

Joint Press Release - Concerns Over Amendments to the Constitution of the Maldives



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Joint Press Release - Concerns Over Amendments to the Constitution of the Maldives

20 November 2024

We express grave concerns regarding the amendments brought to the Constitution of the Maldives through the Constitutional Amendments Bill submitted by the Government to the Parliament on 19 November 2024. We strongly condemn the hasty process followed in the Bill's passage by the Parliament and ratification of the Bill by President Dr. Mohamed Muizzu on 20 November 2024. These concerns stem from a marked absence of transparency in the unprecedented amendment process, inadequate procedural safeguard mechanisms, and the potential erosion of fundamental democratic principles. The actions of the Parliament violate the Article 4 of the Constitution which states that "all powers of the State are derived from the people, and that those powers remain with the people" by derailing due process and completely excluding the people from it.

The precipitous timeline between the submission of the Bill, the passage of by the parliament and the ratification by President Dr. Mohamed Muizzu is deeply troubling. Allowing a bill to be submitted late at night, passing and ratifying the bill on the following day, undermines the ability and responsibility of parliamentarians to thoroughly review, research, and engage in an informed debate. This also excludes any form of public inclusion or engagement in the processes of such fundamental changes to the law. Constitutional amendments, fundamental to the governance of the nation, require robust deliberation with an effective public participatory process, to ensure their implications are fully understood and debated. Without adequate time for reflection and preparation, parliamentarians, civil society and the general public are being deprived of the opportunity to provide meaningful arguments and facilitate a transparent and democratic exchange of ideas.

The Attorney General has a Constitutional mandate under Article 133, specifically under subsection (e) to promote, protect, uphold and defend the rule of law and the public interest. Therefore, the absence of the Attorney General's due diligence in ensuring public consultation and engagement on such significant legal changes raises concerns about the adherence to due process and the integrity of the executive in initiating Constitutional amendments of this nature.

One specific amendment of particular concern is the amendment to Article 115 (Powers and Mandate of the President) through the addition of a clause that vests the power of formulating national development policies and plans, solely on the President of the Maldives, is deeply concerning. Prior to the 13th Amendment to the Decentralization Act, this was mandated to local councils, to be conducted in close consultation with the public. This consolidation of authority within the executive branch contradicts fundamental democratic principles regarding separation of powers and represents a significant departure from established decentralization laws and efforts put in place by several administrations that have been instrumental in the nation's emerging democratic development.

Additionally, the amendment to Article 73 stipulates that a member of parliament will lose their seat if they resign from, or are removed from, the political party through which they were elected. Similarly, it states that an independent member joining a political party will also forfeit their seat. These provisions undermine the foundational democratic principle of representative choice and constrain the political independence of parliamentarians.

If political parties are granted the power to remove elected members to the parliament, it could compel parliamentarians to vote in alignment with every position endorsed by their party, regardless of their personal views or the interests of their constituents. Members would be unable to oppose party whip-line bills or exercise independent judgment without risking the loss of their seat. This centralization of control would weaken internal party democracy and effectively subordinate the autonomy of elected representatives.

We acknowledge that floor crossing for political gain is a significant concern that undermines the integrity of parliamentary members and poses a serious risk of fostering corruption. Addressing this issue requires a sustainable solution derived through a consultative process. Hence, rather than amending the Constitution in a manner that could centralize excessive power, efforts should be directed toward strengthening the existing anti-corruption legal framework.

When procedural safeguards are bypassed, it risks compromising the integrity of the legislative process and undermining public trust in governance. These practices also raise questions about the true intent of the amendment, transparency and accountability of the government, fueling concerns over potential corruption and the concentration of power.

We the undersigned call for adherence to democratic norms and legal principles in the legislative process, particularly when it involves changes to the nation's supreme legal document, The Constitution. We urge the government and parliament to ensure sufficient consultation, enable broader public participation, and uphold the values of democracy, transparency and accountability in all constitutional amendments.

-ENDS-

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