

# TOWARDS A ROBUST ASSET DISCLOSURE REGIME

# 1. INTRODUCTION

The Maldives introduced asset declarations in 2008 with the enactment of the new Constitution, which requires the President, Vice President, the Cabinet, parliamentarians and judges to submit their financial and business interests. The Prosecutor General and members of constitutional bodies such as the Anti-Corruption Commission, Judicial Service Commission, and Elections Commission are also required by legislation specific to their institutions to submit asset declarations. Apart from these public officials, the rest are not legally required to submit asset declarations.

The **process of asset declarations** in the Maldives is riddled with inconsistencies and is not uniform across the three branches of power. There are three different asset declaration forms prepared by the three branches for their respective public officials. The **scope and type of information** covered are not uniform across all three forms.

There is no **verification mechanism** in place to check the accuracy of the information declared. Currently, only the parliament has legal provisions for **enforcement and sanctioning**, and for **public availability of the declared information**. In August 2019, the parliament introduced new standing orders mandating parliamentarians to declare their personal finances and that of their spouses and children under 18 years of age in their asset declarations. While there were previously no sanctions for non-compliance, under the new standing orders parliamentarians who fail to comply will now face suspension without pay and will be barred from attending sittings or committee meetings. The new standing orders also require the parliament to publish the asset declarations on the parliament's website.

Ultimately, the **lack of an asset disclosure legislation** means the current process of declaring assets lack uniformity across the three branches of the state. Having three different sets of rules for the three different branches of power means **accountability is not applied equally** to public officials. This, along with the absence of a verification process, renders an already weak asset declaration system **ineffective to prevent conflicts of interest and uncover illicit enrichment**.

## 2. DECLARATION PROCESS

### 2.1 SCOPE AND TYPE OF INFORMATION

The lack of a standardised form applicable to all branches of power means there are considerable differences in the comprehensiveness, sufficiency, and clarity of information declared. For instance, the information declared by public officials of the executive and the judiciary are far detailed than the information declared by parliamentarians. This is because the former two forms are extremely structured and includes specific questions leaving no room for vagueness or interpretation. For example, the executive and judiciary's asset declaration forms specifically ask public officials to disclose the amount they pay for housing rent while the parliament's asset declaration form do not.

The table below, while not an exhaustive list, illustrates key differences in scope and type of information covered in the three asset declaration forms.

Type of information	Executive	Legislative	Judicial
Assets (homes, valuables, financial portfolios, etc) in the Maldives	✓	✓	✓
Assets (homes, valuables, financial portfolios, etc) in other countries	✓		✓
Assets (homes, valuables, financial portfolios, etc) of spouses in the Maldives		✓	✓
Assets (homes, valuables, financial portfolios, etc) of spouses in other countries			✓
Liabilities in the Maldives		✓	✓
Liabilities in other countries			✓

Loans taken in one's own name	✓		✓
Loans and personal guarantees provided to others			✓
Money to be paid/received under a court order	✓		✓
Personal credit cards and/or joint accounts in one's own name or that of a family member	✓		✓
Official credit cards and/or joint accounts under the name of a staff	✓		✓
Business partnerships, companies and shares in the Maldives	✓	✓	✓
Business partnerships, companies and shares in other countries	✓	✓	✓
Gifts	✓		✓
Details of rent	✓		✓
Bank interest	✓		✓
Money and/or assets received by a benefactor	✓		✓
Money and/or assets received to a spouse and/or children by a benefactor			✓
Education of a spouse and/or children funded by a benefactor	✓		✓
Spouse and/or children living in a house/apartment/land provided by a benefactor	✓		✓
Other sources of employment	✦	✓	✦

✦ President, Vice President, Cabinet Ministers and Judges are legally not allowed to pursue other sources of employment.

## 2.2 FREQUENCY

Parliamentarians submit their asset declaration forms to the Secretary General of the parliament before 31 August each year.<sup>1</sup> Judges make their annual asset declaration submissions to the Judicial Service Commission. The President, Vice President and the Cabinet submit their asset declarations annually to the Auditor General's Office.

Apart from the Prosecutor General and members of constitutional bodies such as the Anti-Corruption Commission, Elections Commission, and Judicial Service Commission, the rest of public officials are not required to submit an **entry declaration** for the assets they own on the day of coming into office. This provides a challenge for determining which assets existed before coming into office and which were generated during the time in office.

In January 2019, **voluntary entry declarations** were submitted by the President, Vice President and Cabinet Ministers and their spouses. This was done to fulfill an electoral pledge President Solih had made to “root out corruption and usher in an era of good governance”.<sup>2</sup> These entry declarations are published on the website of the President's Office with asset and income information of spouses removed. While voluntary disclosure is indeed a positive decision, it is also a piecemeal approach subject to the whim of whoever is in power at the time.

No public officials are required to submit **exit declarations** for all assets acquired at the time of leaving office.

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<sup>1</sup> Prior to the amendments to the standing orders in August 2019, parliamentarians were required to submit their asset declarations before 31 October.

<sup>2</sup> <https://presidency.gov.mv/Press/Article/20354>

### 3. RECOMMENDATIONS

- Establish a robust asset declaration regime by adopting a **primary legislation for asset disclosure** that includes the following provisions:
  - Expand the group of public officials required to declare their interests and assets to include public officials of all oversight bodies, state-owned enterprises, political appointees such as ambassadors.
  - Require public officials to submit their interests and assets **upon entering and leaving public office**.
  - Require all public officials to provide a wide range of information including, but not limited to, disclosure of assets, business and activities outside the jurisdiction of the Maldives, details of gifts or benefits, and assets and income information of spouses and children.
  - Establish a verification system through a central body to check the declarations.
  - Introduce **punitive sanctions** for non-submission and false declarations.
  - Ensure **public availability of information** on a central platform, preferably online, that is easily accessible.
- Review all the asset declaration forms currently in use and introduce **a single declaration system** for elected officials (president, vice president, parliamentarians and councillors), senior executive officials (ministers and other political appointees) and the highest levels of judiciary and prosecutors.
- Establish **a verification system** through an independent central body (such as the Auditor General's Office) to check the contents of the declarations for accuracy, sufficiency, clarity, and punctuality by using methods such as random sampling and risk-based selection of asset declarations.