>To increase the use of public consultation, the People's Majlis could consider adopting, amending and/or enforcing existing legislation to ensure that a legal requirement applies to constitutional bodies.</p>

<b>Reporting and Performance Reviews</b>	Annual reports are not always submitted to the People's Majlis or followed up on by the responsible standing committee. The lack of clear procedures for review has contributed to weak scrutiny of reports.	To ensure effective parliamentary scrutiny of the activities of constitutional bodies, the committees of the People's Majlis could consider: <ul style="list-style-type: none"> <li>Establishing a performance review process;</li> <li>Developing clear procedures for the committee review of annual reports, including developing a structure for the committee report that summarizes the findings during the review process; and</li> <li>Making the committee review report easily accessible to the public.</li> </ul>
<b>Financial Audits</b>	The Auditor General is responsible for performing annual financial audits of all government organizations, including independent commissions, publishing these reports and submitting them to the President and the People's Majlis. However, report findings are not always scrutinized or tracked by the appropriate oversight committees. As the Auditor General has no authority to enforce the adoption of its recommendations, it is dependent upon Parliament to provide that enforcement effectively.	The Public Accounts Committee of the People's Majlis could improve its working relationship with the Auditor General by identifying clear lines of communication and adhering to an established schedule or prioritization system to organize workflow. Additionally, the Public Accounts Committee could coordinate with the other oversight committees to include the review of audit reports with the annual report and/or performance review process.
<b>Right to Information Legislation</b>	Global rankings find that the Maldives has one of the strongest legal frameworks in the world on the right to information (RTI). The 2013 RTI Act comprehensively addresses requests, appeals and compliance mechanisms. The law also imposes a duty of proactive disclosure to make accessible certain categories of information even without a request, although government institutions have struggled to meet this requirement.	As the People's Majlis has already adopted a strong RTI law, it could turn its focus to implementation of the law by reviewing the Information Commissioner's findings regarding each constitutional body alongside the annual reports of each of these institutions, following up on areas of concern to ensure that the legislation is effectively implemented.
<b>Codes of Conduct and Ethics Policies</b>	The civil service Code of Conduct has not been applied to the constitutional bodies of the Maldives; however, some of the constitutional bodies do have codes of conduct or ethical standards for commissioners included in their enabling laws. These provisions do not apply to the other employees that support the work of these commissions.	The People's Majlis could consider creating legal requirements for constitutional bodies to adhere to a code of conduct, including: <ul style="list-style-type: none"> <li>Relying on a "minimum standard" approach that applies to all public institutions, while not drawing constitutional bodies under the authority of the Civil Service Commission; and</li> <li>Enabling constitutional bodies to add additional standards into their codes of conduct that are tailored to their unique mandates and working environments.</li> </ul> Additionally, the People's Majlis could consider imposing an enforcement mechanism, such as a dedicated integrity actor, that reports directly to both to a constitutional body's leadership and the Majlis. The appropriate committees can rely on these reports to follow up on disciplinary decisions, while not interfering with the bodies' functional autonomy.
<b>Complaints and Investigations</b>	A multitude of agencies take on ombudsman functions, but there is no dedicated agency and no coverage for complaints on ethics or maladministration.	Ensure that there is a mechanism in place to investigate internal and external complaints about the constitutional bodies (e.g., by consolidating this function with that of an existing institution, such as the Human Rights Commission). An alternative could be to add this function to the mandate of an independent office within each body that handles whistleblower complaints and RTI requests and is staffed by integrity officers.

## II. Balancing Autonomy and Accountability

The starting point for understanding the appropriate level and form of oversight of independent institutions is to acknowledge the importance of enabling those institutions to maintain independence from the government. Accountability mechanisms must reinforce, rather than stymie, the autonomy and effectiveness of independent institutions.. As the Westminster

The right balance between autonomy and accountability is fundamental to the ability of independent governmental institutions to deliver their mandate.

Foundation for Democracy has noted, for example, “the *independent* [emphasis added] work of integrity agencies in corruption investigation, audit review and public-sector ethics has increasingly been commended as essential for good governance.”<sup>16</sup> The tension between these two priorities – independence/autonomy and accountability – is illustrated by De Vrieze and Ilaşeanu’s analysis of regulatory agencies in Moldova, which is broadly applicable to other types of independent institutions:

“Independence and accountability are both vital conditions for the effectiveness of regulatory agencies, but there is a trade-off between them: too much independence from the Government exposes the agencies to capture by the industries they oversee and regulate and too little independence exposes the agencies to political interference...”<sup>17</sup>

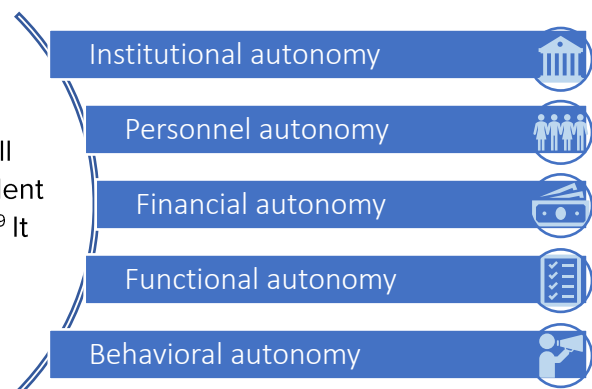
Hence, when considering reforms to strengthen oversight and accountability mechanisms, the goal should be to achieve a balance between *autonomy* and *accountability*, which is fundamental to the ability of independent institutions to deliver their mandate.

### Understanding the Autonomy Framework<sup>18</sup>

Throughout the document, icons placed in the margins indicate discussions of different facets of autonomy and accountability below.

The autonomy framework applied here draws on the established literature on independent institutions, as well as on IFES’ work with independent electoral management bodies.<sup>19</sup> It emphasizes five dimensions of autonomy necessary for an independent agency to fully

engage in its mandate. A summary of the framework is included in Annex 1.



The first pillar of the framework is *institutional* autonomy, which refers to independence enshrined in the constitution and the law. This type of autonomy – which can also be described as *de jure* – offers a very narrow, albeit widely referenced, conception of independence. While institutional autonomy is a fundamental element of independence, the other four pillars of the autonomy framework provide a stronger foundation for independence in practice.



*Personnel* autonomy addresses the way in which independent institution appointees are chosen for their posts, and the type of resources and authorities they have available to do their jobs.<sup>20</sup> Appointees should have sufficient individual authority to withstand pressure and act impartially. Protections should include security of tenure and immunities, staggered terms in office, reappointment provisions and protections related to removal. Adequacy and certainty of remuneration and benefits, with independent determination of salaries and benefits, such as pensions, that are aligned with judicial or other constitutional bodies, are also important characteristics. Personnel autonomy also refers to the ability of the independent institution to recruit and manage its own staff without interference.



The third pillar is *financial* autonomy.<sup>21</sup> Several indicators are useful for understanding whether an independent institution has financial autonomy: whether the budget is allocated specifically for the institution, separate from other sources of state expenditure; whether the budget is disbursed in a timely manner; whether the independent institution exercises control over decisions on how to use allocated funds to meet its mandate; whether the independent institution has sufficient resources to carry out that mandate adequately; and whether and to what extent reporting requirements offer high levels of transparency while minimizing the burden on the institution to provide excessive detail.



The fourth pillar is *functional* autonomy, which considers the extent of the institution's power, decision-making approach and resources at its disposal to prevent political, executive or other power-broker interference in its activities.<sup>22</sup> Ideally, the independent institution's responsibilities are clearly defined, and it has effective control over all tasks required to carry out its mandate. An independent institution with functional autonomy has (and utilizes) broad powers and independence in setting policy, where appropriate, and determining its internal rules and procedures. Independent institution strategic and operational plans should not be subject to governmental approval, and the institution should have the resources (time, people, expertise, infrastructure, money) required to effectively deliver public goods and services.



The final pillar is *behavioral* autonomy. The independent institution, through its decisions, actions and activities, should consistently demonstrate its independence in practice. Key elements of behavioral autonomy include: impartial policy and decision-making; an administrative culture that places a priority on mission, public service, ethics, integrity, impartiality, competence and professionalism; effective external checks and balances; institutionalized transparency;<sup>23</sup> effective and consistent collaboration between the independent institution and other relevant stakeholders; and consistent monitoring, evaluation and learning.

Exercising behavioral autonomy can help an independent institution to operate in restrictive environments where other elements of autonomy (for example, financial autonomy) may not be available.

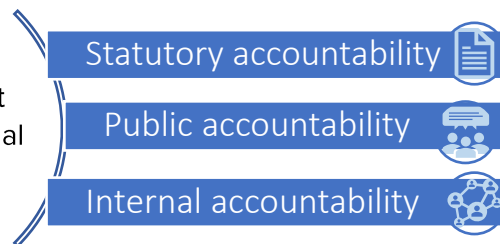
The second piece of the framework for ensuring effective independent institutions is *accountability*; mechanisms for ensuring accountability of independent institutions are the primary focus of the remainder of this paper.



## Understanding the Accountability Framework

The scholarly and practitioner literature on the accountability of state institutions (both independent and other state agencies) offers multiple useful typologies, but each approach generally segments various nodes of formal and informal accountability to different stakeholders, including other state institutions (executive, legislative, judiciary), non-state actors (public, civil society, media), and, in some cases, international actors.<sup>24</sup>

Our framework takes a somewhat different approach to structuring and understanding the accountability of independent institutions. It includes both formal and informal methods of holding institutions accountable. Informal accountability mechanisms (such as civil society consultations) can enable an institution to achieve public credibility and support, which can in turn support its independence from the government of the day. The three categories we have applied to this study are *statutory*, *public* and *internal*. A summary of the framework is included in the Annex.



*Statutory accountability* refers to the accountability mechanisms and reporting requirements established in the law. It may include a codification of periodic reporting (including format or content requirements); legal and procedural requirements for independent institutions to develop and report on strategic goals and/or annual performance expectations; annual internal and external audits; parliamentary oversight of independent institution responsiveness to freedom of information laws; required whistleblower or internal complaints procedures; or the establishment of an ombudsman or an internal compliance office.



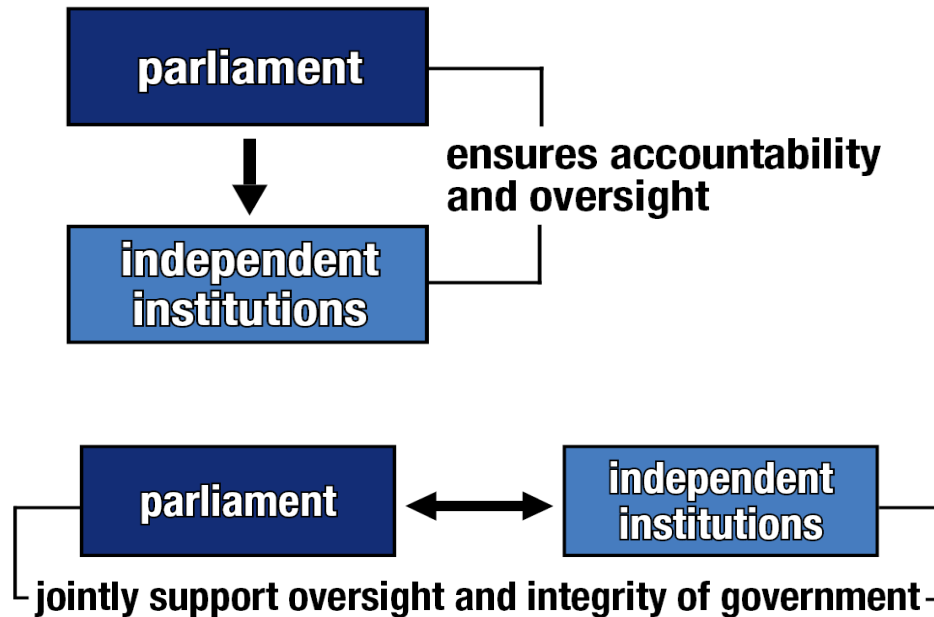
*Public accountability* encompasses the various outreach, accessibility and transparency measures that an independent institution must take to ensure that it remains accountable to the public interest. These measures may be legally required or voluntary, and can include public consultation, including public hearings and public notice and comment periods; publicly accessible reports (both required and voluntary reporting), financial audits and information, and performance reviews; mechanisms for gathering external input to performance reviews (e.g., customer satisfaction surveys, citizens' perception surveys and CSO reporting); engagement with regional and international networks; and responses to requests under freedom of information regulations.



*Internal accountability* speaks to the presence of robust institutional standards and procedures that foster a culture of integrity among all employees. It includes designing and socializing a code of conduct that is applicable to all staff; institutional ethics policies, internal performance monitoring, evaluation and adaptation; and whistleblower and non-retaliation policies that are known, understood and respected by employees throughout the institution. There is a clear, reinforcing relationship between these internal accountability requirements and the behavioral autonomy discussed above.

### III. Specific Mechanisms for Balancing Autonomy and Accountability Through Parliamentary Oversight

As discussed in the introduction, parliaments and constitutional bodies are both mandated to hold various parts of government to account. In that regard, they can develop constructive and collaborative peer – or horizontal – relationships to support government integrity. At the same time, Parliament must also hold these constitutional bodies accountable (in a vertical relationship) for their overarching mandates, while also protecting their autonomy (see figure below).



Despite parliaments' unique relationship with these institutions, they generally do not have any specialized tools to conduct oversight. Instead, parliaments must rely on careful application of the traditional oversight tools at their disposal, which presents challenges for maintaining the right balance of autonomy and accountability. While the "ways in which parliaments carry out oversight, the tools and procedures each chooses to deploy, and the extent of scrutiny applied vary considerably,"<sup>25</sup> this paper focuses on common tools and mechanisms available to parliaments around the world. These include: (1) parliamentary oversight committees; (2) public consultation; (3) reporting and performance reviews; (4) financial audits; (5) right to information legislation; (6) codes of conduct and ethics policies; and (7) complaints and investigations.

Each of these tools contributes to at least one facet of accountability outlined in the framework above and can also be used to reinforce different elements of autonomy. These relationships are illustrated in the text box below. This section briefly describes each of these tools and mechanisms for parliamentary oversight, discusses how they relate to both accountability and autonomy and examines how they have been applied to independent institutions in different countries.

### Case Studies: Parliaments Reviewing and Reforming Oversight Practices

Due to the difficulty in effectively balancing the autonomy and accountability of independent institutions, some parliaments have used special processes to plan or implement effective oversight activities.

In **South Africa**, the Joint Rules Committee established the Task Team on Oversight and Accountability to develop an oversight model for Parliament. The Task Team scrutinized existing practices and tested new oversight mechanisms to “improve existing tools of parliamentary oversight, streamline components of the new oversight model with existing components, and enhance Parliament’s capacity to fulfil its oversight function.” The Task Team’s recommendations related to constitutional bodies included: creating clear parliamentary mechanisms to enable reporting and to create processes for the reports to be “referred to committees for consideration, oversight, and reporting back on issues to plenary sessions.”<sup>26</sup>

In **Bosnia and Herzegovina**, the Parliament established an ad hoc joint committee to draft a law on parliamentary oversight. Through this legislative process, the committee built on the established oversight mechanisms in the Rules of Procedure for the two houses of the Parliamentary Assembly. The Draft Law also established several new oversight mechanisms, including public hearings specifically dedicated to the oversight of independent and regulatory bodies. The committee submitted its Draft Law to the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights for comment. Notably, the OSCE provided two recommendations in regard to independent institutions: “[The Draft Law] should clarify the extent to which these bodies can be subject to parliamentary oversight without undermining their independence and special position vis-à-vis other state institutions. On the other, the Draft Law should ensure that specialized investigations conducted by these bodies and their technical expertise are properly fed into Parliament’s own oversight work.”<sup>27</sup>

## 1. Parliamentary Oversight Committees

Oversight committees are a feature of parliaments across the world and have an important role to play in support of [statutory accountability](#) because they monitor and enforce the accountability mechanisms and reporting requirements that are enshrined in law. The Inter-Parliamentary Union (IPU) has described such committees as “the single most significant and agile instrument of parliamentary oversight.”<sup>28</sup> However, each parliament’s committee system is unique, and not all committees have access to the same resources or oversight mandate.<sup>29</sup> While the committees of the People’s Majlis in the Maldives have a clear legal mandate to oversee the constitutional bodies, their role in practice has been limited due to both a lack of political will and limited capacity and resources. However, the development of engaged committees can be one of the most important investments made to improve parliamentary oversight of independent institutions, and should therefore be a priority of the newly elected Parliament. This section discusses the role that both standing (permanent) and ad hoc committees can play in parliamentary oversight and introduces possible models that could be applied by the Committees of the Majlis to improve their oversight capacity. In addition, this section discusses the impact of political composition of committees on their ability to conduct effective oversight.

### *Standing Committees*

Permanent (standing) committees often closely parallel the policy areas of government institutions,<sup>30</sup> enabling them to play a potentially strong oversight role. Members tend to remain

for many years and are thus able to specialize and develop the necessary technical expertise to effectively scrutinize the policies, reports and other activities of the institutions under their oversight mandate.<sup>31</sup>

Standing committees are often tasked with ongoing oversight by scrutinizing and following up on the annual reports of institutions under their purview. Currently, the Majlis' Committee on Independent Institutions is responsible for overseeing the Elections Commission, Anti-Corruption Commission and Civil Service Commission<sup>32</sup> while the Judiciary Committee is responsible for the Judicial Service Commission and the Prosecutor General's Office, the Human Rights and Gender Committee is responsible for the Human Rights Commission and the Public Accounts Committee is responsible for the Auditor General's Office. While this structure seems as though it would enable technical specialization in oversight activities, according to interlocutors and a Transparency Maldives Assessment,<sup>33</sup> committee oversight mandates have been neglected under previous governments, resulting in depleted capacity. While the current Parliament works to build a culture of oversight, it will require sufficient resources and tools.

According to interlocutors in the Maldives, the Attorney General's Office provides most of the legislative drafting support to parliamentary committees. It is important to ensure that the Attorney General's Office is transparent and that it coordinates the drafting process with all stakeholders, including independent institutions, where appropriate, to ensure that any legal requirements or changes affecting independent institutions include an appropriate consideration of their needs for autonomy and accountability. The People's Majlis could also consider this issue when examining staffing needs for committees.

In order to carry out effective oversight, committees must have access to the resources necessary to develop technical expertise.<sup>34</sup> For example, it is important that committees be adequately staffed – both in number of personnel and in expertise. In some countries, committees have very small staffs whose primary function is administrative. In the **Canadian** House of Commons, each committee is allocated a single clerk who acts as a “coordinator, organizer and liaison officer for the committee and as such will be in frequent contact with members' staff.”<sup>35</sup> According to the National Democratic Institute, Canadian Members of Parliament have asserted that committees are understaffed, and the Institute reported an expert's conclusion that this “strongly limits the capacity of parliament to investigate policy proposals and to hold the government accountable.”<sup>36</sup> At the opposite extreme, committees in the **United States** House of Representatives are legally authorized to hire 18 professional staff members and 12 administrative staff<sup>37</sup> in addition to the staff of individual representatives.

While the current Parliamentary Rules of Procedure provide for “adequate” staff for the administrative and technical work of each committee and access to additional staff upon request for specific tasks,<sup>38</sup> interlocutors have indicated that the number of technical personnel is insufficient to support committees in either legislative drafting or oversight. One model that might ensure adequate technical assistance while conserving limited resources could be to hire a pool of technical staff that can be called on to support all of the committees. This model was used until 1995 in **South Africa**, where each professional staff member in the Committee Section provided technical support to up to four parliamentary committees.<sup>39</sup>

In addition to staff, another important resource for effective committee oversight is access to independent research that is politically impartial and not sourced directly from the independent institutions themselves.<sup>40</sup> Independent sources of information can help committees effectively assess the risks and operating contexts of the independent institutions that they oversee.<sup>41</sup> While technical staff can provide some of this input, many parliaments have their own independent research services. For example, the **Republic of Fiji** provides research and library services for all members of Parliament for various information gathering initiatives through the Fiji Parliament Library. Additionally, the Fiji Parliament Library provides briefings, advice and support specifically for parliamentary committees. Through this service, committee members have access to “research briefings and other publications to understand the laws and policies being looked at by Parliament.”<sup>42</sup>

The People’s Majlis does not have a research service, and the Maldives is a small country with limited resources. However, there are tools available to help build this type of resource and increase capacity and utility when resources are limited. One potential approach is to develop relationships with other public or university libraries, and with parliamentary libraries, to share resources and expertise.<sup>43</sup> One example is the Association of Parliamentary Libraries of **Eastern and Southern Africa**.<sup>44</sup> Similarly, the International Federation of Library Associations has a Library and Research Services for Parliaments Section that aims, in part, to provide a forum for parliamentary libraries and research services to network and share experience, knowledge and problem-solving strategies.<sup>45</sup>

In addition to technical capacity and independently sourced information, it is important that parliamentary committees are able to dedicate the time necessary to conduct oversight activities thoroughly.<sup>46</sup> In parliaments like the People’s Majlis, where committees are tasked with both legislating and oversight, sufficient time must be set aside for oversight tasks.<sup>47</sup> While the committees of the People’s Majlis are already required to establish workplans,<sup>48</sup> other country models demonstrate the various ways that the People’s Majlis can structure its plans to dedicate sufficient time to oversight.<sup>49</sup> In **Belgium**, for example, at the beginning of each session “the permanent committees [of the House of Representatives] establish a weekly agenda that determines which meetings are principally reserved for legislative business and which are reserved for questions and interpellations.”<sup>50</sup> Another approach is to set aside a long period dedicated to review, which could also be used to conduct site visits and examine the implementation of specific programs.<sup>51</sup> For example, in **South Korea**, “20 days in the autumn ordinary session are given to committees for annual inspections of the state administration.”<sup>52</sup> Similarly, in **New Zealand**, from November through March, the Parliament’s select committees participate in an annual oversight review of the performance of various government organizations over the previous year.<sup>53</sup>

To improve the oversight capacity of standing committees, the People’s Majlis might consider:

- Ensuring that adequate technical staff are available to support each committee, which can in part be achieved by hiring a common pool of technical staff if needed;
- Developing formal partnerships with universities, research institutions or other Parliamentary libraries to provide committees with access to independent research; and



- Dedicating specific periods of time to oversight activities to ensure that committees have adequate time each session to conduct systematic and thorough reviews of the institutions under their purview.

### *Ad Hoc Committees*

While standing committees conduct regular and systematic oversight activities, such as reviewing annual reports, ad hoc committees can also serve as important oversight tools by “address[ing] a specific question on a time-limited basis.”<sup>54</sup> Sometimes called special committees of inquiry, ad hoc committees usually have investigative powers to be used narrowly within the scope of their mandates.<sup>55</sup> They do not provide continuous oversight, but can shed light on specific issues of national importance, issuing a report at the end of the investigation that is submitted to the initiating chamber of parliament.<sup>56</sup> And, because the ad hoc committee is disbanded once its mandate has been fulfilled, they need not be permanently maintained, conserving resources.

While the People’s Majlis is empowered to set up both standing and ad hoc committees, interlocutors have reported that the standing committees in the previous Parliament engaged in oversight only on an ad hoc basis when serious allegations or complaints regarding the constitutional bodies arose. According to some, this approach has contributed to the politicization of parliamentary oversight. The Majlis should consider establishing ad hoc committees to investigate specific issues when they arise to ensure that they are investigated and addressed properly without impacting the ability of the standing committees to engage in normal oversight activities.

One example of an ad hoc committee being used to examine a specific issue relating to the conduct of a constitutional body was the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission in **Kenya**.<sup>57</sup> This ad hoc committee was established to investigate allegations of a lack of impartiality, independence and integrity of the Independent Electoral and Boundaries Commission following the 2013 General Election.<sup>58</sup> Over a period of 30 days, the committee heard from a variety of stakeholders and issued a set of recommendations for electoral reform.<sup>59</sup> Because the committee was focused on a narrow topic for a defined period, it was able to scrutinize time-sensitive allegations and produce recommendations that were actionable within the time-bound electoral cycle.

To respond promptly and effectively to current events and concerns involving the independence or accountability of constitutional bodies, the People’s Majlis might consider establishing ad hoc committees to respond to those issues, which would in turn ensure that standing committees have the capacity to fulfill their regular oversight activities.

### Case Studies: Committee Inquiries on Constitutional Bodies

In the **United Kingdom** in 2014, the Public Administration Select Committee conducted an inquiry on the relationships between government and arm's length bodies, focusing on accountability. The Committee collected written and oral evidence from scholars, civil society, representatives from government agencies and arm's length bodies. One of the main conclusions of the inquiry was that "accountability for arm's length bodies is confused, overlapping, and neglected, with blurred boundaries and responsibilities." The Committee recommended that the government develop a taxonomy of public bodies that establishes the legal status and accountability of each type. For more information, see the House of Commons Public Administration Select Committee Report, [\*Who's accountable? Relationships between Government and arm's-length bodies\*](#).

In 2006, **South Africa's** National Assembly appointed an ad hoc committee to review the effectiveness and relevance of the country's constitutionally mandated independent organizations after 10 years of operation. Recognizing the importance of protecting the independence of these institutions, the ad hoc committee engaged with the independent institutions, the public, civil society organizations and relevant government ministries and parliamentary committees over 10 months and issued a series of recommendations, including both combined and individual recommendations for each of the 11 institutions. Interestingly, the ad hoc committee recognized the need for the institutions to have "a more structured oversight role by Parliament in the context of their independence" and issued several recommendations, including strengthening the capacity of relevant permanent committees, promulgating legislation to structure committee oversight of independent institutions while respecting their independence, and creating a unit on constitutional institutions in the office of the Speaker to coordinate the oversight and accountability functions. For more information, see the [\*Report of the ad hoc Committee on the Review of Chapter 9 and Associated Institutions\*](#).

### Political Composition of Committees

The composition of parliamentary committees – both standing and ad hoc – can have a significant impact on their capacity for oversight and their success at balancing independent institutions' need for autonomy and accountability. Globally, "parliamentary political groups are typically represented in committees in proportion to their numerical strength in the chamber."<sup>60</sup> This means that the majority party in a committee is usually also the party in government and might accordingly have an interest in "restrict[ing] the range and scope of oversight work."<sup>61</sup> If the leadership of committees is also determined by majority vote, the negative impacts on oversight can be compounded, as the leadership determines the committee's program of work.<sup>62</sup> This is especially true in parliaments where the sole decision-maker is the committee chair.<sup>63</sup> Alternatively, in some parliaments, committees have "bureaus," which are "collective leadership" bodies in which both the government and opposition occupy seats.<sup>64</sup>

The politicization of parliamentary committees can impair their capacity to ensure both autonomy and accountability of independent government

A 2017 IPU study on parliamentary oversight found that “having an opposition member as chair of a parliamentary committee can influence the effectiveness of that committee’s oversight work.”<sup>65</sup> According to the IPU, it is best practice “that chairs of Public Accounts Committees, where they exist, [be] drawn from the ranks of the opposition.”<sup>66</sup> In the Maldives, interlocutors have indicated that no standing committees have a minority chair. While it is not mandated in the Rules of Procedure for the Majlis (2015) for a member of the majority party to sit as the chair of a standing committee, the rules make the appointment of majority party members highly likely, as they are elected by a majority of the committee members who are in turn elected by the plenary.<sup>67</sup> To ensure that committees with important oversight roles, like the Public Accounts Committee, are chaired by an opposition party member, the Majlis could consider amending its Rules of Procedure to make this a clear requirement. In **Canada**, for example, the Standing Committees of the House of Commons that are important for oversight (the Standing Committees on Public Accounts, Access to Information, Privacy and Ethics, Government Operations and Estimates, and the Status of Women) are required to be chaired by a member of the official opposition.<sup>68</sup>

Additionally, parliaments can consider other ways that the opposition can participate in oversight, such as attaching a minority party report to a committee report.<sup>69</sup> While the National Assembly of **South Africa** does not allow minority reports, it does require that, when the adoption of a report by a committee is not unanimous, the report specify the reasons for the differing opinion and express the views of a minority of the committee.<sup>70</sup> Similarly, it is important to ensure that minority parties have adequate opportunity to set up ad hoc committees.<sup>71</sup>

To ensure that the political composition of parliamentary committees does not limit their capacity for oversight, the People’s Majlis could consider amending its rules of procedure to:

- Require that members of the opposition chair committees integral for parliamentary oversight activities, including the Public Accounts Committee and Committee on Independent Institutions; and
- Allow for the submission of minority reports.

## 2. Public Consultation

Parliaments can enable [public accountability](#) both by ensuring their own oversight activities are conducted transparently and with the input of diverse stakeholders and by creating legal requirements for independent institutions to engage in public consultation.



### *Public Consultation in Parliamentary Oversight Committees*

As noted by the IPU, “at the heart of a committee’s oversight function is its power to seek evidence from a wide range of individuals and organizations on the subject under investigation.”<sup>72</sup> One of the primary ways that most parliaments gather this feedback is through public hearings, which can include written or oral submissions from public servants, independent legal or academic experts, civil society organizations and individual citizens.<sup>73</sup> For example, the Public Administration Select Committee in the **United Kingdom** invited civil society and scholars to participate in the inquiry on the relationships between government and arm’s length bodies.<sup>74</sup> In some countries, like **Thailand**, committees travel to different parts of the country to engage

with constituents on different issues, rather than just inviting or summoning individuals to participate in the capital.<sup>75</sup>

Interlocutors have noted that the committees of the new People's Majlis have consulted the public in the legislative drafting process but have not yet systematically invited stakeholders to provide input on the work of independent institutions. Input from stakeholders on the performance of constitutional bodies can be an important source of independent information to supplement research services. There are many ways to encourage participation in committee

Seeking input from stakeholders on the performance of constitutional bodies can be an important source of independent information.

oversight activities. Some parliaments, including the **New Zealand** House of Representatives, Parliament of **Australia**, and **United Kingdom** House of Commons, have produced guidance on providing evidence to committees.<sup>76</sup>

Committees might also have websites and a social media presence, which “makes it easier for the committee to publicize its work and for members of the public to send in comments and suggestions.”<sup>77</sup> Other ways to increase the

utility of public hearings for committee oversight include: asking contributors to address specific issues under discussion or raised in the annual report, approaching specific organizations or subject experts to participate or releasing an initial set of issues that committees have identified and asking for public input on them specifically.<sup>78</sup>

In addition to improving parliamentary committees' oversight of independent institutions, public consultation can enable **public accountability** by increasing transparency around the institutions' activities and effectiveness. Parliaments should make stakeholder feedback easily accessible so that the public can assess what is being integrated into parliamentary reviews and what remains unaddressed. If this is not done, then no matter how much feedback parliamentary committees seek, it is difficult for the public to assess whether or how the committees are using it. Accordingly, parliaments should also publicly release regular reports on hearings and other oversight activities, which can also enable citizens and civil society organizations to follow up on recommendations over time.



To increase public consultation in oversight activities, the committees of the People's Majlis could consider:

- Inviting stakeholders to participate in public hearings and increasing outreach through the maintenance of social media, issuing guidance on providing evidence to committees and framing input by asking specific questions or highlighting issues for feedback; and
- Traveling to more remote areas of the country to create an opportunity for a broader range of feedback on the institutions under their purview from more diverse communities.

### *Public Consultation Requirements for Independent Institutions*

To build credibility in the process and introduce an element of **public accountability**, broad-based consultation is an important tool that independent institutions can use in promulgating regulation. According to interlocutors in the Maldives, constitutional bodies do not regularly engage in public consultation when issuing regulations.



There are five commonly used instruments for public consultation globally: advisory bodies, circulation of regulatory proposals, public notice and comment, public hearings and informal

consultations.<sup>79</sup> Regardless of the instrument chosen, it is important that the public is given enough notice to provide effective input and that the consultation is based on the public submission of written documentation.<sup>80</sup> While these public consultation activities will be carried out directly by the constitutional bodies, Parliament's role is to ensure that there are clear legal requirements, or **statutory accountability**, in place to guide them. One example of best practice highlighted by the Open Government Partnership was **Croatia's** 2013 amendment to its Action on the Right of Access to Information, which included requirements for public consultation in the adoption of regulations in accordance with a Code of Practice on Consultation.<sup>81</sup> Following the consultation process, this law requires public administration authorities to "inform the interested public on accepting or rejecting submitted comments, remarks, and suggestions."<sup>82</sup> Similarly, in **Kenya**, the Public Participation Act of 2018 requires that each responsible authority, including independent commissions, offices or authorities,<sup>83</sup> develop guidelines for undertaking public participation that meet or exceed established requirements and provide the way the requirements can be satisfied.<sup>84</sup>



To increase the public accountability of independent institutions, the People's Majlis can consider adopting or amending legislation to ensure that it applies to the constitutional bodies. If the legislation already exists, the committees of the People's Majlis could consider following up on the implementation of these laws during their oversight activities.

### 3. Reporting and Performance Reviews<sup>85</sup>

A legal requirement for an independent institution to report to Parliament can be an important **statutory accountability** measure. However, merely including a requirement to submit an annual report in an institution's enabling legislation is not sufficient to ensure that it will be effective. A number of other legal provisions, if properly utilized, can increase the effectiveness of the reporting process. Many of these provisions already exist in the Maldivian legal framework:



*Enabling the submission of reports or statements to Parliament by institutional initiative.*<sup>86</sup> For example, the Elections Commission is provided the discretion to submit special reports to the President and the People's Majlis in the event of a "special circumstance."<sup>87</sup>




These types of special reports can also encourage **behavioral autonomy**, whereby an independent institution seeks to demonstrate its independence in practice by proactively sharing additional information about its decisions and actions.

*Establishing structural and content requirements for reports.* Accountability is strengthened when there are clear expectations for the structure and content to be included in the reports.<sup>88</sup> In the Maldives, legislation governing most constitutional bodies includes a list of topics that are required to be included in annual reports to the President and the People's Majlis.<sup>89</sup>



*Requiring public access to reports.*<sup>90</sup> Parliaments should also require reports to be published on official websites or in the Official Gazette to strengthen **public accountability**.<sup>91</sup> In the Maldives, most constitutional bodies are required to publish their annual reports within 14 days of submission to the President and the People's Majlis.<sup>92</sup>





These legal requirements are important, but they are not sufficient to guarantee that the reports are submitted in practice or are subjected to sufficient scrutiny. Interlocutors have noted that annual reports are not always submitted to the People’s Majlis or followed up on by the responsible standing committee. In addition to technical capacity, access to independent information and adequate time (as described in the Parliamentary Oversight Committee section above), parliaments need to establish clear procedures for review, which should also include a structured committee report to summarize the committee’s findings during the review process. This report should be publicly available to support [public accountability](#) during the process. According to interlocutors, the lack of these procedures has contributed to weak scrutiny of reports by the People’s Majlis. 

In **South Africa**, the National Treasury commissioned a research paper to explore methods to improve the process for reviewing annual reports. This paper included recommendations for oversight committees, including the creation of a tracking system to identify which institutions must submit annual reports and whether they are submitted on time,<sup>93</sup> methods for cooperation between the portfolio committee and the Public Accounts Committee<sup>94</sup> and a proposed timeline for review.<sup>95</sup> The timeline was structured and included detailed recommendations for activities for each of four phases: oversight preparation phase, oversight hearings phase, oversight report-writing phase and a follow-up phase.<sup>96</sup> Additionally, the report included an annex that provided suggestions for parliamentary representatives to improve the quality of their oversight activities.<sup>97</sup>

A performance review, which is not currently required for constitutional bodies in the Maldives, is a specific reporting mechanism by which independent institutions provide evidence to Parliament that they are effectively achieving the purpose and role set out in their governing legislation, thereby ensuring [statutory accountability](#).<sup>98</sup> To effectively assess an institution’s performance, its objectives must be clearly identified ahead of the review period, for example through an annual workplan or strategic plan.<sup>99</sup> Additionally, an element of external evaluation should be in place where applicable to accurately assess the extent to which the objectives have been met.<sup>100</sup> These could include consumer satisfaction surveys (for regulatory agencies) or citizens’ perception surveys (for oversight institutions), as well as civil society contributions.<sup>101</sup> Whether or not they are submitted to Parliament as part of annual reporting requirements, performance reviews should be made available to the public to facilitate [public accountability](#).   


One element not currently included in annual reporting requirements for constitutional bodies in the Maldives is a performance review or performance audit.

An **Organisation for Economic Co-operation and Development (OECD)** model for assessing the performance of regulatory agencies involves the parliament first setting “clear expectations” by issuing the regulator a “statement of expectations” to “outline relevant government policies, including the government’s current objectives relevant to the regulator, and any expectations on how the regulator should conduct its operations.”<sup>102</sup> This statement must take into consideration and respect the institution’s autonomy.<sup>103</sup> The regulator is then obligated to

formally respond to the parliament with a statement of intent that outlines “how it proposes to meet the expectations of government,” which should include “key outcomes, outputs, quality and

timeliness performance indicators and targets agreed between the minister and the regulator.”<sup>104</sup> The annual report should then be based on these predetermined indicators.<sup>105</sup>

This model has been applied to other types of independent institutions besides regulatory agencies. For example, in **New Zealand**, similar requirements apply to many independent or autonomous institutions considered to be “Crown entities,” including the Human Rights Commission, Electoral Commission, Broadcasting Commission and Film Commission.<sup>106</sup> These independent oversight institutions are required to provide a statement of intent at least once every three years to set the entity’s “strategic intentions and medium-term undertakings,”<sup>107</sup> and an annual statement of performance expectations (also called a workplan).<sup>108</sup> Under the law, the content and structure of both documents have specific requirements.<sup>109</sup> While Parliament is not directly involved in the creation of either of these documents, the law’s intent is to “promote the public accountability of a Crown entity” by enabling the Parliament to be informed of the process of forming the entity’s strategic objectives.<sup>110</sup> For example, during the development of each of these documents, the “responsible Minister” is provided opportunities to make comments on drafts, which the entity must consider but not necessarily accept.<sup>111</sup>

Additionally, both the strategic plan and the annual performance expectations laid out in the Statement of Intent and Statement of Performance Expectations are intended to “provide a base against which the Crown entity’s actual performance can later be assessed.”<sup>112</sup> For instance, the most recent Human Rights Commission Annual Report (2017/18) directly references the Statement of Intent<sup>113</sup> and reports on Statement of Performance Expectations measures for output activities.<sup>114</sup> It does so by showing the of 2016/17 result side by side with the goal set and the actual results achieved in 2017/18.<sup>115</sup>



A focus on procedural accountability, or the requirement of independent institutions to “explain and justify how and through which procedures they took certain decisions,” may better balance needs for **institutional** and **functional autonomy**.<sup>116</sup> The performance review process should be designed around an institution’s legal mandate, with due consideration for decision-making authority enshrined in its enabling legislation.<sup>117</sup>

While performance reviews can be strong tools for accountability, consideration should be given to ensure that the independence of institutions is guaranteed through these processes. As noted previously, principles of functional autonomy require that the independent institution exercises full control over the policies and procedures it uses to implement its mandate. Therefore, performance reviews that are based entirely on outcomes or specific deliverables set by an external institution would inappropriately infringe on the functional autonomy of a constitutional body.<sup>118</sup> Instead, parliaments should aim to be kept informed of the procedures and decisions that the independent institutions take to implement their mandates, and seek explanations and justifications for these decisions when necessary rather than exercising control on the decisions and procedures themselves.

To ensure effective parliamentary scrutiny of the activities of constitutional bodies, the committees of the People’s Majlis could consider:

- Developing clear procedures for the committee review of annual reports, including developing a structure for the committee report that summarizes the findings during the review process;
- Making the committee review report easily accessible to the public; and
- Establishing a performance review process that can set standards and establish a clear focus for oversight activities.

## 4. Financial Audits

In the Maldives, the Auditor General is responsible for auditing the accounts, financial statements and financial management policies of all government agencies and organizations, including independent commissions.<sup>119</sup> The Auditor General is required to publish these reports and submit them to the President and the People’s Majlis, which are important [statutory](#) and [public accountability](#) measures.<sup>120</sup> However, according to interlocutors, to the extent that audits are completed in a timely manner and reported to Parliament, their findings are not always scrutinized or tracked by the appropriate oversight committee. As the Auditor General has no authority to enforce the adoption of its recommendations, it is dependent upon Parliament to provide that enforcement effectively.<sup>121</sup>



There are several ways in which the relationship between the Auditor General and Parliament can be improved to provide better oversight of independent institutions. In **Austria**, for example, a standing committee was established to review the reports of the Court of Accounts (sometimes referred to as the Court of Audit).<sup>122</sup> At the beginning of each committee meeting, a rapporteur is selected for each report, including independent institutions like the Ombudsman.<sup>123</sup> Similarly, in the **Czech Republic**, the independent Ombudsman’s Office<sup>124</sup> is audited by the Supreme Audit Office,<sup>125</sup> and members of the Committee on Budget Control are chosen in advance as rapporteurs for each audit report.<sup>126</sup> These rapporteurs are able to work directly with the Supreme Audit Office’s president and the auditors who conducted a particular audit to prepare the parliamentary discussion on that report.<sup>127</sup>



In addition to ensuring that constitutional bodies are financially accountable, parliaments should ensure that they have the requisite **financial autonomy**. As part of the review of audit reports, as well as other annual reporting of activities, parliamentary committees should consider whether the institution had sufficient budget to fulfill its mandate effectively. Additionally, parliaments should consider whether the development of the budget is sufficiently independent of the executive.

Another way for Parliament to improve this relationship is to take a role in following up on supreme audit institution findings and recommendations. For example, in **Denmark**, the Public Accounts Committee is responsible for reviewing reports from the Auditor General’s office,<sup>128</sup> including reports from independent institutions like the Human Rights Institute.<sup>129</sup> The committee asks relevant institutions for responses on audit reports and seeks comments from the Auditor General on those statements.<sup>130</sup> The committee then takes the report and both sets of comments into account when developing its own conclusion.<sup>131</sup> The Parliament in **Latvia** follows a similar procedure, but the relevant committee goes a step further and sets a schedule by which the auditee must report on the implementation of recommendations, which is open for the audit institution to provide comment.<sup>132</sup>

To improve the efficacy of the People’s Majlis’ financial oversight of independent institutions, its oversight committees could consider formalizing their relationships with the Auditor General and establishing a set procedure for applying scrutiny to the audit reports. Additionally, the Public Accounts Committee could coordinate with the other oversight committees to include the review of audit reports with the annual report and/or performance review process.

## 5. Right to Information Legislation<sup>133</sup>

Access to information held by public institutions is central to enabling [public accountability](#).




The Right to Information (RTI) Act, enacted by the People’s Majlis in 2013, “provides comprehensive details on how a person (irrespective of their citizenship) and legal entities can request for information, the appeal process, grounds for refusal to provide information, and sanctions imposed on Information Officers for failure to disclose information.”<sup>134</sup> Additionally, the law imposes a duty of proactive disclosure that requires government institutions to make accessible certain categories of information even without a request.<sup>135</sup> Global rankings on the right to access to information, such as the *Right to Information Rating*, find that the Maldives has one of the strongest legal frameworks for RTI in the world.<sup>136</sup> While the text of the law is robust, the People’s Majlis could consider adopting reforms to further strengthen the law. For example, the *Right to Information Rating* assessment highlights that the Maldives law scores particularly high in scope, appeals, and sanctions and protections, and lower in terms of requesting procedures and exceptions and refusals.<sup>137</sup> Some potential legal reforms in these areas include:

- Removing the requirement that requesters must provide their names, addresses and phone numbers, and only require the details necessary for identifying and delivering the information;
- Introducing a deadline by which a government institution must provide the requester an acknowledgement of receipt; and
- Introducing a provision that prevents government institutions from limiting the reuse of information shared with the requester unless it is legally protected by a copyright held by a third party.<sup>138</sup>

Parliament can also play an important role in ensuring effective implementation of RTI laws. In 2017, Transparency Maldives assessed government institutions’ compliance with the proactive disclosure requirements and found that the assessed public bodies, on average, had met less than 40 percent of the requirements.<sup>139</sup> It should be noted that the constitutional bodies scored significantly higher than the executive, legislative and judicial bodies.<sup>140</sup> However, there are still categories of information that the constitutional bodies have failed to disclose under the law. Notably, none of these independent institutions published any of the required information about public procurement, including detailed information on the public procurement process, selection criteria, outcomes of tenders, copies of contracts or reports for the completion of contracts.<sup>141</sup> The report notes that this information is essential “for the general public to trace where public money goes and how it is used.”<sup>142</sup>

Additionally, interlocutors have brought forward concerns that the procedures for requesting information under the RTI Act are inconsistent within and among institutions. The People’s Majlis can use annual reporting requirements to oversee the implementation of the RTI Act. Under the RTI Act, the Information Commissioner is tasked with providing an annual report to the People’s

Majlis, as well as the President, Auditor General and Human Rights Commission.<sup>143</sup> The Information Commissioner, in turn, is to receive annual reports from each government institution, as prepared by each respective institution's Information Officer.<sup>144</sup>

The People's Majlis could consider reviewing the Information Commissioner's findings regarding each constitutional body alongside the annual reports of each of these institutions, following up on areas of concern to ensure that the legislation is effectively implemented, strengthening [statutory accountability](#). 

## 6. Codes of Conduct and Ethics Policies

Codes of conduct and ethics policies, which aim to guide the behavior of public officials and create a culture of integrity, are important components of [internal accountability](#) for all government institutions.<sup>145</sup> They can also facilitate [public accountability](#) – when “citizens know what to expect of public officials in conduct and attitude...[they] are able to demand accountability in case of non-compliance.”<sup>146</sup>



While codes of ethics should be considered for independent institutions, this section focuses on codes of conduct. Codes of ethics are statements of values and principles to guide staff behavior and decision-making, while codes of conduct establish specific behaviors that are required, acceptable or prohibited for members of an organization.<sup>147</sup> In any context, it is important that the legal foundation of a code of conduct is clear and enforceable.<sup>148</sup>

A parliament's role in instituting public sector codes of conduct begins with the design of the underlying legal framework, which can take multiple forms. In **Australia**, for example, the text of the Australian Public Service Values<sup>149</sup> and Code of Conduct<sup>150</sup> are directly incorporated into the Public Service Act of 1999. However, it is generally considered good practice to avoid this approach, as it can make codes of conduct less adaptable and might limit their effectiveness over time.<sup>151</sup> Instead, parliaments might consider adopting laws that require the creation of a code of conduct for public service or even provide guidance on the principles or topics that should be reflected or addressed in the codes.<sup>152</sup>

For example, **Canada** and **New Zealand** have both employed a “minimum standard” approach, by which the law requires a specific commissioner or agency to develop a general code of conduct for the country's public service,<sup>153</sup> which then comes into force in the form of delegated legislation (regulation).<sup>154</sup> In both cases, agencies are allowed (or required) to adopt organization-specific codes of conduct that do not contradict the general public service code of conduct.<sup>155</sup> For instance, the Office of the Auditor General of **Canada** developed its own Code of Values, Ethics and Professional Conduct to fulfill its requirements under the Public Servants Disclosure Protection Act, but that is tailored to the Office's unique mandate.<sup>156</sup>

The Maldives also applies a minimum standard approach for the Civil Service.<sup>157</sup> Unlike in **Australia**, **Canada**, and **New Zealand**, the Code of Conduct has not been applied to the constitutional bodies of the Maldives; however, some of the constitutional bodies do include codes of conduct or ethical standards for *commissioners* in their specific enabling laws.<sup>158</sup> These provisions do not apply to the other employees who support the work of these commissions. For the People's Majlis to ensure that codes of conduct are an effective method of accountability, it



will need to amend existing legislation to include a code of conduct requirement for the employees of constitutional bodies.

The **Canadian** Parliament, for example, expanded the definition of “public sector” under the law to include independent institutions (Crown corporations, Officers of Parliament, and separate agencies) in addition to the core public administration.<sup>159</sup> There are, however, important independent constitutional bodies is protected. While codes of conduct are an important internal accountability mechanism, the necessary functional autonomy for these bodies would require that Parliament avoid interfering in the internal rule-setting and processes of independent institutions (see the Autonomy and Accountability Framework in the Annex). These internal processes would include staffing and recruitment. By including constitutional bodies in the civil service, these institutions would be brought under the authority of the Maldives’ Civil Service Commission which, in addition to requiring that civil service employees adhere to the Code of Conduct of the Civil Service Regulation,<sup>160</sup> has the authority to appoint, dismiss, suspend and transfer civil service employees as well as to determine salaries and benefits.<sup>161</sup>



To protect their **functional autonomy**, independent institutions must maintain control over their internal rule-setting processes, including those for staffing and recruitment. Therefore, including staff of independent institutions within the broader civil service may infringe on these institutions’ autonomy.

To more effectively balance constitutional bodies’ needs for both functional autonomy and **internal accountability**, the People’s Majlis might consider a different model. For instance, in **New Zealand**, the law differentiates between the “public service” and the “state sector.” The public service includes only government departments and departmental agencies, such as the Ministry of Justice and the



Ministry of Transport. On the other hand, the state sector refers to “all instruments of the Crown in respect of the Government of **New Zealand**, whether departments, corporations, agencies, or other instruments.”<sup>162</sup> This includes “Independent Crown entities” – a category of independent institutions that parallels the Maldives’ independent constitutional bodies.<sup>163</sup> These distinct legal categories were used to enable the Parliament to impose certain requirements on independent institutions while excluding them from others. For example, the State Service Commissioner is empowered to set minimum standards of integrity and conduct for the public service, Independent Crown entities and a variety of other agencies,<sup>164</sup> while excluding Independent Crown entities from the Commissioner’s power to appoint chief executives (administrative heads).<sup>165</sup>

If the employees of independent constitutional bodies are made legally responsible for adhering to the Maldives’ Civil Service Code of Conduct, another important consideration is whether the provisions are appropriate considering these institutions’ unique need for autonomy. The minimum standard approaches in **Canada** and **New Zealand** are effective for these types of independent institutions primarily because these minimum standard codes of conduct were written to consider their “distinct operational contexts.”<sup>166</sup> However, the current Civil Service Code of Conduct in the Maldives was not developed with these institutions in mind and has several provisions that would not apply to them. For example, the code requires that every civil service employee shall “implement the policies formulated by the government of the day with honesty and sincerity.”<sup>167</sup> Therefore, if the existing regulation for the Code of Conduct were to be

applied as the minimum standard for constitutional bodies, then the text would need to be revisited with the needs of these types of institutions in mind.

Once the legal framework includes a requirement for employees of constitutional bodies to follow a Code of Conduct, parliaments might also consider establishing enforcement measures in law.<sup>168</sup>

These enforcement measures must guarantee accountability while not infringing on the necessary autonomy of constitutional bodies. Dedicated integrity actors, central government organizations or external independent institutions are often tasked with monitoring compliance with codes of conduct.<sup>169</sup> For constitutional bodies, the independence of the monitoring and enforcement body is necessary to reduce the chances for these mechanisms to be abused for political means and to protect functional autonomy.

**Canada**, for example, uses both dedicated integrity actors and an external independent institution. Canada's Public Servants Disclosure Protection Act requires the chief executive to designate a senior official responsible for receiving and investigating internal disclosures.<sup>170</sup> This official reports directly to the chief executive.<sup>171</sup> Disclosures can also be made directly or elevated to the Office of the Public Sector Integrity Commissioner, an independent federal organization that reports directly to Parliament and is responsible for providing "public servants and members of the public with an independent and confidential process for receiving and investigating disclosures of wrongdoing" and "making recommendation to chief executives on corrective measures."<sup>172</sup> This model would protect a constitutional body's functional autonomy, as the Commissioner does not have the power to directly impose a penalty on the constitutional body's employee for a finding of wrongdoing; instead the chief executive would have the direct authority to take disciplinary action.<sup>173</sup> However, the Commissioner may request that the chief executive provide notice of any action taken to implement recommendations or reasons why no action has been taken within a certain period of time following the report.<sup>174</sup>

Parliaments can also include monitoring and enforcement of codes of conduct in reporting requirements as a [statutory accountability](#) measure. The **Canadian** Office of the Public Sector Integrity Commissioner is required to report to Parliament annually on disclosures, investigations and recommendations under the integrity framework.<sup>175</sup> Similarly, **Australia's** Public Service Commissioner is required to submit an annual state of the public service report to Parliament<sup>176</sup> in which the monitoring and enforcement of the Code of Conduct are discussed.<sup>177</sup> While requiring reports to Parliament from the institutions or individuals tasked with monitoring and enforcement of the code could be beneficial, the People's Majlis could also consider requiring independent constitutional bodies to include internal disclosures, investigations and results to Parliament as part of their annual reporting requirements.

In sum, when establishing a legal requirement for constitutional bodies to adhere to a code of conduct, the People's Majlis should consider the following:

- Relying on a "minimum standard" approach that applies to all public institutions, while not drawing constitutional bodies under the authority of the Civil Service Commission, which would undermine their functional autonomy;



To have **functional autonomy**, an independent institution must retain the sole authority to discipline or dismiss its employees. However, the institution can be required to provide reasons for the decision to impose or withhold discipline.



- Enabling constitutional bodies to build additional standards into their codes of conduct that are tailored to their unique mandates and working environments; and
- Consider imposing an enforcement mechanism, such as a dedicated integrity actor, that reports directly to both to a constitutional body's leadership and the Majlis. The appropriate committees can rely on these reports to follow up on disciplinary measures, while not interfering with the bodies' functional autonomy.

## 7. Complaints and Investigations

A legally mandated formal complaint review mechanism for the operation of independent institutions is an important element of [statutory accountability](#).<sup>178</sup> Mechanisms to hear both internal and external complaints also help to ensure [public](#) and [internal accountability](#). A common mechanism for investigating public complaints about government institutions is an ombudsman.<sup>179</sup>



An ombudsman protects citizens from “violation of rights, abuse of powers, unfair decisions and maladministration”<sup>180</sup> when accessing public services, even from independent institutions.<sup>181</sup> While the role, mandate and scope of intervention can vary, generally ombudsmen have the authority to receive complaints, conduct investigations regarding complaints and/or at their own initiative, facilitate negotiation and mediation to resolve complaints, and issue recommendations.<sup>182</sup> Ombudsmen can be empowered to hear complaints from the public, internally or both.<sup>183</sup> As such, independence and impartiality are imperative to building public trust in the institutions, and most are accountable only to parliament – “either through direct elections or through appointment by the head of state or government by or after consultation with parliament.”<sup>184</sup> Ombudsmen often also have human rights protection, whistleblower protection, anti-discrimination and access to information as part of their mandate.<sup>185</sup>

One model is to establish an ombudsman's office as a national independent institution or constitutional body with a mandate over all government bodies, including the other independent institutions. For example, the **Indonesian** National Ombudsman Commission was established to “encourage public participation in the development of the necessary conditions to eradicate corruption, collusion and nepotism; to protect people's right to public services, justice and welfare; to capture knowledge about the needs of citizens and provide an impartial resolution mechanism; and to receive and follow up on complaints from the public about irregularities in the administration.”<sup>186</sup> The Commission has a mandate to conduct investigations with or without a complaint.<sup>187</sup> It also conducts public awareness programs and publishes regular reports on its activities, encouraging [public accountability](#).<sup>188</sup>



Another model is for each constitutional body to establish an independent ombudsman's office within the institution. This model is sometimes called an “executive” or “organizational” ombudsman and is common in the **United States**.<sup>189</sup> For example, the National Taxpayer Advocate was established in the Internal Revenue Service to serve as an “advocacy ombudsman” for taxpayers. Advocacy ombudsmen are “authorized or required to advocate on behalf of individuals or groups found to be aggrieved” and “should provide information, advice, and assistance to members of the population identified in the law or publicly available written policy.”<sup>190</sup> The National Taxpayer Advocate reports directly to the Commissioner of Internal Revenue and submits annual reports directly to the Committee on Ways and Means of the United

States House of Representatives without prior review or comment by the Commissioner or Secretary of the Treasury.<sup>191</sup>

In the **United States**, it is also common for public institutions, including independent institutions, to have offices of inspectors general. Under the Inspector General Act, these independent offices were created in part to “conduct and supervise audits and investigations relating to the programs and operations of the [public institutions]” and “to promote economy, efficiency, and effectiveness...[and] prevent and detect fraud and abuse.”<sup>192</sup> Like the National Taxpayer Advocate, inspectors general report directly to the head of the institution, and they submit annual reports to Congress.<sup>193</sup>

In the Maldives, there is no “dedicated ombudsmen agency, and instead this function is spread across various bodies, most of which are developed specifically for particular institutions.”<sup>194</sup> While some of these bodies partially address the mandate of an ombudsmen, such as the Human Rights Commission and Anti-Corruption Commission, neither covers ethical standards and good practices<sup>195</sup> or complaints regarding maladministration. According to the Transparency Maldives 2014 National Integrity Assessment, “not having an independent Ombudsman can hinder the level of reviewing and acting on public concerns, as well as burdening other institutions with these issues.”<sup>196</sup> However, as the Maldives is a small country that already maintains seven constitutional bodies, the decision to establish an ombudsman institution and the appropriate structure will need to take into consideration limited resources and avoid creating overlapping mandates.

Whistleblower protections are also an important element of oversight, although whistleblowing (particularly to a mechanism or office external to the accused organization) should theoretically only be required in the most dire of cases when all other accountability mechanisms have failed.<sup>197</sup> As one scholar notes, “The decision to blow the whistle...is never an easy one; unless there is a legal obligation to report, it should be considered a step one takes when all else has failed. A genuine case of external whistleblowing requires the whistleblower to have utilized, unsuccessfully, all appropriate channels within the organization to right a wrong.”<sup>198</sup>

Given the high level of risk to whistleblowers, it is important that sufficient protections be in place to ensure that “accessible free expression rights extend to any relevant witness, regardless of audience, misconduct or context to protect them against any harassment that could have a chilling effect.”<sup>199</sup> While the People’s Majlis has recently adopted a robust whistleblower protection law, it is important that its implementation and enforcement be subject to active parliamentary oversight. This form of **statutory accountability** can be accomplished through committee scrutiny of the annual reports provided for under the law when conducting oversight of the Anti-Corruption Commission and Human Rights Commission, which are responsible for its implementation.<sup>200</sup>



In conclusion, to develop effective internal and external complaint review mechanisms for constitutional bodies, the People’s Majlis could consider conserving resources and increasing efficacy by consolidating multiple functions into a single institution.<sup>201</sup> For example, the Human Rights Commission could be given the mandate. An alternative could be adding this function to the mandate of an independent office within each body that handles whistleblower complaints, right to information requests and integrity officers.

## IV. Concluding Remarks

The findings and recommendations in this paper are intended to support the People's Majlis' ongoing reforms to improve the accountability of public institutions, including constitutional bodies. Finding the correct balance between accountability and autonomy for these institutions can be challenging, but it is essential to ensure that they appropriately fulfill their mandates. Because constitutional bodies have a unique role to play in bolstering good governance, any improvement to their performance will make compounding improvements to the quality of Maldivian democracy as a whole and contribute to current efforts to prevent corruption, improve service delivery, and increase transparency and rule of law.

While much of the legal frameworks discussed in this paper are already in place or in the process of being reformed, the overarching challenge that remains for the People's Majlis is to support and monitor the implementation of the law. Relying on comparative state practice, this paper has illustrated methods by which different parliaments have employed traditional oversight tools to apply the appropriate level of scrutiny without infringing on the autonomy of constitutional bodies.



## V. Annex

Autonomy and Accountability Framework	
Autonomy category	Role of parliament
<p><b>Institutional autonomy</b></p> <p><i>The institution's independence is enshrined in the legal framework.</i></p>	<ul style="list-style-type: none"> <li>• Ensure independence of the institution from the executive branch is codified in law.</li> </ul>
<p><b>Personnel autonomy</b></p> <p><i>Selection, remuneration and stability of tenure of independent institution leadership and staff enables impartiality and professionalism.</i></p>	<ul style="list-style-type: none"> <li>• Ensure security of tenure is codified in law and that the independent institution's founding law includes transparent selection, appointment and dismissal processes, with the aim of ensuring that appointees are insulated from removal or retaliation for political reasons.<sup>202</sup></li> <li>• Make timely appointments based on behavioral and functional competencies.</li> <li>• Include a requirement in the independent institution's enabling law that vacancies in membership be filled within a reasonable time.<sup>203</sup></li> <li>• Ensure staggered terms of office are codified in law.</li> <li>• Ensure adequate remuneration and benefits are included in annual budgets for independent institutions, in line with similar institutions and the judiciary.</li> <li>• Include a provision on immunity for actions taken in an official capacity in the institution's enabling act.<sup>204</sup></li> </ul>
<p><b>Financial autonomy</b></p> <p><i>The institution has sufficient resources and control over their use to fulfill its mandate.</i></p>	<ul style="list-style-type: none"> <li>• Provide a sufficient budget to enable the independent institution to carry out its legal mandate, provided according to a realistic timeline for disbursements as needed throughout the year.</li> <li>• When considering the budget proposed by the independent institution, take into account the institution's strategic plan and/or annual operational plan.<sup>205</sup></li> <li>• Ensure budgets are allocated directly to the independent institution.</li> <li>• Ensure that the independent institution has control over decisions on how to use allocated funds to meet its mandate.</li> </ul>
<p><b>Functional autonomy</b></p> <p><i>The institution has decision-making powers and resources that prevent political, executive or other power-broker interference in its activities.</i></p>	<ul style="list-style-type: none"> <li>• Define the independent institution's decision-making power in the law.</li> <li>• Ensure that the mandate and responsibilities for the independent institution are clearly codified in the law, and that any overlap with other institutions is limited to areas where there is a benefit to institutional multiplicity.</li> <li>• Avoid interference in policymaking of the independent institution within its defined mandate.</li> <li>• Avoid interference in internal rule-setting and process of the independent institution.<sup>oA</sup></li> <li>• Remove any statutory or other requirements for government approval of planning processes and outputs.</li> </ul>

<p><b>Behavioral autonomy</b></p> <p><i>The institution clearly demonstrates its independence through its decisions, actions and activities.</i></p>	<p>Provide an effective statutory and oversight environment that allows the independent institution in practice to establish and maintain:</p> <ul style="list-style-type: none"> <li>• Impartial policy and decision-making.</li> <li>• An administrative culture that places a priority on mission, public service, ethics/integrity, impartiality, competence and professionalism.</li> <li>• Institutionalized transparency (including via an accessible and comprehensive web presence).<sup>206</sup></li> <li>• Effective and consistent collaboration with external stakeholders.</li> <li>• Effective monitoring, evaluation and learning.</li> </ul>
<b>Accountability category</b>	<b>Role of Parliament</b>
<p><b>Statutory accountability</b></p> <p><i>Accountability mechanisms and reporting requirements for independent institutions are enshrined in law.</i></p>	<ul style="list-style-type: none"> <li>• Ensure that a requirement for periodic reporting is codified in law, and consider specifying format/content requirements. Additionally, ensure that the oversight committee has the resources necessary to apply rigorous and appropriate scrutiny of reports and to draft responding reports or statements if necessary.</li> <li>• Require independent institutions to develop and report on strategic goals and/or annual performance expectations.</li> <li>• Require annual internal audit of all independent institutions, as well as periodic audits by an external body.</li> <li>• Establish freedom of information legislation with appropriate parliamentary oversight mechanisms and resources to assess efficacy of implementation.</li> <li>• Establish a legal framework for the adjudication of complaints and disputes involving independent institutions.</li> </ul>
<p><b>Public accountability</b></p> <p><i>The implementation of outreach, public accessibility and transparency measures to ensure that the independent institution remains accountable to the public interest.</i></p>	<ul style="list-style-type: none"> <li>• Hold open question sessions and periodic performance reviews of independent institutions.</li> <li>• Make public the periodic reports submitted by the independent institutions to the relevant oversight committee(s).</li> <li>• Ensure that freedom of information legislation is fully implemented by independent institutions.</li> </ul>
<p><b>Internal accountability</b></p> <p><i>The adoption of robust standards for professional and ethical conduct and internal performance monitoring that contribute to a culture of integrity throughout independent institutions.</i></p>	<ul style="list-style-type: none"> <li>• Legally empower independent institutions to report to Parliament and stakeholders on their own initiative.</li> <li>• Require disclosure of ethics violations in independent institution annual reporting.</li> <li>• Require or encourage whistleblower and non-retaliation policies.</li> <li>• Require or encourage codes of conduct/codes of ethics.</li> </ul>

- 
- <sup>1</sup> See FIDH, “From Sunrise to Sunset: Maldives backtracking on democracy,” (2012), <https://www.fidh.org/IMG/pdf/maldivesen.pdf>; The second Melbourne Forum on Constitution Building in Asia and the Pacific Manila, the Philippines, “From Big Bang to Incrementalism: Choices and challenges in Constitution Building,” (2017), [https://law.unimelb.edu.au/\\_data/assets/pdf\\_file/0003/2536536/Maldives-Zulfa.pdf](https://law.unimelb.edu.au/_data/assets/pdf_file/0003/2536536/Maldives-Zulfa.pdf).
- <sup>2</sup> FIDH, “From Sunrise to Sunset: Maldives backtracking on democracy,” (2012), p. 4.
- <sup>3</sup> This paper focuses exclusively on the seven independent constitutional bodies, but there are at least 21 independent institutions in the Maldives. Transparency Maldives, “Review of Appointment and Dismissal of Members of Selected Independent Institutions of Maldives,” (2016), p. 8. A summary of each institution’s mandate is provided in Annex 1.
- <sup>4</sup> Constitution of the Republic of Maldives (2008), Sec. 70(b).
- <sup>5</sup> Transparency Maldives, National Integrity System Assessment Maldives (2014), pp. 12-13. See Constitution of the Republic of Maldives (2008), sec. 98(a).
- <sup>6</sup> Tom Gash, Ian Magee, Jill Rutter and Nicole Smith, “Read Before Burning: Arm’s length government for a new administration,” Institute for Government (2010), p. 16.
- <sup>7</sup> Ibid, p. 57; See, House of Commons, Public Administration Select Committee, “Who’s accountable? Relationships between Government and arm’s-length bodies,” November 2014, p. 10.
- <sup>8</sup> Although institutions with similar mandates can also be created through statute and referred to accordingly as “statutory bodies.” For a brief discussion of whether to create these independent institutions in constitution or statute and the potential impacts on their flexibility, institutional stability and resilience, see Elliot Bulmer, “Independent Regulatory and Oversight (Fourth-Branch) Institutions,” International IDEA (2019), pp. 20-21.
- <sup>9</sup> Elliot Bulmer, “Independent Regulatory and Oversight (Fourth-Branch) Institutions,” International IDEA (2019), p. 20.
- <sup>10</sup> Ibid, p. 7-8.
- <sup>11</sup> Ibid.
- <sup>12</sup> Ibid.
- <sup>13</sup> Ibid.
- <sup>14</sup> Ibid.
- <sup>15</sup> Constitution of the Maldives (2018), Arts. 159, 170, 182, 192, 202, 212, 223.
- <sup>16</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 9.
- <sup>17</sup> De Vrieze and Ilaşeanu, “Independent and Regulatory Agencies in Moldova and their Interaction with Parliament,” (2011), p. 16.
- <sup>18</sup> Some of this text has been adapted from a forthcoming IFES paper. Erica Shein, Katherine Ellena, Catherine Barnes, and Heather Szilagyi, “Leadership in Crisis: Ensuring Independence, Ethics and Resilience in the Electoral Process,” International Foundation for Electoral Systems, February 2020. Available at: <https://www.ifes.org/leadership-crisis-ensuring-independence-ethics-and-resilience-electoral-process>.
- <sup>19</sup> See, e.g., Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019.
- <sup>20</sup> This pillar of electoral management body autonomy is adapted and expanded from Anne Van Aaken’s criterion that electoral management bodies have “personal autonomy.” See van Aaken, Anne, Independent Electoral Management Bodies and International Election Observer Missions: Any Impact on the Observed Level of Democracy? A Conceptual Framework. Published in: 20 Constitutional Political Economy, Issue 3/4 (2009), pp. 307-308.; University of St. Gallen Law and Economics Working Paper No. 2008-07. Available at SSRN: <https://ssrn.com/abstract=1137518>.
- <sup>21</sup> Ibid.
- <sup>22</sup> Ibid.
- <sup>23</sup> For example, advance notification of changes to policies and procedures, public consultation processes, timely access to public data, independent review of systems and open meetings with required minimum public notice and publicly available minutes.
- <sup>24</sup> See e.g., Pippa Norris and Alessandro Nai, Election Watchdogs: Transparency, Accountability and Integrity (arguing that there should be multiple forms of accountability for an election management body, including upward accountability to the international community, where appropriate, horizontal accountability among state actors, and downward accountability to civil society, political parties, the media and the public); Marina Caparini, *Controlling and Overseeing Intelligence Services in Democratic States* (January 2008), p. 10 (identifying horizontal, vertical and “third dimension” accountability types: horizontal accountability refers to “the restraint of state institutions by other state institutions”; vertical accountability reflects “hierarchical relationships and levels of access and control, including non-state actors and the public”; and the third dimension refers to foreign governments, inter-governmental and nongovernmental organizations, and other international actors.”). See also Hugh Bochel and Andrew Defty, “Parliamentary Oversight of Intelligence Agencies: Lessons from Westminster,” pp. 105-106 in *Security in a Small Nation*, ed. Andrew W. Neal, 2017.
- <sup>25</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 13.

- 
- <sup>26</sup> Parliament of the Republic of South Africa, “Oversight and Accountability Model: Asserting Parliament’s Oversight Role in Enhancing Democracy,” retrieved from: <https://www.parliament.gov.za/storage/app/media/oversight-reports/ovac-model.pdf>
- <sup>27</sup> OSCE, “Opinion on the Draft Law on Parliamentary Oversight in Bosnia and Herzegovina, 2016, retrieved from: <https://www.osce.org/files/f/documents/0/9/313031.pdf>.
- <sup>28</sup> Ibid, p. 46.
- <sup>29</sup> Hironori Yamamoto, “Tools for Parliamentary oversight: A comparative study of 88 national parliaments,” Inter-Parliamentary Union (2007), p. 15.
- <sup>30</sup> Ibid, p. 16.
- <sup>31</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 51.
- <sup>32</sup> Rules of Procedure for the People Majlis (Standing Orders of the Parliament), 2015, Art. 117(a).
- <sup>33</sup> According to the 2016 Assessment of the Maldives Anti-Corruption Commission, “the Committee did not summon the ACC for any type of enquiry or clarification request during the review period and practical oversight of the ACC by an external body is non-existent.” Transparency Maldives, “Anti-Corruption Agency Strengthening Initiative Assessment of the Maldives Anti-Corruption Commission,” (2016), p. 3.
- <sup>34</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 51.
- <sup>35</sup> Parliament of Canada, “Committees Practical Guide,” <https://www.ourcommons.ca/About/Guides/Committees-e.html#5>.
- <sup>36</sup> National Democratic Institute, “Committees in Legislatures: A Division of Labor,” [https://www.ndi.org/sites/default/files/030\\_ww\\_committees.pdf](https://www.ndi.org/sites/default/files/030_ww_committees.pdf).
- <sup>37</sup> Committee on House Administration, “Members’ Congressional Handbook, Committees on House Administration,” <https://cha.house.gov/member-services/handbooks/members-congressional-handbook>.
- <sup>38</sup> Rules of Procedure for the People Majlis (Standing Orders of the Parliament), 2015, Art. 136(a).
- <sup>39</sup> National Democratic Institute, “Committees in Legislatures: A Division of Labor.”
- <sup>40</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 29.
- <sup>41</sup> Ibid.
- <sup>42</sup> Parliament of the Republic of Fiji, “Research and Library Services”, <http://www.parliament.gov.fj/research-and-library-services/>.
- <sup>43</sup> Inter-Parliamentary Union, Association of Secretaries General of Parliaments & International Federation of Library Associations and Institutions, Report from the Conference Informing Democracy: Building capacity to meet parliamentarians’ information and knowledge needs (2009), p. 18.
- <sup>44</sup> Association of Parliamentary Libraries of Eastern and Southern Africa, “Mandates,” <http://aplesa.org/mandates/>.
- <sup>45</sup> International Federation of Library Associations, “About the Library and Research Services for Parliaments Section,” <https://www.ifla.org/about-the-library-and-research-services-for-parliaments-section>.
- <sup>46</sup> Hironori Yamamoto, “Tools for Parliamentary oversight: A comparative study of 88 national parliaments,” Inter-Parliamentary Union (2007), pp. 16-17.
- <sup>47</sup> Ibid.
- <sup>48</sup> Rules of Procedure for the People Majlis (Standing Orders of the Parliament), 2015, Art. 148.
- <sup>49</sup> Hironori Yamamoto, “Tools for Parliamentary oversight: A comparative study of 88 national parliaments,” Inter-Parliamentary Union (2007), pp. 16-17.
- <sup>50</sup> Ibid.
- <sup>51</sup> Ibid.
- <sup>52</sup> Ibid.
- <sup>53</sup> New Zealand Parliament, “Annual Reviews Explained,” <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/fact-sheets/annual-reviews-explained>.
- <sup>54</sup> Hironori Yamamoto, “Tools for Parliamentary oversight: A comparative study of 88 national parliaments,” Inter-Parliamentary Union (2007), pp. 15, 39, 40.
- <sup>55</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 55.
- <sup>56</sup> Ibid.
- <sup>57</sup> Ibid.
- <sup>58</sup> Ibid.
- <sup>59</sup> Ibid, p. 56.
- <sup>60</sup> Hironori Yamamoto, “Tools for Parliamentary oversight: A comparative study of 88 national parliaments,” Inter-Parliamentary Union (2007), pp. 16-17.
- <sup>61</sup> Ibid.
- <sup>62</sup> Ibid.
- <sup>63</sup> Ibid, pp. 17-18.
- <sup>64</sup> Ibid.

- 
- <sup>65</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 48.
- <sup>66</sup> Ibid.
- <sup>67</sup> Rules of Procedure for the People Majlis (Standing Orders of the Parliament), 2015, Art. 132.
- <sup>68</sup> Standing Orders of the House of Commons (Canada), December 11, 2019, Art. 106(2).
- <sup>69</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 46.
- <sup>70</sup> Rules of the National Assembly (South Africa), May 26, 2016, Art. 166(4).
- <sup>71</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), p. 55.
- <sup>72</sup> Ibid, p. 52.
- <sup>73</sup> National Democratic Institute, “Committees in Legislatures: A Division of Labor,” p. 15.
- <sup>74</sup> “Who’s accountable? Relationships between Government and arm’s-length bodies,” House of Commons Public Administration Select Committee (2014).
- <sup>75</sup> Inter-Parliamentary Union, “Parliamentary oversight: Parliament’s power to hold government to account,” (2017), pp. 52-53.
- <sup>76</sup> Ibid, p. 53.
- <sup>77</sup> Ibid.
- <sup>78</sup> *Guideline for Legislative Oversight through Annual Reports*, National Treasury of South Africa (2005), p. 25.
- <sup>79</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 31
- <sup>80</sup> Ibid, pp. 31-32
- <sup>81</sup> Open Government Partnership, “Right to Information,” <https://www.opengovpartnership.org/policy-area/right-to-information/#recommendations>.
- <sup>82</sup> OECD, “Chapter 4: Stakeholder Engagement and Public Consultations,” in OECD Reviews of Regulatory Reform: Regulatory Policy in Croatia, available at <https://www.oecd-ilibrary.org/sites/e3e6f273-en/index.html?itemId=/content/component/e3e6f273-en&mimeType=text/html#back-endnotea4z3>.
- <sup>83</sup> Public Participation Act of 2018 (Kenya), Art. 5(2).
- <sup>84</sup> Ibid, Art. 6(2).
- <sup>85</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 26.
- <sup>86</sup> De Vrieze and Ilaşeanu, “Independent and Regulatory Agencies in Moldova and their Interaction with Parliament,” 2011, p. 29.
- <sup>87</sup> Election Commission Act (Maldives), Art. 28(d).
- <sup>88</sup> De Vrieze and Ilaşeanu, “Independent and Regulatory Agencies in Moldova and their Interaction with Parliament,” 2011, p. 29.
- <sup>89</sup> For example, the Anti-Corruption Commission is required to include the following: activities undertaken, complaints filed, cases decided, ongoing inquiries, pending cases, recommendations made to institutions, recommendations adopted and abandoned by such institutions and details of administrative actions on the management and employees. Anti-Corruption Commission Act of 2008 (Maldives), Art. 31.
- <sup>90</sup> De Vrieze and Ilaşeanu, “Independent and Regulatory Agencies in Moldova and their Interaction with Parliament,” 2011, p. 29.
- <sup>91</sup> Ibid.
- <sup>92</sup> See, e.g., Election Commission Act (Maldives), Art. 28(c); Anti-Corruption Commission Act (Maldives), Art. 31(c). While legislation does not state where these reports are to be published, all of the Commission’s annual reports from 2011-2015 are available on its website and are “informative and accessible to the public.” Transparency Maldives, “Anti-corruption Agency Strengthening Initiative Assessment of the Maldives Anti-Corruption Commission,” (2016), pp. 34-35.
- <sup>93</sup> *Guideline for Legislative Oversight through Annual Reports*, National Treasury of South Africa (2005), pp. 6-8.
- <sup>94</sup> Ibid, pp. 17-18.
- <sup>95</sup> Ibid, p. 28.
- <sup>96</sup> Ibid.
- <sup>97</sup> Ibid, p. 33.
- <sup>98</sup> De Vrieze and Ilaşeanu, “Independent and Regulatory Agencies in Moldova and their Interaction with Parliament,” 2011, pp. 29-30.
- <sup>99</sup> Ibid.
- <sup>100</sup> Ibid.
- <sup>101</sup> Ibid.
- <sup>102</sup> OECD, “Best Practice Principles for Regulatory Policy: The Governance of Regulators,” 2014, pp. 81-82.
- <sup>103</sup> Ibid, p. 82.
- <sup>104</sup> Ibid.
- <sup>105</sup> Ibid, pp. 82-83.



- <sup>106</sup> A full list of government institutions that qualify as “Crown Entities” can be found in Schedule 1 of New Zealand’s Crown Entities Act of 2004, <http://www.legislation.govt.nz/act/public/2004/0115/132.0/DLM331113.html#DLM331113>.
- <sup>107</sup> Crown Entities Act of 2004 (New Zealand) §§ 138-139.
- <sup>108</sup> Ibid, §§ 149B-149C.
- <sup>109</sup> Crown Entities Act of 2004 (New Zealand).
- <sup>110</sup> Ibid, §§ 138-139.
- <sup>111</sup> Ibid, §§ 145-147, 149H-149.
- <sup>112</sup> Ibid, §§ 138-139.
- <sup>113</sup> New Zealand Human Rights Commission, Statement of Intent 2016/17 – 2019/20, p. 11, [https://www.hrc.co.nz/files/2114/6949/8216/HRC\\_Statement\\_of\\_Intent\\_2016.pdf](https://www.hrc.co.nz/files/2114/6949/8216/HRC_Statement_of_Intent_2016.pdf)
- <sup>114</sup> New Zealand Human Rights Commission, Annual Report 2017/18.
- <sup>115</sup> Ibid, pp. 52-56.
- <sup>116</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, pp. 12-13
- <sup>117</sup> OECD, “Best Practice Principles for Regulatory Policy: The Governance of Regulators,” 2014, p. 82.
- <sup>118</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, pp. 12-13
- <sup>119</sup> Constitution of the Maldives (2018), Art. 212.
- <sup>120</sup> Ibid, Art. 213.
- <sup>121</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 19
- <sup>122</sup> Federal Constitutional Law (Austria), Art. 126d, [http://constitutionnet.org/sites/default/files/Austria%20\\_FULL\\_%20Constitution.pdf](http://constitutionnet.org/sites/default/files/Austria%20_FULL_%20Constitution.pdf).
- <sup>123</sup> Ombudsman Board is established to be “independent in the exercise of its authority.” (Constitution of Austria, Art. 148(a)). The Ombudsman Board (Volksanwaltschaft) is included on the list of list of the legal entities the Austrian Court of Audit has the right to audit, which can be found linked at this source (“Audits and Recommendations,” Rechnungshof Österreich, [https://www.rechnungshof.gv.at/rh/home/was-wir-tun/was-wir-tun/Audits\\_and\\_Recommendations.html](https://www.rechnungshof.gv.at/rh/home/was-wir-tun/was-wir-tun/Audits_and_Recommendations.html)).
- <sup>124</sup> Act on the Public Defender of Rights (Czech Republic), Sec. 5 (noting the Defender “shall discharge his or her office independently and impartially.”).
- <sup>125</sup> See Supreme Audit Office, “Management of State Property and State Budget Funds in the Office of the Public Defender of Rights,” (2006), <https://www.nku.cz/scripts/detail.php?id=3616>.
- <sup>126</sup> SIGMA, “Developing Effective Working Relationships between Supreme Audit Institutions and Parliaments,” (June 2017), p. 94.
- <sup>127</sup> Ibid.
- <sup>128</sup> Folketinget, “Institutions of the Parliament,” <https://www.thedanishparliament.dk/en/about-the-danish-parliament/institutions-of-the-parliament>.
- <sup>129</sup> Act on the Danish Instituted for Human Rights (Act No. 553 of 2012), Ch. 3, [https://www.legislationline.org/download/id/7117/file/Denmark\\_Act\\_Danish\\_Institute\\_HR\\_2012\\_en.pdf](https://www.legislationline.org/download/id/7117/file/Denmark_Act_Danish_Institute_HR_2012_en.pdf).
- <sup>130</sup> SIGMA, “Developing Effective Working Relationships between Supreme Audit Institutions and Parliaments,” (2017), pp. 38-39.
- <sup>131</sup> Ibid.
- <sup>132</sup> Ibid, p. 39.
- <sup>133</sup> Franklin de Vrieze, “Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework,” Westminster Foundation for Democracy, February 2019, p. 26.
- <sup>134</sup> Transparency Maldives, “Implementing the Proactive Disclosure Duties: Assessment on the Compliance of Proactive Disclosure Obligations under the Right to Information Act,” (2017), p. 4.
- <sup>135</sup> Ibid, pp. 4-5.
- <sup>136</sup> According to Access Info Europe and the Centre for Law and Democracy’s *Right to Information Rating*, which assesses the strength of the legal framework for the right to access information held by public authorities, the Maldives’ legislation ranks 16th worldwide. Access Info Europe and the Centre for Law and Democracy, “RTI Rating by Country,” <https://www.rti-rating.org/country-data/>
- <sup>137</sup> Access Info Europe and the Centre for Law and Democracy, “Maldives,” <https://www.rti-rating.org/country-data/Maldives/>.
- <sup>138</sup> Ibid.
- <sup>139</sup> Transparency Maldives, “Implementing the Proactive Disclosure Duties: Assessment on the Compliance of Proactive Disclosure Obligations under the Right to Information Act,” (2017), p. 8.
- <sup>140</sup> Ibid, p. 10.
- <sup>141</sup> Ibid, pp. 22-23.
- <sup>142</sup> Similarly, only the Anti-Corruption Commission, Civil Service Commission and Human Rights Commission have partially adhered to requirements to publish budgets and actual income and expenditures. The other constitutional bodies (Election Commission, Auditor General’s Office, Judicial Services Commission and Prosecutor General’s Office)

are non-compliant with this requirement. Aside from lacking transparency on public finance, the constitutional bodies have also failed to publish required information about the procedures to lodge complaints directly against the institutions (while they all have published information about procedures and forms to lodge complaints against third parties). Additionally, some constitutional bodies have failed to fully disclose the following categories of information: information on personnel, names and contacts of public officials; strategies, plans or policies; laws, regulations and rules governing operations; descriptions of services, including required forms, projected budget and actual income and expenditure; public procurement process, criteria, outcome of tenders, copies of contracts and reports on completed contracts; and information and contact details for the Information Officer. Transparency Maldives, “Implementing the Proactive Disclosure Duties: Assessment on the Compliance of Proactive Disclosure Obligations under the Right to Information Act,” (2017), pp. 13-25.

<sup>143</sup> Right to Information Act (Maldives), Art. 45.

<sup>144</sup> Ibid, Art. 40.

<sup>145</sup> *Technical Guide by the Network of Corruption Prevention Agencies: Codes of Conduct*, Network of Corruption Prevention Agencies, pp. 5-6, <https://rm.coe.int/technical-guide-to-corruption-prevention-instruments/168098d06a>.

<sup>146</sup> Ibid.

<sup>147</sup> Codes of ethics are statements of the values of an organization with general principles to guide staff behavior and decision-making. A code of ethics will state the expectation that any staff member faced with a problem will choose the solution that most conforms with those values. A code of conduct generally outlines more specific behaviors that are required, acceptable or prohibited for someone who is a member of an organization. As distinguished from a code of ethics, it provides limited decision-making guidance if a problem is confronted that has not been anticipated. The organization will usually specify clear sanctions for not meeting the standards. See Shein, Ellena, Barnes and Szilagyi.

<sup>148</sup> *Technical Guide by the Network of Corruption Prevention Agencies: Codes of Conduct*, Network of Corruption Prevention Agencies, p. 8, <https://rm.coe.int/technical-guide-to-corruption-prevention-instruments/168098d06a>. This need was highlighted in the Final Report of the OECD Joint Learning Study on Implementing a Code of Conduct for the Public Sector in Jordan, where participants of the learning study reported that there was “a consensus in Jordan that establishing a legal basis for the Code of Conduct could build legitimacy and credibility, and make it more enforceable.” OECD-MENA Initiative, “Implementing a Code of Conduct for the Public Sector in Jordan,” (2010), OECD, p. 13.

<sup>149</sup> Public Service Act 1999 (Australia), Art. 10.

<sup>150</sup> Ibid, Art. 13.

<sup>151</sup> *Technical Guide by the Network of Corruption Prevention Agencies: Codes of Conduct*, Network of Corruption Prevention Agencies, p. 8, <https://rm.coe.int/technical-guide-to-corruption-prevention-instruments/168098d06a>.

<sup>152</sup> Ibid.

<sup>153</sup> Public Servants Disclosure Protection Act (2005) (Canada), Art. 5, available at <https://laws-lois.justice.gc.ca/eng/acts/p-31.9/page-1.html#h-402914>; State Sector Act (1988) (New Zealand), Art. 57, available at <http://www.legislation.govt.nz/act/public/1988/0020/129.0/whole.html#DLM129589>

<sup>154</sup> Values and Ethics Code for the Public Sector, Government of Canada, available at <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>; Standards of Integrity and Conduct, State Services Commission of New Zealand, available at <https://ssc.govt.nz/assets/Legacy/resources/Code-of-conduct-StateServices.pdf>.

<sup>155</sup> Public Servants Disclosure Protection Act (2005) (Canada), Art. 5 (requiring the creation of an organization specific code of conduct); State Sector Act (1988); (New Zealand), Art. 57 (allowing the creation of an organization specific code of conduct).

<sup>156</sup> *Code of Values, Ethics, and Professional Conduct*, Office of the Auditor General of Canada, available at [https://www1.oag-bvg.gc.ca/internet/English/au\\_fs\\_e\\_8603.html](https://www1.oag-bvg.gc.ca/internet/English/au_fs_e_8603.html).

<sup>157</sup> Civil Services Act (2007) (Maldives), Art. 18; Maldives Civil Service Regulation (2014), Art. 16.

<sup>158</sup> See, e.g., Election Commission Act (2008), Art. 17; Anti-Corruption Commission Act (2008), Art. 17.

<sup>159</sup> *Values Alive: A Discussion Guide to the Values and Ethics Code for the Public Sector*, Government of Canada, available at <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/code/values-alive-discussion-guide.html#Toc2>.

<sup>160</sup> Civil Services Act (2007) (Maldives), Art. 34.

<sup>161</sup> Ibid, Arts. 37, 43, 46, 47.

<sup>162</sup> State Sector Act (1988) (New Zealand), Art. 2.

<sup>163</sup> Ibid, Art. 57(1). See Crown Entities Act (2004), Art. 7.

<sup>164</sup> State Sector Act (1988) (New Zealand), Art. 57(1)

<sup>165</sup> Ibid, Art. 35.

<sup>166</sup> *Values Alive: A Discussion Guide to the Values and Ethics Code for the Public Sector*, Government of Canada, available at <https://www.canada.ca/en/treasury-board-secretariat/services/values-ethics/code/values-alive-discussion-guide.html#Toc2>.

<sup>167</sup> Maldives Civil Service Regulation (2014), Art. 19(c).

<sup>168</sup> *Technical Guide by the Network of Corruption Prevention Agencies: Codes of Conduct*, Network of Corruption Prevention Agencies, p. 8, <https://rm.coe.int/technical-guide-to-corruption-prevention-instruments/168098d06a>.

- 
- <sup>169</sup> Ibid, p. 12.
- <sup>170</sup> Public Servants Disclosure Protection Act (2005) (Canada), Art. 10.
- <sup>171</sup> Appendix, *Values and Ethics Code for the Public Sector* (Canada), <https://www.tbs-sct.gc.ca/pol-cont/25049-eng.pdf>.
- <sup>172</sup> *Our Vision, Mandate, and Values*, Office of the Public Sector Integrity Commissioner, <https://www.psic-ispc.gc.ca/en/our-vision-mandate-and-values>.
- <sup>173</sup> Public Servants Disclosure Protection Act (2005) (Canada), Art. 36.
- <sup>174</sup> Ibid.
- <sup>175</sup> Ibid, Art. 38.
- <sup>176</sup> Public Service Act 1999 (Australia), Art. 44.
- <sup>177</sup> *State of the Service Report 2018-19*, Australian Public Service Commission, pp. 56-57.
- <sup>178</sup> Franklin de Vrieze, "Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework," Westminster Foundation for Democracy, February 2019, p. 30.
- <sup>179</sup> Hironori Yamamoto, "Tools for Parliamentary oversight: A comparative study of 88 national parliaments," Inter-Parliamentary Union (2007), p. 71.
- <sup>180</sup> "About the International Ombudsman Institute," International Ombudsman Institute, <https://www.theioi.org/the-i-o-i>. These can include "allegations of unfairness, maladministration, abuse of power, abuse of discretion, discourteous behavior or incivility, inappropriate application of law or policy, inefficiency, decision unsupported by fact, and illegal or inappropriate behavior." *Standards for the Establishment and Operation of Ombuds Offices*, American Bar Association Resolution 2004, available at <https://abaombudsday.files.wordpress.com/2018/09/2004-aba-resolution.pdf>
- <sup>181</sup> International Ombudsman Institute, *IOI Best Practice Papers, Issue 1: Developing and Reforming Ombudsman Institutions* (2017), p. 3.
- <sup>182</sup> *Standards for the Establishment and Operation of Ombuds Offices*, American Bar Association Resolution 2004, available at <https://abaombudsday.files.wordpress.com/2018/09/2004-aba-resolution.pdf>
- <sup>183</sup> Ibid.
- <sup>184</sup> "About the International Ombudsman Institute," International Ombudsman Institute, <https://www.theioi.org/the-i-o-i>.
- <sup>185</sup> European Ombudsman, *The Role of Ombudsman Institutions in Open Government*, OECD Working Paper on Public Governance No. 29 (2018), pp. 5-7.
- <sup>186</sup> Sophia Wickberg, "Anti-Corruption Help Desk: Best Practices for Ombudsmen," Transparency International (2013), p. 5.
- <sup>187</sup> Ibid.
- <sup>188</sup> Ibid.
- <sup>189</sup> *Standards for the Establishment and Operation of Ombuds Offices*, American Bar Association Resolution 2004, Sec. (H), available at <https://abaombudsday.files.wordpress.com/2018/09/2004-aba-resolution.pdf>
- <sup>190</sup> Ibid, Sec. (J).
- <sup>191</sup> Taxpayer Bill of Rights 2, P.L. 104-168 (1996) (United States), § 101.
- <sup>192</sup> Inspector General Act of 1978 § 2.
- <sup>193</sup> Ibid, § 5.
- <sup>194</sup> Transparency Maldives, "National Integrity System Assessment: Maldives 2014," p. 14.
- <sup>195</sup> Ibid.
- <sup>196</sup> Ibid.
- <sup>197</sup> Whistleblowing in the public sector has been defined by the Government Accountability Project as an act by employees to "challenge institutional illegality, abuse of power or other betrayals of the public trust they learn of or witness on the job." See <https://whistleblower.org/international-best-practices-for-whistleblower-policies/>. More broadly, whistleblowers have been characterized as "people who expose negligence, abuse or danger such as professional misconduct or incompetence that exists in the organization in which they work." Susan L. Ray, "Whistleblowing and Organizational Ethics," *Nursing Ethics* 2006 13 (4).
- <sup>198</sup> Susan L. Ray, "Whistleblowing and Organizational Ethics," *Nursing Ethics* 2006 13 (4).
- <sup>199</sup> Tom Devine, "International Best Practices for Whistleblower Policies," Government Accountability Project, available at <https://whistleblower.org/international-best-practices-for-whistleblower-policies/>.
- <sup>200</sup> Bill on Protection of Whistleblowers (Transparency Maldives Draft), Art. 52, available at <http://transparency.mv/v16/wp-content/uploads/2018/12/Bill-on-Protection-of-Whistleblowers.pdf>.
- <sup>201</sup> Elliot Bulmer, "Independent Regulatory and Oversight (Fourth-Branch) Institutions," International IDEA (2019), p. 19.
- <sup>202</sup> See Belgrade Principles on the Relationship between National Human Rights Institutions and Parliament, para. 10.
- <sup>203</sup> Ibid, para. 13.
- <sup>204</sup> Ibid, para. 12.
- <sup>205</sup> Ibid, para. 7.
- <sup>206</sup> Franklin de Vrieze, "Independent Oversight Institutions and Regulatory Agencies, and Their Relationship to Parliament: Outline of Assessment Framework," Westminster Foundation for Democracy, February 2019.



International Foundation  
for Electoral Systems