

# **Report of the Commonwealth Observer Group**

## **MALDIVES PEOPLE'S MAJLIS ELECTION**

22 March 2014



**The Commonwealth**

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## Commonwealth Observer Group

Maldives People's Majlis Election, 27 March 2014

27 March 2014

Dear Secretary-General

Following your invitation to observe the 22 March 2014 People's Majlis Election in Maldives, the Commonwealth Observer Group has now completed its Report, which we are pleased to forward to you with this letter. This was a significant election, as the second multi-party parliamentary election held in Maldives, and we feel privileged to have observed it.

Election Day itself was extremely impressive. The polls were well organised and well managed, with all stakeholders playing their respective roles in ensuring that polling was peaceful and credible. The Elections Commission and its staff deserve commendation for their preparedness before the election, both in terms of voter registration and re-registration and the training of polling officials. The vote counting process, with its thoroughness and transparency, also proved to be a credit to the Commission and its staff.

The campaign period was similarly peaceful, while still retaining healthy competitiveness. The Maldivian legislative framework for elections, as set out in the Constitution and relevant acts, provides adequately for the holding of credible elections. It also clearly sets out the functions of the election management body.

There were, however, concerns. The Group was deeply concerned by the Supreme Court's declared dismissal, less than a fortnight before the election, of the Chair and Vice Chair of the Election Commission for contempt of court. The dismissals were inconsistent with the provisions of the Constitution, which provide the Majlis with the sole authority to dismiss Election Commission members. It is therefore our view that the Supreme Court's action undermined the separation of powers provided for in the Maldivian Constitution. In this regard, we note that the separation of powers is one of the core values set out in the Commonwealth Charter. Furthermore, the Supreme Court's decision to initiate contempt of court proceedings against a constitutionally-mandated independent body gave rise to a level of anxiety and self-censorship among some independent institutions and civil society, which we believe has had a detrimental effect on their ability to execute their mandates confidently, as well as on freedom of expression more broadly.

Other concerns of note included reports of widespread vote buying and the lack of effective regulation of campaign financing.

Of great importance is the need to give special recognition to the people of Maldives for the positive and peaceful manner in which they engaged in the democratic process on polling day. They also extended to us a graciously warm welcome, for which we are grateful.

We hope that our Report and its recommendations maybe of value to the relevant stakeholders in Maldives as they continue their efforts to strengthen further their democratic framework.

We must express our admiration for the staff team which gave us tremendous support in this undertaking. They are, indeed, a credit to the Secretariat.

Finally, the Observer Group thanks you for the opportunity to serve in this important assignment. We hope that we have contributed to the strengthening of democracy in Maldives.

A handwritten signature in black ink, appearing to read 'Hon Bruce Golding', with a stylized flourish at the end.

Hon Bruce Golding  
Chairperson



Mr Irfan Abdool Rahman



Ms Dharisha Bastians



Ms Bushra Gohar



Ms Jane Michuki



Hon Chris Tremain



Mr John Turner

# Chapter 1

## Introduction

Following an invitation from the Chair of the Elections Commission of Maldives (EC), the Commonwealth Secretary-General, Kamalesh Sharma, constituted an Observer Group for the Majlis (Parliamentary) Elections of 22 March 2014.

The Commonwealth Observer Group for the 2014 Majlis elections was led by Hon Bruce Golding, former Prime Minister of Jamaica, and comprised seven eminent persons. A full list of members is at Annex 1. The Observer Group was supported by a four-person staff team from the Commonwealth Secretariat.

### Terms of Reference

*'The Group is established by the Commonwealth Secretary-General at the request of the Elections Commission of Maldives. It is to observe relevant aspects of the organisation and conduct of the Majlis Election, which is scheduled to take place on 22 March 2014, in accordance with the laws of Maldives.*

*The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgment whether the election has been conducted according to the standards for democratic elections to which Maldives has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.*

*The Group is to act impartially and independently and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. In its Final Report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future elections.*

*The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Maldives, the Elections Commission, political and civil society organisations and thereafter to all Commonwealth Governments.'*

## **Activities**

The Observer Group arrived in Maldives on 16 March 2014. During three days of briefings, the Group met with the Elections Commission, political party representatives, civil society groups, the Maldives Broadcasting Commission, the Maldives Police Service, the Human Rights Commission of Maldives, Commonwealth High Commissioners, representatives of the United Nations, and other election observers, including the European Union Election Observation Mission.

The Group issued an Arrival Statement on 19 March 2014 (Annex 3). Observers were deployed in the atolls from 20 to 24 March 2014, and on election day teams visited polling stations in seven administrative districts across the country. (The Group's deployment plan is attached at Annex 2.) During deployment, teams interacted with election officials, political party representatives, the police, and domestic and other international observers.

On the basis of the Group's initial findings and observations, the Chairperson issued an Interim Statement on 24 March 2014 (Annex 4). The Group's Final Report was completed in Malé prior to departure on 27 March 2014 and thereafter transmitted to the Commonwealth Secretary-General.



## **Chapter 2**

### **Political Background**

Maldives has undertaken substantive constitutional and democratic reform over the past decade. The 2014 parliamentary election represents a further step in Maldives' consolidation of its transition to multi-party democracy.

#### **Pre-2008 Democratic Reform**

Maldives achieved independence in 1965, and established itself as a republic in 1968. The country was ruled by President Maumoon Abdul Gayoom from 1978 to 2008, with President Gayoom elected for six successive terms by single-candidate referenda. In 2004, in response to civil unrest and domestic pressure, President Gayoom and his Government pledged to embark upon democratic reforms that would include a more representative political system and expanded political freedoms. Political parties were subsequently legalised in 2005, and in 2006 the Government launched a 'Roadmap for Reform'. The Roadmap set out a two-year timeline for implementing a number of reforms, including a new Constitution and related bills on the freedom of assembly, the judiciary, police powers and the establishment of a Human Rights Commission.

The new Constitution was ratified in 2008, adopting a Presidential Republican system, with a directly elected President and a directly elected Parliament (People's Majlis). The Constitution provides for the separation of powers between the three branches of government. The legislative authority is vested in the People's Majlis; the power of the Executive is vested in the President, who appoints a Cabinet of Ministers; and the judicial power is vested in the Supreme Court, the High Court and such Trial Courts as established by law. The Constitution also provides for the establishment of constitutionally-mandated independent institutions, including the Elections Commission and the Human Rights Commission of Maldives.

#### **2008 Presidential Elections and 2009 Parliamentary Elections**

The first-ever multi-candidate, multi-party presidential election was held in October 2008. The Maldivian Democratic Party (MDP) candidate, Mohamed Nasheed, with the support of an alliance of parties, won 54 per cent of the vote in a run-off election against the incumbent President Gayoom of the Dhivehi Rayyitungehe Party (DRP). Nasheed was duly elected President and his running mate, Dr Mohamed Waheed Hassan (of the Gaumee Ittihaad Party), became Vice President.

The first multi-party parliamentary elections were held in May 2009. MDP achieved the largest share of the vote (31 per cent compared with 25 per cent for the DRP), which, under the First Past the Post electoral system, translated

into 26 seats, slightly less than the 28 seats secured by DRP. DRP and other parties that were not in the MDP-alliance Government were therefore able to command a working parliamentary majority between them, enabling them to block Executive-led legislative initiatives. Commonwealth observers were present for both the presidential and the parliamentary elections.

The 2008 Constitution created a Presidential system in which the Legislature has particularly strong powers (such as the ability to pass a motion of no confidence in a member of the Cabinet by a simple Majlis majority), a result of the compromises that were struck by the political parties during its development. This new model has not always been easily applied. Disagreements between parties precipitated a power struggle in mid-2010 between the Executive and the opposition-dominated Legislature, and also between the Executive and the Judiciary. The balance of power between the three branches of government has been tested repeatedly from 2010 to 2014, with, at times, significant undermining of the separation of powers provided for in the Constitution.

## **2012 Transfer of Power**

An increasingly unsettled political environment ensued from November 2011 onwards, with protests by parties opposed to the Government and conflict between the Executive and the Judiciary. On 7 February 2012, President Nasheed resigned in circumstances that were subsequently disputed. In accordance with the Constitution, Vice President Waheed was sworn in as President. On 8 February, former President Nasheed stated that he had been forced to resign in what he described as a ‘coup d’état’. Large demonstrations by MDP supporters took place in reaction, with violence breaking out in the cities of Malé and Addu. Some police officers are alleged to have reacted with excessive force, with some MDP members having been subject to police brutality according to the subsequent findings of the Police Integrity Commission. President Waheed subsequently formed a ‘Unity Government’ comprising all political parties except MDP, which had rejected the offer of three Ministerial positions in the Cabinet given its non-recognition of the Waheed Government.

Given former President Nasheed’s assertion that he had been forced to resign under duress, a Commission of National Inquiry (CoNI) was established to examine the events surrounding the transfer of power. On 29 August, the Commission reported its main finding that “the change of President in the Republic of Maldives on 7 February 2012 was legal and constitutional”. It also stated that “there were acts of police brutality on 6, 7 and 8 February 2012 that must be investigated and pursued further by the relevant authorities”. In its recommendations, the CoNI Report noted “an urgent need to address an apparent climate of popular discontent and division engendering hatred between individuals and communities, propelled by the politicisation of the media”. It also recommended that institutional strengthening take place in a number of areas, including the Maldives Police Service and the Police Integrity

Commission, the Judiciary and the Judicial Services Commission, the People's Majlis, and the Human Rights Commission.

The political environment remained highly strained through to the lead-up to the 2013 Presidential elections, with the events of 2012 having further entrenched political polarisation in Maldives.

## **2013 Presidential Elections**

### *7 September Election*

Against a backdrop of strong political divisions, and distrust by some political parties in some of the state and independent institutions (with MDP expressing concerns regarding the Judiciary and the Maldives Police Service, and the Progressive Party of Maldives (PPM) expressing concerns in relation to the Elections Commission), the Presidential election took place on 7 September 2013.<sup>1</sup>

The four candidates contesting the elections were Mr Qasim Ibrahim of Jumhooree Party, Dr Mohamed Waheed Hassan (the incumbent President) as an independent candidate, Mr Abdulla Yameen Abdul Gayoom of PPM, and Mr Mohamed Nasheed of MDP.

Polling day passed smoothly, with voter turnout at 88 per cent. Mr Nasheed polled highest with 45.5 per cent of the vote, followed by Mr Yameen (25.4 per cent), Mr Qasim (24.1 per cent) and Dr Waheed (5.1 per cent). Commonwealth, other international observers and domestic observers found the election to be credible, with the Commonwealth Observer Group noting that the Elections Commission was logistically well prepared and the electoral process well administered.

As no candidate received more than 50 per cent of the vote, and in accordance with the constitutional requirement for a run-off election to be held within 21 days between the two highest-polled candidates, the Elections Commission announced that a second-round election would be held between Mr Nasheed and Mr Yameen on 28 September.

### *Annulment of 7 September Election*

On 15 September, the Jumhooree Party, whose candidate was placed third, filed a petition with the Supreme Court seeking an annulment of the 7 September election, alleging that there had been widespread electoral fraud. Hearings took place from 16 to 25 September, with the Supreme Court issuing an injunction on 23 September against the holding of the run-off election until the Court had reached a verdict on the annulment case. The Court issued a further order on 25 September for security forces to enforce, and to take action against anyone in violation of, the 23 September injunction.

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<sup>1</sup> In October 2011, a new political party, the Progressive Party of Maldives (PPM), was formed out of the DRP. PPM is led by former President Gayoom and now comprises the majority of the DRP MPs elected in 2009.

Government departments and the Maldives Police Service subsequently refused to participate with the continuation of the EC's election preparations. The EC therefore took the decision on 27 September to cancel the scheduled election.

On 7 October, the Supreme Court issued its verdict in the Jumhooree Party case. In a 4-3 decision of the seven-member Bench, the majority of the Supreme Court ruled to annul the 7 September election. The majority ruling made reference to the EC's "action" having resulted in "intimidation, undue influence and corruption on a large scale" and cited 5,623 various voter discrepancies. (The majority of these discrepancies were mismatches in the spelling of voters' names or addresses between the voter list and voters' ID cards.)

Three of the seven judges expressed dissenting opinions that the election should not be annulled. The dissenting opinion of two of these three judges concluded that, based on the secret forensic report compiled by the Maldives Police Service and provided to the Bench,<sup>2</sup> there were 473 votes that might have affected the first round of the presidential election. It should be noted that this number of votes would not have been sufficient to materially affect the outcome of the 7 September election given there was a difference of 2,677 votes between the second and third-placed candidates and a difference of 42,125 votes between the first and second-placed candidates.

On 10 October, in the context of a stressful environment, one of the five members of the Elections Commission, Mr Ibrahim Waheed, resigned from his position for health reasons. The Elections Commission continued to function with the other four Commissioners in place.

### *Supreme Court Guidelines*

As part of the 7 October ruling, the Supreme Court issued 16 Guidelines and ordered the EC and other relevant state institutions to make arrangements for the first round of the presidential election to be held in accordance with these Guidelines. These included that the first round of the election must be held no later than 20 October, and that, "in order for voting to commence in all constituencies in Maldives and abroad, the voter register ... must be approved by the Elections Commission and the candidates or their representatives, and **must be the final list containing their signatures and finger prints**" [*emphasis added*]. Three further rulings were released by the Supreme Court during the following week, adding clarification or specifications to the 16 Guidelines relating to voter registration following concerns voiced by the Jumhooree Alliance and PPM.

The Commonwealth Observer Group to the 2013 Presidential elections noted in its Report that some of the Guidelines were incompatible with existing

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<sup>2</sup> A copy of the Maldives Police Service's forensic report was not shared with the Elections Commission during the hearings, thereby depriving the Commission of the opportunity to respond to the Report's findings.

Maldivian electoral law and, in the Group's view, did not conform with electoral best practice.

In the evening of 18 October, PPM and Jumhooree filed a petition with the Supreme Court requesting an injunction against the holding of the 19 October election. However, the Supreme Court did not issue a ruling on the petition; instead it referred relevant parties to the 16 Guidelines. When invited by the EC to sign the voter register in the early hours of 19 October, MDP obliged but PPM and Jumhooree did not. In the face of the unwillingness of the Maldives Police Service to undertake transportation of voting materials, the Elections Commission advised that it would make its own arrangements in order that the election could proceed. Shortly before polling was due to start on 19 October, the Elections Commission announced that it was unable to continue with the election as police officers were preventing Commission staff from leaving their building with election materials.

### *9 and 16 November Elections*

On 21 October, the EC announced that a new first round election would be held on 9 November 2013, with a second round to be held on 16 November should this be required. The EC stated that it would follow the Court Guidelines in preparing for the election. On 22 October, the Supreme Court issued an order for the EC and other relevant state institutions **to hold all future elections in accordance with the Court's earlier Guidelines.**

On 6 November, following a request by President Waheed and the three Presidential candidates, the EC agreed to change the date of the second round election from 16 November to 10 November given that, in accordance with the Constitution, the term in office of the incumbent government would expire on 11 November. Voter re-registration was subsequently undertaken for this new election date.

In the 9 November election, Mr Nasheed received 46.9 per cent of the vote, followed by Mr Yameen with 29.7 per cent and Mr Qasim with 23.3 per cent. Voter turnout was at 87 per cent.<sup>3</sup>

PPM and the Jumhooree Alliance did not complete the signing of the 10 November voter lists as required on 9 November. In the early hours of 10 November, in response to a petition filed by a Jumhooree Party member, the Supreme Court ruled that the second round election be held instead on 16 November.

Shortly before the 16 November election, Jumhooree Party announced its support for Mr Yameen's candidacy following a coalition agreement between the parties. The 16 November election proceeded unhindered. Mr Yameen received 51.4 per cent of the vote to Mr Nasheed's 48.6 per cent. Voter turnout increased to 91 per cent. Mr Nasheed conceded defeat on the evening of 16 November and President Yameen was inaugurated on 17 November.

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<sup>3</sup> The incumbent President, Dr Waheed, withdrew his candidacy prior to the 9 November election.

President Yameen now leads a coalition government comprising the three 'Progressive Coalition' parties - PPM, Jumhooree Party and the Maldives Development Alliance (MDA) - as well as the Adhaalath Party.

Commonwealth, international and domestic observers found the 9 and 16 November elections to be credible overall, despite the restrictions imposed by the Supreme Court. As part of their recommendations, the Commonwealth Observer Group commented that there should be greater predictability in, and respect for, the electoral timetable. Observers also recommended that there should be better recognition of the mandate and statutory and constitutional independence of the Elections Commission, and that the Constitution and the laws regulating elections need to be adhered to.

## **2014 Local Elections**

The second set of local council elections took place on 22 January 2014 as scheduled. 2,463 candidates contested 1,100 seats in city, atoll and island councils. While the Elections Commission provided an opportunity for all candidates to sign the voter lists, in accordance with the Supreme Court Guidelines, only 17 per cent of candidates did so. Provisional voter turnout was reported as 64.5 per cent.

## **Supreme Court Contempt of Court Case against Elections Commission Members**

### *Initiation of the Case*

On 11 February 2014, the Supreme Court summoned the four members of the Elections Commission to appear before the court on 12 February. During the 12 February hearing, the Chief Justice reportedly stated that the Court was of the view that comments made by the Elections Commission in various fora regarding the Court's decisions and orders were contemptuous of the Court. It was also alleged that the Elections Commission, in its actions to dissolve smaller political parties in accordance with the Political Parties Act of 2013, had failed to follow Supreme Court rulings.<sup>4</sup> The Elections Commission members denied the charges.

The proceedings were initiated by the Supreme Court using new *suo moto* regulations which the Court had itself established on 6 February 2014, thus enabling the Court to initiate cases against any organisation or individual and then prosecute the cases itself and pass judgment.<sup>5</sup>

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<sup>4</sup> On 1 September 2013, the Supreme Court declared void Article 11 of the Political Parties Act 2013, which required a minimum of 10,000 members to form a party, and ruled that the previous minimum requirement of 3,000 members would stand until further amended. Article 27(c) of the Act states that "[i]f any parties fail to meet the minimum membership requirements of 10,000, the EC should issue a 3-month notice to the party in order to meet the requirements"; in mid-September, the EC wrote to ten parties with less than 10,000 members advising them that they had three months in which to increase their membership level to 10,000. The Supreme Court subsequently declared the EC's letter null and void. In early February, the EC dissolved parties with less than 3,000 members.

<sup>5</sup> In law, *suo motu* or *sua sponte* (Latin: "of his, her, its or their own accord") describes an act of authority taken without formal prompting from another. The term is usually applied to actions by a judge taken without a

Shortly after a hearing on 5 March, the Court imposed a travel ban on the four Commissioners that prohibited them from leaving Malé before the conclusion of the case.

### *Supreme Court Majority Verdict*

On 9 March, the Supreme Court issued its ruling. In a 3-1-1 verdict,<sup>6</sup> the justices reportedly stated that the Elections Commission's senior officials: had openly displayed disobedience to Articles 141(c), 141(d) and 145(c) of the Constitution<sup>7</sup> and the Judicature Act through the media; had challenged a Supreme Court judgment as well as the orders related to the 2013 presidential election; had obstructed justice; and had brought the Court into disrepute. The ruling also stated that comments against the Supreme Court's procedures and jurisdictions, made during the trial process by the EC Chair, Mr Fuwad Thowfeek, had held the court in contempt, and that these actions were such that they could diminish the dignity of the court.

The Court declared the Chair, Mr Fuwad Thowfeek, and Vice Chair, Mr Ahmed Fayaz Hassan, dismissed from their posts. In addition, the Chair of the Elections Commission was given a suspended prison sentence of six months. The Court also ordered relevant authorities to take the necessary action to ensure that the 22 March election proceeded as scheduled.

Implicit in this ruling was the fact that, with the removal of the Chair and the Vice Chair, and given the vacancy that had been created with the resignation of Mr Ibrahim Waheed on 13 October, the Elections Commission would be unable to form the quorum of three required by the Elections Commission Act for its meetings to be convened and its decisions taken. President Yameen had submitted on 20 November the names of three persons to the Majlis to be considered for the vacant position, but the Majlis was yet to take a decision on the matter.

### *Repercussions for the Electoral Process and the Electoral Environment*

On 10 March, the Speaker and Deputy Speaker of the Majlis sent a letter to the President, the Chief Justice and the Attorney-General noting that the constitutional mandate for removing members of the Elections Commission rests with Parliament. The letter reportedly stated that, based on the advice

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prior motion or request from the parties. The form *nostra sponte* (of our own accord) is sometimes used by the court itself, when the action is taken by a multi-member court, such as an appellate court, rather than by a single judge (third parties describing such actions would still refer to them as *sua sponte*). While usually applied to actions of a court, the term may reasonably be applied to actions by government agencies and individuals acting in official capacity.

<sup>6</sup> Two members of the seven-member Supreme Court bench did not participate in the hearings. One member of the Bench, the Chief Justice, issued a dissenting opinion at variance with the majority verdict of the three judges. The other dissenting opinion was reportedly more similar to the majority verdict.

<sup>7</sup> Article 141(c) of the Constitution states that "[n]o officials performing public functions, or any other persons, shall interfere with and influence the functions of the courts". Article 141(d) states that "[p]ersons or bodies performing public functions, through legislative and other measures, must assist and protect the courts to ensure the independence, eminence, dignity, impartiality, accessibility and effectiveness of the courts". Article 145(c) states that "[t]he Supreme Court shall be the final authority on the interpretation of the Constitution, the law, or any other matter dealt with by a court of law".

of the Majlis Counsel General, the Supreme Court ruling was issued in contravention of the procedures for the appointment and removal of Elections Commission members, as detailed in Article 177 of the Constitution and Articles 5, 10 and 14 of the Elections Commission Act 2008. The letter further stated that the Constitution did not allow any of the three branches of government to carry out the constitutional jurisdiction or functions of another branch, and that the separation of powers - including the constitutional checks and balances established between the three branches - was a principle feature of the Constitution.<sup>8</sup>

The Leader of the PPM Parliamentary Group reportedly commented in reaction that he did not consider the letter as representing a parliamentary decision, given this had not been agreed in the Majlis plenary. The Majlis Independent Institutions Committee, in which MDP held a majority, stated on 11 March that it did not recognise the dismissal of the Elections Commission Chair and Vice Chair, and that the two individuals still remained in their posts.

On 12 March, the Majlis voted unanimously to approve a new member of the Elections Commission, Mr Ismail Habeeb Abdul Raheem, to replace Mr Waheed who had resigned in October 2013. Mr Habeeb was subsequently appointed by President Yameen on 13 March. This brought the number of Commissioners to three, thus ensuring that the Commission had the necessary quorum to enable it to oversee the election.

On 16 March, Mr Thowfeek was summoned by the Maldives Police Service in relation to a leaked audiotape of telephone conversations between Mr Thowfeek and former President Nasheed. The two remaining original Commissioner members, Mr Mohamed Farook and Mr Ali Mohamed Manik, were subsequently summoned by the Police for questioning on 17 March.

These events, taking place just days before the 22 March election, created a considerable degree of uncertainty among stakeholders regarding the scheduled electoral process. The Observer Group noted that a climate of intimidation appeared to be developing in Maldives, with a number of stakeholders expressing concern at the possibility of action being taken against them for any comments that might be deemed critical of the judiciary. This resulted in a level of anxiety and self-censorship among some independent institutions and civil society organisations, thus having a detrimental effect on freedom of expression and the ability of these institutions to fulfil their mandates effectively.

On 20 March, it was reported that a Jumhooree Party member had filed a petition to the Supreme Court seeking a postponement of the 22 March election, on the grounds that the Majlis had not approved two new Elections Commissioners as required by the Supreme Court's 9 March ruling. The Supreme Court did not respond to the petition.

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<sup>8</sup> See p. 3 regarding the separation of powers under the Maldivian Constitution.



## **Chapter 3**

### **Electoral Framework and Election Administration**

#### **Electoral System**

Members of the People's Majlis are elected for a five-year term in single mandate constituencies through a 'first past the post' system. Under Article 71(b) of the Constitution, Maldives is divided into twenty administrative atolls plus Malé, making a total of twenty-one divisions. Article 71(a) provides for each administrative division to be allocated a minimum of two Majlis seats, with an additional seat allocated to each division for every 5,000 residents it has in excess of 5,000.

The Electoral Constituencies Act 2009 sets out the principles for determining constituency boundaries within an administrative division. For the 2014 Parliament, the number of constituencies was increased from 77 to 85, reflecting the population increase in some administrative districts (Haa Dhaalu, Noonu, Alifu Dhaalu, Thaa, Gaafu Dhaalu, Addu and Malé).

#### **International and Regional Commitments**

The Constitution of Maldives guarantees fundamental rights and freedoms, including freedom of expression, assembly, association and participation in elections. In addition, Maldives has committed itself to several major regional and international instruments relating to human rights and the conduct of elections. These include (with the date of signing or ratification by Maldives):

- International Convention on Civil and Political Rights (2006)
- South Asian Association for Regional Cooperation Charter on Democracy (2010)
- Convention on the Elimination of all Forms of Discrimination Against Women (1993)
- International Convention on the Elimination of all forms of Racial Discrimination (1984)
- Convention on Rights of People with Disabilities (2010)
- Commonwealth Charter (2012)

#### **National Electoral Legal Framework**

The key documents providing the legal and regulatory framework for the conduct of the Majlis election are:

- Constitution of Maldives (2008)
- Elections (General) Act (2008)
- Elections Commission Act (2008)
- Parliamentary Elections Act (2009)

- Electoral Constituencies Act (2009)
- Political Parties Act (2013)
- Regulations for Parliamentary Elections 2014

While the Elections (General) Act 2008 provides the regulatory framework for the administration and conduct of elections, the Parliamentary Elections Act (2009) sets out procedures and other matters specific to the conduct of Majlis elections. In addition, on 30 January 2014, the Elections Commission gazetted the ‘Regulations for Parliamentary Elections 2014’ outlining the specific procedures for this election.

## **Elections Commission**

The Elections Commission is established under Article 167 of the Constitution, which states that the Elections Commission is “an independent and impartial institution” which “shall exercise its duties and responsibilities in accordance with the Constitution and the laws enacted by the Majlis”.

### *Membership of the Elections Commission*

The Constitution states that the Elections Commission shall comprise at least five members, including the Chair of the Commission. The appointment process requires the President to call for applications from members of the public and then send to the Majlis the names of his/her nominees from among the applications received. The President will then appoint those nominees approved by a majority of the Majlis. Members can serve a maximum of two five-year terms. The Elections Commission members elect a Chair and Vice-Chair among themselves.

In 2010, five members of the Commission were appointed; Mr Fuwad Thowfeek was subsequently elected by the Commission as its Chair, and Mr Mohamed Fayaz as Vice Chair. As noted above, both Mr Thowfeek and Mr Fayaz, were declared dismissed from their posts by the Supreme Court on 9 March 2014.

The Observer Group notes that under the Constitution the power to dismiss Commissioners from their posts rests with the Majlis. Article 177 of the Constitution states that:

“[a] member of the EC shall be removed from office only for the reasons specified in article (a), and in the manner specified in article (b):  
 (a) on the ground of misconduct, incapacity or incompetence; and  
 (b) a finding to that effect by a committee of the People’s Majlis pursuant to article (a), and upon the approval of such finding by the People’s Majlis by a majority of those present and voting, calling for the member’s removal from office, such member shall be deemed removed from office”.

The Observer Group is therefore concerned that the action taken by the Supreme Court in dismissing two members of the Elections Commission did not conform with the explicit provisions of the Constitution and the separation of powers enshrined within it. The Court's ruling, coming less than two weeks prior to the Majlis election, inevitably had a negative impact on the pre-election environment. The dismissals also meant that the Elections Commission no longer had a quorum of three members as required for decision-making. The Observer Group was advised that, had the Majlis not voted to approve a new Commissioner on 12 March, it would not have been possible for the election to proceed.

### *Responsibilities and Powers of the Elections Commission*

According to Article 170 of the Constitution, the Commission is responsible for, inter alia:

- conducting, managing, supervising and facilitating all elections and public referenda to ensure the proper exercise of the right to vote, and ensuring that all elections and public referenda are conducted freely and fairly, without intimidation, aggression, undue influence or corruption;
- preparing, maintaining, and updating electoral rolls, and making all arrangements for holding elections and public referenda;
- holding and declaring results of those elections and referenda within periods prescribed by law;
- compiling the voter register;
- fixing, varying, demarcating and continuously reviewing the boundaries and names of constituencies or voting units in all elections and providing for the publication of any amendments in the Government Gazette;
- registering political parties;
- educating and creating awareness among the public about the electoral process and its purpose; and
- formulating national and regional electoral policies.

### *Election Administration Structures*

During an election period, the Elections Commission appoints election focal points for every island in which a ballot box will be placed, except Malé. (Any matters pertaining to Malé are dealt with by the Elections Commission Secretariat.) The focal points are responsible for coordinating logistical arrangements for the election and can also receive complaints prior to the establishment of Atoll/City Elections Complaints Bureaux. The duties and responsibilities of the focal points are set out clearly in the 2014 Parliamentary Elections Regulations. An Elections Committee is also established in each atoll, with Malé dealt with directly by the Elections Commission.

Consistent with the approach taken for previous elections, the 2014 Parliamentary Elections Regulations provide for the optional establishment of a National Advisory Committee (NAC), comprising:

- political parties contesting the elections;

- the Human Rights Commission of Maldives;
- the Civil Service Commission;
- the Maldives Police Service;
- a representative of a national civil society organisation selected by the Elections Commission (for this election, this was Transparency Maldives);
- the Maldives Media Council; and
- the Maldives Broadcasting Commission.

The NAC first met on 19 February 2014 to advise the Elections Commission on matters specifically related to the 2014 Majlis election. The Anti-Corruption Commission, which has the authority to investigate alleged incidents of corruption by any of the state institutions, but not cases by individuals, was not included in the NAC. The Observer Group was advised that not all NAC members had attended each meeting of the Committee.

### *Resourcing Issues*

Section 24 of the Elections Commission Act states that “in order for the Elections Commission to discharge its duties effectively, the state Treasury shall provide the Commission the funds from the annual budget approved by the People’s Majlis”. The Elections Commission advised the Group that it owed significant sums to suppliers of goods and services and that it had encountered difficulty in planning and implementing election arrangements because of the lack of availability of funds. The Observer Group calls for there to be greater access to, and control over, the resources that are allocated by the Majlis, subject to the appropriate accountability mechanisms, as set out in Article 212 of the Constitution.

### **Voter Eligibility and Voter Registration**

To be eligible to vote, a person must be a citizen of Maldives and at least 18 years of age. Individuals who have been convicted of a criminal offence and sentenced to prison for a period of more than five years, and are currently serving that sentence, are barred from voting.

Article 170 of the Constitution mandates the Elections Commission “to prepare, maintain and update electoral rolls” and “to compile the register of voters in each constituency”, and section 8 of the Elections (General) Act states that “[t]he Elections Commission shall prepare and maintain a register of electors”.

Prior to the 7 October Supreme Court Guidelines, the Elections Commission compiled the register of voters using data from the government Department of National Registration’s (DNR) national ID system, hospital birth records, death records, and the Household Register. However, Supreme Court Guideline no. 4 states that “[i]n determining those who are eligible to vote in terms of age, the main source used to compile the voter register should be the Department of National Registration’s Database”. For the Parliamentary

elections, the Elections Commission therefore prepared its voter register from the information provided by DNR.

As required under the electoral law, the Elections Commission gazetted the voter register 45 days in advance of the election, on 5 February. The public were given ten days in which to file any complaints regarding the register, after which the revised register was gazetted again. As for previous elections, the Elections Commission established an SMS service through which registered voters could text their National ID number and receive an automated response confirming their name on the Register and their polling station location. The voter register could also be checked on the Elections Commission's website and at local council offices. In total, 1,571 complaints were received, including 1,367 complaints from PPM and 66 from MDP.

The final Register contained a total of 240,652 eligible voters, comprising 123,629 males (51.4 per cent) and 117,023 females (48.6 per cent).

### *Voter Re-registration*

Article 12(a) of the Elections (General) Act 2008 states that “[a]n elector who will not be in the island which has been entered as his permanent address in the Register of Electors, and who wishes to vote in the election, should inform to the Elections Commission ... where he will be on the date of the election”. Voters who are absent from their official island of residence must therefore re-register in order to vote in their current location.

Registered voters were able to submit applications for re-registration during a ten-day period from 18-28 February. Forms could be submitted either to the Elections Commission or to island councils; political parties were permitted to submit up to 50 stamped forms in one submission. In accordance with the Supreme Court guidelines, re-registration forms had to be signed and fingerprinted by both the voter and two witnesses.

In total, 58,501 voters re-registered to vote in a different location, equating to 24 per cent of registered voters. The Elections Commission subsequently published the voter list with re-registrations on its website, providing a two day period in which voters could check if they had been re-registered to the correct location and apply to have incorrect re-registration amended.

Following the re-registration period, the Elections Commission announced that there would be 473 polling stations overall, including polling stations in 20 resort islands, one industrial island, and in prisons. Ballot boxes were also placed in Maldivian diplomatic missions in countries where there were more than 300 registered voters - resulting in five ballot boxes in total in India (two boxes), Malaysia (one box) and Sri Lanka (two boxes).

## **Candidate Eligibility and Nomination**

To be eligible as a parliamentary candidate, a person must be a Maldivian citizen and not also a citizen of a foreign country, a Muslim and “a follower of a Sunni School of Islam”, at least 18 years of age, and of sound mind. A candidate must also not have a decreed debt that is not being paid as provided in the judgment, and not have been convicted of a criminal offence and sentenced to a term of more than twelve months, unless a period of three years has elapsed since his/her release or pardon.

For the nomination process, prospective candidates are required to submit to the Commission the relevant application documentation as well as a cash deposit of 5,000 Rufiyaa (approximately US\$325). Independent candidates are also required to submit a statement signed by at least 50 eligible voters of the relevant constituency indicating their support for the candidate.

The Elections Commission accepted candidates’ applications over a 14-day period from 29 January to 11 February 2014, with 315 applications received in total. Nine applicants subsequently withdrew their applications prior to the 16 February deadline for withdrawing candidacies, and the candidacies of four individuals were rejected due to incomplete application forms. 302 candidates were registered for the Majlis elections in total, 114 of whom were independent candidates.

## **Complaints, Appeals and Election Petitions**

The Elections (General) Act (2008) provides for the establishment of “a mechanism to receive and expeditiously deal with complaints from individuals, wishing to raise complaints regarding the elections, during the duration of the election” (section 62). Eligible voters, contesting candidates, political parties, election observers and election monitors approved by the Elections Commission, and election officials have the right to make such complaints (section 63).

In accordance with the Regulations for Parliamentary Elections 2014, the Elections Commission established both a National Elections Complaints Bureau (NECB) and atoll/city Elections Complaints Bureaux for the election period. The Group notes positively that for the 22 March election the NECB was established at an earlier stage than for previous elections - at the start of the candidate application period. The five-member NECB is mandated to remain in operation until 14 days after the official election results are announced. The atoll/city Elections Complaint Bureaux, comprising three members, are established ten days prior to election day.

Elections related offences outlined in the Elections (General) Act include:

- voting more than once;
- giving false information in order to stand for elections;
- preventing or hindering an individual from voting;
- spending in excess of the limits specified;

- giving or accepting contributions in excess of limits specified;
- taking a ballot out of the voting area;
- selling or issuing a ballot to a person not entitled to it; and
- deliberately counting a valid ballot as invalid.

The penalties for the commission of any of these offences are imprisonment for a term of one to four years or a fine of 12,000 - 48,000 Maldivian Rufiyaa.

Article 172(a) of the Constitution states that any challenge to an electoral matter or election result may be entered by way of a petition to the High Court. Sections 10 and 62 to 65 of the Elections (General) Act further provide for redress of complaints about information in the register of electors and election results. Petitions can be filed to the High Court by voters, candidates, political parties, monitors, observers, and election officials. Petitions must be filed within 14 days of the official announcement of results, and the Court must rule within 30 days of the announcement of the results.

## **Key Issues**

### **Incompatibility of the Electoral Legislative Framework and the Supreme Court Guidelines**

The legal framework governing the Majlis election, as set out in the Constitution and the relevant electoral legislation, provides adequately for the conduct of democratic elections. The Parliamentary Election Regulations 2014 further contributed to the framework and overall administration of competitive and credible elections.

However, the guidelines established by the Supreme Court on 7 October 2013 for the 2013 Presidential election, which the Court later declared were applicable for all future elections, continue to create uncertainty around the electoral legislative framework as some of these guidelines contradict Maldivian electoral law.

The Observer Group has concerns regarding Guidelines 4, 5, 9, 12 and 16 in particular. As noted above (see p.14), Guideline no. 4 requires the Elections Commission to use the DNR database as the main source for its compilation of the voter register. It also states that “it must be guaranteed that ... those deceased are not included in the voter register”, which would appear to be an unattainable standard.

Supreme Court Guideline no. 5, if interpreted strictly, has the potential to enable a candidate to prevent the holding of the election by refusing to sign the voter register. It states that, “in order for voting to commence in all constituencies in Maldives and abroad, the voter register ... must be approved by the Elections Commission and the candidates or their representatives, and must be the final list containing their signatures and finger prints”.

The Elections Commission provided political parties and candidates with electronic copies of the voter list two days prior to the scheduled period for signing the voter lists for the Majlis election. The lists were available for signing as scheduled on 14-15 March, with the Elections Commission extending the signing deadline at the request of one of the parties. Of the 302 candidates, only 16 independent candidates did not sign the voter lists.

Following a discussion with the National Advisory Committee, the Elections Commission wrote to the Supreme Court on 17 March seeking guidance on how to proceed given that 16 independent candidates had not signed the voter lists and therefore the requirement set out in Guideline no.5 had not been met. It is understood that the Supreme Court advised the Elections Commission in writing on 19 March that, given that these 16 candidates had not taken up the opportunity afforded to them by the Elections Commission to sign the list, and had not submitted complaints regarding this list, their not signing should not infringe on the rights of the other candidates for the election to proceed. (The Maldives Police Service also sought the Attorney-General's advice on whether the MPS should proceed with its election-related functions in the absence of all candidates having signed the voter lists. The Attorney-General's advice was that if the Elections Commission had provided sufficient time and space in an equitable way for the candidates to sign the voter lists, and in the absence of any decision by the Supreme Court stating that the Elections Commission had not fulfilled its obligation, some candidates choosing not to take up this opportunity to sign the lists should not be an impediment.) The Observer Group believes that this issue requires further consideration as part of any broader review of the Guidelines.

While it is positive that Guideline no. 5 did not impede the holding of the 22 March election, it is nevertheless of concern to the Observer Group that the current electoral environment is such that a constitutionally-mandated independent electoral management body felt obliged to seek guidance as to whether it could proceed with holding an election in these circumstances. This suggests a weakening of the independence of the Elections Commission.

A similar issue could arise with Guideline no.9, which states that “[a]fter polling closes in every constituency, to ensure that the Report on Election is compiled truthfully, representatives of candidates who were assigned to be in that area beforehand must be present during the compilation process”. While it may be common to allow party representatives who are present the right to view the compilation of the polling station's report, requiring their presence means that party representatives could ensure that this guideline is not met simply by absenting themselves from the polling station during the report compilation.

In the Group's view, Guidelines 12 and 16 further undermine the independence of the Elections Commission by mandating roles to authorities other than the Elections Commission - the security services and the National Centre for Information Technology, respectively - that are not stated in the electoral law.



## **Dhaftaru Register (Malé Municipal Register)**

A special Malé Municipal register, referred to as the Dhaftaru register, exists for individuals who are Malé residents but do not have a permanent address in Malé (i.e. they have not yet been allocated land or living space in Malé which they can register as their place of permanent residence). Article 5(d) of the Constituencies Act requires the Elections Commission to maintain and publish a register of Dhaftaru people with their current addresses. There were 5,854 voters on the Dhaftaru Register at the time of the Majlis election. As accurate address details are not available for many Dhaftaru individuals, each person on the Dhaftaru list is given a serial number.

The Elections Commission produced an interim Report on Constituency Delineation on 28 September 2013, based on population data from local councils. The final report was published on 17 December 2013. However, following the release of the final report, further amendments were made to the thirteen Malé constituencies based on discussions with the Majlis Independent Institutions Committee and a subsequent meeting of the Elections Commission with all current Malé Majlis members (comprising MDP and PPM members). It was agreed that, in order to preserve the boundaries of the previous eleven Malé constituencies to the greatest extent possible, Dhaftaru voters were to be assigned to nine Malé constituencies (those with lower numbers of registered voters) according to their serial number. The Dhaftaru allocation essentially topped up these nine constituencies so that there was a more even number of voters across all thirteen Malé seats, consistent with the requirement that the variation in constituency size within an administrative district be no greater than fifteen per cent. This approach contrasts with the allocation method used for the 2009 Majlis election, in which Dhaftaru residents were assigned to Malé constituencies in equal numbers.

It was alleged to the Observer Group by some political stakeholders that the Dhaftaru allocation had been undertaken in a selective manner to the benefit of one party. The Observer Group's understanding is that the Elections Commission sought to allocate Dhaftaru voters in a neutral way - by serial number - with the objective of ensuring minimal disruption to existing constituency boundaries. The Group notes, however, that the decision to amend the constituencies set out in the final Report on Constituency Delineation and to adopt this new allocation method was taken in consultation with incumbent MPs (of both MDP and PPM), many of whom were candidates in the 22 March election and therefore had vested interests in the constituency delineation.

## **Women's Representation**

Women were well represented both as voters (comprising 49.5 per cent of voters) and as polling officials (comprising 65 per cent of polling officials) in this election, which is broadly consistent with previous elections in Maldives.

However, the Group found the number of female candidates contesting the election to be disappointingly low: only 23 of 302 candidates were women, equivalent to approximately eight per cent of candidates. This was broadly similar to the number of female candidates in the 2009 Majlis election (in which 21 of 455 candidates were women). MDP fielded seven female candidates (equating to eight per cent of its total candidates), PPM fielded three women candidates (six per cent of its total), Adhaalath Party two candidates (seventeen per cent) and Jumhooree Party one female candidate (four per cent).

Stakeholders suggested to the Observer Group that this partially reflected the fact that women in Maldives do not generally hold decision-making positions in political party structures and face obstacles in achieving candidacies.

### **Complaints and Appeals Mechanism**

Between 12-27 March, 87 complaints were received by the National Complaints Bureau system, a number of which related to negative campaigning. Other complaints received related to the voter register and the conduct of elections officials, among other issues.

The electoral legislative framework establishes that both the complaints bureaux mechanism and the High Court have the jurisdiction to receive complaints. However, the legislation does not clearly set out the respective roles and responsibilities of the complaints mechanism and the Court in the complaints process, thereby creating the potential for confusion. Furthermore, the Regulations for Parliamentary Elections 2014 do not set out the jurisdiction or resources available to complaints bureaux at both national and atoll/city levels to investigate and resolve complaints. It appears that the lack of clarity on the procedures, roles and responsibilities of various bodies in dealing with election-related complaints undermines the spirit in which the relevant legislation setting out grievance handling mechanisms was formulated.

Stakeholders have also commented that the perceived lack of action taken on complaints lodged during the 2013 Presidential election has further eroded confidence in the complaints mechanism as it currently stands. In addition, the lodging of electoral-related complaints directly to the Supreme Court during the 2013 Presidential election, rather than to the designated High Court, and the Supreme Court's acceptance of these cases, has created further uncertainty around the complaints process. This usurped the statutory role of the High Court and undermined the position of the Supreme Court as a source of judicial review and the final judicial authority.

### **Recommendations**

- As recommended by the Commonwealth Observer Group to the 2013 Presidential elections, the People's Majlis should review the guidelines

issued by the Supreme Court in October 2013 for the holding of elections, with respect to their practicality, their consistency with Maldivian electoral law and their compatibility with electoral best practice. The Group recommends that the People's Majlis bring greater clarity to the responsibilities and authority of the Elections Commission.

- Given the political sensitivity of the issue of allocating Dhaftaru voters to Malé constituencies, for future elections the Elections Commission should set out sufficiently in advance a clear rationale for an objective allocation method for Dhaftaru voters, in consultation with all stakeholders.
- Relevant stakeholders, including political parties and civil society organisations, should explore what efforts can be undertaken to promote the greater participation of women in the political process, including through actively facilitating greater access by women to decision-making roles within political party structures.
- The Observer Group reiterates the recommendations of the 2008 and 2013 Commonwealth Observer Groups to Maldives, which call for increased clarity and coherence regarding the mechanisms for election-related complaints and appeals.

## Chapter 4

### Election Campaign and Media

#### Campaign Environment

In total, 302 candidates contested 85 seats in the People's Majlis elections, with 188 candidates representing a political party, and 114 independent candidates contesting in 61 constituencies. The six parties fielding candidates in the election were Adhaalath Party (contesting 12 seats), DRP (6 seats), Jumhooree Party (28 seats), MDA (7 seats), MDP (85 seats) and PPM (50 seats). As members of the Progressive Coalition, PPM, Jumhooree and MDA agreed to distribute the 85 seats amongst themselves so that there was only one coalition candidate contesting each seat. However, some independent candidates were reportedly unofficially connected to other Progressive Coalition parties. Adhaalath Party was unable to reach agreement with the Progressive Coalition regarding joining this arrangement.

The Parliamentary Elections Act provides for an official campaign period of 30 days prior to polling day. However, many parties and candidates conducted campaign activities prior to the 30 day period.

Leaders of the main parties took a central place at rallies and public events, travelling to various atolls and islands. Political parties did not produce new party manifestos for this election, given that substantive manifestos had already been released ahead of the 2013 Presidential election. A main theme of the Progressive Coalition parties' campaigning was that the government required a Majlis majority in order to implement its 2013 manifesto pledges. A key theme in the MDP's campaigning was that MDP would use a Majlis majority to embark on reform of the judiciary. Other themes dominating campaign platforms and speeches included the state of the economy, development priorities, and respect for Islam.

For the most part, candidates, party leaders and activists relied on traditional methods to galvanise supporters, such as holding rallies and door-to-door campaigning. In many parts of the country, billboards, bunting, posters and other materials were highly visible. Music was a prominent feature of campaigns in some local areas. Extensive use was made of social media, television, radio newspapers and online media.

In the run-up to election day, the Maldives Police Service encouraged political parties and activists to remain peaceful, calling on the public not to obstruct party activists from visiting certain islands. Observers noted reports of isolated incidents of vandalism during the campaign. Overall, however, it appeared that candidates and party activists faced no major impediments to the ability to assemble and freely express views, and the election period passed peacefully.

### *Vote Buying*

A wide range of stakeholders, including local independent institutions, civil society organisations and political parties, identified widespread vote buying as one of the foremost issues affecting the campaign. This allegedly took the form of direct hand-outs to voters in cash or in kind. The Group noted a statement by the Maldives Police Service that it had received a number of complaints of money and gifts being distributed in exchange for votes. Even more disturbing were reports received of voters deemed to be supportive of one party being induced by activists of opposing parties to 'rent' their identity documents for the duration of polling day so that they would not be able to vote.

### *Campaign Finance*

The Elections (General) Act (2008) and the Parliamentary Elections Regulations 2014 contain provisions regulating campaign finance activities by candidates during the 30-day official campaign period. Sections 69 and 72 of the Elections (General) Act limit expenditure by candidates to no more than 1,500 Maldivian Rufiyaa per voter (approximately US\$98), with individual contributions to a candidate for election expenses not to exceed 0.5 per cent of the total amount (or not to exceed two per cent if from a legal entity). Section 70 prohibits, inter alia, contributions by anonymous individuals, foreign individuals and foreign associations. The Act and the Regulations do not contain equivalent provisions for political parties or third parties, resulting in an absence of a robust regulatory framework on campaign financing and spending by parties.

Financing of political parties more generally (i.e. not specifically related to an election period) is covered under the Political Parties Act, which was ratified in March 2013. Section 40 of the Political Parties Act contains provisions related to parties' maintenance of financial records and section 41 provides for parties to submit audit reports to the Elections Commission and the Auditor General at the end of each financial year. (This corresponds with section 21 of the Elections Commission Act (2008), which lists the verification of party finance as one of the functions and powers of the Elections Commission.) Furthermore, section 48 states that violations of the Act shall be punishable by a fine and that the Elections Commission is authorised to enforce these sanctions.

It is of note that political parties are permitted to receive anonymous donations and donations from foreign sources under the Political Parties Act, providing written permission is obtained from the Elections Commission. This is in contradiction to the prohibition of anonymous and foreign donations to candidates in the Elections (General) Act, as stated above.

Another area of discrepancy within the electoral framework is that of the timeframe for submissions of candidates' financial reports. Section 41(a) of the 2014 Parliamentary Elections Regulations requires candidates for the

Majlis election to “submit a financial report outlining all financial transactions relevant to the election ... within 30 days from the day of the elections ... to the Elections Commission. Such reports must be published on the Elections Commission website and must be made available to the public.” (The financial transactions relevant to the election are defined in Section 73 of the Elections (General) Act.) However, according to the Elections (General) Act, the period provided for submitting election-related petitions to the Prosecutor-General is within fourteen days of the announcement of the formal results of the election. This implies that any candidates’ financial reports submitted after this period, even if done within the 30 days allowed, could not be challenged.

## **Media Environment**

Maldives has a diverse media landscape featuring a variety of publications and broadcasters. Private media outlets have flourished since the state monopoly over media was relinquished in 2005. In the 2014 World Press Freedom Index, by Reporters Without Borders, Maldives ranked 108 out of 181 countries - falling from 103 in 2013, 73 in 2011/12, and 52 in 2010. The decline was attributed by Reporters Without Borders to increased threats and assaults against journalists.

According to the 2008 Constitution, under Article 27, “everyone has the right to freedom of the press, and other means of communication, including the right to espouse, disseminate and publish news, information, views and ideas”. Article 28 states in addition that all people have the “right to freedom of thought and the freedom to communicate opinions and expression in a manner that is not contrary to any tenet of Islam”.

### *Broadcast, Print and Online Media*

There are currently 33 licenced broadcasters in Maldives. Television is the most popular, with 23 licenced domestic channels, compared to ten radio stations. Four broadcasters are licenced for public service broadcasting, two for television and two for radio.

Although licensing regulations prevent broadcast licences being awarded for the express purpose of promoting a political party, in practice many of the private broadcasters are linked to or owned by politicians or political interest groups. Similarly, much of the print and online news media are either informally aligned with or backed by individuals with political affiliations. Relative plurality in the market provides for a wide variety of viewpoints to be represented; however, not all media outlets make a concerted effort to provide balanced reporting.

Many newspapers are available as online digital editions in both Dhivehi and English languages. Internet penetration is high, at 39 per cent of the population (UN 2012), with around 90 per cent of users having access to broadband (InfoDev). Social media is widely used by the country’s large youth

population, with Twitter in particular an increasingly influential means of public communication at election time.

### *Media Regulation and Elections*

Media regulation in Maldives is generally weakly implemented, largely owing to those institutions responsible, while having dedicated staff, having limited enforcement powers. The Maldives Broadcasting Commission, established by the Broadcasting Act of 2010, regulates television and radio, while the Maldives Media Council, established in 2008 by the Maldives Media Council Act, focuses on regulating print and online media.

The Broadcasting Commission's remit includes the issuance of broadcasting licences, ensuring compliance with regulations, and formulating and enforcing the Broadcasting Code of Practice. Published in June 2012, the Code of Practice calls on broadcasters to ensure accuracy, fairness and balance in their reporting. It complements a Code of Ethics developed and enforced by the Media Council, which also requires journalists to operate free of influences.

During election periods, broadcasters are expected to follow the Broadcasting Commission's 'Guidelines for Political Coverage During Elections'. These cover news coverage standards, direct access airtime, libel and defamation, right to reply and retraction, reporting on a candidate's private life, and the safety of journalists. The guidelines demand that political messages and affiliations are clearly stated.

### *Campaign Coverage*

There was extensive reporting of the election campaign by the media and journalists appeared to be able to operate with relative freedom. Coverage tended to focus on speeches and announcements by party leaders and senior officials, rather than the policies and platforms of candidates locally. Reporting by privately owned media often reflected the perceived political biases of their owners, which often led to unbalanced reporting.

Up to election day, the Broadcasting Commission received just three complaints about media outlets - far fewer than the 16 complaints it received in the run-up to the Presidential Election in late 2013.

### *Polling Day*

Domestic media were visible on election day. Under the Elections Commission's Code of Conduct for the Majlis Election 2014, media monitors were given permits allowing them to record proceedings at polling stations. The code allowed journalists to take photos and videos provided they did not go within 10 feet of voting booths.

Most online newspapers provided live news updates throughout the day. The major television stations streamed results after polls had closed. Social

media, particularly Twitter, was widely used by candidates, political parties and media. The free flow of information enabled by the media assisted with any complaints or incidents being quickly identified and dealt with on the day.

## **Recommendations**

- Concerted and systematic efforts need to be made to address the issue of vote buying. Consideration should be given to ensuring that relevant authorities have sufficient powers and capacity to deter and punish vote buying practices. Efforts to improve public awareness of this issue should be undertaken.
- Action should be taken to develop a more effective regulatory framework for campaign financing, including by extending coverage to expenditure by political parties during the election period and by ensuring better harmonisation of campaign financing restrictions for candidates, political parties and third parties to minimise loopholes within the regulatory framework. The relevant authorities should be provided with adequate resources to ensure compliance with campaign finance regulations, as well as for analysis, investigation and enforcement.
- Consideration should be given to strengthening the powers of the Maldives Broadcasting Commission and the Maldives Media Council to enable them to ensure more effective upholding of regulations, with appropriate sanctions.
- Consideration should be given to providing capacity-building training for journalists, producers and editors, particularly in covering elections, to strengthen the media's ability to report in an unbalanced way.



## Chapter 5

### Voting, Counting and Results

The 2014 Majlis (Parliamentary) elections took place on 22 March. Polling was scheduled to take place from 0800 - 1600 hours in 473 polling stations in 85 constituencies.

A polling station is defined by the Elections (General) Act as “the area 100 feet from the ballot box, including parks, empty spaces and football grounds but excluding streets, roads and residential places inside the area.” Polling stations were organised within public facilities such as schools and community centres. For the twenty resort islands on which there were polling stations, ballot boxes were placed in a staff only area.

According to the Elections (General) Act, campaigning is prohibited from 1800 hours the day before the election to 0600 hours the day after the election. During this period, no material other than that used by election officials should be seen within a 100 feet radius of the ballot box.

The Elections Commission allocated teams of eight and twelve polling officials to polling stations. An eight-person team managed polling stations with fewer than 700 registered voters and a twelve-person team managed polling stations with more than 700 voters. All polling stations had a designated chief polling official. Polling officials were directed to be present at their respective polling stations 45 minutes prior to the start of polling.

The Maldives Police Service was responsible for maintaining law and order on Election Day, as well as for accompanying the transportation of voting materials and ballot boxes after the close of polling. At polling stations, police were required, by the Elections (General) Act, to stay outside a 100 feet radius. Police officers were to enter the polling station only if requested by the chief polling official.

#### Key Procedures for Opening and Voting

Stated procedures for opening and voting are as follows:

##### *Opening*

- The polls are scheduled to open from 0800 - 1600 hours.
- The candidate list and the signed voter list are to be displayed outside the polling station where they can be easily seen.
- Fifteen minutes prior to the opening of the polls, sealed “security envelopes” containing ballot papers are to be opened to determine that

they contain the appropriate number of ballot papers for that particular polling station (according to registered voters).

- The open ballot box is shown to all those present to confirm that it is empty. The box is then sealed.
- Accredited candidate representatives, domestic and international observers and accredited media monitors are allowed to be present in the polling station to observe the above stated procedures.

### *Voting*

- The voter presents valid personal identification in the form of a national identity card, a driving licence or a passport.
- The voter's identification document is checked against the voter database, which is drawn from the Department of National Registration's records. This database is available to polling officials on laptops stationed near the entry at polling stations. The voter's name is also confirmed against a hard copy version of the voter list, and a mark is made on the list. These lists contain colour photographs of voters.
- Once the voter's identification has been confirmed, she/he is issued a token number to mark their place in the queue of voters, as required by the 2013 Supreme Court Guidelines.
- At the next stage, the voter is asked by a second polling official to verbally confirm their identification details. The polling official will announce the name of the voter, for the records of candidate representatives. A third polling official makes a note of the name and identification number on the identification documents provided.
- The voter's right index finger is stained using indelible ink.
- The voter is given a ballot paper for the constituency appropriate to their respective registration. The voter is asked if she/he would like to use their own pen.
- A second mark beside the name of the voter is made on the voter list to confirm that a ballot paper was given.
- The voter proceeds to the voting booth and casts her/his vote.
- The voter then inserts the ballot paper in the ballot box and exits the polling station.

The Elections (General) Act and the Regulations for Parliamentary Elections 2014 make provision for assisted voting for persons who are unable to mark the ballot paper due to partial or full blindness, inability to use both hands, old age and weakness, or severe illness. Polling officials make appropriate observations to verify that such voters do in fact need assistance.

### **Assessment of Opening and Voting**

Commonwealth Observers reported an orderly, peaceful and well administered polling process on election day. Polling officials were ably performing their duties in line with prescribed procedures. Voters appeared free to exercise their franchise. Candidate representatives and domestic

observers were present at polling stations visited. The Police maintained an appropriate and unobtrusive presence outside polling stations. Voter turnout appeared to be lower in the first half of the day, but picked up toward the close of polling. Voter turnout was 78.8 per cent.

The key observations of Commonwealth Observers were:

- Polling staff and voting material reached stations in time for the opening of polls on election day.
- Polling stations were well laid out, with clearly demarcated spaces for polling officials, observers and voters.
- All polling stations used an electronic voter verification system, as well as cross-referencing identification against a hardcopy of the voter list. This hardcopy included photographs of voters, which is a new feature of voter verification, introduced after the Presidential Election in November 2013. In addition to this, voter lists were displayed in a prominent place outside polling stations, with only two observed exceptions. Of note is that the voter lists displayed outside polling stations did not have coloured photographs of voters, due to complaints received during the Local Council elections in January 2014.
- Polling officials were professional and competent. There was a high number of female polling officials present at polling stations, including in the position of chief polling officers.
- The voting process was quick and transparent.
- It appeared that not all assisted voters required assistance; however, it was also noted that polling officials were diligent in verifying the needs of assisted voters.
- Domestic observers and candidate representatives were present at most polling stations visited.
- There seemed to be a lower turnout at the opening of polls; however, this increased throughout the day.
- The Maldives Police Service fully played its part in ensuring a peaceful and successful election. In meeting with the police before the election, the Observer Group was impressed with its level of preparedness for the day.
- The atmosphere in and around polling stations was busy yet calm, and voters appeared free to exercise their franchise.
- Media monitors were present at many of the polling stations visited and maintained an appropriate distance from the ballot box.
- The Elections Commission held two press conferences during polling hours, in which they encouraged voters to vote early and responded to questions from the media. This proactive approach is to be commended.
- There were isolated incidents of complaints about the voter register at polling stations visited. The Election Commission reported the receipt of three complaints in this regard.

### **Procedures for Counting and Results Tabulation**

The stated procedures for the counting and results tabulation are as follows:

- The polls are scheduled to close at 1600 hours. If at that time there are persons waiting to vote, a polling official joins the end of the queue. All those in the queue ahead of the polling official are allowed to vote.
- Once the last vote has been cast, the chief polling officer closes the polling station by sealing the ballot box. There is a 30-minute interval that must be observed before the counting procedure begins.
- Candidate representatives, domestic and international observers, and media monitors are allowed to be present during the counting process. Candidate representatives and observers are briefed on the counting process. If no candidate representatives are present, the chief polling officer must ensure that two persons from the voter list are present during the count.
- The ballot box is opened and emptied.
- The ballots are sorted into piles for each candidate.
- Invalid votes are placed in a separate pile. The chief polling officer will make a decision on disputed invalid ballot papers. Invalid ballots are defined as those in which it is deemed that the will of the voter cannot be discerned.
- Ballot papers marked in favour of each candidate are held up for all those present to see.
- Ballot papers are then counted and organised into bundles of fifty for each candidate.
- The vote tally is announced and a temporary results sheet is completed and signed by the chief polling official and two other polling officials.
- The ballot papers, a copy of the temporary results sheet and all associated documents are placed in tamper-proof envelopes and sealed.
- Polling officials convey results via their laptop, fax or mobile phone.
- Once this process has been completed, a results sheet is posted at a prominent place outside the polling station.

### **Assessment of Counting and Results Tabulation**

The vote count at polling stations was efficient and transparent. Candidate representatives, observers and media monitors were able to follow the process and report on it in real-time.

Key observations of the Commonwealth Observers were:

- Due to the rise in voter turnout in the second half of the day, many polling stations visited had a queue of voters to process at the stipulated closing time of 1600 hours. This resulted in several polling stations closing after 1600 hours.
- Polling officials were assertive and transparent in marking the end of the queue.
- The Police were visible outside stations during the closing of the poll and until the end of the counting process. In one observed instance, back-up police units were seen maintaining order at a polling station.

- Polling officials, candidate representatives and monitors seemed familiar with the process of closing and with the handling of the ballot box.
- The counting of ballot papers took place in a process of several steps and was very thorough and transparent. However, it was noted that at some polling stations accredited observers, especially those representing candidates, may have had difficulty from the distance at which they were seated in viewing each ballot as it was displayed.
- Of note was the issue of re-registered voters, whose home constituencies are different to those in which they were present on election day. Such voters are given ballot papers that reflect the names of candidates in their home constituencies. The names of these voters are also part of the voter list displayed outside polling stations. This means that, where there are only a few such ballots for a particular constituency, it is easy to trace the voting choices of such voters.
- There was a very low number of invalid ballots at the polling stations visited.
- The atmosphere at polling stations during the counting and results tabulation process was calm and amiable.
- Maldivian media outlets streamed live results on television and via the internet.

## **Overview of the Countrywide Observation**

Commonwealth Observer teams were based in four regions and on election day visited the atolls of Haa Alifu, Haa Dhaalu, Kaafu, Thaa, Laamu and Addu, as well as Malé. Observer teams were able to witness polls opening, voting, counting and results tabulation. Observer teams met with local electoral officials, other domestic and international observers, and other stakeholders at the island level to gain a broader assessment of the election process.

### **Haa Alifu Atoll and Haa Dhaalu Atoll**

- The pre-poll atmosphere was calm and peaceful.
- In spite of highly competitive campaigning, a spirit of tolerance prevailed; there was no animosity or hostility visible from sparring parties.
- Campaign material for the candidates of the two main political parties was very prominent and visible.
- There were no major incidents or complaints in the run up to the election.
- Campaigning stopped at the prescribed time, that is, 1800 hours on 21 March, the eve of polling.
- On polling day, the team was impressed by the professionalism and sense of organisation of polling officials.
- Female polling officials often outnumbered male officials at most polling stations visited.
- All the stated procedures at the start and close of polling were complied with.
- Candidates' representatives, observers and monitors were present at all

the polling stations visited.

- The team took note of the friendly atmosphere prevailing at polling stations.
- The team noted complaints with regard to a few people not finding their names on the voter register and therefore being unable to vote.

### **Kaafu Atoll**

- The opening of polling stations observed was smooth and prompt.
- The media were freely able to take photographs.
- In the morning voter turnout seemed low, including a low presence of female voters; there appeared to be an increase in voter turnout in the afternoon, including female voters.
- The police maintained a low-key presence.
- The voter processing time observed was around 40-60 seconds.
- At stations visited, domestic observers were present (Transparency Maldives and the Human Rights Commission of Maldives); however, there appeared to be a low party presence amongst official observers.
- A couple of isolated instances of poorly managed assisted voting were witnessed but it was felt that these were well-intentioned errors rather than manipulation.
- In the two resorts visited, polling stations were located within the staff accommodation facilities. In both instances, the Observer team was able to reach the polling station without restriction and observed the same well organised standard of operations as elsewhere in the atoll.
- On a number of islands there was a significant proportion of re-registered voters from other atolls. In many instances the number registered was small enough to give concern that the secrecy of the ballot would not be maintained when the results were published.
- The team was also able to observe the polling procedure at a prison, where the voter list comprised inmates as well as staff. At this particular station, there was no voter list posted outside and the pictorial register was the only source used.

### **Malé**

- Throughout the day, the overall atmosphere was positive and calm, with officials, party/candidate observers and other stakeholders acting amicably.
- Opening processes were smooth and orderly overall, though with one polling station observed starting the voting process twenty minutes after the scheduled opening time.
- Voter lists were displayed prominently outside all polling stations visited with one exception.
- Polling officials fulfilled their roles efficiently and with confidence. It was notable that the large majority of polling officials were women.

- Party/candidate observers were present at all stations visited, with domestic observers and media monitors also present at a high number of stations.
- Police officers maintained an appropriately discreet presence outside polling stations, respecting the spirit of the 100-foot radius distance from the ballot box.
- Only a very small number of cases of assisted voters were seen, and these appeared broadly consistent with the regulations providing for assisted voting.
- There was a notable variation in voter turnout between polling stations for Malé and atoll constituencies.
- There were large queues at 1600 hours in a number of the atoll polling stations observed. Polling officials followed the stated procedure by closing the end of the queue at 1600 hours and permitting those within the queue to vote.
- The counting process was highly methodical and transparent. However, it appeared difficult for all observers present to see clearly the tick marks on each ballot paper during the counting, given the distance at which observers were seated from the ballot papers.
- Only a minute number of invalid ballots were seen (no more than five at each count observed). The chief polling officer was observed following the correct procedure in explaining to observers his/her decision for treating the ballot as invalid.
- Result sheets were displayed prominently outside stations at the conclusion of the counting process.

### **Laamu Atoll and Thaa Atoll**

- Prior to polling day, the Observer team found officials well advanced in their preparations in a relaxed and calm atmosphere.
- There were significantly different levels of campaigning in each island, even neighbouring islands. For example, Thimarafushi, which had historically exhibited some political tension, displayed strong campaign activity but in a relaxed atmosphere.
- The team were made aware of a small number of allegations of vote buying which it was not able to verify.
- Election day was well organised, commenced on time and was professionally run.
- The team was impressed with the level of training of officials. This was demonstrated by the consistent display of voter lists and other materials at the entrance to polling stations.
- Election officials followed the procedures by the book in a highly transparent manner.
- The team had some concerns at two polling station locations where political party representatives were seen to be treating voters by rewarding them with small gifts (such as soft drinks, milk drinks and sweets) which the team considered inappropriate.

- Voting closed on time and once again procedures were clinically followed to ensure the vote count was accurate and transparent.

### **Seenu Atoll (Addu)**

- The elections in Addu atoll were extremely well organised and were conducted in a very professional and competent manner by the polling station staff.
- The Elections Unit at Addu City Hall was very organised and had a clear process in place for discharging their duties and supporting polling station staff.
- Campaigning on the day before polling day was largely confined to two large rallies by the two main parties which were followed by motorcade processions through the whole atoll. The relationship between the two groups was good natured and there was no evidence of a police presence being required.
- The polling station staff had clearly been well trained and followed the process for polling as prescribed in the instructions they had been given.
- There were very large numbers of female poll workers.
- Older and disabled voters were given priority. However, there was some inconsistency in terms of how disabled and elderly voters were treated when requesting assistance. In some cases, they were permitted assistance but this was not universally the case.
- The observer team was only made aware of two complaints, namely:
  - some polling stations in Hithadoo had opened after 0800 hours because of issues relating to the delivery of the ballot boxes; and
  - one voter had been referred to the island focal point because of problems relating to his identification card.
- The team were made aware that at least two voters were arrested by the police for showing their votes after they had voted. The team received information from several different sources that a considerable amount of vote buying had taken place using various approaches and methods.
- There were very few queues in the morning at most polling stations but by midday voting became brisker. At the count centre attended by the team, there were five stations and all but one was able to close at 1600 hours with no voters queuing to vote. Turnout in these five stations was approximately 70-75 per cent.
- The atmosphere in the polling stations was always good with matters being dealt with in a calm way including relationships between polling station staff and the various observers (domestic, party and international) and the media monitors.
- The police were present in the vicinity of all polling stations but were unobtrusive and generally stayed outside the required 100 feet radius, where it was practicable to do so.
- There was considerable evidence of party activity and materials in the atoll. However, because of the proximity of the buildings being used as polling stations to the neighbouring residential and business premises, there was much evidence of campaign materials immediately adjacent to



polling stations and, in one particular case, attached to the wall of the school compound.

- The team saw no campaign materials within the polling stations.
- The counts attended by the team were very efficient and carried out according to the instructions that had been given. The count teams were largely female and undertook the task transparently and fairly whilst ensuring that good order was maintained at all times.
- All candidates appeared to be represented at the count by their observers. There was total acceptance of the decisions of the presiding officer and the final result with no apparent disputes.
- On the afternoon of 23 March, the day after polling, the team was pleased to note that work was underway to remove campaign materials and restore areas to their previous “non-election” state.

### Results - People’s Majlis Election

	Seats	Votes Cast	% (Votes Cast)
Progressive Party of Maldives (PPM)	33	52,960	28.2
Maldivian Democratic Party (MDP)	26	77,178	41.2
Jumhooree Party	15	24,739	13.2
Maldives Development Alliance (MDA)	5	7,816	4.2
Adhaalath Party	1	4,930	2.6
Dhivehi Rayyithunge Party (DRP)	0	548	0.3
Independents	5	19,351	10.3
	<b>85</b>	<b>187,522</b>	<b>100</b>
Total Valid Votes Cast		187,522	
Total Invalid Votes		2,120	
Total Votes Cast		189,642	
Total Registered Voters		240,652	
Turnout (%)		78.8	
National Observers:		1,718	
Media Monitors:		1,924	
Candidate Representatives:		1,400	

### Recommendations

- Consideration should be given to devising appropriate measures to protect the right to a secret vote for those voters re-registered to vote in areas outside their home constituencies.

- During the counting process, observers, especially candidate representatives, should be allowed to sit in closer proximity to the ballot papers, to enable them to verify the marking on the ballot paper without much difficulty.

## Chapter 6

### Conclusions and Recommendations

As the second People's Majlis election held under a multi-party democratic framework, the 22 March election represented a further step forward in Maldives' democratic consolidation.

The Group observed a positive and peaceful atmosphere on election day as voters expressed their will through the ballot box. However, this was overshadowed by the events immediately preceding the election, with, on 9 March, the Supreme Court declaring the Chair and the Vice Chair of the Elections Commission dismissed from their positions for contempt of court. The removal of two members of the Elections Commission shortly before the election had a negative effect on the overall electoral environment and created a level of uncertainty regarding the electoral process.

Of particular concern to the Group was that the Court's ruling did not conform with the explicit provisions of the Constitution that provide the Majlis with the sole authority to dismiss Elections Commission members, thereby violating the separation of powers enshrined within the Constitution. The Observer Group notes that the separation of powers between the Executive, Judiciary and Legislature is one of the core values to which all Commonwealth members have committed in the Commonwealth Charter.

The Observer Group was also concerned by the possible broader repercussions of this development. Following the Supreme Court's initiation of contempt of court proceedings against the Election Commission, the Group noted a level of anxiety and self-censorship by some independent institutions and civil society organisations, which could have a detrimental effect on freedom of expression and the ability of these bodies to fulfil their mandates effectively.

The Maldivian legislative framework, as set out in the Constitution and the relevant electoral acts, provides adequately for the holding of credible elections. The functions of the Elections Commission, as a constitutionally mandated independent institution, are also clearly defined in Maldivian legislation. The Group was therefore disappointed that a lack of clarity persists regarding inconsistencies between the Maldivian electoral law and the guidelines issued by the Supreme Court last year on the conduct of elections. While it is noted that the guideline requiring all candidates to sign the voter list did not disrupt the holding of this election, the continuing application of the guidelines is of concern, given some of the guidelines are inconsistent with Maldivian electoral law and electoral best practice. The extent to which these guidelines expose election authorities to legal peril is to be considered when assessing if the guidelines allow for a conducive environment for the holding of credible elections. The guidelines also restrict the independence of the Elections Commission in executing its mandate.

Campaigning was largely without incident and media coverage of the election was extensive, though the political affiliations of some media outlets appeared to unduly influence media reporting.

The Observer Group was especially concerned by allegations of widespread vote buying. While this issue has been raised in previous elections, there is a perception that vote buying was particularly pronounced for the 22 March election. It is critical that strong action is taken to address this issue, not only to discipline infringements in this area but also to counter the seemingly increasing culture of vote buying, in order to avoid an undermining of the democratic process.

Campaign finance is another area which the Group believes requires further attention, as was highlighted during the 2013 Presidential elections. There is a notable absence of an effective regulatory framework for campaign financing. While there are limits, albeit generous ones, on expenditure by candidates, this is undermined by the lack of restrictions on expenditure by political parties and third parties.

The Group noted the low participation of female candidates in the election, with only 23 women contesting seats out of a total of 302 candidates.

The transparent and well-organised manner in which polling was conducted on 22 March was impressive. Election day was orderly, peaceful and well administered, and voters appeared free to exercise their franchise. The Elections Commission should be commended for the thorough preparations that it had undertaken in the weeks prior to polling day, including in finalising the voter register and enabling voter re-registration, and the training of polling officials.

All stakeholders at polling stations appeared confident in the execution of their roles. Polling officials acted professionally and efficiently, ensuring smooth opening, voting and counting processes. Candidate representatives were well represented at most polling stations that the Group observed, with domestic observers and media monitors also present at many stations, further contributing to the transparency and credibility of the process. Police officers were seen maintaining an appropriate and unobtrusive presence outside polling stations.

Voter turnout was 78.8 per cent, which the Group notes is significantly lower than in the 2013 Presidential elections.

As a young democracy in transition, Maldives made significant advances over the past decade with the adoption of a new constitutional framework. The Observer Group hopes that these can be built on further, particularly through the strengthening of democratic institutions and the further encouraging of a vibrant culture of democracy.

The Observer Group commends the people of Maldives for the positive spirit that they displayed on polling day and for their contribution to the democratic process.

## **Recommendations**

With a view to strengthening further the Maldivian electoral process, the Observer Group would like to offer the following recommendations. Given the proximity of the Majlis election to the Presidential election held in late 2013, the Group notes that some of these recommendations were also proposed by the Commonwealth Observer Group of 2013.

### **Electoral Legislation and Framework**

- The People's Majlis should review the guidelines issued by the Supreme Court in October 2013 for the holding of elections, with respect to their practicality, their consistency with Maldivian electoral law and their compatibility with electoral best practice. The Group recommends that the People's Majlis bring greater clarity to the responsibilities and authority of the Elections Commission.
- Given the political sensitivity of the issue of allocating Dhaftaru voters to Malé constituencies, for future elections the Elections Commission should set out sufficiently in advance a clear rationale for an objective allocation method for Dhaftaru voters, in consultation with all stakeholders.
- Relevant stakeholders, including political parties and civil society organisations, should explore what efforts can be undertaken to promote the greater participation of women in the political process, including through actively facilitating greater access by women to decision-making roles within political party structures.
- The Observer Group reiterates the recommendations of the 2008 and 2013 Commonwealth Observer Groups to Maldives, which call for increased clarity and coherence regarding the mechanisms for election-related complaints and appeals.

### **Campaign and Media Environment**

- Concerted and systematic efforts need to be made to address the issue of vote buying. Consideration should be given to ensuring that relevant authorities have sufficient powers and capacity to deter and punish vote buying practices. Efforts to improve public awareness of this issue should be undertaken.
- Action should be taken to develop a more effective regulatory framework for campaign financing, including by extending coverage to expenditure

by political parties during the election period and by ensuring better harmonisation of campaign financing restrictions for candidates, political parties and third parties to minimise loopholes within the regulatory framework. The relevant authorities should be provided with adequate resources to ensure compliance with campaign finance regulations, as well as for analysis, investigation and enforcement.

- Consideration should be given to strengthening the powers of the Maldives Broadcasting Commission and the Maldives Media Council to enable them to ensure more effective upholding of regulations, with appropriate sanctions.
- Consideration should be given to providing capacity-building training for journalists, producers and editors, particularly in covering elections, to strengthen the media's ability to report in an unbalanced way.

### **Voting, Counting and Results**

- Consideration should be given to devising appropriate measures to protect the right to a secret vote for those voters re-registered to vote in areas outside their home constituencies.
- During the counting process, observers, especially candidate representatives, should be allowed to sit in closer proximity to the ballot papers, to enable them to verify the marking on the ballot paper without much difficulty.

## **Annex 1**

### **Composition of the Team**

#### **Hon Bruce Golding (Jamaica) - Chair**

Hon Bruce Golding is the former Prime Minister of Jamaica, 2007 - 2011. Mr Golding was elected to Parliament five times in the course of his political career, starting in 1972. He was appointed a Member of Senate from 1977-1983 and 2002-2005. He was Minister of Housing and Construction from 1980-1983, Shadow Minister of Finance 1989-1993, Chairman of the Public Accounts Committee 1989-1993 and Shadow Minister of Foreign Affairs and Foreign Trade from 2002 - 2005. Mr Golding has served on the Board of Governors of the Institute of Jamaica and as a member of the Electoral Advisory Committee (now the Election Commission of Jamaica). Mr Golding is a graduate of the University of West Indies, where he is currently an Honorary Distinguished Fellow, focusing on public policy management.

#### **Ms Dharisha Bastians (Sri Lanka)**

Dharisha Bastians is a professional Sri Lankan print journalist and political analyst with a reporting focus on governance, democracy and human rights. She reported extensively on the conflict during Sri Lanka's civil war and is presently employed at the Daily Financial Times newspaper in Colombo, and as a freelance correspondent based in Sri Lanka for the New York Times.

#### **Ms Bushra Gohar (Pakistan)**

Bushra Gohar is a member of the Central Organising Committee of a political party in Pakistan. Ms Gohar was elected as a Member of Parliament on reserved seats for women in the Pakistan's 2008 National Elections. She was a member of the National Assembly's special committee on the Millennium Development Goals and the Energy Sector. Ms Gohar was also a member of the Women's Parliamentary Caucus' working council unit in 2011 and was elected Chair of the National Assembly Committee on Women's Development from 2009 - 2011. Ms Gohar has a Master of Science in Human Resources Management from the USA, and over 19 years' experience in policy, human rights and development in Pakistan and the region. She is also co-chair of the Bacha Khan Education Foundation.

#### **Ms Jane Michuki (Kenya)**

Jane Michuki is recognised as an accomplished consultant in gender, electoral laws, human rights and development. An expert in international law, she has represented Kenya in various forums and provided legal positions on a variety of issues including legal sector reform in Kenya, gender aspects in regional and international protocols as well as the Constitution of Kenya. She has worked as an elections expert and observer in various countries providing comprehensive evaluation of electoral processes and systems. She has also trained other elections observers in the same. As a human rights expert, she has worked to enhance the enforcement of women's rights and has published research on human rights issues in Africa.

**Mr Irfan Abdool Rahman (Mauritius)**

Irfan Abdool Rahman has been the Electoral Commissioner of Mauritius since January 1998 and before that was a Returning Officer for twelve years. He worked previously as Crown Counsel in the Attorney-General's Office and as a Senior District Magistrate and an Intermediate Court Magistrate. Mr Abdool Rahman has been a member of numerous observer missions and has acted as an Election Consultant for various international and regional organisations. He is a Council Member of the International Institute for Democracy and Electoral Assistance (IDEA).

**Hon Chris Tremain (New Zealand)**

Hon Chris Tremain has a business degree majoring in accounting and marketing from Massey University, New Zealand. He was a successful businessman in the real estate and tourism sectors before entering politics in 2005. Mr Tremain was elected the Member of Parliament for Napier for three consecutive terms. In his first term, he was a member of the Finance and Expenditure Select Committee and was elected as his Party's Junior Whip. In his second term, he became the Senior Whip, and his third term, he was appointed as a Minister, firstly outside of Cabinet and then inside Cabinet. Mr Tremain's portfolios included Associate Tourism, Local Government, Civil Defence, Consumer Affairs, Associate Transport, and Internal Affairs.

**Mr John Turner (United Kingdom)**

John Turner has been involved with electoral administration and law for over 30 years. He was formerly Deputy Chief Executive of Norwich City Council and, in that role, was Returning Officer and Electoral Registration Officer of the City for several years. He is a former Chairman of the Association of Electoral Administrators and became the first Chief Executive of the AEA in 2006. Mr Turner is also Chairman of the Qualifications Board of the AEA and was responsible for the introduction of the first professional qualification for electoral administrators some twelve years ago. He has worked in four continents on electoral related matters and has been involved with the Commonwealth in various roles in Maldives over the last ten years.



## Annex 2

### Deployment Plan - 22 March 2014 Election

TEAMS	LOCATIONS
Mr Irfan Abdool Rahman Ms Dharisha Bastians	Haa Alifu Atoll Haa Dhaalu Atoll
Hon Bruce Golding Ms Alison Pearman	Malé
Mr Will Henley Ms Amna Jatoi Ms Hilary McEwan	Kaafu Atoll and Malé
Ms Jane Michuki Hon Chris Tremain	Laamu Atoll Thaa Atoll
Ms Bushra Gohar Mr John Turner	Seenu Atoll (Addu)

## Annex 3

### Arrival Statement



## Commonwealth Observer Group

Maldives People's Majlis Election, 22 March 2014

Interim Statement by Hon Bruce Golding, Chairperson

**Malé, Maldives, 19 March 2014** -- At the invitation of the Elections Commission of Maldives, Commonwealth Secretary-General Kamalesh Sharma has constituted an Observer Group for the People's Majlis (Parliamentary) Elections, to be held on 22 March 2014.

It is an honour and a privilege to lead this Group, and to be in Maldives at this important time, as the people exercise their fundamental right to express their will through the ballot box.

The seven-member Group is drawn from across the regions of the Commonwealth, and includes a range of expertise from political, electoral, legal and media fields.

The Group is charged with observing and evaluating the pre-election period, polling day itself, as well as the post-election period. It is our task as observers to consider all factors relating to the credibility of the electoral process as a whole.

We will assess whether the elections have been conducted according to the standards to which Maldives has committed itself, including both the Maldivian constitutional and legislative framework and relevant Commonwealth and international commitments.

In conducting our duties and undertaking our assessment, we will be objective, impartial and independent. The Group's assessment will be its own, and not that of any member country of the Commonwealth.

The Group arrived on 16 March and has spent the past few days meeting with relevant stakeholders, including the Elections Commission, political parties, independent institutions, civil society, and international partners.

Members of the Group will deploy to various atolls on 20 March to observe the campaign environment in those areas ahead of polling day as well as the voting and counting processes on election day itself.

An Interim Statement will be published soon after the elections. The Group will depart Maldives on 28 March after having completed its assessment, and a final report will be published shortly afterwards.

The Commonwealth has a long tradition of supporting Maldives in its own efforts to consolidate its democratic process. Commonwealth Observer Groups were present for the first multi-party elections in 2008 and 2009 and, most recently, for the Presidential Elections in 2013.

We hope that our Group's presence will make a useful contribution to the further strengthening of democracy in Maldives. We encourage all citizens to play their part in ensuring that the country enjoys credible elections on 22 March.

## Annex 4

### Interim Statement



### Commonwealth Observer Group

Maldives People's Majlis Election, 22 March 2014

Interim Statement by Hon Bruce Golding, Chairperson

**Malé, 24 March 2014** -- The Commonwealth Observer Group is pleased to have observed Maldives' second multi-party parliamentary election, held on 22 March 2014. Since our arrival on 16 March, we have met with relevant stakeholders, including the Elections Commission, political parties, independent institutions, civil society, the Maldives Police Service, Commonwealth High Commissions, international partners, and other observers.

Commonwealth teams were deployed to various areas - Haa Alifu, Haa Dhaalu, Kaafu, Malé, Thaa, Laamu, and Addu - from 20 to 24 March and observed opening, voting, counting and results aggregation processes for multiple constituencies. In making our assessment of the conduct of the elections, we met with local stakeholders including electoral officials and other observers.

We congratulate the people of Maldives in playing their part in holding a peaceful and conclusive election.

#### **Key findings**

Election day was orderly, peaceful and well administered. The competency of polling officials and the presence of observers and media enabled an efficient and transparent process. Voters appeared to be free to exercise their franchise. For ensuring the overall credibility and integrity of polling, the Elections Commission is to be commended.

Voter turnout appeared to be lower in the first half of the day, but picked up towards the close of polling. On the day, the Elections Commission encouraged voters to vote early.

The level of representation of women as candidates was very low, with only 23 women contesting seats out of a total of 302 candidates.

Strong concerns of vote buying were expressed to Observers by a wide range of domestic stakeholders.

There is a notable absence of an effective regulatory framework for campaign financing and spending by political parties and candidates.

The Group was deeply concerned that, in the lead up to the elections, action was taken by the Supreme Court on 9 March to declare the Chair and the Vice Chair of the Elections Commission dismissed from their positions for contempt of court. The removal of two members of the Elections Commission, shortly before the election, inevitably had a negative effect on the overall electoral environment and created a level of uncertainty regarding the electoral process. The Group noted that the dismissals appear to be inconsistent with the separation of powers enshrined in the Constitution.

In relation to this, the Group detected a degree of anxiety and self-censorship by some independent institutions and civil society organisations during the pre-electoral environment. This could have a detrimental effect on freedom of expression and the ability of these bodies to fulfill their mandates effectively.

The Group was disappointed that there is still a lack of clarity regarding inconsistencies between the Maldivian electoral legislative framework and the guidelines issued by the Supreme Court last year. We urge the People's Majlis to review this issue so that all future elections are manifestly conducted in accordance with the Constitution and electoral law.

### **Voting and Counting Procedures**

Commonwealth Observers reported orderly, transparent and well administered polling on election day, including an efficient and transparent opening and closing of polls. Polling officials appeared experienced and confident in fulfilling their roles, and were central to the credibility of the polling process. The high number of female polling officers, including chief polling officers, was significant.

Polling commenced promptly at most of the polling stations observed and the lists of registered voters were, with one observed exception, prominently displayed. Polling stations were well laid out and polling booths facilitated privacy for voters in marking their ballots. Adequate seating was provided for observers and voters waiting to be processed.

Voters appeared free to exercise their franchise, with the secrecy of the ballot provided for. Candidate representatives were present at most polling stations visited. The Police were observed maintaining an appropriate and unobtrusive presence outside polling stations. Media personnel were seen at several polling stations visited, and were able to record proceedings from an

appropriate distance. All stakeholders involved appeared to know and understand their respective roles, and undertook them with great diligence.

Voter turnout was observed to be lower in the first half of election day, but appeared to pick up as the day progressed. The overall turnout appeared to be somewhat lower than for the Presidential Election in late 2013. The Elections Commission held two press conferences during polling hours, in which they encouraged voters to vote early and provided information on complaints received. Their proactive approach is to be commended.

The Group observed that the process for sorting and counting the ballots was very thorough and transparent. It noted, however, that at some polling stations accredited observers, especially those representing candidates, may have had difficulty from the distance at which they were seated in viewing each ballot as it was displayed.

At those polling stations where there were still queues of voters at 1600 hours, care was taken to allow them to cast their ballots before voting was formally closed.

### **The Election Campaign and Political Participation**

The election campaign period was characterised by active campaigning by candidates and their parties. Candidates used traditional methods to galvanise supporters, such as holding rallies and door-to-door campaigning. They also made extensive use of social media, television, radio, newspapers and online media. A few incidents of vandalism were reported in the days ahead of the election.

Strong concerns of widespread vote buying were expressed to Observers by a range of stakeholders. Concerted and systemic efforts need to be made to address this issue prior to future elections.

Overall, the Group noted an absence of a robust regulatory framework on campaign financing and spending by political parties and candidates. While there are limits on expenditure by candidates, this is undermined by the lack of restrictions on expenditure by political parties and third parties.

The Group observed that a number of attractive new government projects and expenditures were announced during the campaign period, which could have had an influence.

There was extensive reporting of the campaign by the media. Local stakeholders expressed concern that coverage by some private media outlets was influenced by political affiliations. Reporting on local candidates was more limited, with media outlets in the main choosing to focus on speeches by party leaders and senior officials.

Disappointingly, few women contested the election as candidates. Only 7.6% of candidates - 23 out of 302 - were women.

## **The Electoral Framework and Election Administration**

The Elections Commission is to be commended for the thoroughness of its preparations, in relation both to election day and its execution of the voter registration process in the weeks prior to the election. In accordance with the electoral framework, the Commission provided adequate time and means for voters to check their voter registration details and to re-register to vote in a different location. The Group notes that only a minute number of complaints were received in relation to the voter register on polling day.

The Maldivian legislative framework, as set out in the Constitution and the relevant electoral acts, provides adequately for the holding of credible elections. The functions of the Elections Commission, as a constitutionally mandated independent institution, are also clearly defined in Maldivian legislation.

In October 2013, the Supreme Court issued guidelines prescribing how aspects of the 2013 Presidential electoral process should be conducted. The Supreme Court later declared that the guidelines would be applicable for all future elections. While it is noted that the guideline requiring all candidates to sign the voter list did not affect the holding of this election, the continuing application of the guidelines is of concern, given that some of the guidelines are inconsistent with Maldivian electoral law and electoral best practice.

The guidelines also restrict the independence of the Elections Commission in executing its mandate. The Group is therefore of the view that the guidelines, and their consistency with Maldivian electoral law, should be reviewed by the People's Majlis as a matter of urgency. This is consistent with the recommendations of the Commonwealth Observer Group to the 2013 Presidential elections.

Lastly, the Commonwealth Observer Group feels privileged to have been a part of this election, and we extend our thanks to the people of Maldives for the warm welcome that we have received.

### **Declaration of Principles for International Election Observation**

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.