

Effectiveness of RTI Regimes & Timely Access to Information in the Maldives

10 March 2023

ASSOCIATION FOR
DEMOCRACY
IN THE MALDIVES





Authors:

Shahindha Ismail, Aimon Latheef

Association for Democracy in the Maldives;
Accountability Maldives

All rights reserved

© 2023



Contents

Abstract	05
Acronyms used	06
Introduction	07
Methodology	09
Findings	12
Legal provisions:	
The Right to Information Act (law number 1/2014) of the Maldives	12
Legal provisions:	
The Right to Information Regulation (2016/R-5)	17
RTI Implementation Assessment	19
Lived experiences of information seekers	24
Requests for information without invoking the RTI regime	24
Requests for information through the RTI regime	28
Conclusions	36
Further research	37
Recommendations	39
1. Review of the RTI Act (1/2014)	39
2. Recommendations to the Information Commissioner's Office	50
3. Recommendations to the Attorney General's Office	52
4. Recommendation to the Parliament	53
5. Recommendations to the Government	54
Acknowledgements	55
References	56
Annex 1 - Results of RTI Implementation Measurement	61
Assessment Area 1 - Proactive Disclosure (10 state institutions)	61
Assessment Area 2 - Institutional Measures	62
Assessment Area 3 - Processing of Requests (10 state institutions, 30 requests)	63



Abstract

Maldives enforced a right to information law in 2014 which has been commended for its strength. This report follows a study conducted to examine the effectiveness of access to information in the Maldives since the enforcement of the law, and explores particularly the right to prompt and easy access to information that should entail the effective provision of information. Nine years into the celebration of legislating access to information, this study brings out critical gaps in the law that can be reviewed and strengthened to ensure effectiveness of the right. The study moves further into how access to information can be made more effective by moving beyond the right to information law, such as the strengthening of information management and the introduction of policy frameworks that would pave the way for a more open and people friendly government.

Keywords: RTI, FOI, Information, Access, Timely, Right, Effectiveness



Acronyms used:

ATI	-	Access to Information
ECOSOC	-	Economic and Social Council
FOIANet	-	Freedom of Information Advocates Network
HLPF	-	High-Level Political Forum
ICCPR	-	International Covenant on Civil and Political Rights
ICOM	-	Information Commissioner's Office
IO	-	Information Officer
MTCC	-	Maldives Transport and Contracting Company
OGP	-	Open Government Partnership
RTI	-	Right to Information
SDG	-	Sustainable Development Goal
SOE	-	State-Owned Enterprise
UN	-	United Nations
UNESCO	-	United Nations Educational, Scientific and Cultural Organization
VNR	-	Voluntary National Review

Introduction

The Maldives enforced its [Right to Information Act](#) in 2014, twelve years behind the first RTI law in the subregion by Pakistan. The South Asian subregion is well ranked in the Global Right to Information Ranking, with all countries except for Bhutan, above rank 40 ([Sharma, S. 2021](#)). Maldives, although we did not make it to the top ten, is ranked 22 owing to the broad scope of the Act, in addition to the strong provisions regarding appeals, sanctions and protections. ([The Global Right to Information Rating](#)). Whilst not perfect, this indicates a strong domestic law on the Right to Information in the Maldives.

Considering the chaotic journey of the Maldives to democracy in 2008 ([Constitution of the Maldives, 2008](#)) after a 30-years authoritarian rule and regression through a political coup in 2012, it is fair to say that the residues, if not the culture itself, of nepotism and corruption is bound to exist ([Corruption Perception Index, Transparency International, 2021](#)). A recent study we did on state compliance to mandatory proactive disclosure in the Maldives showed that none of the 73 state institutions monitored showed full compliance at the beginning of the assessment ([ADM, 2022](#)). The country has been trying to move from heavy traces of autocracy towards a democracy on paper, where the country is quick to participate in international treaties and incorporate it into domestic law. This is, however, where the challenge begins. The effectiveness of those laws are low when the *implementation* is low.

This study will assess the effectiveness of the mechanisms in place in the Maldives to protect the right of access to information. It will explore how

the law is used to withhold information rather than to make it accessible, focusing on the *timely access to information* in the Maldives.

The Maldives signed on to the International Covenant on Civil and Political Rights ([ICCPR](#)) in 2006 ([OHCHR](#)), thereby agreeing to its obligations to ensure the freedom of expression, including the right to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice” under the Article 19 of the convention. The UN Human Rights Committee, in their General Comment no. 34 (2011) on interpretation of the scope and limits of the right to information of the Article 19 of the ICCPR, states that the article requires all countries to ensure public access to information and that the access is “easy, prompt, effective and practical” ([UN Human Rights Committee, 2011](#)). In their [2017 report](#) on access to information and the Sustainable Development Goals (SDGs), the right to information is identified as an enabler right that assists members of the public to participate in the decision making processes related to social, economic and cultural rights such as “pollution, climate change, disability and migrants” by Article 19.

***Note:** Key findings and recommendations of this study have been shared with the Information Commissioner of Maldives ahead of this publication upon his request, following an invitation received by the Information Commissioner’s Office from the Attorney General’s Office to send in comments to be considered for a review of the Right to Information Act.

Methodology

We have used a mixed model of primary and secondary data collection for this study, including interviews with 17 individuals representing civil society organisations, journalists and members of the general public. A literature review was conducted including a review of the law number 1/2014 (the Right to Information Act), previous studies conducted by local civil society organisations, local media reports and publications including those by external organisations and institutions. The primary need for inclusion of media reports in this methodology is the absence of sufficient publications on access to information and related developments in the Maldives. Reviewed literature was published in the last nine years, with the exception of a United Nations Educational, Scientific and Cultural Organization (UNESCO) policy guideline, international treaties and foreign legislation. Information requests were also submitted to state institutions both using the RTI regime and outside including 10 respective requests by formal letters, emails and via telephone to examine the responses and lengths of time taken for the responses or information to reach the information seeker.

A [RTI Implementation Assessment methodology](#) developed by the Freedom of Information Advocates Network (FOIANet) to help civil society organisations to assess the extent to which states have implemented SDG Target 16.10 was also used to assess the level of RTI Implementation in Maldives. The methodology reviews three areas for RTI implementation and provides a three-point grade of red (weak), yellow (medium) or green (strong) per area in general, for each state institution assessed:

1. The extent to which state institutions proactively disclose information;
2. The extent to which institutional measures have been put in place to assist with implementation; and
3. The extent to which requests for information are being responded to properly

The RTI implementation mechanisms of the following state institutions were assessed for this study (*Fig. 1.1*):

No.	Name of state institution	Type of state institution
01.	The President's Office	Head of Executive Branch
02.	Ministry of Economic Development	Executive Ministry
03.	People's Majlis	Head of Legislative Branch
04.	Supreme Court	Head of Judicial Branch
05.	Family Court	Superior Court
06.	Laamu Atoll Council	Local Government - Atoll Level
07.	Malé City Council	Local Government - City Level
08.	Lh. Naifaru Council	Local Government - Island Level
09.	Human Rights Commission of the Maldives	Independent Constitutional Institution
10	Maldives Correctional Service	Independent Statutory Institution

Figure 1.1: List of state institutions assessed using the FOIANet methodology

[Maldives](#) is included in the countries that will carry out Voluntary National Reviews ([VNRs](#)) of their implementation of the 2030 Agenda for Sustainable Development at the 2023 High-Level Political Forum (HLPF) meeting under the auspices of Economic and Social Council (ECOSOC) which will include reporting on the adoption of Access to Information (ATI) guidelines



and implementation of ATI. Prior to the 2019 HLPF a similar assessment using the same FOIANet methodology was gathered and analysed by the Deutsche Welle Akademie, Free Press Unlimited and the Global Forum for Media Development ([2019](#)) in 10 countries, of which 5 were prepared for the 2019 cycle of the Voluntary National Reviews.

This study examines three hypotheses:

1. The introduction of the Right to Information Act has, for reasons unknown, created a culture of state authorities refusing to provide information to those who do not invoke the RTI Act, which results in failure to provide timely information (for eg. media reports, civil society advocacy needs, individuals requiring urgent information to pursue other fundamental rights of a time sensitive nature).
2. The indicated timelines for the provision of requested information in the Right to Information Act and the sequence of appeal processes ending with a judicial process with no deadline result in the deprivation of the right of access to information by the people.
3. The Right to Information Act has been interpreted by some state institutions to limit those who are entitled to seek information under the law, creating a gap in implementation of the law which has resulted in state institutions refusing to provide information to certain individuals and groups.

Findings

Legal provisions: The Right to Information Act (law number 1/2014) of the Maldives

The Right to Information Act determines the principles by which the scope of the right to information in the Maldives is defined, and the principles by which providing the right to access information produced, held or maintained by a state institution is granted to any member of the general public. While the Act attempts to reinforce the right of every person to access and obtain information in any State Institution with a broad scope of the right, the Act also includes provisions that contradict with the principles enshrined within the legislation. Even though Section 3(c) of the Act states that even if a statute specifies that information present at a State Institute shall not be disclosed or shall only be disclosed under a certain procedure, and that disclosure or non-disclosure of such information shall be based on the norms determined in the RTI Act, Section 22 of the Act exempts the disclosure of information which is defined an offence under any law of the Maldives. This exemption could be potentially problematic, as it leaves the opportunity for the state to enact legislation for the exact purpose of restricting information.

Subsection 6(f) and Section 12 of the RTI Act requires state institutions to acknowledge information requests received under the law by providing a written receipt to the information seeker, although there is no requirement for the state institution to provide the receipt within a specific duration. Furthermore, the receipt of the request included within the information request form template prepared by the Information Commissioner's Office



(ICOM) does not include much of the information required to be presented with the acknowledgement prescribed under Section 12 of the Act. This is a major issue as a lot of state institutions use this receipt to acknowledge the information requests they receive. Information required to be presented with the acknowledgement that are missing from the receipt in the request form include the amount payable for the disclosure of information and the manner in which information would be disclosed according to Subsection 12(a), and whether or not the requested information is available at the institution as prescribed by Subsection 12(c).

The timelines for state institutions to provide information in response to RTI requests under the law range from 21 days to 3 months, not including an appeal at the High Court, which could then take an indefinite amount of time and be further appealed to the Supreme Court. These delays defeat the requirement of prompt and easy provision of information as is mentioned in the General Comment No. 34 of the UN Human Rights Committee. This issue is compounded by how in cases where state institutions refuse to provide the requested information, the information seeker is only made aware of the refusal when the state institution provides a response to the request at the very end of the timeline provided in the law, usually weeks after the request was submitted. UNESCO ([2020](#)) reported that 74% of the responding countries said it took up to 30 days to provide requested information while 8% took 31 to 60 days and 2% took longer than 60 days.

Section 6 of the RTI Act also requires that information requests made under the Act include the name, address and telephone number of the information seeker, details which are not required for the identification and

delivery of information as stated in the law. Subsection (c) of the same section states that a state institution may design and introduce their own form through which requests for information can be submitted. This has led many state institutions to introduce their own version of the form, with the only difference being the name of the institution stated at the top of the document. Despite the Subsection also stating that the form “shall not be a cause for inconvenience or unreasonable delay in access to information”, some state institutions have refused to accept RTI forms provided for public use by the ICOM, since those forms are not on the institution’s own letterhead. Section 8 of the Act addresses “incomplete or inaccurate or meaningless requests”, however, does not explain the circumstances under which a request may be deemed meaningless by the state. Moreover, this section also provides vague grounds under which requests for information can be refused such as Subsection 8(b) which allows state institutions to decline requests for information “where sufficient time had not elapsed”. Such vagueness could be abused and is unnecessary especially considering the same subsection also allows state institutions to decline requests if the information has not changed since it was last disclosed. Similarly, Section 9 allows for the transfer of information requests from one state institution to another on very broad grounds - so much so that it does not even require a substantive basis for the action under Section 9(a)(3).

Chapter 7 of the RTI Act pertaining to exemptions also contains Sections with irregularities, such as Section 32 which does not have a harm test associated with it and allows for cabinet records to be exempt from disclosure, regardless of whether or not the disclosure of the information would cause harm. Furthermore, while Section 33 states time limitations



for various exemptions, Section 32 also contains a separate subsection for time limitation restricted to documents submitted to the cabinet. Section 22 which deals with information received in confidence, also contains a Subsection that allows for the restriction of information that could “adversely affect a person or group of persons” which is very vague.

Section 37 of the RTI Act includes 13 Subsections that list information required to be proactively disclosed by all state institutions. While Subsection 37(l) lists “the norms followed by the State Institute for the discharge of its functions”, the same information is required under Subsection 37(g) as well, which reads “The rules, regulations, policies, principles and norms used by the State Institute for discharging its responsibilities”. Only one of the 13 Subsections require information about the institution’s RTI mechanism to be disclosed - Subsection 37(e) which includes information on the procedure to follow to request for information. The RTI Act also makes no mention regarding the reuse of information received from state institutions.

The RTI Act empowers the Information Commissioner with a host of responsibilities and powers. The responsibility of training staff at State Institutions on the right to information and the relevant legislation is assigned solely to the Information Commissioner under Section 40. However, it is unrealistic that one such authority will be able to train staff at every single State Institution in the country, considering how there are over 500 that fall within the purview of the Act ([ICOM, 2022](#)). Section 67(a) allows the Information Commissioner to issue fines to the Information Officers at State Institutions while 67(c) allows fines



to be imposed on anyone that commits any of the acts referred to in the Subsection. However, speaking at a panel discussion held at the launching event of ADM's assessment on state compliance to mandatory proactive disclosure requirements, as well as at various ICOM hearings, Information Officers have expressed concern about how they are often unable to act autonomously on requests for information without the approval of a high ranking official, or without information acquired from the relevant department or section within the institution. Therefore, the imposition of fines on the Information Officer may not prove to be a productive method of sanctioning. In line with this concern, the U4 Expert Answer at [Transparency International](#) (2014) highlighted the need for sanctions to be placed on heads of departments according to the law in cases of non-compliance.

The definition of "Information" in Subsection 72(c) wholly excludes information that belongs to a third party, even though Subsection 23(b) allows for the disclosure of the third party's personal information if it is in the interest of maintaining public interest. The definition of "State Institute" in Subsection 72(f) of the RTI Act is currently too vague to identify exactly which institutions fall within the purview of the RTI Act. While the definition explicitly lists several types of institutions such as "the executive, the legislative, the judiciary, independent institutions, independent institutes, security services and councils elected under the Constitution", the definition also further include "bodies which take any State responsibilities, those functioning under the State budget and those receiving assistance from the State budget." However, the Act does not define what constitutes a "state responsibility", nor does it list any details about what constitutes as "functioning under the State budget", or what constitutes to having received "assistance from the State budget". The vagueness in the definition has led many State-Owned

Enterprises (SOEs) to challenge the purview of the RTI Act, despite public interest in obtaining information from them. This issue is exacerbated by the limited definition of “government companies” in the Companies Act of Maldives (10/96) which states “companies whose shares are held solely by the government or a body of the government, and formed by a Law or by a Decree of the President.” SOEs that do not fall within this definition include those that predate the Companies Act, such as the Maldives Transport and Contracting Company which was formed in 1980 - 16 years prior to the enactment of the Companies Act, and SOEs that were formed in ways other than those listed in the definition, such as the SME Development Finance Corporation which was registered as a private limited company by the state together with 3 city councils. As a result, questions concerning the definition of SOEs in a legal context and the jurisdiction of laws such as the RTI Act on SOEs remain unanswered.

Legal provisions: The Right to Information Regulation (2016/R-5)

Section 6 of the Right to Information Regulation ([2016/R-5](#)) defines a right to information request solely as one made by the submission of a form included in the appendix one of the regulation or a similar form provided by the institution where the request is being submitted to. The section further states that the request must say that it is made under the regulation. Neither the law, nor the regulation acknowledges circumstances where the information seeker may require the information urgently and sooner than the minimum time frame of 21 days allocated in the law other than the exceptionally rare case where a request for information is made to save the

life and liberty of a person. Another definition missing from the law and the regulation is what type of information constitutes invoking the RTI regime.

The same section also outlines a process in which state institutions must assist individuals challenged with illiteracy or disabilities to provide a written request. The process introduces a separate internal process requiring the Information Officer to transcribe an oral request into the RTI form, sign it, have a witness sign it and have the information seeker's fingerprint on the form. The regulation does not prescribe a timeline for the said internal process or whether the 21 days timeline will be counted from when the internal process is completed or whether it begins from when the oral request is made. This could result in delays in receiving the requested information.

The inclusion of "State Companies" in the definition of "State Institutes" in Subsection 67(f) of the regulation despite it not being explicitly stated in the definitions section of the RTI Act led the Maldives Transport and Contracting Company (MTCC) to file a case at the High Court asking for the subsection to be declared invalid. The company contested that the inclusion of state companies in the definition of 'State Institutes' in the Regulation overreaches the definition of the same in the law, thereby deeming it unconstitutional. While the High Court of Maldives ruled against the argument made by MTCC, the verdict has been appealed at the Supreme Court and is currently ongoing.

The ICOM drafted an amendment to the Regulation and held stakeholder consultations in June 2022 ([ICOM, 2022](#)), although it is yet to be enforced.

RTI Implementation Assessment

Target 16.10 of [SDG goal 16](#) aims to “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.” Under this goal, indicator 16.10.2 looks at the number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information.

Article 29 of the Constitution of Maldives guarantees everyone the freedom to acquire and impart knowledge, information and learning. Six years later in 2014, a Right to Information Act was passed and gazetted, although several provisions of the Act were not enforced until many years later. These include the conduction of open sittings by the ICOM following complaints and appeals submitted to the office which were not conducted prior to 2020. Serious gaps in enforcement in areas such as proactive disclosure obligations of the state, continue to hinder the effectiveness of access to information. According to a Transparency Maldives study in [2017](#) and one we conducted in [2022](#), none of the state institutions monitored met the full compliance score for mandatory proactive disclosure until 2022.

Overall Analysis

Results of the RTI implementation assessment show that institutions received medium-range scores for both their proactive disclosure obligations and institutional measures enacted for the implementation of the RTI Act. Only one of the ten institutions assessed received a weak score in either of the two areas, which indicate that the level of RTI implementation is not low. However, only two institutions received a strong score in either of the two assessed areas, which indicate a need

for improvement as well. The weakest of the three areas was found to be proactive disclosure, which reinforces the findings from ADM’s previous study on proactive disclosure obligations of state institutions. The overall final grade for the assessed institutions was medium, with a score of about 60%. Nevertheless, three of the ten institutes assessed received a strong score, with over 70% being scored by two of them. Steps to enhance the national regulatory frameworks on access to information and the effective implementation of those frameworks as part of member states’ 2030 commitment to the SDGs as prompted by the Intergovernmental Council of the International Programme for the Development of Communication ([UNESCO, 2022](#)) are necessary to increase the effectiveness of the national mechanisms in the Maldives.

Assessment Area 1 - Proactive Disclosure	Assessment Area 2 - Institutional Measures	Assessment Area 3 - Processing of requests	Final Overall
46.67	52.14	80.63	59.81

Figure 2.1: Overall results of each assessment area of the RTI Implementation Assessment

Proactive Disclosure

While several institutions have done well to proactively disclose information in a number of different areas pertaining to the administration of the institution, it was found that most institutions were severely lacking in the disclosure of information regarding their RTI processes. None of the assessed institutions published the annual report required to be submitted to ICOM under Section 42 of the RTI Act which would include details of the number of RTI requests granted, refused and the length of time taken to respond to requests. Neither details of the cost for photocopies of

information, nor details related to the information pertaining to granted RTI requests were available from any of the assessed institutions. It is likely that none of the assessed institutions disclosed these details because they are not specified in the list of information required to be proactively disclosed under Section 37 of the RTI Act of Maldives. However, while Section 37 requires all state institutions to disclose their procedure related to requests for information, only a minority of institutions published this information to any degree, with the average score for this indicator being a mere 25%. The average score for the proactive disclosure of 8 types of institutional information was just above 66%, although the overall score for the proactive disclosure of both institutional details and information pertaining to the institutions' RTI implementation received a medium-range score of 47%.

Institutional Measures

An RTI oversight mechanism in the form of an Information Commissioner's Office was established in the Maldives on 13 July 2014, shortly after the enactment of the RTI Act in January. Even though it took six more years for the office to begin holding open sittings to deliberate on appeals and complaints submitted to the Information Commissioner according to Section 59(d) of the RTI Act, there have been massive improvements in the functionality of the ICOM since 2020, and numerous open sittings are now conducted by the office on a regular basis. All decisions of the Information Commissioner are now announced in an open sitting as required by Section 59(f) of the Right to Information Act. Since 2017, over 290 appeals/complaints have been submitted to the ICOM, out of which over 220 have been processed. The government has not established a separate

nodal agency for coordination, capacity building and/or standard setting relating to RTI and such actions are currently carried out by the ICOM.

In terms of institutional measures at state institutions, every single state institution assessed had appointed at least one Information Officer (IO) responsible for RTI implementation. Furthermore, Information Officers at all of the institutions also report having received training on RTI on some level, with the exception of one institution which recently had a change in the IO position. Even then, the IO recalls receiving helpful information in a stakeholder consultation held by ICOM. Despite the strong performance in these two areas, all state institutions assessed were severely lacking in the formulation of their RTI implementation plans, RTI responding guidelines and publishing the relevant information required for submitting RTI requests, with an overall mark of less than 30 out of 100 being scored for each indicator. The overall score for institutional measures was around 52% - a medium grade, indicating need for improvement.

Processing of Requests

The area in which state institutions performed the strongest was in the processing of RTI requests. Each of the ten institutes assessed were sent three requests, and only one of those thirty requests received a weak score due to extended delays and requiring multiple submissions to ICOM. 23% of requests received a medium-grade score due to delays and additional reviews being required. Nevertheless, 9 out of 10 institutions assessed received a strong rating, with an average score of just above 80%.

Public Authority	Proactive Disclosure	Institutional Measures	Processing of Requests			Overall Average
			RTI 1	RTI 2	RTI 2	
The President's Office	29.17	60	50.00	87.50	65.63	52.29
			67.71			
Ministry of Economic Development	37.50	40	93.75	100.00	50.00	52.92
			81.25			
People's Majlis	50.00	40	53.13	78.13	100.00	55.69
			77.08			
Supreme Court	54.17	80	100.00	87.50	100.00	76.67
			95.83			
Family Court	50.00	40	93.75	93.75	100.00	61.94
			95.83			
Laamu Atoll Council	64.58	60	56.25	87.50	100.00	68.61
			81.25			
Male' City Council	41.67	40	18.75	87.50	87.50	48.75
			64.58			
Lh. Naifaru Council	50.00	50	53.13	93.75	100.00	60.76
			82.29			
Human Rights Commission of the Maldives	54.17	80	53.13	100.00	100.00	72.85
			84.38			
Maldives Correctional Service	35.42	40	53.13	93.75	81.25	50.49
			76.04			

Figure 2.2: Results for each state institution assessed using the RTI Implementation Assessment

Lived experiences of information seekers

The lengthy timelines allocated for state institutions to provide information result in information becoming expired in some instances, such as with media reporting on critical issues or research work with deadlines. It is similarly time-sensitive for civil society designing project proposals, who in the Maldives almost exclusively raise funds through external donors. All except one respondent reported having attempted to seek information from the state without invoking the RTI mechanism. Over 90% reported the reason for seeking information through letters, emails and telephone queries being the preference to avoid lengthy waits when requesting for information under the RTI Act.

Requests for information without invoking the RTI regime

In our attempts to obtain information from state institutions without invoking the RTI Act, we sought details pertaining to the institution's work, RTI procedures and training received by the Information Officer at the institution. Out of 30 requests, the requested information was provided by 20% [responses to formal letters], 50% [responses to official email] and 90% [responses to telephone queries] of institutions assessed. Although we were able to obtain the requested information through phone calls in the vast majority of cases, 40% of those information requests required multiple follow-ups over the course of several days. On average it required three work days to obtain information through phone calls, while a response to the emails and letters were provided after an average of four work days.

Information requested through phone calls

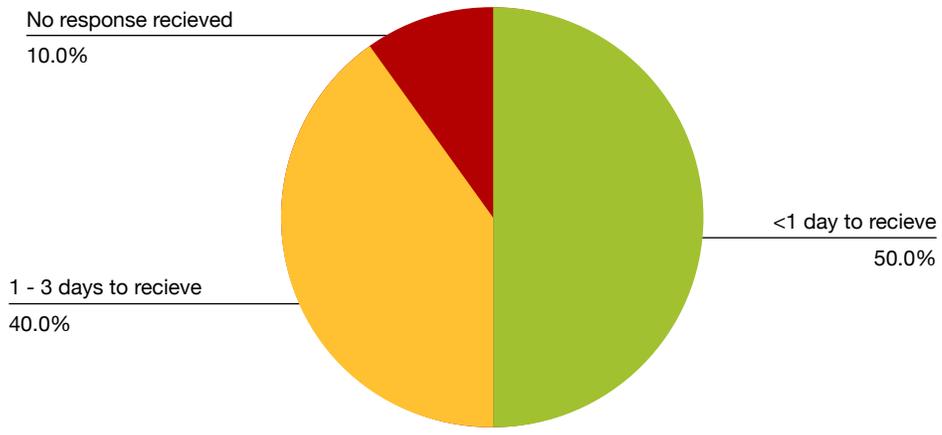


Figure 3.1: Results of attempts to obtain information from state institutions through phone calls

Information requested through official emails

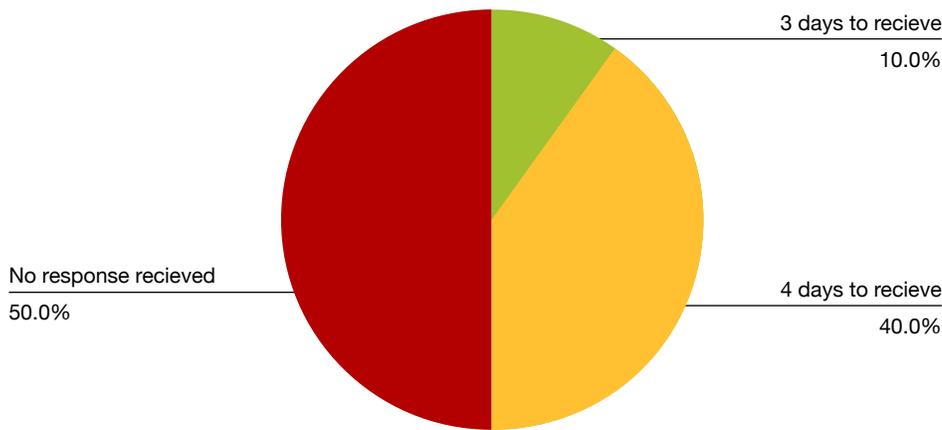


Figure 3.2: Results of attempts to obtain information from state institutions through official emails

Information requested through official letters

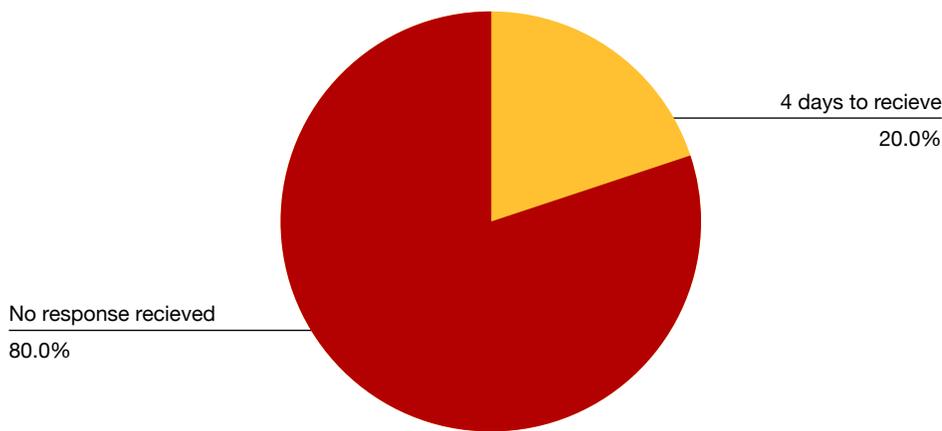


Figure 3.3: Results of attempts to obtain information from state institutions through official letters

All except one respondent interviewed for this study reported having attempted to obtain information without invoking the RTI regime. Civil society organisations interviewed reported having sought information relating to international obligations of the state, statistical data, policy and implementation, as well as monitoring reports related to government projects. Journalists reported needing information related to current affairs, statistical data and seeking to check facts or updates before publicising news, and individuals reported seeking information for research or self awareness, for example studies related to vaccination.

Two of the respondents said that no response was received to their request at all, while the rest of the respondents did receive a response. Out of those who received a response from the authority where information was requested, 50% reported not having received the required information - out of which 25% are journalists, and 50% said they received the information sometimes. Respondents also reported having to follow up on the request multiple times, at times contacting acquaintances working at the authorities.

“We have experienced situations where we were told that the person who viewed the email was not at their desk. It was the same response two weeks later. Some print the email out and treat it exactly as they would a physical letter, through the letter entry system. Perhaps there is a broader issue of technological proficiency at some institutions”.

While none of the respondents reported having received full information on time, they reported that often the information was no longer useful by

the time it was received. Respondents reported having received (partial) information within three days to two months, which demonstrates that requests for information without invoking the RTI law are not, per say, rejected. However, they are not treated within the principles outlined in the Article 19 of the ICCPR or the RTI Act of the Maldives. This trend of “benevolence of an individual in authority” has existed in the Maldives for centuries where public services and information are treated as though they are privately owned by public officials, in that provision of any of the services or information is seen as a favour to the person seeking it, at times accompanied by an unspoken expectation of a favour in return, which is likely an indicator of a stronger culture of corruption.

“I believe that information held by the State should be accessible to the people without a specific type of request, so I normally use regular official methods of communication to seek information.”

One respondent reported preferring to rely on information available in the public domain because any attempts to seek information [outside the RTI regime] were either futile or they could not afford the time and chase [within the RTI regime] required. Less than 20% of the respondents reported that in comparison, keeping to the RTI regime provided the assurance that they would receive some kind of response within the allocated timelines, regardless of the lengthy wait.

Journalists are particularly faced with a challenge in receiving timely information. In a small country with a large rural population, delayed

information often means that the media have to move on to other developments taking place around them and cannot afford to wait for weeks or months to bring news to the people. Media interviewed for this study reported not having received adequate information, whether it was requested within or outside the RTI regime.

“I think there is a culture in the government right now in which they just only give information they wish to and withhold the rest. When they hold on to information and delay providing it, journalists also forget about it because there is so much happening here. I believe this is a tactic used by the government to distract people from focusing on news they don’t wish to be made public”.

“I personally delivered a letter to President Solih’s office in 2020 and I am yet to receive any acknowledgment to it”.

Requests for information through the RTI regime

Over 90% of the respondents were generally aware of the RTI regime, the obligations of the state and the timelines allocated for provision of information. While over 60% of the respondents have used the RTI regime to seek information, the rest had not. Interestingly, 20% said the risk of not receiving information on time is the reason behind their preference for requests via email and letters, so that there is a possibility of pushing the request through acquaintances, which would not be possible with requests made formally through RTI submissions. One respondent stated stigma



and fear surrounding RTI requests as the reason for not using the regime and feeling safer with email requests which may prevent sending the institution on “alert” or offending them somehow. This fear corroborates with incidents of threats against information seekers in the Maldives ([Press, 2022](#)). While the RTI Act of the Maldives does not require the reasons for the request to be disclosed in Section 6 of the Act which can imply no requirement to provide them; as the law does not explicitly specify that applicants are not required to give a reason for their request, state institutions do occasionally inquire about the motivations behind RTI requests, and have even rejected requests for refusal to provide such details.

Over 60% of the respondents reported that the timelines allocated for provision of information, including extensions, is too long for the average person to be able to use the information in a timely manner. They also experienced instances where the institution rejected the requests after taking the full length of time, including extensions. Less than 30% of the respondents said that the timelines may be necessary for the state to compile information that is requested for. Some added that this necessity may be true given that information management differs according to institutions and an electronic information management system has not been introduced in the Maldives. Over 40% of the respondents reported that the twenty one days allowed for the provision of requested information is longer than adequate and that the timelines - especially for extensions and the Review Committee stage need to be reviewed and reduced. One respondent said that the RTI regime lacks acknowledgement, and therefore an appropriate process, for those needing information urgently.



Although over 80% of the respondents faced challenges in procuring the information in full and on time, less than 30% said they pursued the request to the Review Committee and less than 20% reported having pursued a request to the ICOM. The reason others chose not to submit a review request was because it was either too time consuming or they did not have confidence that the result would be different despite the effort, having received similar responses from other institutions as well. One respondent said they were repeatedly told by Information Officers that there was a difficulty in providing the information because the documents existed only in paper files. Another respondent said that with most of their requests, the response time was extended by the receiving institution, resulting in having to wait for the maximum allocated time in the RTI law. One respondent reported having had to challenge decisions of the institutions at ICOM in 45% of their RTI requests. One respondent highlighted the recent changes in legislation that bars anyone without a legal practitioner's licence to be able to represent a case at the High Court and the challenges that pose for a regular citizen to appeal a decision of the ICOM at the court.

Respondents also questioned the need for review committees in the RTI process at all. Since the review committee is tasked with deliberating on complaints submitted regarding decisions made by the Information Officer, on paper it is assumed that none of the members of the review committee will be involved in the decision making regarding information requests prior to that. However, in practice, Information Officers are very rarely able to act with autonomy in making decisions regarding requests for information, most often being unable to provide a response to information requests that have not been approved by a higher ranking official. Moreover since the review committee is required to consist of those at a higher rank than

the Information Officer, members of the review committee could very easily influence the decision made in the Information Officer stage. State Institutions that do not have a lot of staff, such as former president's offices have also expressed that the requirement to set up a review committee consisting of a minimum of 3 high ranking officials as per Subsection 72(e) is a challenge to them. The RTI laws in countries such as [Gambia](#) and Sri Lanka also have internal review procedures - but neither country recognizes review committees in their RTI process. Instead, applications for reviews in Gambia have to be submitted to the head of the information holder, while the [Sri Lankan RTI](#) law states that appeals may be submitted to a designated officer.

As was with the case of our own RTI requests submitted for this study which were taken to the ICOM, the decision of the ICOM to provide information was ignored by up to 30% of requests while the decisions were neither appealed at the High Court by the state institutions. Stressing on the need for Information Policy Framework and dissemination of information, the UNESCO observes that Right to Information laws alone are insufficient for the right to access information, owing to the bureaucratic and burdensome process that information seekers are faced with, which are at times even costly ([2004](#)). The UN Economic Council recommends fostering tools such as mandated disclosure and open government data to strengthen government accountability and increase transparency ([2019](#)). Findings of the Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information further testify that while the establishment of access to information laws are critical, they are insufficient to assure the right and that undertaking measures to create and strengthen policy

frameworks as well as building the administrative capacity of the state to manage and disseminate information is equally essential ([The Carter Center, 2008](#)). Responses received to information requests by respondents to this study, such as extensions of timelines for retrieval of physical documents from old files, indicate the need for basic systems of information management in the Maldives. Apart from the challenges Information Officers face in locating and retrieving those files, a serious risk of damage and destruction of paper files must be considered by the state.

The trend of state institutions ignoring orders of the ICOM to provide information is observed as a direct violation of the right to access information as well as the violation of the rule of law. The United Nations (UN) system [defines](#) rule of law as *“a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency”*. The systems of specific timelines, review and appeals surrounding the right to access information in the RTI Act, while it assures a path, albeit lengthy, to challenge instances where the information seeker is not satisfied with the result of their requests for information, does not address ways in which authorities or persons in authority who defy the provisions that ensure the right, and thereby violates it, can be held accountable. A question arising from this situation therefore is whether the RTI law creates a space for impunity of state officials who

violate the right to access information, and whether the failure to provide access to timely and easy access to information is considered a violation of the fundamental right to access information. Section 64 of the RTI Act states that decisions of the ICOM may be appealed to the High Court. However, the court ruled in 2021 that the High Court did not have the jurisdiction to hear appeals against the decisions of the Information Commissioner ([Adhadhu, 2021](#)). A Supreme Court decision overturned the ruling, thereby resuming the appeal process following a gap of 11 months where neither information seekers nor state institutions had a venue for redress in matters relating to the decisions of the ICOM ([Adhadhu, 2022](#)). The certainty of penalties for non-conformity to the law can be a method of ensuring that state officials align with what is stated in the law, rather than base their actions on external factors ([Schauer, 2012](#)). Following an assessment of access to information in the Maldives, the local chapter of Transparency International said the state did not adequately implement the RTI Act and that 67% of state institutions assessed violated the legal requirement to provide information as stated in the law ([Transparency Maldives, 2019](#)). Reflecting this gap, the Ministry of National Planning, Housing and Infrastructure failed to publish information about the awardees or processes followed in the allocation of social housing units to 661 applicants out of 15000, resulting in a RTI request by the Mayor of Male' City at the time ([Mihaaru, 2017](#)). The information falls under proactive disclosure obligations under Section 37(b) and (h) of the RTI Act. Related to the subsection (h) are also court rulings, which are not published by superior courts and only provided to parties involved in the cases. A further complication arising from the inability for the public to access court reports is that rulings are often based on precedents, which the public are not



aware of, or have difficulty understanding due to this unavailability of the court reports. While the Supreme Court publishes summary reports of their decisions, they do not provide the full report that may be necessary for those seeking to build cases based on arguments presented and rulings made in courts.

An interesting observation concerning the interpretation of who is entitled to information under the law, as read by some state institutions, is that individuals and at times civil society organisations aren't included among those who the state should provide information to. One of the respondents said that they received a written response from the state institution saying that individual persons are not entitled to the information requested. Civil society organisations and citizen-led movements have reported similar responses from state institutions. The RTI Act, in Sections 1, 2 and 4 state that every person shall have the right to seek information and the definitions included in the law state that persons seeking information shall include individuals and legal entities. The concept of inclusiveness in transparency can be further explored through international standards such as the Treaty on the Functioning of the European Union which says that *“individuals and any natural or legal person residing or having its registered office in an EU country can access documents”* ([The European Union](#)).

Respondents appreciated that the existence of the legal provisions protecting and regulating the right to information gives the certainty of a process. While over 90% of the respondents reported having no positive experiences within the RTI regime, others reported having occasionally received the information they needed and on time. Challenges reported by over 90% of the respondents include delay tactics used by some

institutions, the lengthy timelines in the law and the technical nature of going through a request for information that feel overwhelming. A clear agreement across all respondents is that the expectation of easy and prompt access to information through the regime has not been met at all. Over 80% said that the RTI regime should not be required for every type of information the public needs from the state. It was also agreed across all respondents that generally, information related to policy and implementation, statistical data, service related operational information and other types of information related to the general work of an institution should be readily and openly available without having to invoke an information request. While half of the respondents cautiously acknowledged that the RTI Act is effective and is one that the public can use for tangible results, albeit its weaknesses, the other half thought that although the law by itself is strong, lack of implementation and gaps in the law that creates delays have left significant room for improvement in effectiveness. Over 80% said the law needs revision at this time, with over 75% explicitly stating a need to reduce the timelines set out for the provision of information and over 30% stating the need to have an accountability mechanism for institutions that do not comply with the law. Other areas of review suggested by respondents include overall review of the process of requesting information so that the burden is lighter on the information seeker, incorporation of an information management framework for the state, clear definition of institutions that fall under the jurisdiction of the law, the removal of the need for a Review Committee in the process and clear outlining of exemptions based on national security and personal data. Over 80% of the respondents believe that neither the general public nor state institutions have an adequate understanding about the concept of the right to access information in the Maldives.

Conclusions

Based on the findings explained above, this study has collected sufficient evidence to conclude that the current regime and practices employed in the Maldives do not effectively ensure the right to access information, in that information seekers do not receive adequate or required information in a timely manner. It is also concluded that while the purposes of the RTI Act of the Maldives, as stated in Section 2 of the law, are to establish the mechanism to exercise every person's right to information and encourage state institutions to publish information as broadly as possible, state institutions have employed an attitude of using the law to extend the period of time it can to deprive the information seeker from receiving information and even to communicate the rejection of a request for information. Connected directly to these findings is evidence that the timelines of between 21 days and up to years of appeal processes allocated for state responses and appeals in the law number 1/2014 (Right to Information Act) of the Maldives are inconsistent with the principle of provision of prompt and full information to the public. These findings, combined with threats, harassment and stigma faced by information seekers further strengthen calls to move beyond the fundamental steps of enforcing a law providing for the right to access information and formulate policy frameworks on access to information.

Although the hypothesis that state institutions interpret the RTI Act in a way that excludes individuals and civil society groups within those entitled to seek information could not be proven adequately, it has been proven that state institutions have rejected information requests from individuals and

civil society organisations based on the identity of the information seeker rather than the type of information requested for.

These findings call for further review and improvement of the current access to information regime, including a thorough review of the Right to Information Act based on the experiences of all parties involved, including information seekers, Information Officers, state institutions, the Information Commissioner's Office and the courts.

Further research

To be able to clearly determine the level of state compliance to the RTI Act, it is important to assess the challenges lodged at the ICOM, their decisions and the response of the state towards those decisions.

Another area that has not yet been explored in access to information in the Maldives is the level of the right to access information enjoyed by migrants in the country, considering that the Maldives is host to one of the largest migrant populations in South Asia. It was reported by the ICOM that the Maldives Correctional Service was recorded as the institution that has received the highest number of requests for information in 2021 ([ICOM, 2022](#)) owing to requests from prisoners in the country. As a highly vulnerable group whose status of incarceration can be affected by the availability of information that would allow prisoners to request clemencies they are entitled to, it is vital that the nature of the requests and the result of those



requests for information are examined thoroughly, in order to ensure not only the right of access to information to prisoners but also several other civil, political, social and economic rights they are entitled to.

Last but not least, the experiences of Information Officers assigned to implement a fundamental part of the RTI Act, which is the acknowledgement and provision of the actual information to those entitled to it, need to be assessed. Such an assessment must examine the autonomy with which Information Officers are, in practice, allowed to carry out their duties. Other aspects of their roles, including the amount of work they are required to undertake, other pressures of their duties and the level of their understanding of the right of access to information must be assessed.

Recommendations

1. Review of the RTI Act (1/2014)

1.1 Section 6 (a): Details required in a RTI Request

Remove the requirement to specify the name, address and phone number of the information seeker and to only require details necessary for identifying and delivering the requested information; and

Specify that the reasons for requesting the information are not required to be disclosed.

There are numerous ways in which an RTI request can be submitted where state institutions have no need for the information specified in this section, such as when a request for information is made through email or through ICOM's RTI Portal ([Maholi Portal](#)).

Example: Section 45 of the RTI Act of Sri Lanka states that a citizen making a request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him or her.

1.2 Section 6 (c): The information request form

Restrict individual institutions the authority to design and impose their own information request forms on information seekers, and enforce the streamlined use of the information request form provided by the ICOM to avoid delays and complications arising from institutions rejecting other forms designed for the same purpose.

1.3 Section 7: Time within which to comply with request for information

Reduce the time specified in Subsection 7(a) for state institutions to take action on requests for information from 21 days to 10 working days; and

Reduce the possible extension period allowed under Subsection 7(c) from 14 days to 5 working days; and require the state institution to provide the specific reasons for extension in writing.

Currently, the time frames in the Act do not specify whether they are calendar days or working days. This has led to confusions in cases where a number of consecutive holidays occur. For clarity of both information seekers and state institutions alike, it is important to make this distinction within the RTI Act itself. Additionally, the maximum possible duration for the first stage of the RTI process is currently 35 days (21 days with a possible extension of 14 more days), which when considered together with the durations specified for redress mechanisms can be disadvantageous for the information seeker.

1.4 Section 8: Incomplete or inaccurate or meaningless requests

Under Subsection 8(b) remove “where sufficient time had not elapsed” as a permissible reason not to proceed with information requests as it is too vague and could be abused by state institutions, especially given that state institutions are already permitted to refuse responding to information requests if the information hasn’t changed.

1.5 Section 9: Transfer of a request from one State Institution to the other

Remove Subsection 9(a)(2) which permits the transfer of a request even if the institution in receipt of a request holds the requested information but its disclosure may “best be made by another institution”; and

Remove Subsection 9(a)(3) which permits the transfer of a request if another institution consents to the transfer of a request; and

Reduce the duration specified in Subsection 9(c) for a state institution to transfer the request to another institution from 7 days to 5 working days.

Currently, the grounds under which transfer of requests are permitted are too broad, which could be exploited by state institutions to delay the provision of information. It is in the interest of the general public that state institutions in possession of a requested information provide the information as soon as possible. While both Subsections 9(a)(2) and (3) allow for unnecessary delays, Subsection 9(a)(3) also permits the transfer of the request for no palpable reason.

Example: Under Article 20 of the [Access to Public Information Act of Slovenia](#) information requests can only be transferred: *“If the body, which has received the request, does not hold the requested information, it must immediately, and at the latest within the time limit of 3 working days beginning from the day of receiving the request, assign the request to the body which is, in relation to the contents of the request, competent for resolving the request, and notify (about that) the applicant.”*

1.6 Section 12: Provision of receipts

Require state institutions that receive information requests under the law to provide a receipt within 5 working days, with information about availability or lack of availability of the requested information, as well as an estimated timeframe within which the institution will be able to provide the requested information.

Examples: In Afghanistan - the country with the [strongest RTI law in the world](#) according to the [Global RTI Rating](#), Information Officers are required to inform the applicant within 5 working days about availability or lack of availability of the requested information. [The General Act of Transparency and Access to Public Information of Mexico](#) (which ranks second on the RTI rating) also requires the authority to provide a receipt which includes a clear indication of the date of presentation of the requested information.

1.7 Section 22: Exemption from disclosure - Information received in confidence

Remove the exemption under Subsection 22(a) which prohibits the disclosure of information which is an offence under any law of the Maldives; and

Remove the exemption under Subsection 22(d)(2) which prohibits the disclosure of information that could adversely affect a person or group of persons.

Subsection 22(a) could be misused by the state to restrict certain kinds of information. All types of information exempted from the right to access information held by state institutions should be specified in the RTI Act itself, and the standards in the RTI Act should trump restrictions on information disclosure specified in other legislation. While the RTI Act of the Maldives also attempts to adhere to these principles by the inclusion of Subsection 3(c) which states that disclosure or non-disclosure of information shall be based on the norms determined by the RTI Act and that precedence must be given to the principles specified in this Act, Subsection 22(a) contradicts these principles.

Subsection 22(d)(2) as is drafted currently is vague and could be easily abused especially considering that the person or group of persons adversely affected by the disclosure of information are not required to be identified and disclosed either.

1.8 Section 32: Exemption from disclosure - Cabinet records

Introduce a harm test to Section 32 which exempts from disclosure, any documents prepared for and submitted to the cabinet; and

Remove Subsection 32(b)(3) which prescribes a time limitation limited to documents that were submitted to the cabinet 10 years prior; and amend Section 33 to include Section 32 in the list of provisions with a time limitation on the exemption from disclosure.

Currently, state institutions have the discretion not to disclose any document drafted, prepared for submission or submitted to the cabinet - regardless of whether the disclosure of that information would cause harm or not. A harm test should be applied to each exemption in the Act to ensure that only disclosures that pose a risk of actual harm to a protected interest may be refused.

Subsection 32(b)(3) only allows for the disclosure of documents submitted to the cabinet, which would indefinitely exempt information under (1), (3) and (4) of Subsection 32(a). Furthermore, including Section 32 in the sunset clause of the Act instead of including an additional sunset clause under a different Subsection would help in maintaining clarity as well.

1.9 Section 37: Proactive Disclosure

Remove Subsection 37(l) pertaining to the requirement to disclose the norms followed by state institutions for the discharge of its functions, as this information is already required to be disclosed under Subsection 37(g); and

Introduce a requirement for state institutions to publish the annual report required to be submitted to the Information Commissioner under Section 42; and

Introduce a requirement for state institutions to disclose charges/fees associated with providing information requested in a physical format; and

Introduce a requirement for state institutions to disclose a list of information requests submitted to the institution with details regarding the action taken on each request and the exemption clause invoked in each refusal of access to information requested; and

Introduce a requirement for state institutions to disclose details regarding public procurement processes, criteria, outcomes of tenders, copies of contracts, and reports on completion of contracts.

1.10 Section 40: Training of Employees

Add a Subsection to Section 40 to assign obligation for State Institutions to provide training to the staff at the respective institution.

Example: While Article 35 of the Serbian [Law on Free Access to Information](#) obligates the Information Commissioner to *“Undertake necessary measures to train employees of state bodies and to inform the employees of their obligations regarding the rights to access information of public importance with the aim of their effective implementation of this Law”* Article 42 of the same law states that *“With the aim of effectively implementing this Law, a state body shall train its staff and instruct its employees on their obligations regarding the rights regulated by this Law. The staff training in Para 1 of this Article shall notably include: the content, scope and importance of the right to access information of public importance, the procedure for exercising those rights, the procedure for administering, maintaining, and safeguarding information mediums, and types of data which the state body is obliged to publish.”*

1.11 Section 41: Review procedure

Remove the review procedure by Review Committees at state institutions and amend the section to allow for appeals to be submitted to the ICOM if an adequate response is not received from the Information Officer at the state institution; OR

Reduce the duration specified in Subsection 41(e) for the Review Committee to complete reviews of complaints submitted from 30 days to 10 working days; and

Reduce the possible extension period allowed for the review committee under special circumstances from 15 days to 5 working days; and

Introduce and enforce the streamlined use of a form produced by the ICOM to submit cases to the review committees at state institutions. Currently, all stages of the RTI process involve the submission of a form with the only exception being the submission to the review committee. The introduction of a form for the review procedure would help harmonise the process and ease the documentation of the RTI proceedings for both information seekers and state institutions.

1.12 Section 59: Procedure to follow in appeals and complaints

Amend the duration specified in Subsection 59(b) for the Information Commissioner to examine and complete appeals and complaints lodged to the ICOM from 30 days to 30 working days; and

Amend the possible extension period allowed for the Information Commissioner from 15 days to 10 working days.

1.12 Section 67: Power of fining

Amend the Section to introduce an internal documentation system that will allow the decisions to disclose or not to disclose information, including information requested under the RTI law or outside the law, to be traced; and

Introduce sanctions to anyone obstructing the autonomy of the Information Officer to disclose information according to the law; and

Introduce sanctions against public officials who make institutional decisions in contravention of the RTI Act.

While Information Officers are assigned the responsibility to provide information for requests made under the RTI Act, they are often unable to act on request for information without the approval of a high ranking official. Furthermore, Information Officers are also often dependent on other departments/sections of the State Institution to provide the requested information to them. Therefore sanctioning the Information Officers is unfair while it does not affect the decisions to withhold information.

1.13 Section 72: Definitions

In Subsection 72(c) which defines “Information”, remove the part that reads “which does not belong to a third party” as Section 23 covers information pertaining to a third party extensively. Furthermore, as Subsection 23(b) allows for the disclosure of a third person’s personal information if it is crucial for maintaining public interest, the inclusion of the third party clause in the definition is contradictory and can lead to more confusion; and

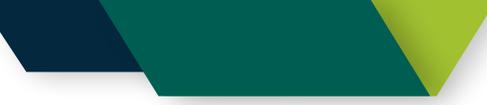
In Subsection 72(f) which defines “State Institute”, refine the definition to explicitly include State-Owned Enterprises within the definition.

Example: The section could be further strengthened by the inclusion of details such as in the case of Afghanistan’s Access to Information Law, which define Institutions to include *“state-owned enterprises, government corporations and joint ventures and all other bodies and institutions established by law. This definition also includes any organisation or institution which is owned, controlled or substantially funded by one of the institutions defined above as well as any other body which undertakes a public function.”* Alternatively, the definition of public authority in the RTI Act of India could be taken as an example, which reads *“any authority or body or institution of self-government established or constituted (a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government, and includes any (i) body owned, controlled or substantially financed; (ii) non-Government organisation substantially financed - directly or indirectly by funds provided by the appropriate Government”*.

1.14 Reuse of information received from public bodies

Include a provision permitting the publication and re-use, for any purpose, information obtained through the RTI Act. While the strongest RTI laws in the world specify provisions regarding the use and reuse of information acquired from state institutions, the RTI Act in the Maldives does not include a similar clause or section. The inclusion of such a clause, coupled with a requirement for state institutions to publish information they have disclosed through RTI requests can help both information seekers and state institutions as it would prevent duplication of requests for the same information.

Example: The Access to Information Law of Afghanistan states that *“Individuals may re-use the information made public by an institution.”* while Slovenian legislation includes the *“right to re-use information for commercial or non-commercial purposes.”* The Sri Lankan regulation makes it even clearer, listing that *“Any information disclosed by a Public Authority under this Act is subject to a royalty-free, perpetual, nonexclusive licence to reuse the information”* and that *“reuse includes copying, publishing, translating, adapting, distributing or otherwise using in any medium, mode or format for any lawful purpose.”*



2. Recommendations to the Information Commissioner's Office

2.1 Training of Information Officers

The ICOM is recommended to seek the assistance and support of civil society organisations focusing on the right to access information, so that a robust training curriculum for Information Officers can be developed and delivered across the nation without straining the resources of the ICOM. Such training efforts may be streamlined to employees beyond the Information Officers, e.g. public officials at decision making level and employees in administrative departments as well as those whose duties require them to perform initial contact with the public such as service counters.

2.2 Increase efforts to educate the public on the right to access information in the Maldives

Extend information about the RTI Act, the process to access information as well as the duties of the state in a more rigorous outreach effort to ensure the capacity of every person to enjoy their right to access information and thereby hold the state accountable. ICOM is recommended to seek the assistance and support of civil society organisations for such efforts as well.

2.3 Information request forms and receipts designed by the ICOM

Ensure that the information request form and the receipt of acknowledgment, including the acknowledgment provided on the ICOM's online portal, includes all necessary fields for information required by law, and remove any fields requiring information that is not prescribed by the RTI Act.

2.4 Formulate and enforce the regulations specified in the RTI Act

Section 19 and Section 60 of the RTI Act empowers the Information Commissioner to formulate and enforce regulations. This includes regulations and guidelines on charging fees for the provision of information, training of relevant employees, submission of the annual report to the Information Commissioner, provision of notices, as well as administrative guidelines and norms pertaining to the provision of information.

3. Recommendations to the Attorney General's Office

3.1 Further research prior to submission of an amendment of the RTI Act to the People's Majlis

Conduct a comprehensive assessment of the appeals and complaints lodged at the ICOM, the outcomes of the Information Commissioner's decisions, as well as the information request that have been appealed at the judicial courts, in order to ensure that amendments to the RTI Act properly address all of the gaps in the legislation.

3.2 Inclusive consultations in the amendment of the RTI Act

Ensure that information seekers, journalists, civil society organisations, persons with disabilities, migrant workers, prisoners, Information Officers and members of Review Committees at state institutions, ICOM staff, as well as international experts are adequately consulted in the amendment process.

3.3 Introduce legislation to strengthen state communication with the public

Currently, state institutions are not required by any law or regulation to respond to communications from the public. While the RTI Act is an exception to this, it is both unreasonable and an injustice for each and every inquiry or communication from the public to be funnelled through the RTI process. [President's circular](#) no: 2021/24 published on 20th September

2021 instructs state institutions to respond to formal letters from the public within the timeframe specified in the service charter of the respective institution. However the introduction of legislation for all state institutions to keep detailed records of all communications received by the institution, with specified timelines to respond to queries and requirement to archive such communications in an easily accessible manner, will improve the effectiveness of the state's administrative regime.

4. Recommendation to the Parliament

4.1 Inclusive consultations and scope of amendment

Ensure that information seekers, journalists, civil society organisations, persons with disabilities, migrant workers, prisoners, Information Officers and members of Review Committees at state institutions, ICOM staff, as well as international experts are adequately consulted in the amendment process. Furthermore, we reiterate our recommendation from the previous report - that the amendment of the Right to Information Act is only completed to close the gaps that institutions use for non-disclosure or delay in sharing of information and that none of the rights and freedoms currently granted by the Act are restricted.

5. Recommendations to the Government

5.1 Information management framework

Implement an information management framework, inclusive of an electronic information management system to harmonise the information retention and management efforts across all state institutions.

5.2 Open Government Partnership

Expedite the process to join the Open Government Partnership (OGP), and ensure that adequate state resources are allocated for the multi-stakeholder forum, as well as the formulation and implementation of the OGP action plan.



Acknowledgements

The Association for Democracy in the Maldives (ADM) thanks our project partner Accountability Maldives and the dedicated assistance of Ms. Aishath Shaheen and Ms. Aminath Ula Ahmed for the success of this project. We sincerely thank all those who contributed to this study with their time and shared their experiences in access to information in the Maldives.

References

- Access to information*. European Union. (n.d.). Retrieved January 2023, from https://european-union.europa.eu/principles-countries-history/principles-and-values/access-information_en
- Ali, A. S. (2017, September 19). Flat dhin gothuge thafseel hoadhan Male' City Council in edhijje. *Mihaaru*. Retrieved January 2023, from <https://mihaaru.com/news/23997>
- Centre for Law and Democracy. (2015, May 4). *General Act of Transparency and Access to Public Information*. Global Right to Information Rating. Retrieved January 2023, from <https://www.rti-rating.org/wp-content/uploads/Mexico.pdf>
- Centre for Law and Democracy. (2020). *Access to Information Law of the Islamic Republic of Afghanistan*. Global Right to Information Rating. Retrieved January 2023, from https://www.rti-rating.org/wp-content/uploads/2020/01/Afghan.RTI_.Decree.May18.Amend_.Oct19.pdf
- Centre for Law and Democracy. (n.d.). *Country Data*. Global Right to Information Rating. Retrieved January 2023, from <http://www.rti-rating.org/country-data/>
- Corruption Perception Index*. Transparency International. (2021). Retrieved January 2023, from <https://www.transparency.org/en/cpi/2021/index/mdv>
- Deutsche Welle Akademie. (2019, July 29). *Road to 2030: Access to information in the driver's seat*. DW Akademie. Retrieved January 2023, from <https://akademie.dw.com/en/road-to-2030-access-to-information-in-the-drivers-seat/a-49781331>
- Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*. United Nations Sustainable Development Goals. (n.d.). Retrieved January 2023, from <https://unstats.un.org/sdgs/metadata/?Text=&Goal=16&Target=>

Hassan, N. (2021, March 28). Information commissanaruge nimmunthakuge isthiunaafu nubleeyne: High Court. *Adhadhu*. Retrieved January 2023, from <https://adhadhu.com/article/10036>

Hassan, N. (2022, February 10). Mauloomaathuge hagggu huttifai othumah nimun: Supreme Courtun engee High Courtun massalathah balanjeheyne kamah. *Adhadhu*. Retrieved January 2023, from <https://adhadhu.com/article/21249>

Hussain, D. (2008). *Functional Translation of the Constitution of the Republic of Maldives*. The President's Office. Retrieved January 2023, from <https://presidency.gov.mv/Pages/Index/15>

Information Commissioner's Office Annual Report 2021. Information Commissioner's Office. (2022, March 9). Retrieved January 2023, from <https://icom.mv/uploads/Annual%20Report%202021.pdf>

Information Commissioner's Office. (2015, June 16). *Functional translation of the Right to Information Act (Act No: 1/2014) of the Maldives*. Information Commissioner's Office. Retrieved January 2023, from <https://icom.mv/uploads/English%20translation%20of%20the%20Right%20to%20Information%20Act.pdf>

International Conference on the Right to Public Information. (2008, February). *Atlanta Declaration and Plan of Action for the Advancement of the Right of Access to Information*. The Carter Center. Retrieved January 2023, from https://www.cartercenter.org/resources/pdfs/peace/americas/ati_atlanta_declaration_en.pdf

International Covenant on Civil and Political Rights, General Comment No. 34, Article 19: Freedoms of opinion and expression. United Nations Human Rights Committee. (2011, September 12). Retrieved January 2023, from <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

International Covenant on Civil and Political Rights. United Nations Human Rights Office of the High Commissioner. (1966, December 16). Retrieved January 2023, from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

Jallow, D. A. (2021). *Access to Information Bill of Gambia. Global Right to Information Raing*. Retrieved January 2023, from https://www.rti-rating.org/wp-content/uploads/2021/09/Gambia.ATI_Jul21.passed-by-assembly.pdf

Latheef, A. A., & Ismail, S. (2022, August 25). *State Compliance to the Mandatory Proactive Disclosure Requirements of the Right to Information Act [Law Number 1/2014] of the Maldives*. Association for Democracy in the Maldives. Retrieved January 2023, from <https://democracymaldives.org/?p=248>

Law on Free Access to Information of Public Importance (“Official Gazette RS” No. 120/04) of Serbia. Commisioner for Information of Public Importance and Personal Data Protection. (n.d.). Retrieved January 2023, from <https://www.poverenik.rs/en/laws/143-law-on-free-access-to-information-of-public-importance-qofficial-gazette-rsq-no-12004.html>

Martini, M. (2014, May 9). *Right to information laws: Impact and implementation*. U4 Expert Answers. Retrieved January 2023, from <https://www.u4.no/publications/right-to-information-laws-impact-and-implementation.pdf>

Mauloomaathu hoadhaa libigathumuge gaanoonu medhuverikoh mauloomathu hoadhumah kurevunu thajuribaathakuge hulaasaareport: Dhaulathuge idhaaraathakun mauloomathu hoadhah libigathumuge hagguge gaanoonu rangalhah thanfeezeh nukurey [Press Statement]. Transparency Maldives. (2019, September 28). Retrieved January 2023, from <https://transparency.mv/downloads/rti-day-case-study/>

Measuring SDG 16.10.2. Freedom of Information Advocates Network. (2018). Retrieved January 2023, from https://foiadvocates.net/?page_id=11036

Open Development. Access to Information and the Sustainable Development Goals. Article 19. (2017, July). Retrieved January 2023, from <https://www.article19.org/wp-content/uploads/2017/07/Open-Development-Access-to-Information-and-the-SDGs-2017.pdf>

President’s Circular no. 2021/24: Sarukaaruge idhaaraathakah online message akun kankan hushaelhumuge furusathu aanmu rayyithunnah hulhuvaalun. The President’s Office. (2021, September 20). Retrieved January 2023, from <https://presidency.gov.mv/Press/Article/25212>

- Rasheed, A. A. (2017, February 15). *Implementing the Proactive Disclosure Duties. Assessment on the Compliance of Proactive Disclosure Obligations Under the Right to Information Act*. Transparency Maldives. Retrieved January 2023, from <https://transparency.mv/publications/implementing-the-proactive-disclosure-duties-assessment-on-the-compliance-of-proactive-disclosure-obligations-under-the-right-to-information-act/>
- Right to Information Act (No. 12 of 2016) of Sri Lanka*. Right to Information Commission Sri Lanka. (2016, August 4). Retrieved January 2023, from <https://www.rticommission.lk/web/images/pdf/act/rti-act-en-13122018.pdf>
- Schauer, F. (2012). The Political Risks (if any) of Breaking the Law. *Journal of Legal Analysis*, 4(1), 83–101. <https://doi.org/10.1093/jla/las010>
- Sharma, S. (2021, September 28). *Right to Information. Fundamental Human Right*. Friedrich Naumann Stiftung. Retrieved January 2023, from <https://www.freiheit.org/south-asia/right-information>
- Slovenia*. European Public Accountability Mechanisms. (2015). Retrieved January 2023, from https://europam.eu/data/mechanisms/FOI/FOI%20Laws/Slovenia/Slovenia_FOI%20Law_2003_amended2015.pdf
- Special edition: progress towards the Sustainable Development Goals. Report of the Secretary-General*. United Nations Economic and Social Council. (2019, May 8). Retrieved January 2023, from <https://unstats.un.org/sdgs/files/report/2019/secretary-general-sdg-report-2019--EN.pdf>
- State Institutions that Received Most RTI Requests in 2021*. Information Commissioner's Office. (2022, March 6). Retrieved January 2023, from <https://icom.mv/news/6225a4d0cd34ea03d631a953>
- Status of Ratification. Interactive Dashboard/Maldives*. United Nations Human Rights Office of the High Commissioner. (n.d.). Retrieved January 2023, from <https://indicators.ohchr.org/>

Threats and intimidation against Right to Information practitioner Aimon Latheef by an employee at the Male' City Council. (2022, April 7). *Association for Democracy in the Maldives*. Retrieved January 2023, from <https://democracymaldives.org/?p=212>.

Uhlir, P. F. (2004, May). *Policy guidelines for the development and promotion of governmental public domain information*. UNESCO Digital Library. Retrieved January 2023, from <https://unesdoc.unesco.org/ark:/48223/pf0000229039.locale=en>

United Nations Educational, Scientific and Cultural Organization. (2020). *From Promise to Practice, 2020 Unesco Monitoring and Reporting of Sdg Indicator 16.10.2 (Public Access to Information)*. Retrieved January 2023, from <https://unesdoc.unesco.org/ark:/48223/pf0000375022.locale=en>

United Nations Educational, Scientific and Cultural Organization. (2022, September 30). *Global report on the implementation of access to information laws*. UNESCO Digital Library. Retrieved January 2023, from <https://unesdoc.unesco.org/ark:/48223/pf0000383160.locale=en>

What is the Rule of Law. United Nations. (n.d.). Retrieved January 2023, from <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

Annex 1 -

Results of RTI Implementation Measurement

Assessment Area 1 - Proactive Disclosure (10 state institutions)

Type of Information	PO	MoED	Majlis	SC	FC	LAC	MCC	Lh.NC	HRCM	MCS
Institutional	100	100	100	100	100	100	100	100	100	100
Organisational	75	75	100	100	100	75	75	75	100	25
Operational	75	25	25	100	100	100	75	100	75	50
Legislation	25	100	100	100	100	75	0	75	100	100
Activities and Service Delivery	75	100	50	100	100	100	100	100	100	100
Budget	0	0	100	100	0	100	100	100	100	0
Public Procurement and Contracts	0	50	25	25	25	50	0	50	0	25
Participation	0	0	100	25	0	100	50	0	0	0
RTI information	0	0	0	0	0	0	0	0	0	0
How to make an RTI request	0	0	0	0	75	75	0	0	75	25
Costs for publications	0	0	0	0	0	0	0	0	0	0
List of information requested	0	0	0	0	0	0	0	0	0	0
TOTAL	29.17	37.50	50.00	54.17	50.00	64.58	41.67	50.00	54.17	35.42

Assessment Area 2 - Institutional Measures

Question / Issue	Yes/No/Partially	Mark	Grade
Has government established an RTI nodal agency?	No	0	
Has government established an independent RTI oversight mechanism, such as an information commission?	Yes	100	

Type of Information	PO	MoED	Majlis	SC	FC	LAC	MCC	Lh.NC	HRCM	MCS
Has the authority appointed an Information Officer who is responsible for RTI implementation?	100	100	100	100	100	100	100	100	100	100
Does the authority have an RTI implementation plan?	100	0	0	100	0	0	0	0	100	0
Has the authority developed/ issued guidelines for receiving and responding to information requests?	0	0	0	100	0	0	0	0	50	0
Does the authority make available relevant information for making requests, such as a form for this (online and in paper form) and contact details for the Information Officers?	0	0	0	0	0	100	0	50	100	0
Has the authority provided RTI training to its information officers?	100	100	100	100	100	100	100	100	50	100
TOTAL	60	40	40	80	40	60	40	50	80	40

Assessment Area 3 - Processing of Requests (10 state institutions, 30 requests)

Request	Receipt	Timely	Format	Fee	Processing	Result	Average
PO 1	100	0	100	100	75.00	25	50.00
PO 2	0	100	100	100	75.00	100	87.50
PO 3	0	75	50	100	56.25	75	65.63
MoED 1	100	50	100	100	87.50	100	93.75
MoED 2	100	100	100	100	100.00	100	100.00
MoED 3	100	0	100	100	75.00	25	50.00
Majlis 1	0	25	100	100	56.25	50	53.13
Majlis 2	100	75	50	100	81.25	75	78.13
Majlis 3	100	100	100	100	100.00	100	100.00
SC 1	100	100	100	100	100.00	100	100.00
SC 2	50	50	100	100	75.00	100	87.50
SC 3	100	100	100	100	100.00	100	100.00
FC 1	50	100	100	100	87.50	100	93.75
FC 2	50	100	100	100	87.50	100	93.75
FC 3	100	100	100	100	100.00	100	100.00
LAC 1	0	0	50	100	37.50	75	56.25
LAC 2	0	100	100	100	75.00	100	87.50
LAC 3	100	100	100	100	100.00	100	100.00
MCC 1	0	0	50	100	37.50	0	18.75
MCC 2	50	50	100	100	75.00	100	87.50
MCC 3	0	100	100	100	75.00	100	87.50
Lh. NC 1	0	25	100	100	56.25	50	53.13
Lh. NC 2	100	50	100	100	87.50	100	93.75
Lh. NC 3	100	100	100	100	100.00	100	100.00
HRCM 1	0	25	100	100	56.25	50	53.13
HRCM 2	100	100	100	100	100.00	100	100.00
HRCM 3	100	100	100	100	100.00	100	100.00
MCS 1	0	25	100	100	56.25	50	53.13
MCS 2	50	100	100	100	87.50	100	93.75
MCS 3	0	50	100	100	62.50	100	81.25



www.democracymaldives.org
www.zinmaadhaaru.com