



Position Paper

Local Council Election

1. Introduction

Article 4 of the Constitution of the Maldives stipulates that all the powers of the State of the Maldives are derived from the citizens and remain with the citizens. The power to elect representatives through elections ensure that the powers of the state do remain with the citizens. Direct and elected representatives at island and community level will help improve local governance and the democratic system.

The purpose of this position paper is to bring to the attention of the public and relevant institutions some of the major systemic issues within the electoral framework and advocate for changes to the system.

2. Significance of the Local Council Election

A robust local governance system is key to strengthening local democracy. Decentralised administration and governance empowers individuals to participate and contribute to the development of their communities, which is critical for democratic consolidation in Maldives.

Hence, the importance of the strong local council election in contributing to establishing and promoting local governance cannot be emphasized enough.

3. Main issues with the electoral system

3.1. Application of the Supreme Court's guideline

On October 7, 2013, the Supreme Court of the Maldives issued a 16-point guideline to be followed for conducting all elections in the Maldives. Transparency Maldives is of the view that the guideline does not improve on the existing statutory legal framework with regard to the technical aspects of the electoral administration and processes.

In addition to failure of the guideline in improving technical aspects of elections, the guideline has provided room for political parties, candidates and others to obstruct the electoral process without having to seek remedies for their complaints through existing electoral procedures, the judicial system and the electoral complaints mechanism. Moreover, the independence of the Elections Commission of the Maldives to organize and administer elections free from undue external influences has also been undermined.

Recommendation

Drafting and implementing election related laws, regulations and procedures require technical expertise and knowledge. With elections inextricably linked to the people as well as elections being a keystone of the democratic system, and since the mandate of making and amending laws lie with the Parliament, the 16 point guideline issued by the

Supreme Court should be immediately reviewed and authorities should revert to using the existing legal electoral framework. If the guideline was issued to improve on the electoral legal framework, such amendments should be brought to the existing legal framework by the appropriate body, namely the People's Majlis.

3.2. Issue of meaningful representation

The current electoral legal framework of the Maldives allows only the registered or permanent residents in a constituency to vote for that constituency. There are no provisions that allow citizens the right to vote for the constituency where they reside or have actually been living. This has deprived about one third of the electorate who have based their living in Malé and in several other islands of true representation under a decentralised system. This defeats the purpose of a decentralised administrative system where people have a greater say in matters that directly affect their lives.

The only way to achieve true representation would therefore be to allow for people to vote for constituencies where they reside. This is the basic tenet of decentralisation, and it empowers people to hold local councils accountable for decisions that directly affect their lives.

Recommendation

Amend the legal and administrative framework to allow people to vote for their residential constituencies.

3.3. Electoral Dispute Resolution Mechanism

The most serious electoral issues include lack of transparency in political financing, vote buying, misuse of state resources, and violations of the electoral code of conduct for campaigning.

Effective monitoring of and addressing these issues have proven to be a huge challenge for the relevant institutions. While the legal framework needs to be revised to address some of these issues, one of the main obstacles is the lack of a multi-stakeholder platform or mechanisms that promote greater cooperation and coordination between relevant state institutions.

Recommendation

Establish a mechanism for coordination between the Elections Commission, Maldives Police Service, Anti-Corruption Commission, Maldives Broadcasting Commission and the Prosecutor General's Office in resolving electoral disputes, with the People's Majlis taking the lead in establishing legal and accountability mechanisms.

3.4. Ensuring secrecy of the ballot

Article 26 of the Constitution of the Maldives states that every Maldivian citizen above the age of 18 has the right to vote and that such a vote shall be held by a secret ballot. Although secrecy of the vote is a basic right provided by the constitution, with the exception of the Presidential Election, secrecy of the ballot may be compromised for those who have to vote in polling stations away from their registered constituencies. This occurs at polling stations where only a few have to registered to vote outside their permanent constituencies, especially in resorts and industrial islands.

Recommendations

Set up a mechanism and provide legal avenues for ensuring secrecy of the ballot to all citizens who have to vote away from their constituencies.

4. Conclusion

This paper highlights critical and fundamental issues in the local governance and council election systems. Transparency Maldives hopes that this paper creates discussion on these issues and paves way for the implementation of the recommendations to strengthen the local governance and council election systems.