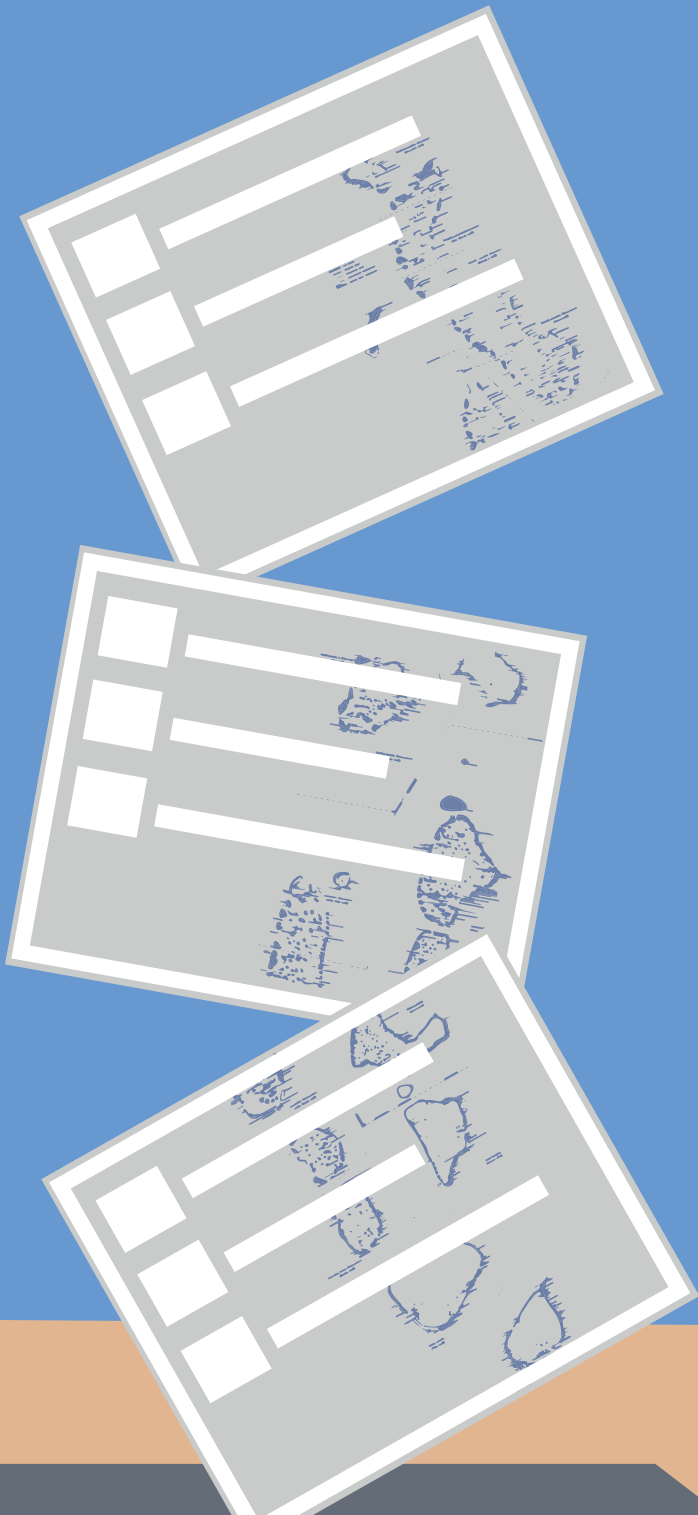


PRE-ELECTION ASSESSMENT

2018 PRESIDENTIAL ELECTIONS
IN THE MALDIVES



Transparency Maldives, a National Chapter of Transparency International, is a non-partisan organisation that promotes collaboration, awareness raising, and other initiatives to improve governance and eliminate corruption from the daily lives of people. Transparency Maldives views corruption as a systemic issue and advocates for institutional changes that will punish and prevent corruption.

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I. EXECUTIVE SUMMARY

While previous Presidential Elections were faced with a sense of hope and optimism for positive change, the electoral environment for the 2018 elections is in direct contrast. Trust in state institutions was found to be extremely low, and **two major areas of discontent** with regard to the upcoming elections were found during the course of research for this assessment.

Firstly, there is a **lack of confidence in the government's intentions to hold elections**. Interlocutors believed that there is a high likelihood that elections would not be held on time as stipulated by law, based on the delays that have occurred in previous elections. Others argued that the government may not hold elections at all, with a possible change to the constitutional term of the president. Secondly, there is **widespread scepticism about the government's genuineness in holding free, fair and inclusive elections**, even if elections are held without any major delays. This is supported by the fact that all opposition leaders are currently in prison, barred from contesting in the elections. In addition, several other political leaders are being prosecuted for various alleged crimes, with their eligibility to contest in elections potentially being taken away. Moreover, opposition activities are severely stifled by the State and institutions with key roles in the conduct of elections have been hijacked by the ruling coalition.

Another major concern going into the elections is the **shortcomings in the electoral legal framework** including issues with complaints mechanisms, campaign finances and discriminatory practices with regard to candidates. The blatant **disregard to the rule of law by all branches of the State** further exacerbates the issues in the current electoral environment. **For a full list of findings, please refer to Chapter 5** of this report.

II. BACKGROUND AND OBJECTIVES OF THE ASSESSMENT

Election observation is a key component of the work Transparency Maldives undertakes to promote electoral integrity and public confidence in electoral processes. To date Transparency Maldives has observed major national-level elections in the Maldives, including the first multi-party Presidential Election in 2008. As with all Transparency Maldives' major election observation efforts, a key component of the election observation programme is undertaking a pre-election assessment to feed into the larger advocacy work the organisation conducts around elections.

The following assessment is hence a continuation of this effort, done in preparation for the 2018 Presidential Elections, with the intention of understanding the pre-election political and electoral environment of the country. The primary objectives of the assessment are to:

- Understand the internationally accepted best practices in the conduct of elections and assess the level to which the Maldives currently meets international standards.
- Assess the level to which the Maldives currently meets these best practices
- Understand the challenges and anticipated issues in conducting a free, fair and inclusive Presidential Election in the Maldives.
- Propose ways in which such challenges and issues can be mitigated in the run-up to the elections.

III. METHODOLOGY

The assessment employed two types of data: secondary data collected through a desk review of existing literature, and primary data collected through fieldwork. The desk review was primarily used to identify best practices, analyse the current legal framework and study issues related to previous elections.

Primary data for this assessment was collected through two methods. Firstly, semi-structured interviews were conducted with key stakeholders to identify current practices, concerns and challenges for the upcoming elections. Semi-structured interviews, while having a set of predetermined questions, have the flexibility of asking follow-up questions from the respondent based on their answers, allowing to delve deeper into the subject area.¹

While the majority of interviews were conducted face-to-face, the Elections Commission requested for questions to be sent in writing, to which written responses were sent back to Transparency Maldives. The full list of stakeholders consulted for this assessment is available in Appendix 1 of this report.

The second method of primary data collection that was used is Focus Groups Discussions (FGDs), which was reserved for the general public. As with semi-structured interviews, FGDs are a suitable method of data collection for this assessment, due to the qualitative nature of the information that is required.² Unlike a random sample survey, the FGDs allowed the participants to elaborate on experience and beliefs, which in turn was used to derive collective views for the purposes of the assessment. In addition, the general public is a larger and more varied group than any of the other key stakeholders and thus it was more cost and time effective to conduct FGDs for the public.

The preliminary plan was to conduct FGDs in four different locations across the country: Maafushi (Kaafu atoll), Gan and Funadhoo (Laamu atoll), Addu City (Seenu atoll), and Kulhudhuffushi (Haa Dhaalu atoll). The locations were chosen based on geographical spread as well as the political leanings of the islands, determined by the results of the 2017

Local Council Elections and the 2014 Parliamentary Elections. However, due to lack of participants, FGDs could not be held in Kaafu Atoll Maafushi.

Efforts were made to include participants from diverse cross-sections of the society in the FGDs in order to get a representative view of the issues at hand. In some cases, however, where it was believed that the mixing of different types of participants may not yield the best results, participants were segregated into groups. The decision to separate participants were based on a number of factors. These included: instances where it was believed that there was a general atmosphere of mistrust that could prevent participants from speaking openly; political polarity and tensions within small islands that could potentially lead to conflict; and instances where men may dominate the conversation. In locations where such a situation may arise, more than one FGD was held. The target number of participants for each FGD was between 10 and 12, but in some locations, this minimum requirement was not met. Nonetheless, where time constraints did not allow for the FGDs to be rescheduled, they were conducted as long as the number of participants were not below six.

Research for this assessment began in January 2018 and the information contained within this report is accurate as of 20 April 2018.

IV. LIMITATIONS OF THE ASSESSMENT

There are two major limitations to the following assessment. Firstly, while multiple efforts were made to include relevant state institutions and representation from across the political spectrum, the following stakeholders were unresponsive to meeting requests: Attorney General's Office, Prosecutor General's Office, Maldives Police Service, Anti-Corruption Commission, Human Rights Commission of the Maldives, and Public Service Media.

While the Elections Commission declined to meet in person, the Commission sent responses to Transparency Maldives' written questions. However, most of the responses by the Commission were extremely brief, often one word answers. Without an in-person interview, there was no opportunity for follow-up questions.

Interviews were also not granted by the parties in the ruling coalition – that is, the Progressive Party of Maldives (PPM), and Maldives Democratic Alliance (MDA). Furthermore, while invitations to participate in the FGDs were sent out to members of the public who are supporters of the ruling coalition, the turnout of those who identified as such was unsatisfactory, skewing the discussions towards the opposition's narrative. In order to mitigate the lack of engagement by state institutions and the ruling coalition, media reports covering statements and activities by these stakeholders were analysed.

Secondly, while the discourse on the electoral legal framework in this report is based on existing legislation, there are plans by the Elections Commission to amend the legal framework, which could affect the findings of this assessment with regard to the law.

V. STRUCTURE OF THE REPORT

The first Chapter of the report looks at the internationally accepted best practices in the conduct of elections, with the aim of analysing these best practices in comparison with the Maldivian electoral situation. Chapter 2 is a study of the political context, starting from the process of democratic transition, to the political events leading up to the 2018 elections. Chapter 3 provides an assessment of the electoral environment and looks at the current practices and situation in the run-up to the elections. Chapter 4 analyses the electoral legal framework, with the objective of understanding the shortcomings in relevant laws and their practice. The fifth chapter presents the findings of the earlier sections of the report, by comparing best practices with the Maldivian situation and provides recommendations for the conduct of a free, fair and inclusive Presidential Election in the Maldives. The final chapter serves as a conclusion, summarising the entirety of the report and its findings.

CHAPTER 1

ELECTORAL BEST PRACTICES

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This chapter aims to understand the internationally accepted best practices in conducting elections. In this respect, this chapter will assess the best practices with regard to various aspects of elections, such as the legal framework, voter education, voter registration, election dispute resolution, candidacy and campaigning. The ultimate goal of this chapter is to provide a baseline for comparison, in terms how much the Maldives meets these best practices in the conduct of elections.

International human rights law has considerably evolved during the last 25 years. As a result, a set of internationally recognized standards have emerged for the conduct of democratic elections. These standards seek, in principal, for the people of every State to have the right to choose their own government and for this expression to be conducted through a secret ballot in free and fair elections, held at regular intervals on the basis of universal and equal suffrage.

1.1 LEGISLATION

International treaties require States to adopt the necessary steps to give effect to fundamental human rights.³ As such, States are expected to formulate legislation to guarantee all rights for citizens to participate in free and fair elections.

The Constitution of the State is expected to define the electoral system and other key aspects of the electoral process. In addition, the form, content and procedures of operation of the electoral process is expected to be detailed in an electoral act.

States are expected to promote the rule of law in the establishment of an electoral legal framework. At the same time, the legal framework for an electoral system is expected to be stable and therefore, no substantial changes may be made to the core electoral laws at least six months prior to elections, without the consent of political stakeholders.⁴

The participatory rights of the citizen is fundamental to the electoral process and must be guaranteed in the Constitution. This includes the rights and freedoms related to the electoral process, as well as fundamental human rights guaranteed in relation for the fulfilment of these participatory rights. Any restriction to participatory rights must be established in law and the extent of the suspension or exclusion of the right must not exceed the degree to which the suspension or exclusion is necessary in a democratic society.⁵

International treaties allow for the derogation of electoral rights in instances that such derogation is necessary. However, this relaxation of human rights may only be imposed following the public announcement of a State of Emergency, in instances only where such action is required and necessary. Any such restriction must also be justified by law and must be open to judicial review.⁶

Core international treaties require states to ensure that all are equal before the law. Electoral law must therefore be enforced equally and must not be arbitrarily applied.⁷ The enforcement of electoral law with proper respect ensures that the political and legal environment remains conducive for a democratic electoral process.

The legal framework of the State is expected to clearly define the state authorities that are authorised to interpret electoral law. The authority and responsibilities of the electoral management body and the extent to which the body may interpret electoral law to administer elections must also be defined in law.⁸ The state must ensure that the legislation does not allow the electoral management body to interpret the electoral law in a way that undermines the legislative process.

A key aspect of democratic elections is that a vote must be periodically held.⁹ The objective of this principle is to ensure that the period between elections is appropriate enough for the authority of the government to be recognized as representative of the will of the people.

An electoral calendar must also be established in law and made public.¹⁰ This electoral calendar must be realistic and allow adequate time for all aspects of the elections to be effectively implemented. It is also common practice to publish well in advance any legislative changes planned for the electoral framework. This is to allow all stakeholders adequately prepare and ensure that their interests are reflected in changes to the electoral law.

The legal framework must ensure at a higher level that in the context of non-discrimination, the right to equal access to public places is also guaranteed.¹¹ The state must ensure in legislation that these rights extend to electoral law and that discrimination and denial of access to public places, including polling and registration stations and other election-related service does not occur during the election period.

International treaties are clear that men and women are entitled to equal rights and freedoms.¹² The State must therefore ensure that this equality is established in the Constitution and that the equality between men and women is respected throughout the electoral process.¹³ International treaties also recognize that any special treatment to achieve de facto equality between men and women will not be considered discriminatory.

International treaties also obligate States to ensure that equality of rights and freedoms without discrimination to persons with disabilities, and such provisions must be enshrined in the national Constitution.¹⁴ Any specific measures to ensure that de facto equality is achieved for persons with disabilities should not be considered discriminatory.¹⁵

In addition, international treaties obligate States to ensure that the legal framework provides for the citizens to have access to effective, timely and enforceable remedy. This right must also be guaranteed throughout the electoral process. This includes the right to challenge election results as necessary.¹⁶

1.2 VOTER EDUCATION

Derived from the universal principle that all people of every State must have the right to elect their own government and that this expression should be conducted through transparent elections, voters must have access to information about their candidates, political parties and the electoral procedures to make an informed decision.

The effective exercise of Article 25 of International Covenant on Civil and Political Rights (ICCPR) requires the implementation of three elements: civic education, voter education, and voter information. Election-specific civic education – a broader concept – are programmes designed to increase the knowledge of civil rights and may include election related trainings for specific professional groups such as the police force, media groups, and political parties. Voter education raises awareness about the electoral process and includes information for the individual voter about registration for the election and voting on polling day. Finally, voter information is typically implemented as short-term programmes that focus on specific electoral information, providing relevant factual information on a specific electoral process to voters on a timely basis.¹⁷

Election awareness and voter education programmes primarily aim to achieve two goals: increase the election literacy of the electorate and thereby ensure that voters are ready, willing, and able to participate in electoral politics and; instil confidence in the electoral process to increase the legitimacy of the election and the democratic process.¹⁸ Voter education programmes should aim to achieve full coverage of the electorate. The programmes should include comprehensive knowledge in a form that is easy to understand and should aim to be comprehensible to new eligible voters, illiterate persons, and people of old age.

These voter education campaigns should focus on the right and eligibility to vote, universal suffrage, the secrecy of the ballot and right to effective remedies during the election process. The programmes must also include practical information about the registration and voting processes.

International treaties require electoral legislation to levy the responsibility of voter education on the Electoral Management Body

(EMB), with the aim of giving effect to electoral rights to citizens. International standards also require the EMB to recognize and allow civil society organizations to conduct voter education programmes. In addition to voter education core messages, organizations and political parties may include in their programmes information on the right to participate in public affairs and the freedom of association.¹⁹

1.3 VOTER REGISTRATION

International standards stress the importance of voter registration²⁰ to be clearly stipulated in law and the national legislation is often expected to include effective procedures for voter registration. International standards require States to assemble and maintain a current and accurate voter list²¹ to ensure the right to vote for all eligible voters is guaranteed. States are expected to maintain transparency in management of the voter list²² and in the conduct of voter registration. This deters chances of multiple voting, guarantees that the rule of one person, one vote is upheld, ensures that the registration process is free from discrimination, and increases public confidence in the electoral process.

To allow the maximum number of eligible persons to cast their vote, international standards demand the EMB to provide adequate time for voters to register.²³

The EMB is required by international standards to establish during the registration process, an effective complaints mechanism, where parties and individuals can file claims of unjustified exclusion or objections of incorrect inclusion of voters.²⁴ It is also deemed that anyone who offers proof of identity must be allowed to rectify incorrect information about their persons.²⁵ The body must in turn, during the allocated time frame, allow for effective remedies for such complaints.

On the principles of equality and non-discrimination, everyone has the right to access any space or service intended for public use²⁶ and this includes facilities used for voter registration.

The national electoral body is therefore required to ensure that voter registration facilities are accessible to everyone. This may need the employment of assistive technologies to ensure that peoples with disabilities have unhindered access to voter registration facilities.²⁷

The national electoral body must ensure that information regarding voter registration is freely available to the public. International treaties urge States to protect the right of access to information and expect States to proactively reveal information of public interest and place them in a public domain.²⁸

Concurrently, the State must ensure that the information collected during the voter registration process must only be used for the purposes the information was collected.²⁹

Observation of the registration process by civil society organizations, citizen observers, and candidates and their agents decrease the chances for fraud and increase public trust in the electoral process.³⁰ International treaties recognize that the observation of elections by these groups increase the legitimacy of the electoral process.

Similarly, the practice of allowing civil society organizations to conduct voter registration without unfair burden or hindrance is also an accepted international standard.³¹ This is generally allowed through the freedom of association and on the principle that States do not unduly restrict the activities of civil society organizations, including the meaningful assistance in the voter registration process.

1.4 ELECTORAL DISPUTE RESOLUTION

Everyone is entitled to the right to seek effective remedy before a competent court of law for violation of fundamental rights and freedoms. As such, effective, enforceable and timely remedies must be available for violation of electoral rights.

The International Bill of Rights prohibits any discrimination at any time and also states that all persons are equal before the law. Hence, the State must also ensure that the dispute resolution process is fair and without discrimination.

In democratic systems around the world, political obligations require states to establish the legal standing of electoral disputes, enact laws with clear definitions of who is entitled to file electoral disputes, define the courts and tribunals that will hear electoral disputes, and establish sanctions for violation of electoral law.³² The States also have a duty to punish parties found guilty of violating electoral laws and procedures.

It is important that the State allow adequate time for the dispute resolution process.³³ This ensures that the rights of the maximum number of eligible voters are protected. It is also important for the State to ensure that the dispute resolution process is comprehensible and easily accessible to all parties.

Transparency and access to information are fundamental rights guaranteed in international treaties³⁴ and therefore, must also be guaranteed in the dispute resolution process. International treaties require States to ensure transparency is maintained in electoral legal proceedings and that judgments, findings and legal reasoning of the judgments are made public.

International best practice also requires that the State security forces behave in a neutral manner throughout the electoral process.³⁵

The degree to which a State is able to resolve elections related disputes greatly influence the credibility and confidence in the electoral process. Therefore, a robust dispute resolution mechanism is vital for the success of democratic elections.

1.5 POLITICAL PARTIES, CANDIDATES AND CAMPAIGNING

Political parties and candidates are key stakeholders in the electoral process. The degree of freedom for political parties and candidates to manoeuvre during elections is therefore an important indicator for the overall integrity of the electoral process.

The conduct of free and fair elections is particularly important to the realization of freedom of association as a fundamental right. Therefore, States must allow individuals and groups to establish and register political parties on their own volition and on equal terms as other similar organizations.³⁴ This freedom of association is particularly important in the context of candidacy and campaigning, as it allows individuals and groups to get organized and put forward their manifestos for elections.

Political parties must be legally recognized by the State and requirements for the recognition of political parties must be clearly defined in law.³⁷ International standards also expect requirements for the recognition and treatment of political parties by the State to be equal, realistic and the terms of recognition not overly burdensome³⁸ and proportionate to the objective of realizing the associated fundamental rights and freedoms.

International conventions require States to protect the right of every eligible citizen to stand for elections and to be elected to public office. Although States may levy certain restrictions on eligibility for public office,³⁹ these restrictions must be objective, reasonable and applied without discrimination.

Disqualification of candidacy due to a legal penalty that is excessive in relation to the severity of the crime or imposing an age limit that far surpasses the legal age of the State, among other similar restrictions, are unreasonable restrictions to candidacy. The right to be elected may only be denied to a citizen after adjudication by a court of law.⁴⁰

A State must not suspend or exclude participatory rights unless the suspension or exclusion is specified in law.⁴¹ In the event that participatory rights may be restricted, the suspension or exclusion of participatory rights must be reasonable restrictions to a degree that is only necessary in a democratic society. The establishment of a clear deadline after which the validity of the candidacy of a candidate may not be challenged is also a recognized international best practice.⁴²

The treatment of all candidates by the State must be equal and fair. The treatment of independent and partisan candidates must also be equal on all grounds and the regulation regarding candidacy must not discriminate between independent candidates and party candidates.⁴³

On the grounds of non-discrimination, all candidates and political parties must be allowed to compete on an equal basis before the law, have equal time and opportunity to campaign before the elections, and monitor the elections without bias or hindrance.⁴⁴

Candidates and political parties must have equal space and opportunity to campaign and compete in elections.⁴⁵ As such, candidates must have equal opportunity to access public facilities to organize their campaigns and equal freedom to share information and idea through public speeches, the media or by other means.

Women should be able to participate and compete in the electoral process on an equal basis with men.⁴⁶ States may also take temporary special measures towards achieving de facto equality of women in freedom of association through steps such as providing electoral financial assistance to women, training women candidates and using quotas to ensure female participation in public affairs.⁴⁷

The procedure for placement of candidates on the ballot paper must also be clearly defined in law to ensure that a particular candidate does not receive precedence or favour.

The entitlement of a fundamental right is limited to the encroachment of another fundamental right. International treaties allow the restriction of freedom of expression when the expression seeks to limit the enjoyment of other fundamental rights. States have a duty, therefore, during election periods and otherwise, to prohibit and punish the advocacy of national, racial and religious hatred that constitute incitement of discrimination and violence.⁴⁸

It is common practice in democratic elections for the State to impose to campaign silence period immediately before the polling day to ensure that voters get to exercise their right to vote without undue pressure and influence.⁴⁹ However, the campaign silence period must be reasonable and it should not be imposed over long periods of time.

Communication between candidates and the public are a central focus during the campaign period. Freedom of assembly⁵⁰ is particularly

important for the candidates to deliver their messages to voters and the right to freedom of assembly, guaranteed in international human rights treaties, obligates the State to ensure that candidates and their supporters are able to freely assemble, organize and participate in campaign activities without undue hindrance throughout the campaign period.⁵¹

Any restrictions to the right to freedom of assembly imposed to a degree only necessary in democratic society, must be free from discrimination. Certain regulatory measures which may require the application for permits prior to assembly must be assessed on equal grounds for all parties and candidates.⁵² Any such restriction must also be open to prompt, impartial and independent judicial review.

International human rights treaties state that everyone is entitled to the freedom of movement within the borders of each State. Freedom of movement for candidates, party representatives and voters is vital for candidates and political parties to organize and spread their messages during the campaign period. States must, therefore, respect the freedom of movement, especially in the context of candidacy and campaigning. Restrictions to freedom of movement may only be imposed as provided by law and to the extent that the restriction is necessary in a democratic society.⁵³

International treaties also stipulate that States must ensure effective and timely remedies and redress for candidates and political parties during the election period. Political parties must have access to competent courts and tribunals specified in law, to address electoral grievances and political parties and candidates must have the opportunity to challenge decisions by the States which restrict their activities.⁵⁴

States must also ensure that the right to security of all persons, including candidates, party members and other electoral stakeholders is guaranteed during the election period. It is widely recognized that female candidates may be subjected to greater threats and intimidation and that States should take special care to ensure that the protection of female candidates is guaranteed. The security forces are expected to behave in a neutral and impartial manner and candidates and political parties are in turn expected to refrain from violence.⁵⁵

1.6 THE MEDIA

The freedom for candidates, political parties and election officials to deliver messages and information to the public is crucial to democratic elections. The media play an important role to influence political public opinion and as a watchdog for public interests during the election period. The manoeuvrability of the media to function freely and without intimidation and undue influence is an important indicator for successful democratic elections.

The State must not use licensing regulation to obstruct particular media outlets as a means to stifle access to information and freedom of the media. While the media must be allowed unhindered access to information, the State must promote a pluralistic media in order to ensure that the public have access to a variety of information during the election period.⁵⁶

The public service media has a responsibility during the election period to ensure that the public is adequately informed in election-related issues. Public service media must also ensure that the information provided to the public is politically balanced.

International treaties specify that the State must guarantee the independence of media outlets and that the editorial independence of media outlets must be ensured.⁵⁷ This also includes the provisions for funding of the media outlets, which must not undermine their independence.

The freedom to openly question the policies⁵⁸ presented by political parties and candidates during the lead-up to elections are a fundamental feature of democratic elections. The State must therefore ensure that sufficient space exists within the media to allow constructive debate during the election period. The freedom to criticize the State without fear of reprisal must be ensured. At the same time, journalists and media outlets must not be held responsible for the duplication of untrue information provided to them by other sources.⁵⁹

Although journalists may regulate themselves, it is best practice for the State to minimize restrictions on the individuals who may practice journalism.⁶⁰ States may often impose accreditation of journalists to regulate access to certain places or events. While such accreditation must only be employed as necessary, the accreditation must be consistent, transparent and carried out in a non-discriminatory fashion.

It is also best practice for the State to formulate regulation to ensure that the ownership and structure of media organizations are transparent and known to the public.⁶¹ This is to enable the public to be aware of potential biases in the information that they may receive.

It is accepted that to ensure the rights of the media during an election period, the establishment of an independent body to regulate election broadcasts⁶² is beneficial for elections. However, the appointment and functioning of this regulatory body must be transparent and the body must be an independent body that acts in a transparent and impartial manner.

International treaties provide for the freedom of expression of all people. While the media is expected to maintain the ethics of the profession and respect the freedom of opinion and expression of others, the State is expected to respect the freedom of expression of the media⁶³ throughout the electoral process.

Freedom of expression may only be restricted under circumstances prescribed by law⁶⁴ and to a degree necessary in a democratic society. Such restrictions include steps taken in the interest of national security, steps taken to protect territorial integrity, steps taken to ensure public safety, steps taken to maintain the authority and impartiality of the judiciary, and steps taken to prevent disclosure of information received in confidence.⁶⁵

Altogether, the free communication of information about public and political issues between candidates and citizens is fundamental to a democratic electoral process and this free communication of information must be guaranteed during the electoral process.

International treaties allow the restriction of freedom of expression when the expression seeks to limit the enjoyment of other fundamental rights. The advocacy of hate speech⁶⁶ during the election period through media or other source, with the objective of inciting religious, national and racial hatred that called for discrimination, hostility or violence must be prohibited by law.

Defamation laws are often used in nascent democracies to curtail freedom of expression in the name of protecting the right to dignity and privacy. While freedom of expression is fundamental to open and democratic elections, the encroachment of a fundamental right on the enjoyment of another is the limitation to the enjoyment of that fundamental right.

States must ensure that claims of defamation are not used to suppress freedom of expression,⁶⁷ silence the media, stifle public debate or to bar criticism of the State. The public and the media must have the freedom to criticize the government and state institutions such as the electoral management body or the security forces. Defamation claims made by candidates and political figures must be subjected to great scrutiny and the laws on defamation must be applied equally on all parties.

The State must establish in law a range of remedies for defamation and the application of criminal law in defamation cases should only be considered in the most serious of circumstances.⁶⁸ The remedies for defamation should be proportional and imprisonment is not considered an appropriate penalty for defamation.

It is common international practice to require the media to publish material on voter education and broadcast political debates⁶⁹ between candidates in the lead-up to elections.

Derived from the need to ensure freedom of expression, international treaties protect the right to transparency, access to information⁷⁰ and the freedom of individuals and media organizations to seek, receive and impart information and ideas. This is crucial to the free functioning of the media during the electoral process and only certain restrictions, to a degree that it is necessary, maybe placed on the transparency and access to information.

International treaties also indicate that to allow individuals and organizations free access to information, the State must proactively and through its own volition, place all information of public interest including information regarding the electoral process, in the public domain.⁷¹

International treaties prohibit discrimination and international law is clear that all are equal before the law. Therefore, the State has a duty in the formulation of its policies to refrain from discrimination and to prevent discrimination.⁷² The media must therefore be free from discrimination in both its regulation and ability to manoeuvre.

The access to media for political parties and candidates must be free from discrimination, and airtime for all political parties and

candidates must be fairly distributed. Similarly, equal visibility in the media for female and male candidates must be ensured during the election period.⁷³

International practice provides that public service media may offer free airtime to political parties and candidates. However, this airtime should be distributed fairly and the time and space provided for such events must be consistent to all parties and candidates.⁷⁴

Best practice often allows public service media to offer paid advertising slots during elections.⁷⁵ These slots must be identified as paid advertising and the costs for the slots must not be unreasonable. The terms for paid advertising should also be consistent to all parties and candidates.

International treaties protect the freedom of movement for everyone at all times. Freedom of movement must be guaranteed to all stakeholders during the election period, including the media. The right to freedom of movement may only be restricted by law and to a degree necessary in a democratic society.⁷⁶

While international treaties ensure that everyone has the right to security of person and should not be subject to arbitrary detention, the right extends to the media,⁷⁷ especially during the election period. As stakeholders of the process, the State is expected to provide special attention to the protection of persons of the media.

Everyone has the right to an effective remedy, as provided by law. As such, a system to file complaints related to the media must be available to the public⁷⁸ and the system must be timely and sufficiently enforceable.

1.7 PERSONS WITH DISABILITIES

The Convention on the Rights of Persons with Disabilities obligates party States to take appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression. The convention also requires State parties to guarantee to persons with disabilities their right to fully participate in political and public life on an equal basis with others, including the right to vote and the right to be elected to public office.⁷⁹

The State must provide in law the right of people with disabilities to vote⁸⁰ and the opportunity to be elected to public office. States must therefore make accommodations for people with disabilities to participate in all parts of the electoral process. As such, polling and registration stations must be accessible to people with disabilities.

The State must ensure that voters with disabilities have access to assistance in voting and the freedom to be assisted by a person of their choice.⁸¹ However, it must be ensured that any assistance provided to voters with disabilities is independent and that the assistance does not infringe the voter's independence to mark his or her own choice on the ballot paper. Special care should also be taken by the State to ensure that the right to secrecy of the ballot for voters with disabilities is duly protected.

The State must also take care to ensure that voters with disabilities understand their right to assisted voting.⁸² Voters who are unable to vote independently should be made aware, through public broadcast or personal messages, that they are guaranteed to impartial assistance on polling day.

Persons with disabilities should have access to information throughout the electoral process, including procedural information, voter education and information regarding political parties and candidates.⁸³ It is common practice for States to also facilitate special education programs to aid the participation of people with disabilities in the election process.

States are obligated by international treaties to employ, to the best of their ability, assistive technologies⁸⁴ for people with disabilities to facilitate voting. States are also encouraged to ensure that voting facilities are friendly to blind people through the use of Braille and other such standards.

International treaties also recognize that women and girls with disabilities are subjected to multiple discrimination and that States must take every possible step to bridge the gap and ensure equal opportunity to girls and women with disabilities.

1.8 CAMPAIGN FINANCE AND CONTRIBUTIONS

Regulations on campaign finance must maintain a balance between the privacy and freedom of citizens and organizations to provide financial support to parties and candidates and to maintain an adequate level of transparency in order to avoid corruption and maintain proper independence of the political entities.

States must establish clear rules and regulations defining the acceptable sources of financial donations to candidates and political parties. These measures must aim to avoid conflict of interest, ensure transparency of donations, avoid bias to party activities and ensure independence of political parties.⁸⁵ As a principle, public laws should aim to prohibit all forms of fundraising that have no connection to the party's fundamental ideals or reasons for the party's existence.

States often prohibit political funding from foreign donors.⁸⁶ However, this does not include contributions from nationals living abroad. With the objective of maintaining a state of equality and levelling the playing field during campaign period, the state may impose reasonable limitations on private funding contributions. These limitations may be imposed as caps on the maximum amount of money that maybe accepted from a single source, or a limit on the total number of private donations that may be accepted by the party or candidate. Most developed democratic nations currently prohibit cash donations as well as donations from anonymous sources to political parties and campaigns.⁸⁷

States often provide support for candidates and political parties as long as the funding does not interfere with the party's independence. States may provide direct or indirect financial support to ensure that the parties remain in operation and that the parliamentary groups are able to function. The formula for distribution of funding by the State to political parties must be equitable, objective, fair and reasonable.⁸⁸

It is common practice for States to impose limits on campaign expenditure during election periods. This limitation is often levied to ensure that the democratic process is not distorted through the exuberant expenditure of a single party and also to ensure that the choice of a free vote of the people is guaranteed. It is therefore important for the State to ensure that all parties and candidates are treated equitably in terms of campaign financing and expenditure.⁸⁹

International treaties require parties and candidates to disclose all funding they receive.⁹⁰ This may be done in regular intervals through reports submitted to the electoral management body which is subsequently made public record. Campaign finance reports are often required to be disclosed in timely and regular intervals and is expected to be detailed and comprehensive yet written in a manner the general public is able to understand. State legislation usually allow election campaign finance reports to be published prior to election day.

In addition to the disclosure of campaign finance reports, state legislation often require parties to maintain records of their expenditure and to make their accounts public. It is expected that the nature and value of donations received by the party are specified in these records and that the party, and also entities related to the party maintain their books and accounts in adequate order.⁹¹ Common state practices suggest that they often require parties and candidates to submit separate reports for campaign operations and electoral activity and that a campaign period is established in law or regulation for the purposes of recording this expenditure.

1.9 MISUSE OF STATE RESOURCES

International treaties highlight the importance of regulation to prevent corruption in campaign finance. The treaties also urge the importance of States to strike a balance between the appropriate amount of regulation to allow adequate freedom for political entities to raise funds and conduct campaign activities.

The State, through appropriate legislation must prevent the abuse of state resources during the campaign period, including the use of material public resources in support of a particular party or candidate.⁹² The law must also be clear regarding the extent of involvement of public and state officials in campaign activities. The coercion to vote for a particular candidate must be explicitly prohibited in law.⁹³

CHAPTER 2

POLITICAL CONTEXT

CHAPTER 2

2.1 THE ROAD TO DEMOCRACY...

For 30 years, from 1978 onwards, the Maldives was under the autocratic rule of President Maumoon Abdul Gayoom. While his presidency saw high levels of economic growth in the country, this was overshadowed by his tight grip on power, with no room for political dissent. The benefits of this economic growth were also unevenly distributed, where the majority of riches fell onto a few close aides and supporters of Gayoom – effects of which can still be seen today, both from a socio-economic and political standpoint. Political parties were not allowed and there was no freedom of media. Any opposition was swiftly dealt with by the notoriously brutal National Security Service, over which Gayoom had absolute power. There were widespread reports of torture and inhumane conditions in prisons and jails, where political opponents were often kept without trial. The former Attorney General of the Maldives, Dr. Mohamed Munawwar, whose tenure in office was between 1993 and 2003, estimates that during this period alone, approximately 45,000 people – almost one sixth of the population – were arrested.⁹⁴

In September 2003, the killing of a 19-year-old inmate at Maafushi Prison sparked an unforeseen and unprecedented level of riots in the capital city of Male'. Although the riots were quickly dismantled by President Gayoom by declaring a State of Emergency and enforcing curfews, both local and international pressure calling for widespread reforms continued to mount. In 2004, Gayoom announced a roadmap for reforms, followed by the establishment of a Constitutional Assembly (People's Special Majlis) to draft a new, democratic Constitution. In 2005, political parties were allowed to operate in the country for the first time in its recent history, with Maldivian Democratic Party (MDP) being the first party to be registered, followed by Gayoom's Dhivehi Rayyithunge Party (DRP).

The process of drafting the new Constitution was a long one, taking four years, with opposing parties often at loggerheads with each other. One of the most contentious issues during this process was the decision on whether the country will follow a presidential or parliamentary system of governance, with the opposition supporting the latter. In 2007, the issue was taken to a referendum, where the public decided on a presidential system, in favour of the ruling party.

During this period, foundations were also laid for other important reforms, such as the establishment of a Human Rights Commission and the dismantling of the National Security Service to form two separate organisations – the Maldives Police Service and the Maldives National Defence Force.

In August of 2008, the new Constitution was finally ratified by President Gayoom, which for the first time in the country's history, made way for the separation of powers and granted fundamental rights to its citizen under its Bill of Rights in Chapter 2. The following month, the country held its first multi-party Presidential Elections, where Gayoom ran in competitive elections for the first time since assuming office in 1978. The first round of elections was inconclusive, with Gayoom and MDP candidate Mohamed Nasheed going to a run-off. The second round of elections saw most parties and candidates who ran in the first round, come out to support Nasheed, which resulted in Nasheed's victory over Gayoom. The elections were widely regarded as free and fair and the transfer of power that ensued was smooth, with Nasheed assuming office on 11 November 2008.

While these changes were hailed as major developments by both the local and international community, the new Constitution and the Presidential Elections were but the first steps for the country in moving towards a full-fledged democracy. Institutions that were deep-rooted in the former autocratic system, such as the judiciary and the security forces still required major reforms while at the same time, new institutions and systems needed to be put in place for a consolidated democratic system of governance.

2.2 ...AND BACK AGAIN

The period between 2008 and 2012 saw some of these positive changes take place. The Maldives' media freedom reached an all-time high⁹⁵ and new oversight bodies such as the Police Integrity Commission were just starting to function. In 2009, the first multi-party Parliamentary Elections were held, where the MDP failed to secure a majority of seats at the People's Majlis. With the opposition now holding majority in parliament, the government's reform agenda was often held back and Nasheed was unable to reach a broad political consensus to continue democratic changes.⁹⁶

Another major setback during this period was a tendency for reactionary lawmaking, where rights only recently granted to the Maldivian citizens were curbed through legislation in response to certain events. For example, reacting to arise in reported child sex offences, the Majlis enacted the Special Procedures in Dealing with Child Sex Offenders Act in 2009, which presumes that in such cases, the conditions required for remanding the accused in custody as per Article 49 of the Constitution pre-exist. This gives judges the discretion to extend detention of the accused over the trial period. The trend of curbing rights continued the following year, with the Special Procedures to Curb Crime Act and the Criminalising Gangs Act, which put limitations on the rights of the accused such as the right to be brought before a judge within 24 hours of detention.⁹⁷

This period also saw the proponents of extreme religious views – who were previously silenced under President Gayoom – use the newly granted freedoms to propagate narrow interpretations of Islam to further their agenda. This was a major hurdle for the Nasheed administration in bringing the Maldives in-line with its international obligations and promoting human rights. This was further exacerbated by the fact that the religiously aligned Adhaalath Party was part of the coalition of parties that helped Nasheed come to power and in return, were given a ministerial portfolio in the country's first ever Ministry of Islamic Affairs.

The party, while being a coalition partner in the government, often rallied against Nasheed's policies, including the apparent strengthening of bilateral ties with Israel and the attempted legalisation of the sale of alcohol in inhabited islands. The party also used its power in government to amend the Religious Unity Regulation, which gave the ministry

authority to limit any public sermons to scholars approved by them, thereby taking sole control over the religious narrative. The ministry also took upon itself to censor religious dissent online, by blocking websites which it deemed to be against Islamic principles. From early on, Nasheed was branded by the Adhaalath and the opposition in general, as laadheenee – a term that is interchangeably used to mean either 'secularist' or 'irreligious.' This line of attack was especially damaging to Nasheed and his party, given the country's deep-ingrained religious identity and the ever-narrowing interpretation of Islamic principles. Nasheed himself has often been criticised for his short-sightedness in identifying the threat of religious extremism. An example of this was when his government failed to take any action against a group of people who attacked attendees at a gathering calling for religious tolerance, even with enough photographic evidence to identify the perpetrators. Instead, a few days after the gathering, a lead organiser was arrested and kept in detention for nearly a month before being released without charge.⁹⁸

Perhaps the biggest threat to the democratic transition in the Maldives came from the judiciary of the Maldives, which still consisted of judges from the Gayoom-era.⁹⁹ According to Article 285 of the new Constitution, those judges in office prior to the ratification of the Constitution, were to remain in their positions and the Judicial Service Commission were to determine within two years, if those judges meet the requirements set forth in Article 149 of the Constitution.¹⁰⁰ The Judicial Service Commission published an evaluation criteria for the judges, which was criticised by many as being an extremely narrow interpretation of Article 149 and against the spirit of the Constitution.¹⁰¹ Ultimately all but six of the existing judges were deemed to be qualified as permanent judges under the new Constitution, ensuring the opposition with complete control over the judiciary.¹⁰²

In early 2012, amidst the infighting between the branches of the State, the government arrested the Chief Judge of Criminal Court, Abdullah Mohamed, claiming that the judge failed to follow due process, disregarded higher court decisions, delayed cases involving opposition members and improperly released individuals suspected of serious crimes. This arrest was widely condemned by various actors, including Civil Society Organisations, the Prosecutor General, High Court, and the Supreme Court. The opposition parties were also highly vocal against the arrest, and in the weeks following the arrest, continued anti-government protests in the streets of Male'.¹⁰³

The culmination of these protests came on the early morning of 7 February 2012, when members of the security forces joined the protestors, citing their unwillingness to obey “unlawful” orders given by the government. The same day, Nasheed resigned from presidency and his deputy, Mohamed Waheed Hassan Manik – who was suspected of being in collusion with the opposition parties – was sworn in as President. Nasheed later contended that he was forced to resign under duress and described his fall from power as a coup d’état. Supporters of MDP poured onto the streets the next day, but were brutally struck down by the police and the military. The remaining one and a half years of President Waheed’s presidency was characterised by political instability, questions about the legitimacy of the government, and the beginning of a trend in consolidating powers in the hands of the ruling coalition. As described in Transparency Maldives’ 2013 Pre-election Assessment, an inquiry into the transfer that was supported by the Commonwealth and the UN did not go a long way in settling the issues surrounding the government’s legitimacy and the country remained highly polarized in the run-up to the 2013 Presidential Elections.

2.3 THE 2013 PRESIDENTIAL ELECTIONS

While the country was in a state of turmoil, many saw the 2013 elections as a way to move forward and settle the questions of legitimacy. In the run-up to the elections, there were questions as to whether Nasheed could contest in the election, given that he was being prosecuted by the State for the arrest of Judge Mohamed. In the end, however, Nasheed was able to take part in the election, running against three other candidates: the incumbent president Waheed, the leader of the Jumhooree Party (JP) Gasim Ibrahim, and Yameen Abdul Gayoom¹⁰⁴ who represented PPM.¹⁰⁵

The first round of elections was held on 7 September 2013, where Nasheed gained 45 percent of the vote, and Yameen came in second with 25 percent. Gasim, who trailed behind Yameen with 24 percent of the vote, filed a petition with the Supreme Court to annul the election, following which the Supreme Court issued an injunction against holding the run-off election as previously scheduled and ordered the security forces to enforce the injunction. On 7 October 2013, the Supreme Court decided by a majority ruling, to annul the 7 September election, citing over 5000 voter discrepancies based on a secret forensic report by the police.¹⁰⁶ The Court also issued a 16-point guideline along with this verdict, that the Elections Commission was to follow in the conduct of future elections. Following the ruling, the Elections Commission announced that the re-run of the first round would be held on 19 October, with a run-off scheduled for 26 October.

The day before the scheduled re-run, PPM and JP petitioned the Supreme Court to delay the election. Although the Supreme Court did not issue a judgement on injunction, the police prevented elections officials from leaving the Elections Commission building with voting materials, which forced the Commission to delay the re-run. The re-run was finally held on 9 November, with a possible second round scheduled for the next day. Incumbent President Waheed, who had only won five percent of the votes in the annulled elections, did not take part in the re-run, but the results remained more or less the same. The scheduled second round was again delayed, when a JP member filed for an injunction with the Supreme Court, who ordered the elections to be postponed to 16 November – five days after the expiration of the five-year term of the incumbent government as per the Constitution.¹⁰⁷

When the run-off was finally held, all major parties, including Gasim Ibrahim's JP, sided with Yameen, who won the presidency with 51 percent of the vote. He took the Oath of Office on 17 November, and a new coalition government was put in place, with ministerial positions being distributed amongst the parties that supported Yameen in the run-off. The transition of power was smooth, especially given the judicial interventions and political instability that marred the elections.

2.4 YAMEEN ABDUL GAYOOM'S PRESIDENCY

While the transition of power was smooth and all parties including the MDP accepted the results of the election,¹⁰⁸ the political landscape still remained turbulent following Yameen's ascent to power. Over the course of the next two years, the Yameen administration had fallen out with almost all of the coalition partners, leaving only the MDA in partnership with PPM. The new government has also been rife with internal struggles, with the administration now having appointed its third vice president and third defence minister. Of these, former Defence Minister Colonel Retired Mohamed Nazim and former Vice President Ahmed Adeeb are currently in prison. Mohamed Jameel Ahmed, the running mate of President Yameen in the 2013 elections, lives in exile.

By the end of the second year of Yameen's presidency, it was becoming increasingly clear that a rift had started to build up between former President Gayoom and Yameen. Disagreements between the half-brothers began to surface in 2014, when Yameen rejected Gayoom's preferred candidate to the position of Prosecutor General.¹⁰⁹ This was followed by Gayoom's public criticism of a number of government policies, including a legislative amendment proposed by PPM to allow the awarding of islands for tourism development without a competitive bidding process.¹¹⁰ In June 2016, amidst denials by the party that there were any internal problems within the party, Gayoom refused to endorse Yameen as the party's presidential candidate for the 2018 elections.¹¹¹ Eventually, this led to two factions being formed within the party, with heated exchanges between members of both factions in the media. To keep control of the party, Yameen filed a case with the Civil Court to remove Gayoom as president of PPM and to establish himself as the party's de facto leader. The court ruled that Gayoom had acted in violation of the PPM's internal regulations, and handed over control of the party to Yameen in the capacity of chief advisor.¹¹² This, however, has not resolved the issues within the party, as both Yameen and Gayoom claim to be the true leaders of PPM and continue to operate as two factions within the party.

In July 2014, the second multi-party Parliamentary elections under the new Constitution were held. The PPM won the majority of seats and with support from coalition members, gained full control over the People's Majlis. Yameen used this parliamentary majority in the following years to consolidate power, curb a multitude of rights and pass draconian laws

in order to persecute political opponents, restrict opposition activities and control the media. Examples of such laws include the Freedom of Assembly Act and the Protection of Reputation and Freedom of Expression Act, effects of which are discussed further in the following sections of this report. During this period, the PPM also pushed through Majlis the Anti-Terrorism Act, which was highly criticised by the opposition due to its wide-ranging definition of terrorism, with fears that the law could be used against the opposition for exercising constitutional rights such as the freedom of speech and assembly.¹¹³ While the ruling party stressed that the law would not be used against opposition members, the following years saw a number of political opponents, and even members of the ruling coalition who had fallen out of favour, charged with terrorism.

In May 2016, with the increased crackdown on dissent and space for opposition activities, exiled political leaders – which included former President Nasheed and former Vice President Jameel – along with representatives of the Adhaalath Party, former Defence Minister Nazim and Former Vice President Adheeb, came together to form the Maldives United Opposition (MUO). The group, established in London, named Jameel as their leader. While Jumhooree Party's Gasim Ibrahim and Gayoom are not directly associated with the MUO, both leaders work together with MDP and Adhaalath Party as a joint opposition coalition.

When Members of Parliament representing PPM withdrew their support for Yameen in favour of Gayoom following the rift between the half-brothers, there was fear within the party that it will lose its majority within the Majlis. To counter this, the Attorney General filed a motion with the Supreme Court to declare that floor-crossing by members or removal from the party is grounds for losing their seats in parliament. On 13 July 2017, when the Supreme Court ruled in favour of Yameen, based on which 12 Parliament Members were declared to have lost their seats by the Elections Commission. However, the matter was far from settled and two more rulings on the issue has since come from the Supreme Court amidst questions regarding the validity of the decision. The first ruling annulled the initial ruling made in favour of Yameen, while the second ruling ordered all state actors to withhold taking any action on the matter while the Supreme Court further deliberates on the matter. However, in March 2018, the PPM rushed an Anti-Defection Act through the Majlis, which declared – in retrospect – that members whose party affiliation changed after 13 July 2017 shall lose their seats. The opposition has since filed a petition at the Supreme Court to nullify the Anti-Defection Act on the grounds that the law is unconstitutional. At the time of writing, a ruling is yet to be issued on the matter.

Yameen's presidency also saw the crippling of independent institutions through State interference to a level that is extremely worrying. For instance, in 2014, when the former Auditor General Niyaz Ibrahim released a report highlighting corruption cases related to the then Vice President Adeeb, the PPM used its power in Majlis to bring amendments to the law regarding the Auditor General, in such a way that a new Auditor General had to be appointed. Niyaz was replaced by the brother of a person who was also implicated in the corruption scandal along with Adeeb. Likewise, complaints of major cases of alleged corruption – including ones that involved the President himself – that were filed at the Anti-Corruption Commission have so far either come to no conclusion or been cleared by the Commission. Criticism has also been directed at other independent institutions such as the Human Rights Commission and the National Integrity Commission, for having failed to act upon various infringements of rights by the State.

Perhaps the most surprising turn of events in the Yameen presidency came when the Supreme Court issued a ruling in favour of the opposition parties, by unanimously ordering, amongst other things, the release of opposition leaders who were incarcerated on various charges since 2013, citing irregularities with their trials. While the opposition parties gathered to call for the implementation of the ruling, the government issued various statements, saying that it was studying the ruling and working on implementing the order as soon as possible. The Police in the meanwhile, tweeted that the Supreme Court verdict will be upheld, before the government sacked the Commissioner of Police Ahmed Areef, whose replacement was also sacked a few days later.

On the evening of 5 February 2018, five days after the ruling, the President declared a State of Emergency for 15 days, withholding a number of fundamental rights¹¹⁴ and suspending various clauses of the Constitution including Article 145 (c) – which in effect suspended the Supreme Court and its powers. In addition, the President also suspended the Criminal Procedure Code and The Judges Act. Various lawyers and commenters argued that the suspension of constitutional provisions, beyond the fundamental rights as allowed for by Article 255 of the Constitution, was illegal. Furthermore, critics noted that the conditions as provided for by the Constitution for a State of Emergency, did not exist in the Maldives and that its declaration was thus beyond the scope of the law.

The government, however, were undeterred by such commentary and later that evening, using the security forces, stormed the premises of the Supreme Court and arrested Chief Justice Abdulla Saeed and Justice Ali Hameed. It was revealed by the president the next day that the Justices

were arrested on suspicion of accepting bribes from the opposition and implied that this was what influenced the Supreme Court to rule in favour of the opposition. The same day, the President withdrew the suspension of the Supreme Court from the declaration of the State of Emergency and shortly afterwards, the three remaining Justices issued a ruling which nullified certain clauses in the previous ruling, including the order to release opposition leaders. Opposition members and some prominent lawyers, however, argue that this ruling is unconstitutional, as the Constitution states that the Supreme Court bench should include the Chief Justice, who at the time of the ruling was in police custody. There were also allegations that the three Justices were now being forced to rule in favour of the government under duress.

While the Constitution stipulates that a State of Emergency must be approved by the Majlis within two days of its announcement if it is not in recess, the government contended that the Parliament was not in session. In this situation, the Constitution states that the declaration has to be submitted to the Majlis within 14 days of its announcement. On 20 February, a day after the 14-day deadline for submission, the declaration was presented to the Majlis – a sitting which was boycotted by opposition MPs. According to Article 87(b) of the Constitution, any matter decided upon by the Majlis which requires public compliance needs more than half of the total membership to be present in the Majlis sitting. The boycott meant that the ruling PPM-MDA coalition did not meet this requirement. However, the Speaker of the Majlis decided to go ahead with the vote, extending the State of Emergency by a further 30 days and referring the matter of Article 87(b) to the Supreme Court. The court subsequently ruled that an extension of a State of Emergency does not fall under the Article in question and declared the extension constitutionally valid.

During the 45 days of the State of Emergency, the opposition gathered on the streets of Male' every day and were met with riot police and the military, who were seen to have used extensive and disproportionate force to disperse the protesters – and even the media. A large number of arrests were also made, including activists, opposition leadership, members of parliament, family members of opposition members and media personnel. In addition, the State of Emergency period also saw a large number of police and military personnel detained, including the former Police Commissioner, several Special Operations officers of the police and a number of Special Protection Group officers from the military.

High-profile arrests under the State of Emergency include: Maumoon Abdul Gayoom; his son Faris Maumoon who is a member of parliament; Gayoom's son-in-law Mohamed Nadheem; Gasim Ibrahim's son Ibrahim Siyad Gasim; the leader of MDP's parliamentary group Ibrahim Mohamed Solih; and Former Commissioner of Police Ahmed Areef. The detainees were denied basic rights such as regular meetings with lawyers and the right to be brought before a judge. There was even a case where the lawyer of the Chief Justice found a hidden tape recorder in her meeting with the Chief Justice at the custodial facility. Before the end of the State of Emergency, the high-profile detainees were charged with terrorism and their remand was extended by the Criminal Court.¹¹⁵ While the State of Emergency has since been declared over, numerous complaints regarding the treatment of detainees - including the lack of clean drinking water, inhumane conditions in jail cells, and the lack of access to healthcare - have been raised by the opposition and family members of the detainees. In addition, it was reported that the police refused family visits, stating that State of Emergency detainees are not eligible for such visits. However, it should be noted that family visits for the same detainees were allowed even during the State of Emergency.

Given this landscape, it is unsurprising that the public trust in all branches of the State has been diminishing and the dominant perception is that corruption is ubiquitous within the system.¹¹⁶ Furthermore, international observers such as the EU have noted their concern with regard to the events in the country, highlighting issues such as the limitation of democratic space for opposition, civil society and media; political interference in the judiciary; the conduct of trials without due process in violation of international standards; and the growing tensions between political actors.¹¹⁷ The following chapter further explores the current political situation and analyses the ways in which it affects the electoral environment in the run-up to the 2018 Presidential Elections.

CHAPTER 3

THE ELECTORAL ENVIRONMENT

CHAPTER 3

3.1 AN UNEVEN PLAYING FIELD

A major concern raised by almost all interlocutors consulted for this report was that the opposition did not have the same space that the ruling party enjoys in conducting political activities. As noted previously, and discussed further in the legal framework section, the right to peaceful assembly was curtailed to an extent where it became practically impossible to conduct political gatherings in accordance with the Right to Peaceful Assembly Act. Under the law, the constitutional provision that no prior approval is required from the State before peaceful gatherings, no longer applies. Where requests were made to the relevant authorities asking for such permission, opposition members interviewed for this report noted that it was never granted. Likewise, the interlocutors noted that state-owned venues were also never given to opposition parties to hold meetings and rallies, even upon multiple requests. An observation of the latest string of protests by the opposition shows that the protests were generally peaceful, but always broken up by the police – often with undue force – stating that such gatherings were illegal under the Peaceful Assembly Act. Even calling for political gatherings have been retaliated with fines for parties, and in more extreme cases, criminal charges.

Various interlocutors across different islands, including Male', also noted that banners, flags, speaker systems and vehicles used by the opposition for their rallies are very often confiscated or removed by the police, obstructing the potential for opposition activities. It was also noted that in some cases, even blank fabric and canvases that could be used for banners have been confiscated from party premises by the police, especially in the islands ahead of visits by state officials. Opposition members highlighted that this was often done with court warrants, even though it was unclear which laws or regulations were invoked in order to issue such warrants. In addition, there were a number of cases recently reported in the media, where the police removed MDP flags that were hoisted on some islands, citing a recent regulation by the Home Ministry which states that no flag can be hoisted above the national flag. The media also recently reported a case where a 40-strong police force dismantled a meeting hut in the island of Ihavandhoo, but the reasons for doing so were again unclear.

When it comes to the ruling party, however, the picture is entirely different. Various interviewees and participants at focus group discussions noted the fact that the ruling party is able to hold its activities on a much wider scale, without any obstructions, or regard to the Peaceful Assembly Act. In fact, ruling party activities are facilitated by the police and other authorities, by providing security and road closures if required. The carnival area in Male' where large political rallies were held by all parties since the democratic movement began, has only been used by the PPM-MDA coalition in recent years. The other parties, as noted above, have not been granted permission to use the venue for political activities. During the State of Emergency period, where the right to assembly was suspended, the ruling coalition were still able to hold a number of rallies, including one in which the President officially announced his campaign for the presidential elections. The coalition contended that the rallies were held with consultation with the Attorney General but the opposition countered this argument, raising questions about the Attorney General's authority in granting certain rights to certain groups of people.

Another issue that was highlighted by opposition parties was the fact that yearly state finances for the parties have been withheld by the Elections Commission, citing various administrative issues. Parties contended that this was something that is deliberately done by the State to cripple party activities and to weaken their performance in elections. For example, one party noted that they were not able to fund travel for many candidates running in previous elections due to financial constraints and that the candidates had to self-fund many aspects of their campaign. In addition to the withholding of party funds, it was also noted that the Elections Commission often slaps the parties with huge fines over various alleged violations, without giving the parties a chance to speak in their defence. This puts an extra burden on the parties' already constrained finances, greatly limiting their activities. While the withholding of funds by the Elections Commission is not limited to opposition parties, some interlocutors noted that the ruling coalition are much less affected by this, alleging that their activities are financed by misappropriated state funds and supplemented by the use of other state resources.

Given this setting, many of the interlocutors raised serious concerns with regard to the ability for the opposition parties to conduct campaign activities in a free, fair and equitable manner. The general belief was that once the campaign period kicks off, given the current state of affairs, space for the opposition to campaign would be highly limited. By contrast, it was noted that President Yameen will have an unfair advantage over the other candidates in conducting campaign activities.

This advantage does not only stem from the lack of space and opportunity for opposition activities, but also includes a multitude of other related issues, such as: the invalidation of opposition candidacies; the misuse of state resources by the incumbent – including the state media; widespread acts of vote buying; and the level of undue influence on the Elections Commission and other state institutions that have a role in the conduct of elections. These issues will be further discussed below.

3.2 INVALIDATION OF OPPOSITION CANDIDACIES

At the time of writing this report, no opposition leader is eligible for candidacy in the upcoming Presidential Elections, either due to changes to the Constitution, or for having been found guilty of a crime and sentenced for a period exceeding 12 months. While the ruling coalition and its supporters argue that there are valid legal reasons for the disqualification of the candidacies, the circumstances under which these "legal reasons" arose are questionable. This is especially true, given the irregularities in the trials of those political leaders who have been convicted of a crime, as noted by various international and local observers. The reasons for ineligibility for potential opposition candidates are explored below.

MOHAMED NASHEED - MALDIVIAN DEMOCRATIC PARTY

As noted previously, even during the 2013 elections, there were concerns that Nasheed would not be able to compete in the elections as he was being prosecuted for the arrest of Judge Abdullah Mohamed. While this did not turn out to be the case, in early 2015, Nasheed was arrested and charged under anti-terrorism laws for Judge Mohamed's arrest. The trial that started the very next day after his arrest was marred by due process violations and inconsistencies and lasted less than three weeks before a verdict was passed.¹²⁰

The three-judge bench unanimously found Nasheed guilty, and sentenced him to 13 years in prison. Nasheed spent the next 10 months between prison and house arrest, before being allowed to travel to the United Kingdom for medical purposes. He has since not returned to the country and it was during this time at exile that the opposition members convened to form the MUO.

In October 2015, the UN Working Group on Arbitrary Detention called upon the government to release Nasheed, after finding that there was no basis, both under international and local laws, to keep him in detention. The government however, has not taken any action regarding this request by the Working Group and remains firm in their stand that Nasheed's conviction was indeed within the law. The Supreme Court, which upheld Nasheed's verdict in June 2016, also does not seem to have taken into account the Working Group's findings.

On 16 April 2018, the UN Human Rights Committee, following complaints lodged by Nasheed, ruled that his imprisonment was illegal and that Nasheed's right to candidacy must be restored. The Committee also asked the government to inform it within 180 days, all actions taken to implement the decision. As with the Working Group's decision, the government rejected the ruling by the committee and maintained that Nasheed would not be eligible for candidacy due to his conviction in 2015.¹²² With the 13-year sentence still remaining in place, Nasheed is currently barred from contesting in the 2018 Presidential Elections.

GASIM IBRAHIM - JUMHOOREE PARTY

Gasim is legally barred from contesting in the 2018 Elections for two reasons. Firstly, in June 2015, an amendment was made to the Constitution, to its Article 109 (c) which stated that persons elected as President and Vice President has to be at least 35 years of age. The amendment reduced the lower age bracket to 30 and introduced an age cap of 65 years, which previously did not exist. The change, at the lower bracket, allowed President Yameen to replace his deputy Jameel with then Tourism Minister Adeeb. The upper limit on the other hand, served to disqualify the candidacy of certain politicians who may run against Yameen, including Gasim who would be 68 by the 2018 elections. It should be noted that the amendment, which required a two third majority in Parliament, was supported by both MDP and Gasim's own JP. While his stance on the matter has now changed, prior to the amendment, Gasim had announced that he would no longer be running for presidency.¹²³ There are, however, speculations that Gasim was forced to comply with the government's proposed amendments due to pressures put on his businesses by the State.¹²⁴

In addition to the constitutional amendment, Gasim is also barred from candidacy as he is currently serving a three-year sentence for attempted bribery.¹²⁵ The alleged bribery charge was raised when Gasim, during a speech, pledged to help in the re-election of parliament members who voted in favour of the opposition on a matter relating to the impeachment of the Speaker of the Majlis. Gasim was sentenced in absentia in August 2017. On the afternoon of the sentencing, Gasim collapsed inside the courthouse during the hearing and was hospitalized. The court, however, decided to go ahead with the trial and passed the verdict later that night. Citing medical documents provided by Gasim's doctors, the court's ruling mandated the State to facilitate his treatment overseas.¹²⁶ However, the State delayed this for nearly two weeks, even putting to appeal the clause regarding his travel for treatment. Gasim was finally allowed passage to Singapore for a period of ten days, but he has since not returned to the country¹²⁷ and currently resides in Germany.

SHEIKH IMRAN ABDULLA - ADHAALATH PARTY

Like Gasim and Nasheed, Sheikh Imran Abdulla, the leader of Adhaalath Party, is also ineligible for candidacy under current circumstances. Imran was convicted under the Anti-Terrorism Act, for allegedly inciting violence during a speech on 1 May 2015 at the May Day rally. While Imran's lawyers maintained that the prosecution was unable to prove that his speech incited violence, the judge passing down the 12-year sentence, said that Imran had violated the Freedom of Assembly Act and also encouraged violence, which amounted to terrorism.¹²⁸

Sheikh Imran's case was filed with the UN Working Group on Arbitrary Detention in April 2016 – two months after the trial – and the Working Group made a decision on the matter in early 2018. The Group, much like in Nasheed's case, noted several irregularities in the trial and declared that Imran was prosecuted against local and international laws, calling for his immediate release.^{129t}

MAUMOON ABDUL GAYOOM

Former President Gayoom, who is currently 80 years of age, is also barred from candidacy in the 2018 Presidential Elections under the same amendment to the Constitution which prevents Gasim from running. In addition, Gayoom, who was arrested under the State of Emergency, is currently being charged with terrorism and obstruction of justice. If found guilty, Gayoom could face a prison sentence of over 12 months and will thus be ineligible for candidacy on these grounds too.

In addition to the political leaders discussed above, a number of other politicians and activists are currently either serving sentences, or being prosecuted for various alleged crimes that could invalidate their potential candidacy. Given this bleak landscape for opposition candidates, the joint opposition has been in discussion for some time about the possibility of fielding one candidate to represent the opposition. On 9 April 2018, at a press briefing by the joint opposition, it was announced that an agreement had been reached on a single candidate and that the name will be announced in due time.¹³⁰ However, the fielding of a joint opposition candidate seems to be an option of last resort for the opposition. The primary objective for the opposition parties appear to be to work towards the reversal of the constitutional amendment and overturning the sentences of opposition leaders so that they would be eligible to contest in the elections.

The media also recently reported certain recommendations by Nasheed to the MDP National Council, with regard to fielding a single candidate.¹³¹ The four-point recommendation was as follows:

1. If both Nasheed and Gasim can contest, Nasheed should run for presidency with Gasim as his running mate.
2. If Gasim cannot contest, Nasheed should be the candidate with a running mate from JP.
3. If Nasheed cannot contest, Gasim should be the candidate with a running mate from MDP.
4. If neither Nasheed nor Gasim can contest, the opposition candidate should be an MDP representative, with a JP running mate.

While it is unclear if these specific recommendations are agreeable to other parties, the parties maintain that there are currently no propositions that could cause conflict between the parties.¹³²

Based on the current trend in persecution and prosecution of opposition leaders, several interlocutors highlighted their concern that even a single candidate fielded by the opposition could be charged with a crime and barred from candidacy. They noted that even campaign activities could be interpreted by the government as violations of the Peaceful Assembly Act, the Protection of Reputation and Freedom of Expression Act, or a number of other laws, to prevent the opposition from contesting in the elections.

As noted in Transparency Maldives' 2013 pre-election assessment report,¹³³ the organisation is of the view that credibility of elections and democratic representativeness hinge on the ability for all potential candidates to contest in elections through a free and fair process. If this condition is not met, the integrity of the electoral process and thus the whole democratic system will be called into question. This is especially concerning given that a free and fair election is one of the most important factors that could help alleviate the country's political situation in its current state.

3.3 MISUSE OF STATE RESOURCES

Allegations of misuse of state resources has been rife in all elections across multiple governments. Historically, the most common complaints include the inauguration or completion of government projects in time for elections – which is often used as a campaign tool for incumbent parties – and the State's use of its buildings, vehicles and human resources for campaign activities. This practice still continues and various instances have already been observed in the run-up to the upcoming elections. Among the interlocutors consulted for this report, state employees and people who know employees of the State personally, noted that they are often forced to attend rallies organized by the ruling coalition, with threats of termination or other forms of retribution if they fail to do so – including transferring dissenting employees from their resident islands to other parts of the country.

One recent example of this was in Addu City, at a rally headlined by the First Lady. Several interlocutors from the city noted that employees and resources of state-owned companies were used to prepare the venue for

the rally. Furthermore, state employees, including teachers, were misled into attending the rally, by stating that the event was not organized by the PPM but was rather a “national” event. However, attendees found out at the event that it was indeed a campaign activity, with the purpose of promoting President Yameen and the party for the 2018 elections.

Another way in which the State abuses its resources for gain in elections is through regulatory manipulations. Examples of these have been discussed above, such as the Freedom of Assembly Act and the Protection of Reputation and Freedom of Expression Act, which limit opposition parties' ability to conduct campaign activities. The Political Parties Act of 2013, through which smaller parties were dissolved, is another instance of regulation being used to limit space for political opposition. Additionally, as we have seen, constitutional amendments were also brought to prohibit certain individuals from running in elections.

An interesting but immensely worrying point that was highlighted by some interlocutors was the potential for the State's abuse of institutional resources, especially the information the State held about its citizens. For instance, it was noted that the government could deliberately keep the names of deceased persons on the voter list, and provide ID cards in their names for votes to be cast. It was alleged that this is one reason why the Elections Commission makes it difficult for parties to verify the voter list, by not including ID card numbers in the list and providing only a hard copy of the list for verification. Another potential scenario that was brought up is that the Maldives Immigration holds information about people who reside outside the country, which could be cross referenced with Elections Commission data to find out whether or not they are registered to vote in any polling stations. This information could be used by the government to vote in the name of those people who live outside of the Maldives and are not re-registered to vote at any ballot box in or out of the country, by providing fake ID cards to agents of the ruling coalition. While these are only speculations, parties consulted for this report stressed that given the government's actions and disregard for due process, there is a very real possibility that it may in fact use such information to their advantage in the manner described.¹³⁴

Another way in which the State misuses its resources in institutions, is by manipulating the institutions themselves, through appointing or ensuring the election of party loyalists to positions of authority. Transparency Maldives' 2016 report on the appointment and dismissal of members to independent commissions highlights a number of such instances, where persons who are much more qualified for these positions are foregone in favour of those who support the current

regime – often with great disregard to due process.¹³⁵ This practice is seen at all levels of the State and some interlocutors alleged that the recent appointments to the High Court were also made in the same vein. They noted that this was especially concerning in an electoral context, where the High Court is the first judicial tier in adjudicating elections-related complaints. In addition, the board of the state broadcaster also consists of persons who support the government, with interlocutors noting that one board member is often seen as a presenter at numerous rallies organised by the ruling coalition. The same concerns were raised against the latest appointment to the Elections Commission, which is discussed further in the following sections of this report. As one interlocutor stated, the government is no longer even trying to maintain a pretence of fairness in its appointments and this has created a high level of mistrust in state institutions amongst the general public¹³⁶ – a factor that will no doubt raise questions about the credibility of the upcoming elections.

Given the prevalence of the misuse of public resources and its continued practice, it is highly concerning that the legal framework falls short in addressing the issue constructively. The electoral laws and its shortcomings with regard to the misuse of public resources are discussed further in the Legal Framework Chapter of this report. In addition to the above-mentioned ways in which state resources are misused for electoral purposes, there are several reports of such misuse that falls under vote buying, which is looked into in the following section.

3.4 VOTE BUYING AND CAMPAIGN FINANCE

Election observation missions by both local and international organisations over the past decade have noted vote buying as a major issue across all elections in the country. Anecdotal evidence also suggests that vote buying and influencing votes through patronage has been seen in the country even before the democratic transition. However, it was only recently that the occurrence has been looked at from an academic viewpoint and research on the matter is still nascent. In 2014, International Foundation for Electoral Systems (IFES) published a study on the issue and found that vote buying is a serious issue in the Maldives that threatens to undermine the democratic process in the country. Over a third of the respondents of the study said that they have either personally been offered money or gifts, or witnessed such offerings made to other people, in exchange for their votes. The most common form of vote buying is said to have been the offering of cash, which ranged from MVR 4,000 (USD 259) to MVR 20,000 (USD 1297).¹³⁷ The study also found that the most common method used by perpetrators to ensure that ballots are indeed cast in their favour, was ballot marking. In addition to this, during Transparency Maldives' 2013 election observation, an increased number of people were found to have openly shown their ballot papers at the voting station, before casting their vote.¹³⁸ Several interlocutors, especially those from the public, reported that the requirement to show votes or place marks came about because a number of people accept money and gifts – sometimes from multiple candidates – but still vote on their own accord.

The information collected from the interviews for this report confirms these findings, with interlocutors noting that influencing of votes through patronage is a major occurrence in the country that is practiced across the political spectrum. In addition to buying votes directly with cash, numerous other forms of vote buying were also discussed, which includes the exploitation of various vulnerable groups in society in exchange for their vote. For instance, a number of interviewees noted that candidates and parties often provide drugs to voters, especially the youth and those suffering from addiction. Candidates and parties are also said to provide funds for families who require healthcare and other necessities, but cannot afford it on their own, to compel them to vote in a certain way. In addition, there were several reports that candidates offer money to people who are known supporters of the competing candidates, in exchange for withholding their national identity cards until the polls are closed, in order to prevent them from voting.

One of the most notable allegation with regard to vote buying by the current government came through its misuse of authority for electoral gain in granting flats under a means-tested social housing scheme in 2017. There are several reports in the media,¹³⁹ which were also further corroborated by various persons who were consulted for this report, that applicants for the housing scheme were called up by the First Lady's office to confirm their political allegiance. The recipients of these phone calls were asked what they think of the current government, whether they would vote for the ruling coalition and whether they would actively campaign for the incumbent in upcoming elections. These allegations are backed by the government's refusal to disclose the names of those people who were granted housing or the points they scored under the scheme's criteria, and a list that was leaked in February 2018 which included details purported to be about the recipients of the flats. The list contained a subsection titled the "Minister List" where people who were clearly ineligible for flats were nonetheless granted housing under the scheme. The government initially brushed the list off as fake, but later said they were investigating the leak.¹⁴⁰ Several media outlets also cross-checked the list by calling persons on the list and based on their findings, argued that the list was indeed authentic.

Interlocutors consulted for this assessment noted that the acts of patronage as described above occur openly and with impunity. While some argued that this was due to the weaknesses in campaign finance regulation and the lack of its enforcement by the authorities, others noted that they did not even know candidates had to submit a report on their campaign expenditures to the Elections Commission.¹⁴¹ This lack of knowledge by the public on the available safeguards against excessive and illegal campaign expenditures limits the ability of the people to hold politicians accountable and allows the continuation of this practice. A more detailed look at the legal framework surrounding campaign finance regulation can be found in the next chapter of this report.

While some interlocutors said that those who sell their votes do so because they are disillusioned by the system and have no faith that their vote will make a difference, this finding is in conflict with the 2014 IFES study, which found that 80 percent of respondents believed that their votes had an influence on the decision-making process in the country. This could be indicative of a change in public perception with regard to political participation and voting and hence, further study is required in this area. The other major reason for vote selling that was noted by those consulted was the weak economic standing of majority of Maldivians.

As discussed in the previous chapter of this report, the bulk of the benefits from the economic growth that took place since Gayoom's presidency – especially with the growth of the tourism industry – has only fallen on a very few individuals. This means that the government is not required to conduct fiscal bargaining with the majority of the country's citizens, but rather with the individuals who control tourism resources. In addition, the availability of cheap foreign labour with unsatisfactory regulation disempowers the citizens' power in bargaining with businesses and elites in society.¹⁴² Thus, most people still live on paycheque-to-paycheque, with major struggles in meeting even the most basic necessities such as housing, healthcare and education. Given this landscape of economic vulnerability, it is especially easy for politicians to sway people's votes through patronage during the election period. Furthermore, some individuals noted that a lack of trust in candidates that they will fulfil their campaign pledges or even be in contact after the elections are over, is what drives people to sell their votes, as it is the only way for them to benefit from politicians.

What is clear from these findings is that drastic changes need to occur in order to reverse this long-standing culture of vote buying and selling. These include changes to law to close any loopholes in campaign expenditure, increase transparency in campaign finance, improve the enforcement of the law, and increase public awareness on the issue. In addition, there also needs to be a change in the culture where the people have to depend on direct contributions from politicians to meet basic needs. Instead, both the public and politicians themselves need to understand that the role of politicians is not to provide for the constituents from their own pockets, but rather through equitable systems that are put in place through legislation and policy with the aim of closing the wealth gap that has been built up over the last several decades.

3.5 THE ELECTIONS COMMISSION

While an official date for elections has not been announced yet, the Elections Commission on 20 February 2018, told the media that it has begun preparations to hold the Presidential Elections in September 2018, in conjunction with the relevant authorities. The Commission has also stated that it expects no delays to the Presidential Elections, unless there is a ruling from a court of law ordering a delay. However, all parties and some councils consulted for this assessment raised concerns that they have not seen the Commission prepare for the elections in the manner that was seen in previous elections. One example of this given by a council was the lack of communication between the Commission and the council with regard to the compilation of the voters list.

In early April 2018, the Commission announced that it will be holding a meeting with all political parties to discuss preparations for elections. While the meeting was initially planned to be held together with all parties, the Commission has since announced that it will instead meet with individual parties. Opposition parties, however, have said that they intend to boycott the meeting, alleging that the purpose of the meeting is to protect the interests of President Yameen and to gather information from opposition parties for the benefit of PPM.¹⁴³

This leads us to the most contentious issue with regard to the Elections Commission, which is the matter of its independence – especially with the recent appointment of the Commission's new Chair. On 6 March 2018, Ahmed Shareef was appointed to the Commission, and was subsequently named as its Chair. Shareef is a former Member of Parliament representing PPM and was serving as the Managing Director of Fenaka Corporation – a state-owned utility company – prior to his appointment to the Commission. Before the formation of the PPM, Shareef also served as the Secretary General of the People's Alliance party, which was led by President Yameen prior to the formation of PPM. He is a close aide of the president and an active campaigner for the government, having been in attendance at various ruling coalition rallies right up to his appointment. He replaced the former Chairperson Ahmed Sulaiman, another close associate of Yameen. After Sulaiman resigned from his post as Commissioner and Chair of the Elections Commission, he was appointed as a commission member of the National Integrity Commission. It is also noteworthy that Shareef was the only applicant whose name was sent to the Majlis by the President for their approval.

The appointment was highly criticised by the opposition, who claim that any elections held with Shareef at the helm of the Commission, will not be free and fair. Some interlocutors of this assessment also alleged that Sulaiman was replaced by Shareef because the President trusts Shareef more to follow his orders in doing what is required to sway the elections in the ruling coalition's favour. Shareef, however, staunchly denied these allegations saying that he will not be influenced by his previous professional responsibilities or his political affiliations and that the Commission's independence should be measured only by its adherence to the law.¹⁴⁴ Of the interlocutors consulted for this report, those who support the current government maintain that the former Elections Commission Chair in charge of conducting the 2013 Presidential Elections is a supporter of MDP who was recently seen at an opposition rally in Colombo. They argued that if the opposition did not have a problem with the former Commissioner, they should also not have a problem with Shareef's appointment. It should be highlighted that Shareef's appointment is coming at a time where public trust in the Elections Commission is falling drastically. A comparison of Transparency Maldives' 2013 and 2015 Democracy Survey shows that respondents who were confident in the Commission fell from 74 percent to 56 percent – and given the current circumstances and the events of the 3 years since the last survey, there is a high possibility that these numbers may be even lower.

Trust in the Commission is further affected by the conduct of the 2017 Local Council Elections, which critics believe is a prelude to what we may see in the 2018 Presidential Elections. For instance, a media organisation consulted for this assessment highlighted that they were not granted monitor status for observation and reporting on election day, saying that application forms were not received by the Commission. The media organisation in question, however, contends this claim by the Commission and argues that it was done to prevent the reporting of any misdeeds. A similar report was made by a civil society organisation, whose observers were not accredited, again due to the Commission allegedly not receiving application forms.

Civil society organizations also reported that they were not included in the National Advisory Committee convened ahead of the 2017 Local Council Elections. This includes Transparency Maldives, who had been a member of the committee in all other elections since 2008. While the candidates' representatives from the parties interviewed for this assessment were included, they also noted that the functioning of the Committee was highly one-sided, with state agencies dominating all decision-making. According to one political party interlocutor with

experience at the Committee, some discussions were only carried out at the Committee for namesake. One such instance was when the Elections Commission proposed the delaying of the Local Council Elections due to an influenza breakout. While the discussions were ongoing at the Committee, the interlocutor found out that some Elections Commission members were live on the media, announcing the delaying of the elections.

Another area of frustration for the opposition during the 2017 elections was the change in the functioning of the complaints mechanisms, where voters were told to report all their complaints centrally to the Elections Commission headquarters. As discussed in the Legal Framework chapter below, the multi-tiered nature of the complaints mechanisms in previous elections was a point of confusion for many people as to where complaints should be lodged. However, the fact that people could submit complaints at the island and atoll levels also made the mechanism more accessible. One party noted that the change, which was reported to have been made on short notice, forced them to set-up ad hoc hotlines, where voters from the islands could report any grievances to the party, which they then submitted to the Election Commission headquarters. The complaints mechanisms have been an area of contention even in previous elections, with interlocutors reporting that in many cases, no actions were taken with regard to the complaints they filed.

A further change reported by parties that was seen in the 2017 elections was the lack of inclusion of national identity card numbers on the voters list and the refusal of the Elections Commission to provide parties with soft copies of the list, both of which make validating the list extremely time-consuming and difficult. This was especially challenging given that only a short deadline is given to submit amendments to the voters list. One party even alleged that this was only practiced in the case of the opposition parties, in order to minimize the number of corrections that are submitted to the list. It was alleged that the more mistakes there are on the list, there is a greater chance for the ruling coalition to vote in the names of people who should not be on the list.

The current government, with the reported aim of streamlining the electoral process and making it more secure, has on various occasions proposed the implementation of an electronic voting system. Some interlocutors representing civil society organisations also reported that the Elections Commission met with them to talk about the merits of such a system. The proposition however has not been met well, with the lack of trust in the government and the Elections Commission being the key issue. A majority of those consulted argued that an electronic

system will make it easier for the government to tamper with the electoral process. This, at least for now, is likely to be a non-issue, as the Elections Commission in March 2018 announced that they would not be using electronic voting in the upcoming elections.¹⁴⁵

While the Commission has stated in the media that the elections will be held in September as noted above, the delays that have happened in previous elections have led to a number of people, including many who were consulted for this assessment, to believe that there is a high chance that the elections may not be held within the timeframe specified by law. Many allege that given the loss the ruling coalition faced in the Local Council Elections of 2017 and an apparent loss of support following the recent events in the country, Yameen does not have any genuine intention to hold Presidential Elections without the certainty that the electoral process can be rigged in his favour. In addition, many of those consulted believe that there is a possibility that Yameen may try to extend the limit of the presidential term, basing this on statements made by members of the ruling coalition and chatter on social media by the government's supporters – in which case elections will not be held at all this year.

It should, however, be noted that the Commission, since the appointment of Shareef in March, is seen to be more active in its preparations for the elections. The Commission has increased its frequency in engagement with the media, held a meeting with the police to discuss security measures for the elections,¹⁴⁶ and conducted trainings for its staff, with more trainings planned in April for observers and monitors.¹⁴⁷ Anticipating difficulties in finding enough polling station officials, there are plans by the Commission to start recruiting and training officials in April, while voter education is also expected to start within the same month. The Commission has also said that it has plans to submit amendments to election-related laws, which incorporates recommendations received by the Commission from various stakeholders and international organisations. The amendments are also said to take into account the 16-point guideline by the Supreme Court. In addition, the Commission has stated that it will formally announce the elections in July and publish the voters list the same month.¹⁴⁸ However, even with more visible activity on the part of the Elections Commission, there is still scepticism about the intentions and genuineness of the Commission. As a result, the opposition has called to reconstitute the Commission with members agreeable to both sides of the political divide.¹⁴⁹ Some opposition parties also highlighted that with the Majlis essentially under the ruling coalition's thumb, the proposed amendments to the electoral legal framework could potentially be detrimental to the conduct of free and fair elections.

3.6 THE STATE OF THE MEDIA

In 2017, Maldives was ranked 117 out of 180 for media freedom by the Reporters Without Borders' annual World Press Freedom Index, down from its peak position of 51 in 2008.¹⁵⁰ As will be further discussed in the Legal Framework Chapter, the Protection of Reputation and Freedom of Expression Act has greatly restricted the media organizations to operate freely, and currently work under constant fear of being fined in the millions, be shut down entirely or even face criminal charges. Journalists and other persons consulted for this assessment alleged that one of the biggest threats to media is the lack of independence of the Maldives Broadcasting Commission, whose members target opposition-aligned media outlets by order of the government. Currently, its jurisdiction is mostly limited to broadcast media, with the Maldives Media Council being responsible for the regulation of print and online media. Unlike the Broadcasting Commission where members are shortlisted by the President and approved by the Majlis, the Media Council consists of members elected from amongst the media organisations, with the State having less control over them. However, in a move that many interlocutors allege was made to counter this lack of control, the government-aligned parties are currently working on a Media Commission Bill in Majlis, which aims to integrate both the Broadcasting Commission and the Media Council into one institution. When this bill is passed into law – which is expected to be soon – the State will have authority in regulating all media outlets, further exacerbating the grim situation of media in the country.

In addition to the legal barriers to free media, the past five years saw a number of attacks on media and media personnel, most of which has gone unpunished, allowing for the practice to continue with impunity. In October 2013, during the Presidential Elections period, opposition-aligned Raajje TV was torched amidst its criticism of the Supreme Court's interference in the first round of elections.¹⁵¹ Just a few months earlier, a journalist working for the same station was assaulted on the streets of Male' and left for dead.¹⁵² In August 2014, journalist Ahmed Rilwan went missing and has since not been found. The night he went missing, his neighbours reported witnessing a person being forced into a car and the police later found a knife in the area. However, the police initially claimed that these two incidents were unrelated, and it was not until two years after Rilwan's disappearance that the police acknowledged that he was abducted. While arrests were made in connection to Rilwan's disappearance, a number of these people were released and have since

fled the country.^{153 154} In 2017, Yameen Rasheed, a popular blogger and critic of the government, was found murdered under the stairwell of his own home. Again, while arrests have been made on Yameen's murder and prosecution is ongoing,¹⁵⁵ what is common in all these cases is that there is no discourse by the government on who funded these attacks and no arrests have been made in this regard.

Journalists also face the constant threat of persecution by authorities, for simply carrying out their journalistic responsibilities. For instance, journalists who cover protests are sometimes treated the same way as protesters by the police, often being subjected to heavy pepper spray, having their equipment confiscated, or even facing arrest – sometimes with excessive force.¹⁵⁶ During the State of Emergency period this year, two journalists from Raajje TV were arrested on allegation of being involved in the production of a video that claimed to show police officers in masks speaking against the government. The Criminal Court has since released the two journalists over lack of evidence.¹⁵⁷ There have also been cases where journalists are forced to go into exile, due to physical violence or persecution by the State. For example, journalist Hilath Rasheed was forced to flee the country and live in exile for a number of years, after surviving an attempted murder in 2012.¹⁵⁸ Zaheena Rasheed, former Editor of Maldives Independent, was also forced out of the country in 2016, for fear of prosecution and personal safety, after she gave an interview to Al Jazeera in a documentary which exposed various corrupt and criminal practices by the current government.¹⁵⁹

A chief concern regarding the state of the media, especially in an electoral context, is the lack of independence of the state broadcaster. Majority of interlocutors argued that the state broadcaster acts as a mouthpiece for the government and is used primarily to discredit the opposition. Some political parties interviewed for this report noted that they have never been invited to participate in any programmes on state media and that press releases and briefs by the opposition are never covered. By contrast, all rallies and events organised by the ruling party are broadcast by the state media and all news regarding the President is always covered. Opposition parties and a number of other interlocutors contend that even though the electoral law requires the state broadcaster to give time to all candidates for free in an equitable manner, it is highly unlikely that this will be done in accordance with the law because the government controls both the Elections Commission and the Broadcasting Commission. This will put any opposition candidates at a great disadvantage over the campaign period, as they will have to pay private broadcasters in order to get time on the media. However, some participants of the focus group discussions argued that

this will not be the case, as most private media outlets in the country are owned and controlled by politicians and businesspeople with political affiliations. Others still, defended the actions of the state broadcaster, arguing that it is the state broadcaster's responsibility to cover news and events concerning the government and that it should defend all actions of the government.

3.7 PARTICIPATION OF WOMEN IN ELECTIONS

The Constitution under Article 17 guarantees freedom from all forms of discrimination and specifically states in Article 62(a) that all rights enshrined in the Bill of Rights Chapter apply equally to men and women. In addition, the Constitution allows for affirmative action that would help women to alleviate their status in society. The new Constitution also removed the gender bar which previously disallowed women from running for presidency. While this is intended to allow for greater public and political participation of women, the reality is that such participation is still disappointingly low. For instance, only six percent of seats are filled by women in both the Majlis and local councils. The Maldives has never seen a female presidential candidate and only once has there been a female running mate.

There are a number of factors that contribute to the abysmal level of female participation in politics. Positive campaigns to encourage women's participation are still few and far between and in addition, Maldivian women lack adequate family and societal support for such participation.¹⁶⁰ Another major barrier to women's participation in public life comes from the narrow interpretations of Islam that has taken root in society over the past decade, which reinforces patriarchy and discourage women from standing for elections and the general public from voting for women. While the Constitution does allow for affirmative action, there are no meaningful policies in place which makes use of this provision, either through the introduction of temporary special measures or by other means.¹⁶¹ The low levels of female participation is further exacerbated by the fact that the Maldives has one of the highest divorce rates in the country, which in turn increases the number of single mothers and households where women are the primary breadwinners – affecting their ability to participate in public life.¹⁶² This is not to say that women are not at all active in the political arena. On the contrary,

women do often participate – sometimes in greater numbers than men – in political rallies and campaign efforts, but the issue that remains is the lack of women at the decision-making level.¹⁶³

Island-level Women's Development Committees (WDC) have existed in the Maldives since 1982, with the committees' roles being broad and gender specific, that is, to attend to issues of relevance to women. However, in reality, the WDCs' roles were often delegated to cleaning the islands, conducting trainings on arts and crafts, and the conduct of cultural and sports events.¹⁶⁴ The 2010 Decentralisation Act made committee membership an elected position and aimed to increase the role of the WDCs, finally giving them a legal mandate. Working under the Local Councils, the committees were mandated to provide advice to the council of matters related to the island development, raise funds for the development of women, uphold the rights of women, and increase women's participation in politics. While this was a positive amendment on paper, this has not translated into constructive change and the committees' roles are still perceived by many in its historical context. The WDCs consulted for this report noted that the main challenges for the committees in working towards women's rights and increasing women's participation in public life, were the lack of meaningful resources and clashes with the island councils that often stemmed from political differences.

All political parties who were consulted reported that they have internal policies in place to encourage women to come to the forefront and have an active role in decision-making. An example of such a policy by one party was to provide female candidates with more funds from the party than is afforded to male candidates, as women's economic standing is often a hindrance in running for elections. This was corroborated by a female candidate from the party who ran successfully in the 2017 Local Council Elections. However, a former female member from the same party who ran for Local Council Elections on the party's ticket, reported that she left the party due to continued negative campaigning by male candidates from her own party. She noted that the negative campaigning was based on the fact that she was a woman and voters were told that a woman would not be fit for the post of councillor. The campaign against her was so adamantly run, that when votes were counted, she noticed that some people had voted for all the male candidates from her party, but instead of voting for her, opted to vote for male candidates from opposing parties for the remaining seat. Some interlocutors also stated that since the WDCs became an elected position, parties have encouraged women who want to enter public life, to run for WDC positions rather than the Local Councils or the Parliament, which acts as a hindrance to women's political ambitions.

Several interlocutors from the public believed that parties do not actively field female candidates, especially in Presidential Elections, because with female candidates, there comes an additional uphill battle of convincing voters that women are capable of taking up the position and that there are no religious barriers in women doing so. A number of male interviewees, some even holding elected positions, showed a lack of awareness regarding practical challenges faced by women in running for public office. When asked questions about female participation, some responded by saying that they do not do anything to hinder such participation and that women should simply face up to the task and run for public office. In addition, while almost all of the interlocutors spoke about the importance of changing the societal attitude towards women as leaders, some among them believed that a woman is not fit to be the president. It is concerning to note that even majority of interviewees from WDCs shared the same opinion. This indicates that there is still a gap in knowledge with regard to gender inequality and the challenges faced by women, even amongst those in a position to make positive changes.

In terms of turnout, the country has seen high turnout on voting day amongst women across multiple elections.¹⁶⁵ In addition, interlocutors generally did not note any major problems with regard to women exercising autonomy in their right to vote. However, there have been reports in literature where family members coerce women to vote in a certain way,¹⁶⁶ and incidents of husbands withholding their wives' national identity cards to prevent them from voting in instances where the husband feels that his wife may not vote for his chosen candidate.¹⁶⁷

3.8 CHALLENGES FACED BY PERSONS WITH DISABILITIES

There was a general consensus amongst interlocutors that physical accessibility is not a major issue on election day that prevents persons with disabilities from exercising their right to vote. This is owing to the fact that polling stations are generally set-up at the ground level, in buildings that either have good accessibility, or with facilities to ensure accessibility put in place on election day. Transport to and from voting stations were also not seen as a major issue, given the close proximity to voting stations for most people and parties often provide transportation for those who need it. Thus, turnout of voters with disabilities has also been satisfactory in previous elections. However, a number of other issues with regard to the exercise of electoral rights by persons with disabilities were found during the research for this assessment.

Firstly, it was noted by those consulted that persons with disabilities, especially those with visual and hearing impairments, face problems with accessibility to voter education and campaign messages. While television is still a major platform for both voter education and campaigning, these programmes do not use a sign language interpreter to make them accessible for persons with hearing impairments. In a similar vein, the use of Braille in campaign and voter education documents is also non-existent. One consequence of this lack of accessibility is that voters with disabilities are negatively influenced and coerced, taking away autonomy in exercising their right to vote.

Second, the lack of a comprehensive national registry of persons with disabilities means that the Elections Commission is unaware of persons with disabilities who will be voting at any given polling station. If such a registry did exist, the Commission would be able to better prepare voting facilities to cater for the needs of persons with disabilities, including the provision of ballot papers in Braille which would eliminate the need for assisted voting for persons with visual impairments. As it is, assisted voting is a contentious issue, and there were multiple reports during the research for this assessment that those assisting voters with disabilities often misused their positions to cast the vote in their favour. An interlocutor in one island also reported that during the 2017 Local Council Elections, some persons requiring assistance in voting were provided transport and an assistant for voting by certain parties, but once their votes were cast, they were left to fend for themselves at the polling station. The lack of a national registry has also led to incidents where persons with visual impairments requiring assistance in voting

have been denied an assistant by elections officials and asked to prove that they do indeed have problems with sight. Such incidents are not only impediments to the exercise of voting rights, but also causes humiliation and the derogation of human dignity of persons with disabilities.

One interlocutor reported that in 2015, during a multi-stakeholder regional forum which included the Elections Commission and local human rights organisations, a paper was presented highlighting the challenges faced by persons with disabilities in participating in public life and in voting. The paper also proposed various recommendations to alleviate these challenges, including the sensitization of elections officials on disability inclusion, legislative reform and improvements to accessibility in both voter registration and voting. However, it is reported that much of these recommendations still remain unimplemented and there have since been no follow-up meetings. The Elections Commission, along with other relevant stakeholders, should reconvene at the earliest and continue discourse with the aim to immediately implement measures that will enable persons with disabilities to fully take part in public life and exercise their right to vote.

3.9 VOTER EDUCATION

As discussed in the electoral best practices section, robust voter education, voter information and civic education is necessary to ensure every citizen is fully able to participate in the electoral process and exercise their right to vote without hindrance or undue pressures. In this regard, participants of the focus group discussions shared the view that the public generally receives adequate voter education and voter information. This includes information such as voting and election day procedures and information about voter registration.

However, as noted earlier and discussed further in the Legal Framework Chapter, there have been complaints about the complexity of the electoral dispute resolution mechanisms and the lack of proper communication with regard to changes in these mechanisms, making it difficult for people to file their complaints. In addition, some interlocutors noted that there have been cases in previous elections where some people have been unclear of the location of their balloting station. A concern that also remains is that while the State has announced that it is working on amendments to the electoral legal framework, there is very little time remaining for elections and there is no word yet on when these amendments will come into effect –meaning that even if these amendments are brought immediately, the public will have to be made aware of these changes over a very short period.

Participants at focus group discussions highlighted that the public receives information such as the importance of exercising the right to vote and being able to vote autonomously. However, it was evident in some cases that there are many shortcomings with regard to civic education in an electoral context. For instance, as noted earlier, some interlocutors were unclear about the role of the state media, while others were unaware that the candidates are required to submit a report on their campaign finance and expenditures. Furthermore, during the consultations for this report, we found that there were a number of misconceptions about the role of women in public life – both by the public and those in positions of authority. Some members of the public also argued that the prevalence of vote buying can be attributed to a lack of civic responsibility stemming from shortcomings in civic education.

With only months left for the Presidential Elections to take place, no major voter education activities by any state authorities, media organisations, political parties or civil society organisations have yet been observed.

Some interlocutors representing political parties stated that while they do plan to conduct voter education, their priority is to first ensure that the current government will indeed hold elections in a free, fair and inclusive manner. All media organisations consulted said that while they do not have particular plans for voter education, they will keep the public informed of voting procedures and other relevant information with regard to voting as it becomes available. Additionally, in reference to previous elections, the media organisations stated that they do ad hoc articles and programmes covering civic education, with particular emphasis on the importance of voting, secrecy of the ballot and discouragement of selling votes – which will be done for the upcoming Presidential Elections as well. Civil society organisations also stated that they have plans to conduct voter education to various degrees and target groups, although no timeframe was specified as to when the activities would commence.

3.10 ELECTORAL VIOLENCE

Electoral Violence can be defined as the use, threat to use and/or the encouragement to use force by any party, individual or group, outside the boundaries of the laws and regulations, for electoral purposes, spanning from the pre-election period, to election day and the post-election period.¹⁶⁸ With the elections looming overhead and at elevated levels of resulting political tensions, there is a high likelihood of acts of political violence occurring in the run-up to the elections. Previous elections have seen a number of such acts, including the aforementioned torching of a TV station, vandalising of campaign stations and material, and the refusal to allow candidates onto islands to conduct campaign activities. With only one baseline quantitative study on electoral violence having been done in the country¹⁶⁹ and no follow-ups since, it is difficult to determine whether or not the levels of violence are “high” or “low.” What can be said with certainty is that acts of electoral violence do occur, and with a few months remaining for the elections, we are already seeing some actions that can be classified as such.

For example, in the early morning of 24 March 2018, the stage area of a campaign station used by PPM was torched. The police revealed in April that an arrest has been made in connection to the arson while the opposition and the ruling coalition point fingers at each other over the act.¹⁷⁰

In another instance of such violence, on 5 April 2018, the glass entrance door of Villa Media station, which is owned by Gasim Ibrahim, was broken with a wooden block. While the perpetrator is known to the police, it is reported that the police have not made any arrests, stating that the perpetrator suffers from an undisclosed illness.¹⁷¹

In addition, there are claims by the opposition that the President himself has incited violence, referring to a speech he gave at a rally following the declaration of the State of Emergency. In the speech, Yameen asserted that had he implemented the Supreme Court’s 1 February ruling, his supporters would have come out to the streets and created havoc. The opposition criticized this statement, arguing that the President condoned violence, rather than condemning it.¹⁷² Some interlocutors from opposition parties also argued that the use of excessive force by police to disperse peaceful protesters, the use of legislation that curbs rights, and the unequal application of law to stifle opposition campaign activities are all acts of electoral violence.

When asked about the potential for violence on election day, the majority of interlocutors, said that they do not foresee any major incidents of violence on election day. This prediction was based on the experience of previous elections, where no major disruptions or acts of violence were observed on election day. However, it was noted that this prediction is conditional on the election process being free, fair and transparent. In terms of post-election violence, interlocutors noted a few different

- In a free and fair election, if the ruling coalition won, there would be no violence.
- If the elections are not free and fair, there is potential for violence, regardless of the outcome of the elections.
- In a free and fair election, if the opposition won, there is potential for violence if the ruling party refuses to accept the outcome of the elections. Since 2008, all transfers of power following elections have been smooth. However, some interlocutors argued that because of the disregard for the rule of law and due process by the current regime, there is a possibility that it may refuse the handover of power, which would almost certainly lead to violence.

What is clear from these discussions is that a free, fair and transparent elections is paramount in avoiding violence and remedying the political instability in the country. To this end, all relevant parties and state institutions must ensure that the rule of law is respected and that elections are conducted in accordance with the laws of the country as well as with due regard to international best practices.

Having explored the backdrop to the upcoming elections in terms of the political context and the electoral environment, the next chapter of this report aims to assess the electoral legal framework of the country. The chapter will study the existing legal framework surrounding Presidential Elections, including local legislation and the Maldives' international commitments, to understand the shortcomings with regard to the law and its application.

CHAPTER 4

LEGAL FRAMEWORK

CHAPTER 4

4.1 THE ELECTORAL SYSTEM

As per Article 107 of the Maldivian Constitution, the president of the Maldives can serve for a maximum of two five-year terms. Article 111 of the Constitution stipulates that the president shall be elected by over fifty percent of all valid votes cast, in a single constituency election. If any one candidate fails to achieve over fifty percent of the votes, the election will be determined by a run-off between the top-two candidates.

4.2 ELECTION ADMINISTRATION

The Elections Commission – established under Chapter 7.2 of the Constitution and administered under the Elections Commission Act (2008) – is an independent and impartial body tasked with the administration of all elections and public referendums in a way that ensures the free and fair exercise of the right to vote, without intimidation, aggression, undue influence or corruption. In addition, it is also constitutionally mandated to “educate and create awareness among the general public on the electoral process and its purpose”.¹⁷³

The Commission consists of five members, who are nominated by the president and approved by the People’s Majlis. To ensure independence and impartiality in its functions, the Elections Commission Act stipulates a comprehensive code of conduct. Furthermore, there are a number of provisions in law to promote transparency in the work of the Commission, especially with regard to the conduct of elections. These include:

- Establishment of a multi-stakeholder Election Advisory Committee prior to elections.
- Publishing the voter registry at least 45 days prior to the Presidential Elections.
- Facilitating the monitoring and observation of all aspects of the electoral process by both local and international observers.
- Announcement of preliminary results of elections within the earliest possible timeframe and publication of the final results within seven days of the elections.
- Publication of a report detailing the conduct of elections, within 30 days of the elections.
- Disclosure of financial statements submitted by the candidates.
- Submission of an annual report of the Commission’s work to the Parliament and the Executive which subsequently has to be made public.

Neither the Constitution nor the Elections Commission Act provides a code of conduct for the Commission’s staff or the operational and administrative relations between the members and the staff. Hence these aspects are regulated by the Commission’s internal rules and regulations.

4.3 THE ELECTORAL LEGAL FRAMEWORK

The primary legal and regulatory framework guiding the conduct of Presidential Elections in the Maldives are provided by the following documents:

1. The Constitution of the Republic of Maldives (2008)
2. The Presidential Elections Act (2008)
3. The General Elections Act (2008)
4. The Presidential Elections Regulation (2013)
5. The Political Parties Act (2013)

In addition to these documents, the Supreme Court of the Maldives, in its annulment of the first round of the Presidential Elections in 2013,¹⁷⁴ issued a 16-point guideline¹⁷⁵ which the Elections Commission and other related state institutions are required to follow in the conduct of elections. The Attorney General on 11 January 2018 announced that he plans to submit amendments to elections-related laws in order to incorporate the Supreme Court guidelines into law and to provide further clarifications to the guidelines through the law.¹⁷⁶

Furthermore, the Constitution sets out a number of rights and freedoms that are prerequisite for a free and fair election. These include:

1. Freedom of movement (Article 41)
2. Freedom of assembly (Article 32)
3. Freedom of association (Article 30)
4. Freedom of expression (Article 27)
5. Freedom of media (Article 28)
6. Judicial Independence (Article 7)

Additionally, the Maldives is party to a number of international and regional instruments that set out its obligations with regard to ensuring the right to vote and conduct of free and fair elections. They include:

1. International Convention on Civil and Political Rights (ICCPR)
2. Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)
3. International Convention on the Elimination of all forms of Racial Discrimination (ICERD)
4. South Asian Association for Regional Cooperation (SAARC) Charter on Democracy

While the current laws in relation to Presidential Elections were conceived within a highly compressed timeline for the 2008 Presidential Elections, the basic legal structure and freedoms exist to provide for minimum standards to conduct free and fair elections.¹⁷⁷ However, various international observers, local NGOs and political parties have expressed concern over the shortcomings with regard to the existing framework. These will be discussed further in the following section. It is important to note that this analysis is based on the laws and regulations as they exist at the time of publication of this report. The Commission has stated that there are plans to amend both the General Elections Act and the Presidential Elections Act. Furthermore, a draft regulation for the 2018 Presidential Elections is currently with the Attorney General for comments and will come into effect as soon as it is published. Hence, the findings below may change over time based on the changes that are brought to the legal framework.

4.4 ANALYSIS OF THE LEGAL FRAMEWORK

4.4.1 SHORTCOMINGS IN THE LEGAL FRAMEWORK OF THE ELECTIONS COMMISSION

Although the legal framework of the Elections Commission envisages it to be an independent and impartial body operating with high levels of transparency, there are several shortcomings in law that could impede such operation.

For instance, while the law contains a provision by which members of political parties and party activists are barred from standing as a member of the Commission,¹⁷⁸ there is no minimum time period for being inactive in such a position. Hence, this allows party members to deregister themselves shortly before application to the position of a member. This has led to frontline party members and activists being chosen as members of the Commission, preventing the impartial functioning of the Commission and the diminution of public trust in the institution.

Vagueness in the language of some elements of the law surrounding the Elections Commission is also an area of concern. This is especially evident in the code of conduct of the Commission members as found in Article 17 of the Elections Commission Act. The vague language used in the code of conduct could have potentially grave consequences for the Commission's members, as the People's Majlis can dismiss a member for misconduct if it finds that the code has been breached. Lack of clarity in legislation leaves greater discretion for interpretation, which in turn could lead to unfair or arbitrary dismissals.

While transparency is paramount in all aspects of elections, there are no provisions in the Elections Commission Act that mandates the Commission to disclose such information even upon requests from the public or the media. Although the passage of the Right

to Information Act (2014) was meant to bridge such gaps in the availability of information from state authorities to the public, Transparency Maldives notes that there are a number of issues with the implementation of the law that prevents the purpose of the law from being fulfilled.¹⁷⁹

As noted in the previous section, the legislation regarding the Elections Commission does not have any stipulations with regard to the conduct of the Commission's technical and administrative staff, nor any clarifications of the operational and administrative relations between the staff and members of the Commission. This meant that the commission members are given wide discretion in regulating matters related to the staff.

The lack of clear scopes and timeframes for the work of the Commission is another shortcoming of the law surrounding its functions. For example, while it is clearly stated that the Commission should work to promote awareness about the electoral process, there is no scope or timeframe specified for doing so. This again leaves the Commission a lot of leeway for self-regulation and the fulfilment of its legal obligations with minimal effort or impact. The same lack of clarity can be seen in the Presidential Elections Regulations' stipulation regarding the establishment of the National Advisory Committee. Legally, the committee consists of representatives from the following parties:

1. Political Parties contesting candidates for the Presidential Election
2. Private individuals contesting as independent candidates in the Presidential Election
3. Human Rights Commission of the Maldives
4. Maldives Police Service
5. Non-Governmental Organisations selected by the Elections Commission
6. Maldives Media Council
7. Maldives Broadcasting Commission

While in principle the committee is a much-needed platform to promote multi-agency cooperation and transparency in the electoral process, the Regulation does not indicate any clear timeframes for the formation and dissolution of the committee or the procedure for the selection of the non-governmental organisations that will be represented at the committee. The Elections Commission, however, has stated that for the Presidential Elections this year, it plans to convene the Committee as soon as the elections are announced.

The legal framework surrounding the Elections Commission and Presidential Elections does not clearly define or provide for inter-institutional relations that are necessary in the conduct of elections. Aspects such as wrongdoings by candidates, issues related to campaign financing, vote buying, bribery and violations regarding access to media require collaboration between agencies for their detection, prevention and redress. These agencies include the Maldives Police Service, the Anti-Corruption Commission, Auditor General, Prosecutor General and the Maldives Broadcasting Commission. The lack of such detail with regard to inter-agency collaboration also leaves room for agencies overstepping their bounds in the conduct of elections.

4.4.2 RESTRICTION OF PREREQUISITE FREEDOMS

While the Constitution sets out the basic principles under which the minimum standards for free and fair elections exist, Article 16 of the Constitution allows these freedoms to be limited through an Act of Parliament in order to “protect and maintain the tenets of Islam,” to an extent that is “demonstrably justified in a free and democratic society”. However, the lack of a clear definition of “tenets of Islam” and the utter disregard by the Parliament of the clause which requires the limitation to be justifiable in a free and democratic society, have led to the unwarranted limitation of a number of rights and freedoms that were only granted to Maldivian citizens less than a decade ago.

The most clear-cut examples of such limitations – in terms of electoral rights – can be seen in the Right to Peaceful Assembly Act (2013), its 2016 amendment, and the Protection of Reputation and Freedom of Expression Act (2016).

The Right to Peaceful Assembly Act, contrary to the implication of its title, significantly curbs the right to freedom of assembly. The 2013 law imposed a number of limitations to freedom of assembly, including

the imposition of restrictions on where people can gather and giving overbearing powers to the police to dismantle gatherings. The 2016 amendment to the law took these limitations even further, by allowing the Ministry of Home Affairs to allocate just one, closed-off area in the capital island of Male’ where people are permitted to gather without prior approval of the police. In this instance, neither of the two criteria for limiting fundamental rights as per Article 16 of the Constitution were met.

According to the World Press Freedom Index,¹⁸⁰ the Maldives, with its transition to democratic status in 2008, rose up the ranks, with its best position being 51st in 2009 and 52nd in 2010. Since the transfer of power in 2012, the country slid down the Index, most recently being placed at 117th in 2017. Targeted attacks against media outlets and personnel, coupled with the passage of the Protection of Reputation and Freedom of Expression Act in 2016 were noted as contributing factors to this ranking.

The Protection of Reputation and Freedom of Expression Act re-criminalized defamation, with fines of up to MVR 2 million (USD 129,700) and jail terms stipulated as penalties. Since the law came into effect in 2016, a number of media stations and individual journalists have been hit with defamation suits, with the broadcaster Raajje TV being fined a total of MVR 1.75 million (USD 814,850) over three separate suits.¹⁸¹ Most recently, in March 2018, Sangu TV was fined MVR 1 million (USD 64,850) for broadcasting a speech by an MP. Critics argue that these fines are entirely politically motivated and that it reinforces self-censorship amongst journalists.¹⁸² This is especially worrying in the context of elections, given that voters and candidates rely heavily on the media to both impart and receive key messages regarding elections.¹⁸³

In addition to these laws, the Political Parties Act of 2013 sought to limit space for political pluralism in the Maldives, by imposing a minimum membership of 10,000 to register political parties. However, the Supreme Court ruled that this restriction was against Article 30 of the Constitution and internationally accepted democratic standards. In 2015, an amendment was made to the law which stated that parties should have a minimum of 3,000 members. This meant that out of the 16 political parties, 10 were dissolved as they lacked the minimum membership requirement. In addition, the amendment also stipulated that state funding for parties will only be provided if the membership is above 10,000 – making it harder for new and smaller parties to operate.

In order to strike a balance between keeping a low threshold for entry and operation while limiting state resources on inactive parties, an approach that could be used is to withhold state funding for parties that fail to participate in a certain number of consecutive elections.¹⁸⁴

In April 2018, the Elections Commission announced that it plans to bring about amendments to the Political Parties Act, with the objective of granting greater regulatory powers to the Commission. According to the Commission, with the new amendments, party meetings, membership and even primaries will be brought under the watch of the Commission.¹⁸⁵ The proposed amendments have been criticised as a further step in narrowing the ability of parties to operate independently.

4.4.3 QUESTIONS WITH REGARD TO JUDICIAL INDEPENDENCE AND IMPARTIALITY

As per the Courts Act of 2010, the courts in the Maldives are separated into four tiers. They are: the Supreme Court, High Court, Superior Courts, and Magistrate Courts. The legal framework on elections allows for complaints regarding electoral issues to be filed with the Supreme Court and the High Court, thus making them an integral part of the electoral process. However, the independence and integrity of the courts have been brought into question by a number of observers. For instance, following her visit to the Maldives in 2013, the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, noted her concerns regarding the Maldivian Judicial System including: the lack of a comprehensive legal framework; questions regarding independence, impartiality, integrity and accountability; problems with the selection and appointment of judges; and judicial delays.¹⁸⁶ In 2015, after highlighting a magnitude of violations during the trial of the Former President Mohamed Nasheed and other high-profile trials, Knaul noted that the judicial situation had further deteriorated since her initial investigation, posing grave threats to the rule of law.¹⁸⁷

During the 2013 Presidential Elections, the Supreme Court halted voting on three different occasions, including an order to annul the first round of the elections. The 16-point guideline on the conduct of elections came with this annulment, and has been subject to a number of criticisms. Firstly, it can be argued that the Supreme Court overstepped its legal boundaries by issuing the guidelines. The 2008 Constitution stipulates a system whereby the judicial, legislative and executive powers are separated and legislative powers lie solely with the People's Majlis. While the courts do have the power to annul a statute, regulation or part thereof if it is deemed unconstitutional,¹⁸⁸ the issuance of the 16-point guideline can be seen as an attempt to legislate, rather than the provision of an interpretation of the law. There were also concerns regarding the practicality of enforcing the guidelines and its apparent undermining of the authority of the Elections Commission.¹⁸⁹

Further criticism of the guidelines stems from the fact that there were irregularities in the trial following the first round of elections. The majority ruling by four out of the seven judges on the bench was based primarily on a secret forensic report by the police, which found that there were 5,623 voter discrepancies, including the casting of ballots by deceased persons, voting by persons with mismatching addresses and ballots casted by underage persons. The Elections Commission was not given a

copy of the forensic report or allowed to respond to any of the findings in the report. However, it later emerged that at least some of the findings of the report were inaccurate, most notably, the emergence that some of the deceased voters noted in the report were, in fact, living.¹⁹⁰ The fact that the matter was adjudicated directly by the Supreme Court, rather than the High Court, also meant that the defendants were deprived of any chance to appeal the decision. Furthermore, due to the delays caused by annulment and postponing of elections, the constitutional limit of the 5-year term for the president passed with the incumbent still in office, without any legal basis for doing so. The new president was finally sworn in on 17 November 2013, a full week after the constitutional deadline of 11 November.

In 2014, just prior to the Parliamentary Elections, the Supreme Court launched a *suo moto* case against the Election Commission, where members of the Commission were accused of disrespect towards a number of Supreme Court judgements – including the 16-point guideline – and charged with contempt of court. The chairperson and deputy chairperson of the Commission were found guilty and were removed from their offices – a ruling that again drew a number of criticisms.¹⁹¹ As with the Supreme Court’s actions during the 2013 elections, this was regarded as an overstepping of the constitutional and legal powers of the Supreme Court, as the final say in appointing and dismissing members of the Elections Commission – according to both the Constitution and Elections Commission Act – is vested in the Parliament.

In late 2016, during the run-up to the Local Council Elections that were to be held in February 2017, the ruling party PPM petitioned a case with the Civil Court to delay the council elections by two months, citing a rift within the party leadership which caused administrative difficulties in the party preparing for the Elections. The Civil Court granted the requested delay, which in effect extended the 3-year term of the incumbent councillors.¹⁹² The blatant disregard for constitutional and legal terms of officeholders sets a dangerous precedent whereby there is fear that court-ordered delays in future elections could extend the terms of incumbents for unspecified and prolonged periods of time.

The level of undue external influence on the Supreme Court was most evident following the events of early 2018, with the Court’s 1 February ruling and the subsequent declaration of the State of Emergency followed by the arrest of the Chief Justice and another Supreme Court Justice. These events are a clear indication that the independence of the Judiciary, as envisioned in the Constitution, has not translated into practice and the ramifications of this on an election are insurmountable.

With the courts being the institutions that have the final say in any disputes regarding elections, partisanship of the judiciary and influence on the courts by external parties mean that there is a high possibility of the elections being swayed in favour of whichever party or candidate that has the most influence. Based on the experiences of the past and without proper legal remedies and effective oversight to ensure the independence of the judiciary, there is a high risk that judicial intervention could hinder a free and fair Presidential Election in 2018.

4.4.4 WEAKNESSES IN CAMPAIGN FINANCE REGULATION

A principle philosophy in democratic elections is the limitation of the influence of money and wealth in the outcome of votes. As clarified by General Comment 25 under Article 25 of the ICCPR, the aim of regulating campaign finance is “to ensure that the free choice of voters is not undermined or the democratic process is distorted by the disproportionate expenditure on behalf of any candidate or party”.

The electoral legal framework in the Maldives, however, has several shortcomings that undermines this principle – a fundamental issue being the lack of clearly expressed aims of regulating campaign finance to guide and inform the law. Without such guidance, any attempts to regulate campaign finance by the law is lacklustre at best.

The law does uphold certain basic principles regarding campaign finance such as the prohibition of anonymous donations,¹⁹³ requirement to establish special bank accounts for campaign expenditures by candidates,¹⁹⁴ and limitations on maximum donations by individuals and legal entities (0.5 percent and two percent of the total spending limit respectively).¹⁹⁵ It also prohibits donations by foreign sources and Maldivian entities such as the government and companies with government shares.¹⁹⁶ Furthermore, Article 69 of the General Elections Act sets out a maximum expenditure of MVR 1,500 (USD 97) per eligible voter for the constituency in which the candidate is contesting in.

However, there is no regulation of in-kind assistance from donors, which effectively restricts any meaningful enforcement of donation limitations. Additionally, the 2013 Political Parties Act, in its Article 37, allows for political parties to obtain foreign funds, with approval of the Elections Commission, that could technically be used for campaign purposes.

This provision contradicts with the General Election Act's restriction of foreign donations. There is also a risk that only selective parties may be allowed foreign donations while others are not, putting some parties at a disadvantage. There are also no provisions in law that covers third party expenditure for campaigns, nor any clear separation between the promotion of a candidate, the promotion of party policies, expenditure on social activities or humanitarian assistance. The lack of clarity in the definition of campaign expenditure again makes it virtually impossible for regulators to limit campaign financing, while also paving way for the possibility of corruption, bribery and vote buying through indirect expenditures.

Another major area of concern regarding campaign finance is the weakness in law regarding its reportage and public disclosure. The law has no provision whereby candidates are required to file periodic updates regarding campaign finance and expenditures during the campaign period, which limits transparency and public scrutiny in this matter. By law, the candidates are only mandated to submit reports to the Elections Commission within 30 days (Article 73 of the General Elections Act) and 60 days (Article 16 of the Presidential Elections Act).¹⁹⁷ There are no provisions for public disclosure of this information by candidates. While the Elections Commission is mandated to make this information public, there is no timeframe specified by law for the Commission to do so. What this means is that both the Elections Commission and the public will only get information regarding campaign finance and expenditures after the elections are over, thereby eliminating any chance of holding the candidates accountable for their finances during the election period and before elected officials are sworn into office.

Given these shortcomings in law related to campaign finance regulation, it is highly concerning that the Elections Commission has stated that amendments to the law in this regard is not part of its legislative roadmap for the upcoming elections.

4.4.5 ISSUES SURROUNDING COMPLAINTS MECHANISMS

4.4.5 Issues Surrounding Complaints Mechanisms

The General Elections Act, in its Article 62, mandates the Elections Commission to establish convenient, efficient and effective mechanisms for addressing electoral complaints. As such, the Presidential Elections Regulations of 2013 makes provisions for the establishment and functioning of multi-level complaints and redress mechanisms. The primary mechanisms for submitting complaints is via the National Elections Complaints Bureau and the City/Atoll National Elections Complaints Bureau. However, if there are any complaints prior to the establishment of the complaints bureaus, there are also provisions to submit complaints to the Elections Commission directly, as well as to the Island Focal Points and the City/Atoll Elections Committees. All complaints filed with the mechanisms must be adjudicated within 2 days.¹⁹⁸

The effectiveness of the complaints mechanisms, however, can be brought into question for a number of reasons:

1. The regulation does not provide clear and detailed responsibilities of the complaints mechanisms.
2. There is no detailed code of procedure for filing and adjudication of complaints in the regulation.
3. The regulation is silent with regard to the provision of sufficient training and operational and technological resources for the effective functioning of the complaints mechanisms. However, the Elections Commission has acknowledged difficulties related to the lack of expertise and plans to conduct trainings to counter this issue for the upcoming Presidential Elections.
4. The multi-level nature of the complaints mechanisms make it confusing as to which complaints should be filed with which specific complaints mechanism. Without any provision in the laws or the regulation with regard to timely voter education about the complaints mechanisms, public access and use of them in a coherent way can be hindered. While the Commission has stated that it plans to amend the regulations to address the complex nature of the complaints mechanisms, no information was available at the time of publication on the exact changes to be made.

In addition to the complaints mechanisms established under the Presidential Elections Regulation, the legal framework allows for any decisions by the Elections Commission regarding complaints to be challenged at the High Court. Article 65(b) of the General Elections Act stipulates that the High Court must adjudicate on any complaints within 30 days of its filing. This deadline is problematic, as any subsequent round of the elections must be conducted within 21 days of the previous round¹⁹⁹ and the final results of the election must be announced within 7 days of the elections.²⁰⁰

4.4.6 VOTE BUYING

The legal framework on elections does not comprehensively cover vote buying, nor provide a clear definition for it. However, the new Penal Code of 2014, in its Section 540 makes reference to “intimidating, improperly influencing or retaliating against a witness, voter or other person performing a public duty” where the offence can be committed by offering or giving a benefit not authorized by law. In addition to this, the aforementioned shortcomings in campaign finance regulation also contributes vastly to vote buying during elections.

Vote buying takes a number of different forms, which has been explored further in section 3.4 of this report. The most common way by which perpetrators of vote buying confirm that the voters do indeed vote in favour of them is by asking the voters to draw a certain mark on the ballot paper. This can then be confirmed by candidates’ representatives, or anyone else who is present at the vote counting process, where every individual ballot paper is shown. To counter this, the government presented a bill to the People’s Majlis in 2016, which sought to invalidate any ballots which had extra markings on them. The ruling party PPM, however, issued a three-line whip against the bill, which was highly unusual as it was a bill submitted by the government. The PPM MPs, in explaining the rejection, said that they voted against the bill after hearing concerns from the public, and that if passed, it could infringe on the voting rights of a number of people – especially the elderly, who might “inadvertently make additional markings on the ballot paper”.²⁰¹

4.4.7 VOTER REGISTRY

The Constitution in its Article 170(b) mandates the Elections Commission to prepare, maintain and update electoral rolls. This is further reiterated in the General Elections Act and the Presidential Elections Regulation of 2013. A major shortfall with regard to this duty of the Elections Commission is that no state authority in the Maldives is mandated to maintain an up-to-date and accurate civil registry.

Prior to the Supreme Court Guidelines in 2013, the Elections Commission maintained the voter registry on its own, by consolidating data from various (often differing) sources with the Department of National Registration’s data as the main source. However, the Supreme Court, in its 16-point guideline, ruled that the Elections Commission should use only the database of the Department of National Registration to compile its registry. The lack of clarity in the ruling with regard to the voter registry added a further level of complication to the already abysmal process.

The ruling also stated that voting can only be commenced when all contesting candidates or their representatives approve and sign the voter registry. The main problem this poses is that it gives parties or candidates an easy way to halt elections, if they wish to do so. In practice, however, this fear has not been realised and worryingly, the Local Council Elections of 2017 saw the disregard of this particular point of the guideline, when it was a disadvantage to the ruling coalition. Some interlocutors belonging to the opposition noted that the Elections Commission went ahead with the elections even without the signatures of certain opposition candidates, without facing any repercussions from the Supreme Court. This shows, at the very least, that there is a selective application of the guidelines and broadly the electoral law.

4.4.8 MISUSE OF PUBLIC RESOURCES

Another area of concern with regard to the legal framework, that is also related to the shortcomings in law regarding campaign financing and vote buying, is the issue of misusing public resources. Previous elections have seen several complaints regarding the misuse of public resources by the incumbent for campaign purposes – the most common forms of it being the usage of state-owned transport to travel to constituencies, usage of civil servants for campaign purposes, and the announcement of various development projects in time for elections.²⁰² As mentioned earlier, the lack of a thorough regulatory framework on campaign finance means that there is no meaningful way whereby the Elections Commission or any other body can keep a check on campaign expenditures – including the use of state resources.

While the electoral legal framework is insufficient to tackle the issue of misuse of state resources for campaigning, the Prevention and Prohibition of Corruption Act (2000) to some extent can be said to cover the issue. In its Article 14 (a), it is stated that:

It is an offence for anyone to use any government property in contravention of government regulations to get an income or personal gain. It is also an offence for a government employee to compel another government employee to work or undertake a task during official working hours of the employee, in contravention of government regulations to get an income or personal gain.

In addition to this, Article 45 and 46 of the Political Parties Act prohibit the abuse of State authority and using resources of the State for the gain of the party. Although these laws could potentially cover misuse of public resources in campaign activities, the weaknesses in electoral complaints mechanisms and enforcement is a major setback that prevents the law in being applied to electoral misconduct. Furthermore, there seems to be a lack of enforcement of the stipulations in both the Prevention and Prohibition of Corruption Act and Political Parties Act, with the ruling party having been reported to use a State building for their meetings and the state broadcaster to air meetings, without any obstruction from the authorities. Opposition MDP submitted a case with the Elections Commission in July 2016²⁰³ but it is unclear if a verdict has been reached on this issue.

4.4.9 ACCESS TO MEDIA

Both the General Elections Act and the Presidential Elections Act stipulate that all candidates should be provided with access to broadcast media and equitable, non-discriminatory treatment by the state broadcaster. Broadcast media are mandated to allot airtime for campaign ads and programmes by candidates and parties. Any airtime that is sold in this regard should have publicly announced prices, with airtime distributed in such a way that no one candidate gets more than 10 percent of the time allocated for another candidate. State broadcasters are also required to allocate free airtime to all presidential candidates in an equitable manner.

While the law technically provides for access to media, some shortcomings in the law potentially makes this access less meaningful. For instance, although the Maldives Broadcasting Commission has jurisdiction over broadcast media, there is no designation of mandate for media monitoring to ensure that all broadcasters comply with the electoral law. The law is also silent on whether the Elections Commission or the Maldives Broadcasting Commission has the authority to deal with media-related elections complaints. Furthermore, broadcasters are not required by law to disclose the criteria they set for the allocation of airtime, which makes it difficult to determine whether or not broadcasters comply with the law.

It should also be noted that the law only provides for equitable access to media in the case of broadcast media. With the ubiquity of internet-enabled smartphones and the ever-growing popularity of online media, the absence of any provisions regarding access to online media is a major shortcoming in the electoral legal framework. The lack of regulation for other forms of media means that there is no legal means by which equitable allotment of space for candidates can be ensured outside of broadcast media.

The General Elections Act, in its Article 31, states that the usage of broadcasting stations operating outside the Maldives for campaign purposes is prohibited. Given that there is a significant Maldivian population living outside of the country, this stipulation is problematic as it prevents candidates from using foreign media stations to reach out to voters living outside of the Maldives

– especially those living in countries where ballot boxes are stationed on voting day. In addition, Presidential Elections being a matter of international interest, it often attracts international media. The stipulation in the Act means that an interview given to a foreign broadcaster can be interpreted as a campaign activity by the authorities, with the candidate facing penalization.

4.4.10 ISSUES RELATING TO CANDIDACY

The legal framework broadly provides for the right to contest in Presidential Elections either as a member representing a political party, or an independent candidate. The 2008 Constitution also gave the right for women to stand for Presidential Elections, in line with the Maldives' commitments under CEDAW and other international conventions. However, some issues still remain with the law in relation to candidacy.

The Presidential Elections Act stipulates that the candidates pay a deposit of MVR 40,000 (USD 2,594) with the Elections Commission. It also stipulates a condition whereby independent candidates, in addition to the deposit, have to collect 1,500 valid voter signatures. While the requirement for monetary deposits and voter endorsements are internationally acceptable practices, the fact that only independent candidates have to collect the signatures infringe on their right to equal treatment before law. Another shortcoming in the legal framework with regard to candidacy is that the law is silent on what happens if a candidate switches political party affiliation once their name is on the ballot paper.

During the course of research for this assessment, Transparency Maldives asked interlocutors about their thoughts on the inclusion of a 'None of the Above' (NOTA) option on the ballot paper. Reactions to the question were mixed, with some arguing for its benefits while others stating that it is not something that is important at the moment. Those who agreed contended that given the current situation, where chances are limited for opposition candidates, a NOTA option may be used to send a message to the government. Another argument was that the political field has been dominated by the same candidates for the past decade, especially for

Presidential Elections and a NOTA option would give the people a way to say no to the status quo. Those who argued against it said that calling for a NOTA option is a very pessimistic way of facing political problems, and that people should rather try to fight for change in other ways, such as by encouraging new candidates. For others, exploring a NOTA option – regardless of its merits – should not be on the public agenda right now and argued that there are more important changes that need to be brought. What was clear in all instances was that discourse on a NOTA option was new to all interlocutors and hence, civil society and political parties need to create dialogue on the matter before such an option can be included in the electoral legal framework.

CHAPTER 5

ELECTORAL LEGAL FRAMEWORK

CHAPTER 5

SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>1. Constitution and pre-requisite rights</p> <ul style="list-style-type: none"> – should define electoral process, guarantee participatory rights related to electoral process and other fundamental rights that facilitate the fulfilment of these participatory rights. 	<p>a. The Constitution, along with international treaties and local legislation, provides for the basic legal framework and other pre-requisite freedoms in the conduct of elections and voting. While there definitely are areas that require improvement, a recurring concern during the research for this report was the lack of rule of law and the discriminatory application of laws which hinder the conduct of free and fair elections. (Chapter 4)</p> <p>b. The lack of judicial independence and impartiality is seen as a factor which could greatly affect the fairness of elections. Judicial interventions have been observed in previous elections and currently, a number of opposition leaders have been disqualified from candidacy through trials characterised by irregularities. (Chapter 4.4.3)</p>	<p>a1. Adhere to the rule of law and uphold democratic principles with the aim of conducting free, fair and inclusive elections. (All State Institutions)</p> <p>a2. Continue mounting pressure on the government and state institutions to uphold democratic principles. (Civil Society, Political Parties, International Community)</p> <p>b1. The judiciary should function through mechanisms of high integrity, accountability and transparency. (Judiciary)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>2. Electoral Act and other related laws</p> <ul style="list-style-type: none"> - should detail out the form, content and procedures of operation for the electoral process. - clearly define state authorities that are authorised to interpret electoral law. - clearly define authority and responsibilities of electoral management body. - should include means to achieve periodic voting - should include an electoral calendar. 	<p>c. The Supreme Court's 2013 guideline causes a number of practical issues in the conduct of elections. (Chapter 4.4.3)</p> <p>d. Discriminatory application of the Supreme Court's guideline was found in the 2017 Local Council Elections, where elections were conducted without the signature of opposition candidates on the voters list. (Chapter 4.4.7)</p>	<p>c1. Revoke the guidelines to allow the Constitution and Acts of Parliament to govern the electoral process. (Supreme Court)</p> <p>c2. Failing this, incorporate the guidelines into law such that there is greater clarity and practicality to the guidelines. (People's Majlis)</p> <p>d1. See recommendations c1 and c2 above.</p>
	<p>a. While the law allows for observation of the elections by third parties, the Elections Commission has discretion on who is accredited to observe. A civil society organisation reported that they were not granted observer status during the Local Council Elections of 2017. (Chapter 3.5)</p>	<p>a1. Allow observation of elections as widely as possible, without discriminatory practices in the accreditation of observers. (Elections Commission)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
<ul style="list-style-type: none"> - should provide for access to effective, timely and enforceable remedy throughout electoral process. - men and women should be entitled to equal rights and freedoms. - persons with disabilities should be entitled to equal rights and freedoms. - include effective procedures for voter registration. - should include provisions whereby civil society and other stakeholders can participate in the electoral process. - give legal recognition to political parties and clearly define the requirement for political party recognition. - give legal standing for electoral dispute resolution procedures: laws must have clear direction on who can file complaints, assign courts and tribunals that will hear electoral dispute cases and set out sanction for violations. 	<p>b. Civil society organisations also reported that they were not included in the National Advisory Committee (NAC) during the Local Council Elections of 2017. (Chapter 3.5)</p> <p>c. State institutions dominate all proceedings within the NAC while opposition parties and civil society organisations are sidelined. (Chapter 3.5)</p> <p>d. The law does stipulate periodic voting for all elected positions. However, previous elections have seen a number of delays, which effectively increased the term of office for persons holding elected positions. (Chapter 3.5)</p> <p>e. There is speculation that the government may use its control of the Majlis to extend the term of the President. (Chapter 3.5)</p> <p>f. The Constitution guarantees equal rights to men and women and removes the gender bar which previously prevented women from running for presidency.</p>	<p>b1. Allow for the inclusion and meaningful participation of civil society organisations in the NAC as stipulated by the legal framework. (Elections Commission)</p> <p>c1. Uphold democratic principles in the proceedings of the NAC. (Elections Commissions, other relevant State Institutions, Political Parties)</p> <p>d1. Ensure that no delays occur in the conduct of the 2018 Presidential Elections. (Elections Commission, People's Majlis, Security Forces, Political Parties, other relevant State Institutions)</p> <p>d2. Continue mounting pressure on all relevant state institutions to conduct timely elections (Civil Society, Political Parties, International Community)</p> <p>e1. Uphold democratic principles, constitutional provisions and prevent the presenting and passage of any bills that extend the presidential term. (People's Majlis)</p> <p>f1. Propagate moderate interpretations of Islamic principles and promote the participation of women in public life. (Civil Society, Political Parties, Human Rights Commission of the Maldives)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
	<p>However, in practice there are a number of issues which prevent women's participation in public life. One such example is the narrow interpretation of Islamic principles which reinforce patriarchal views. (Chapter 3.7)</p> <p>g. While turnout of female voters is satisfactory, there are reports of undue influence being exerted on women that infringe on their right to vote independently. (Chapter 3.7)</p> <p>h. The Elections Commission has announced electoral legislative changes, but there remains very little time to keep the public informed about the changes that are brought. (Chapter 3.9)</p>	<p>g1. Take measures for the empowerment of women, with a special focus on economic empowerment. (Civil Society, Political Parties, all relevant State Institutions)</p> <p>h1. Take measures for the immediate passage of amendments to the electoral legal framework. (People's Majlis, Elections Commission, Attorney General's Office)</p> <p>h2. Ensure that these amendments are in-line with democratic principles and promote the conduct of free and fair elections. (People's Majlis, Elections Commission, Attorney General's Office, Civil Society, Political Parties)</p> <p>h3. Conduct voter education on these amendments. (Elections Commission, Civil Society, Media, Political Parties)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
	<p>i. Code of Conduct of the Elections Commission is vague, which could lead to arbitrary or unfair dismissal of members. This issue also remains with the code of conduct and functions of the Commission's technical and administrative staff. (Chapter 4.4.1)</p> <p>j. The legal framework is unsatisfactory with regard to transparency in the Commission's work. This is further exacerbated by the issues related to the implementation of the Right to Information Act. (Chapter 4.4.1)</p> <p>k. Timeframes for the Commission's work in the conduct of elections are unclear. For instance, no clear timeframes are defined for the conduct of voter education and the establishment of the National Advisory Committee. (Chapter 4.4.1)</p> <p>l. Inter-institutional relations are not clearly defined, which causes problems in addressing wrongdoings by candidates and institutional overreach in the conduct of elections. (Chapter 4.4.1)</p>	<p>i1. Amend the Elections Commission Act to bring more clarity to the code of conduct of its members and staff. (People's Majlis, Elections Commission, Attorney General's Office)</p> <p>j1. Amend the electoral legal framework such that greater transparency is brought to the work of the Elections Commission, including the periodic reporting to the public of all aspects of its work. (People's Majlis, Elections Commission, Attorney General's Office)</p> <p>j2. Take measures to better implement the Right to Information Act. (Information Commissioner's Office, Civil Society, Political Parties, other relevant State Institutions)</p> <p>k1. Amend the electoral legal framework to include clearer timeframes. (People's Majlis, Elections Commission, Attorney General's Office)</p> <p>l1. Amend the electoral legal framework to better define the roles of all related agencies. (People's Majlis, Elections Commission, Attorney General's Office)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
	<p>m. There is a stipulation in the General Elections Act, which states that the usage of broadcasting stations operating outside the Maldives for campaign purposes is prohibited. This is problematic as it prevents candidates from using foreign media stations to reach out to voters living outside of the Maldives. It also means that even an interview to foreign media can be interpreted as a campaign activity by the authorities with candidates facing penalisation. (Chapter 4.4.9)</p>	<p>m1. Amend the General Elections Act to remove this clause regarding international broadcasters (People's Majlis, Elections Commission, Attorney General's Office)</p>
	<p>n. The law is unclear on what happens if a candidate switches party affiliation after their name is on the ballot paper. (Chapter 4.4.10)</p>	<p>n1. Amend the electoral legal framework to bring clarity in this regard. (People's Majlis, Elections Commission, Attorney General's Office)</p>
	<p>o. During the research phase for this assessment, it was found that there is a mixed reaction for the inclusion of a 'None of the above' (NOTA) option on the ballot paper. (Chapter 4.4.10)</p>	<p>o1. Initiate public dialogue on the matter of implementing a NOTA. (Political Parties, Civil Society, Media, Elections Commission)</p>

VOTER EDUCATION

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>Should Include:</p> <ol style="list-style-type: none"> 1. Civic Education – in order to increase the awareness of civil rights that in a broader sense relate to the participation in electoral process. 2. Voter Education – includes information about electoral process, requirement and procedures in order to raise awareness about the voter's choices and the significance of these choices within the system. 3. Voter Information – includes short-term programmes that focus on specific, factual information related to specific electoral processes (i.e. how, when and where to register, vote and lodge complaints etc). 	<p>a. Most interlocutors noted that the public receives adequate voter education and voter information. However, there were some reports that some voters were unsure of the location of their polling station. (Chapter 3.9)</p> <p>b. It was noted that some members of the public were unaware of the requirement by candidates to submit a report on campaign finance and expenditures. (Chapter 3.4)</p> <p>c. Selling of votes was attributed to the lack of faith in some people that their votes will make a difference. (Chapter 3.4, 3.9)</p> <p>d. -There are shortcomings in the knowledge of the public with regard to the roles of state institutions. (Chapter 3.9)</p> <p>e. With only months remaining for the elections, it is concerning that there are currently no observable efforts in voter education. (Chapter 3.9)</p>	<p>a1. Ensure that all voters are informed of the location of their ballot boxes and continue to provide voter information to the public. (Political Parties, Civil Society, Media, Elections Commission)</p> <p>b1. Improve civic education with the inclusion of information about the responsibilities of candidates and political parties in terms of openness and transparency. (Political Parties, Civil Society, Media, Elections Commission)</p> <p>c1. Conduct civic education programmes to increase people's belief in the democratic system and the power of the vote. (Political Parties, Civil Society, Media, Elections Commission)</p> <p>d1. Conduct awareness programmes on the roles of state institutions, especially those that have a role in the conduct of elections. (Political Parties, Civil Society, media, Elections Commission)</p> <p>e1. Initiate voter education programmes immediately, ensuring that these programmes are conducted in accordance with best practices. (Political Parties, Civil Society, Media, Elections Commission)</p>

VOTER REGISTRATION

Best Practices	Current Situation	Recommendations (Target Authorities)
1. Electoral Management Body should compile and maintain an accurate and up-to-date voter registry.	<p>a. Some councils noted a lack of communication between the Elections Commission and councils in the compilation of the voters list. However, the Elections Commission has announced that it will publish the initial voters list in July 2018. (Chapter 3.5)</p> <p>b. No state authority in Maldives is mandated to maintain an up-to-date and accurate civil registry. (Chapter 4.4.7)</p>	<p>a1. Liaise with all relevant institutions in compiling an accurate voters list. (Elections Commission)</p> <p>b1. Appoint a state institution to maintain an accurate civil registry. (All relevant State institutions)</p>
2. Electoral Management Body should establish an effective complaints mechanism with regard to voter registration process and allow for effective remedy.	<p>a. While amendments can be submitted, only a short timeframe is given for this purpose. (Chapter 3.5)</p>	<p>a1. Increase the amount of time allowed to submit corrections to the voter registry. (Elections Commission)</p>
3. Electoral Management Body must ensure that information regarding voter registration is available to the public and adequate time is given for voter registration.	<p>a. Transparency Maldives' 2013 pre-election assessment found that in one island, the residents of the island submitted only one complaint regarding the voters list, while the council itself found a number of issues with the list. This indicates that the public may not be aware on the importance of checking the voters list, or the procedure to do it.</p>	<p>a1. Take measures to improve public outreach regarding the voters list and registration. (Political Parties, Civil Society, Media, Elections Commission)</p>
4. Information collected for voter registration should only be used for that purpose.	<p>a. There is speculation that the government may misuse the information it holds on citizens to rig the elections. (Chapter 3.3)</p>	<p>a1. Ensure that information collected for electoral purposes are not misused or shared with third parties. (Elections Commission, other relevant State Authorities)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
5. Allowing civil society organisations and political parties to check the voters list and conduct voter registration without unfair burden or hindrance.	<p>a. The voters list published by the Elections Commission does not include ID card numbers and parties are not provided with soft copies of the voters list, which increases the time taken for verification. (Chapter 3.5)</p>	<p>a1. Take measures to make the verification process less tedious. (Elections Commission)</p>

ELECTORAL DISPUTE RESOLUTION

Best Practices	Current Situation	Recommendations (Target Authorities)
1. Free, fair, non-discriminatory and effective remedies should be available for violation of electoral rights.	<p>a. While complaints mechanisms are provided for by law, many interlocutors noted a lack of action on complaints submitted. (Chapter 3.5)</p> <p>b. There are various issues with the legal framework of the complaints mechanisms that were found, including the lack of detailed responsibilities and operational procedures, and the lack of a requirement to provide proper training and resources to members of complaints mechanisms. (Chapter 4.4.5)</p>	<p>a1. Ensure the effective functioning of the complaints mechanisms through practical and legislative measures. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>b1. See recommendation a1 above.</p>
2. While adequate time must be allowed for electoral dispute resolution, it should also allow for timely decisions to be made.	<p>a. General Elections Act stipulates that the High Court must adjudicate on any complaints within 30 days of its filing. This deadline is problematic, as any subsequent round of the elections must be conducted within 21 days of the previous round and the final result must be announced within 7 days of elections. (Chapter 4.4.5)</p>	<p>a1. Amend the legal framework to allow for timely decisions to be made on electoral disputes. (Elections Commission, People's Majlis, Attorney General's Office)</p>
3. Dispute resolution process should be comprehensible and easily accessible to everyone.	<p>a. The multi-tiered nature of the complaints mechanisms has drawn criticism for being too complicated. (Chapter 3.5, 4.4.5)</p>	<p>a1. Make complaints mechanisms simpler without compromising on easy accessibility. (Elections Commission, People's Majlis, Attorney General's Office)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
	<p>b. Information about complaints mechanisms is not sufficiently provided to the public, making these mechanisms less accessible. (Chapter 3.9)</p> <p>c. The Local Council Election of 2017 saw the centralisation of complaints mechanisms, making it less accessible to people in the islands. (Chapter 3.5)</p>	<p>b1. Improve voter education with regard to complaints mechanisms. (Political Parties, Civil Society, Media, Elections Commission)</p> <p>c1. See recommendation a1 above.</p>
4. Transparency and access to information should be maintained and electoral legal proceedings, judgements, findings and legal reasoning should be made public.	<p>a. The first round of Presidential Elections in 2013 was annulled based on a secret intelligence report by the police, which was not shared with the defendant. (Chapter 2.3)</p>	<p>a1. Cease the use of secret intelligence reports in trials. (Maldives Police Service, Judiciary)</p>

POLITICAL PARTIES, CANDIDACY AND CAMPAIGNING

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>1. State must allow individuals and groups to register as political parties on their own volition and on equal terms as other similar organisations.</p>	<p>a. Smaller political parties are not provided funding by the State, which restricts the ability for smaller and newer parties to operate. (Chapter 4.4.2)</p> <p>b. There is a proposed amendment to the electoral legal framework to give greater regulatory powers to the Elections Commission. An example of this is a provision whereby party primaries are to be held under the watch of the Elections Commission, which infringes the independence of political parties. (Chapter 4.4.2)</p>	<p>a1. Revoke the 2015 amendment to the Political Parties Act to allow financing for smaller parties. Factors other than membership can be used to determine whether or not parties are eligible for State funding. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>b1. Refrain from any legislative measures that infringe upon political parties' ability to operate independently. (Elections Commission, People's Majlis, Attorney General's Office)</p>
<p>2. Rights of all eligible citizens to stand for and be elected to public office should be protected.</p>	<p>a. All opposition leaders are currently barred from presidential candidacy – either due to changes brought to eligibility criteria, or due to the passing of a sentence of longer than 12 months in prison. It should be noted that the trials of opposition leaders were characterized by irregularities. A number of other politicians are either serving sentences or being prosecuted for various alleged crimes. (Chapter 3.2)</p>	<p>a1. Ensure that all opposition leaders and other individuals who wish to run for presidency are able to do so without undue hindrance. Where eligibility is revoked, it should only be done via a free and impartial judicial process. (Judiciary, Elections Commission)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>3. Eligibility requirements for the candidates should be objective and reasonable.</p>	<p>a. There are no objective and reasonable justifications for the constitutional amendment which imposed a maximum age limit for presidential candidates. (Chapter 3.2)</p> <p>b. All opposition leaders are currently barred from running for presidency through the imposition of prison sentences over questionable trials and other political leaders who may contest in the elections are being prosecuted on various alleged crimes. (Chapter 3.2)</p> <p>c. Independent candidates are required to collect 1,500 signatures to be eligible for candidacy, whereas candidates representing political parties do not have to meet this requirement. (Chapter 4.4.10)</p>	<p>a1. Reverse the constitutional amendment that imposed a maximum age limit for candidacy. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>b1. Ensure that all opposition leaders and other individuals who wish to run for presidency are able to do so without undue hindrance. Where eligibility is revoked, it should only be done via a free and impartial judicial process. (Judiciary, Elections Commission)</p> <p>b2. Stop the politically motivated prosecution of opposition members. (Maldives Police Service, Prosecutor General's Office, Judiciary)</p> <p>c1. Amend the legal framework to revoke the requirement for signatures by independent candidates and ensure there are no discriminatory practices with regard to eligibility. (Elections Commission, People's Majlis, Attorney General's Office)</p>
<p>4. All candidates must be allowed equal time, space and opportunity before the law in campaigning, sharing information and monitoring the election.</p>	<p>a. The ruling coalition is seen to enjoy greater freedoms in the conduct of political and campaign activities. This includes legal and administrative hurdles by which opposition activities are curtailed. (Chapter 3.1)</p>	<p>a1. Ensure that all parties and candidates are given equal time, space and opportunities to campaign. (Elections Commission, People's Majlis, Attorney General's Office, Media, other relevant State Institutions)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
5. To ensure that women get equal opportunity to participate and compete in the electoral process, measures such as electoral financial assistance, trainings and enforcing quotas should be practiced.	<p>b. The Freedom of Assembly Act limits the ability to conduct political activities. (Chapter 4.4.2)</p> <p>a. Women lack family and societal support in running for public office, which is further exacerbated by the unsatisfactory levels of positive campaigns to encourage women's participation. (Chapter 3.7)</p> <p>b. While the legal framework of the country allows for affirmative action and temporary special measures, only a few instances are seen where this provision is used. (Chapter 3.7)</p> <p>c. Women face greater economic challenges than men, which reduce their ability to participate in public life. (Chapter 3.7)</p> <p>d. Women's Development Committees lack adequate resources to fulfil their mandate of working for women's rights and promoting women's participation in public life. (Chapter 3.7)</p>	<p>b1. Amend the Freedom of Assembly Act to allow for unhindered conduct of political activities. (People's Majlis, Attorney General's Office, Political Parties)</p> <p>a1. Conduct campaigns to promote women's participation in public life and utilize constitutional provisions for affirmative action and temporary special measures to facilitate women's participation. (Civil Society, Political Parties, all relevant State Institutions)</p> <p>b1. See recommendation a1 above.</p> <p>c1. Take measures for the empowerment of women, with a special focus on economic empowerment. (Civil Society, Political Parties, all relevant State Institutions)</p> <p>d1. Provide adequate resources to facilitate proper functioning of WDCs. (People's Majlis, Elections Commission, Political Parties)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
6. During election period and otherwise, State should prohibit and punish the advocacy of national, racial and religious hatred.	<p>e. All parties consulted reported internal policies in place to promote participation of women, such as the provision of additional funding for female candidates. However, there are also practices within parties that hinder women's participation. (Chapter 3.7)</p> <p>f. There seems to be a gap in knowledge, even amongst people in positions to make positive changes, with regard to the role of women in public life and challenges to women's participation. (Chapter 3.7)</p> <p>a. It has been alleged that the President incited violence during a speech. (Chapter 3.10)</p> <p>b. The term "laadheene" (used interchangeably to mean secular or irreligious) is often used across the board to create religious hatred against political opponents. (Chapter 2.2)</p>	<p>e1. Strengthen internal policies and make consistent efforts to increase women's participation in public life. (Political Parties)</p> <p>f1. Conduct awareness programmes to increase knowledge on the importance of women's participation in public life and the challenges faced by women in meaningful participation. (Civil Society, Political Parties, Elections Commission, Human Rights Commission of the Maldives)</p> <p>a1. Take actions against persons inciting violence and hatred to facilitate a conducive environment for elections. (Elections Commission, Maldives Police Service, Prosecutor General's Office, Human Rights Commission of the Maldives, Ministry of Islamic Affairs, Judiciary)</p> <p>b1. See recommendation a1 above.</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
7. Right to security of all persons, including candidates, party members and other electoral stakeholders should be guaranteed during the election period.	a. Acts of electoral violence have been observed such as the torching of a campaign station and the vandalising of a media station. (Chapter 3.10)	a1. Take actions against persons who commit acts of electoral violence and ensure the right to security of all stakeholders in elections. (Elections Commission, Maldives Police Service, Prosecutor General's Office, Judiciary)

THE MEDIA

Best Practices	Current Situation	Recommendations (Target Authorities)
1. Media should be able to operate freely without undue influence.	a. Maldives was ranked 117 out of 180 for media freedom by Reporters Without Borders. (Chapter 3.6, 4.4.2)	a1. Take immediate practical and legislative measures to revoke undue influence and restrictions to media. (People's Majlis, Attorney General's Office, all relevant State Institutions including Maldives Broadcast Commission)
2. State broadcaster must ensure that the public is adequately informed in election related issues in a way that is politically balanced.	a. The lack of independence of the state media is a major concern going into the elections. Opposition parties noted that no coverage is given to their activities in the state media, while airtime is given constantly to the president and the ruling coalition. (Chapter 3.6) b. A board member of the state media is often seen presenting ruling coalition rallies. (Chapter 3.3)	a1. State broadcaster must ensure that equal opportunities are provided to all political parties and candidates in order to present the public with balanced information with regard to elections. (State Media, Elections Commission, Maldives Broadcasting Commission) b1. Extent of involvement of high-ranking state officials, especially persons from institutions with key roles in the conduct of elections, should be limited by law. (Elections Commission, People's Majlis, Attorney General's Office)
3. Media should be required to publish information about voter education.	a. No activities pertaining to voter education is currently observed on the media, other than the coverage of press briefings by the Elections Commission.	a1. Commence activities related to voter education immediately. (Media Organisations)

Best Practices	Current Situation	Recommendations (Target Authorities)
4. Media and individual journalists should not be held responsible for the untrue information provided by other sources.	a. This no longer holds true due to the Protection of Reputation and Freedom of Expression Act. (Chapter 3.6)	a1. Annul the Protection of Reputation and Freedom of Expression Act. (People's Majlis)
5. Restrictions and regulation of individuals practicing journalism should be kept to a minimum.	a. There are plans to establish a Maldives Media Commission with the aim of bringing all media organisations under one regulatory body. It is alleged that this will further exacerbate the lack of independence of the media. (Chapter 3.6)	a1. Refrain from any legislative changes that impose undue restrictions on the media. (Elections Commission, People's Majlis, Attorney General's Office)
6. Accreditation of journalists for entry into certain areas, such as polling stations, should be consistent, transparent and non-discriminatory.	a. An opposition aligned media organisation was not granted monitor accreditation for the 2017 Local Council Elections. (Chapter 3.5)	a1. Ensure that all media personnel are accredited for monitoring all aspects of the elections. (Elections Commission)
7. An independent body should regulate election related broadcasts.	a. Interlocutors noted the lack of independence in both the Maldives Broadcasting Commission and the Elections Commission. (Chapter 3.5, 3.6)	a1. Take immediate measures to ensure the independence of the Maldives Broadcasting Commission and the Elections Commission. (People's Majlis, the President)
8. Ownership of media organisations should be transparent so that the public is aware of potential biases.	a. While information about media ownership is generally known to the public, this information does not come from any official sources. (Chapter 3.6)	a1. Ensure transparency by establishing a publicly available record of all registered media organisations with clear information about its ownership and affiliations. (Maldives Broadcasting Commission, Maldives Media Council, Ministry of Home Affairs)
9. Freedom of expression for media should only be restricted as prescribed by law and to a degree that is acceptable for a democratic society.	a. The Protection of Reputation and Freedom of Expression Act sets undue restrictions on media. (Chapter 3.6)	a1. Annul the Protection of Reputation and Freedom of Expression Act. (People's Majlis)

Best Practices	Current Situation	Recommendations (Target Authorities)
10. State must ensure that claims of defamation are not used to suppress freedom of expression.	a. The Protection of Reputation and Freedom of Expression Act sets undue restrictions on media. The Act also criminalises defamation, which previously was a civil offence. (Chapter 3.6, 4.4.2)	a1. Annul the Protection of Reputation and Freedom of Expression Act. (People's Majlis)
11. Airtime for all political parties should be equally distributed.	<p>a. The legal framework requires broadcast media, including the state broadcaster, to provide airtime to candidates on an equitable basis. However, the lack of independence of the state media and the fact that most other media organisations are owned by politicians or businesses with political affiliations means that in practice, airtime may not be distributed as stipulated by law. (Chapter 4.4.9)</p> <p>b. Additionally, the law is unclear on whether the Elections Commission or the Maldives Broadcasting Commission is responsible for the monitoring of time allocations. (Chapter 4.4.9)</p> <p>c. Broadcasters are not required to disclose criteria by which time is allocated, which makes it difficult to determine whether broadcasters comply with the law. (Chapter 4.4.9)</p> <p>d. Only broadcast media is regulated by the electoral legal framework, meaning that there is no legal requirement for the provision of equitable space on other forms of media. (Chapter 4.4.9)</p>	<p>a1. State broadcaster must ensure that equal opportunities are provided to all political parties and candidates. (State Media, Elections Commission, Maldives Broadcasting Commission)</p> <p>a2. Minimize barriers to entry and facilitate the operation of independent and impartial media organisations. (Ministry of Home Affairs, Maldives Broadcasting Commission)</p> <p>b1. Add clarity to the electoral legal framework to better define institutional roles in elections. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>c1. Amend the law such that broadcasters are required to disclose criteria for time allocation. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>d1. Add other forms of media to the electoral legal framework. (Elections Commission, People's Majlis, Attorney General's Office)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
12. State broadcaster may offer free airtime and paid advertising slots but must ensure that these are accessible to all candidates in an equitable manner.	a. The law stipulates that the state broadcaster must provide free airtime on an equitable basis for all parties and candidates. However, the lack of independence of the state media and the lack of independent regulatory mechanisms may prevent equitable airtime. (Chapter 3.6)	a1. State broadcaster must ensure that equal opportunities are provided to all political parties and candidates. (State Media, Elections Commission, Maldives Broadcasting Commission) a2. Take immediate measures to ensure the independence of the Maldives Broadcasting Commission and the Elections Commission. (People's Majlis, the President)
13. Right to security of persons and freedom from arbitrary detention should extend to media.	a. There have been several attacks on media outlets and journalists over the years, with many of these attacks going unpunished. (Chapter 3.6) b. Journalists covering protests against the ruling coalition have been treated the same way as protesters and have been arrested on numerous occasions. (Chapter 3.6)	a1. Take actions against persons who commit acts of violence and ensure the right to security of all media organisations and journalists. (Elections Commission, Maldives Police Service, Prosecutor General's Office, Judiciary) b1. Security forces should allow media to operate freely in the coverage of all political activities. (Security Forces, National Integrity Commission, Human Rights Commission of the Maldives, Elections Commission)

PERSONS WITH DISABILITIES

Best Practices	Current Situation	Recommendations (Target Authorities)
1. State must ensure the rights and freedoms of persons with disabilities to participate in public life and to vote.	a. The lack of a comprehensive national registry of persons with disabilities means that the State lacks the necessary information in ensuring the rights and freedoms of persons with disabilities to participate in public life and to vote. (Chapter 3.8) b. Persons with disabilities have had to prove to elections officials that they do indeed have a disability, to be eligible for assisted voting. (Chapter 3.8)	a1. Appoint a state institution to maintain an accurate and comprehensive registry of persons with disabilities. (All relevant State institutions) b1. See recommendation a1 above.
2. Polling and registration stations should be accessible to persons with disabilities.	a. There is a general consensus that physical accessibility to voting stations is not a major issue in the country. (Chapter 3.8)	a1. Continue this practice in all upcoming elections. (Elections Commission)
3. Voters with disabilities must have access to independent assistance in voting.	a. Assisted voting is provided for in electoral policies but there are numerous reports of this provision being taken advantage of to vote against the wishes of the voter. (Chapter 3.8)	a1. Take immediate practical and legislative measures to ensure voters with disabilities have access to independent assistance in voting. (Elections Commission, People's Majlis, Attorney General's Office)
4. Voters with disabilities must have access to information throughout the electoral process including information about their right to assistance in voting.	a. Voters with visual and hearing impairments have limited access to voter education and campaign messages. One consequence of this is that it makes persons with disabilities more vulnerable to coercion. (Chapter 3.8)	a1. Take immediate measures to ensure voter education and campaign messages are accessible to persons with disabilities. (Elections Commission, Civil Society, Media, Political Parties)
5. Persons with disabilities must have access to assistive technologies and other technologies during the electoral process.	a. The use of assistive facilities such as Braille and interpreters is not observed. (Chapter 3.8)	a1. Implement the use of assistive technologies and facilities during the electoral process to ensure that persons with disabilities can fully exercise their right to vote. (Elections Commission, Media, Civil Society)

CAMPAIGN FINANCING AND CONTRIBUTIONS

Best Practices	Current Situation	Recommendations (Target Authorities)
1. States must establish clear rules and regulations defining acceptable sources of financial donations.	<p>a. The legal framework sets out acceptable sources of financial donations but there are a number of loopholes in the law that prevent meaningful regulation of campaign finance, such as the lack of regulation of in-kind assistance, third party expenditures and the lack of clarity in what constitutes as campaign expenditure. (Chapter 4.4.4)</p> <p>b. While foreign donations are disallowed in the General Elections Act, the Political Parties Act allows foreign donations with approval from the Elections Commission. These funds could be used for electoral purposes, which contradicts with the General Elections Act. (Chapter 4.4.4)</p>	<p>a1. Amend the electoral legal framework to close all loopholes in campaign finance sources. This should include the regulation of in-kind donations, third party expenditures, and contain clear definitions of campaign expenditures. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>b1. Amend the legal framework to rectify this contradiction and bring clarity to campaign finance regulation. (Elections Commission, People's Majlis, Attorney General's Office)</p>
2. States should provide financial support on an equitable manner to ensure parties remain in operation.	<p>a. Yearly state finances are not given to parties within the timeframe required by law. (Chapter 3.1)</p>	<p>a1. Ensure that state funding for parties is provided as required by law. (Elections Commission, Ministry of Finance and Treasury)</p>
3. States should impose limits on campaign expenditures.	<p>a. A limit of MVR 1,500 is imposed per constituent. However, issues remain with the enforcement of this limit. (Chapter 4.4.4)</p>	<p>a1. Amend the law to close loopholes in campaign financing, include stricter reporting requirements and improve the enforcement of campaign finance regulation. (Elections Commission, People's Majlis, Attorney General's Office)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
4. Parties and candidates must disclose all funding they receive, maintain records of the expenditure and make their accounts public.	<p>a. There is no requirement for periodic disclosure of campaign financing and expenditures. Timeframe for submitting campaign finance reports to the Elections Commission is also problematic. In addition, the avenues for public availability of these reports is limited. (Chapter 4.4.4)</p>	<p>a1. Include stricter and more timely reporting requirements in law for campaign finance and expenditures. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>a2. Amend relevant laws to allow for public access to information about campaign finance and expenditures. (Elections Commission, People's Majlis, Attorney General's Office)</p>

VOTE BUYING AND MISUSE OF STATE RESOURCES

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>1. States must establish clear rules and regulations defining acceptable sources of financial donations.</p>	<p>a. While there are some legal provisions that do prohibit the misuse of public resources, the enforcement of these laws is lacklustre, allowing for widespread misuse of public resources for electoral purposes, such as state vehicles and buildings. (Chapter 3.3, 4.4.8)</p> <p>b. Regulatory resources have been used to stifle opposition activities. (Chapter 3.3)</p> <p>c. There is speculation that the government may misuse the information it holds on citizens to rig the elections. (Chapter 3.3)</p> <p>d. Manipulation of institutions through the appointment of party supporters to top positions. (Chapter 3.3)</p> <p>e. Government projects are often announced, inaugurated or completed during the election period by the incumbent, as a means of campaigning (Chapter 3.3)</p>	<p>a1. Improve the legal framework and its enforcement, with necessary legal repercussions for perpetrators. (Elections Commission, People's Majlis, Attorney General's Office, Anti-corruption Commission, Auditor General's Office)</p> <p>b1. Ensure that laws are only meant to facilitate free, fair and inclusive elections. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>c1. Ensure that information about citizens are only used for the purposes they were originally collected. (All relevant State institutions)</p> <p>d1. Include provisions in law whereby a grace period is included for politically active individuals to hold high-ranking positions at institutions with key roles in elections. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>e1. Include provisions in law whereby the incumbent government is prohibited from holding major public events related to the announcement, inauguration or completion of government projects during the official campaign period of elections (Elections Commission, People's Majlis, Attorney General's Office)</p>

Best Practices	Current Situation	Recommendations (Target Authorities)
<p>2. States should provide financial support on an equitable manner to ensure parties remain in operation.</p> <p>3. The coercion to vote for a particular candidate must be explicitly prohibited in law.</p>	<p>a. The appointment of Ahmed Shareef as a member of the Elections Commission, due to his involvement in activities of the ruling coalition just prior to his appointment. (Chapter 3.5, 4.4.1)</p> <p>The law does not sufficiently cover coercion and the stipulations that do exist in law are not implemented effectively</p> <p>a. A third of Maldivians are said to have experienced first-hand, or witness the offering of cash or gifts in exchange for votes. (Chapter 3.4)</p> <p>b. The government is said to have provided flats under a social housing scheme to supporters of the ruling coalition. (Chapter 3.4)</p> <p>c. The prevalence of vote buying has been attributed to the exploitation of economic conditions of the majority of the population. (Chapter 3.4)</p> <p>d. Bill to prevent ballot marking was quashed by the ruling coalition, which facilitates vote buying. (Chapter 4.4.6)</p>	<p>a1. Include provisions in law whereby a grace period is included for politically active individuals to hold high-ranking positions at institutions with key roles in elections. (Elections Commission, People's Majlis, Attorney General's Office)</p> <p>a1. Improve the legal framework and its enforcement, with necessary legal repercussions for perpetrators. (Elections Commission, People's Majlis, Attorney General's Office, Anti-corruption Commission, Auditor General's Office)</p> <p>b1. See recommendation a1 above.</p> <p>c1. There needs to be a change in the culture where the people have to depend on direct contributions from politicians to meet basic needs. In addition, equitable systems should put in place through legislation and policy with the aim of closing the wealth gap that has been built up over the last several decades. (People's Majlis, Civil Society, Political Parties)</p> <p>d1. Amend the law such that ballot papers with additional markings are invalidated. (Elections Commission, People's Majlis, Attorney General's Office, Political Parties)</p>

CHAPTER 6

CONCLUSION - WHAT (FREE AND FAIR) ELECTIONS?

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The backdrop to the 2018 Presidential Elections is in stark contrast with that of the 2008 and even the 2013 elections. While previous Presidential Elections have been met with a sense of hope, the upcoming elections is being faced with scepticism and a general lack of trust in the State. In this regard, **two major areas of discontent** were found.

Firstly, a large number of interlocutors expressed **cynicism about the government's intentions to hold elections on time as stipulated by law, and whether elections will be held at all**. Many believed that due to the loss suffered by the ruling coalition in the Local Council Elections and the growing opposition towards the government's actions, the ruling coalition does not wish for elections to be held on time in accordance with the law. They argued that this is also the reason why by-elections were not held for the Majlis seats that were declared vacant by the Elections Commission following the Supreme Court's ruling in July 2017. A high possibility of delay is supported by the fact that insufficient effort is observed from the Elections Commission and the State, in preparation for elections, especially with such little time remaining. Furthermore, there is a strong belief that the government, having consolidated the powers of all branches of State, could use this power to extend the term of the President, such that the elections will be "legitimately" delayed.

Secondly, most interlocutors were **sceptical about the government's genuineness in holding free, fair and inclusive elections**, even if there are no major delays. The authoritarianism displayed by the incumbent government, especially in respect to recent events, has led many to believe that there is very little chance for free and fair elections to be held in the country, unless major changes happen immediately. As we have seen, state institutions, especially those which have key roles in the administration and conduct of elections such as the Elections Commission, state broadcaster, security forces and other regulatory

authorities have been hijacked by the ruling coalition, diminishing trust in these institutions. All major players in the political field, who may potentially run against the incumbent government have been either jailed – in trials marred with questions about their legitimacy – or forced to live in exile. As of the publishing of this report, the only definite candidate for the upcoming elections is incumbent President Abdulla Yameen Abdul Gayoom. In addition, a number of draconian laws and discriminatory practices have stifled any meaningful political activities by the opposition which has severely disrupted any campaign efforts.

There are also several **issues with electoral law as well as procedures** that could have potential negative impacts in the conduct of elections. These include shortcomings in complaints mechanisms, campaign finance and discriminatory practices with regard to candidacy of independent candidates. Vote buying remains a major issue in the country, with several instances of it being seen in the run-up to the 2018 elections. Without major systemic changes, including the implementation of effective laws and the introduction of measures to improve the citizens' socio-economic conditions, this long-standing culture will be difficult to tackle. Women are still sidelined from participation in public life due to long established practices in society and this has not been helped by the dearth of meaningful initiatives to improve women's standing. While physical accessibility to polling stations are not a major issue, challenges to persons with disabilities also still remain, including the lack of accessibility to voter education and campaign messages, and issues pertaining to assisted voting.

Several interlocutors, while noting these shortcomings in the electoral law, maintained that the legal framework by and large, allows for free and fair elections to be conducted in the country. However, the main concern was that there is a tendency for blatant disregard for the law by the government and other state institutions, rendering the law to mere words on a paper – even if these laws fully complied with international best practices. The lack of the rule of law hence exacerbates the issues that do exist within the legal framework and also acts as a deterrent to work on the improvement of the law, as efforts have to be put into the implementation of the existing framework rather than to improve it. The other general issue that was found is not with the electoral laws directly, but with laws and practices that curb fundamental rights and freedoms that go hand-in-hand with the right to vote and stand for election.

It should also be noted that many of the same issues that were raised in Transparency Maldives' 2013 pre-election assessment still remain within the legal framework and in the practical conduct of elections. This means that the Election Commission and the State in general has failed to act upon recommendations made by Transparency Maldives (and other local and international organisations that have made recommendations along similar lines²⁰⁴) over the past five years to strengthen the electoral system and bring it in-line with internationally accepted best practices. As noted above, changes to the electoral law have to be brought within six months to a year from the date of elections. Beyond the Elections Commission's comments in the media regarding planned amendments to the law, this assessment was not able to verify any further the extent to which practical work on such amendments are ongoing, the contents of these amendments or a timeframe within which the changes will take place. Even if the Elections Commission stays true to its comments in the media on holding the elections in September 2018, this leaves us with five months for the elections and thus, fall short on the internationally accepted timeframe within which amendments to electoral laws should be made.

The bleak environment by which the 2018 Presidential Elections is met with is particularly discouraging, considering that a free and fair elections is one of the main factors that could remedy the current political instability in the country. As noted by several persons interviewed for this assessment, without such elections, there is a high possibility of degradation of the political situation as well as the escalation of violence. To prevent such violence and instability, the State needs to immediately revert back to the rule of law, uphold democratic principles and allow space for opposition parties to compete in a free, fair and inclusive election. Political parties and civil society must continue to exert pressure on the government in this regard and work with the international community, who has an equally important role in facilitating the restoration of democracy and creating a conducive environment for free and fair elections in the country. For the Maldives to move on from its current political instabilities, it is imperative that all relevant stakeholders work towards the implementation of the recommendations presented in the previous chapter of this report, to create a conducive environment for free, fair and inclusive elections.

APPENDIX 1

APPENDIX 1

LIST OF STAKEHOLDERS CONSULTED FOR THE ASSESSMENT

1. Ms. Shahindha Ismail, Executive Director at Maldivian Democracy Network
2. Mr. Ahmed Mohamed, Chairperson at Maldives Association of Physical Disabilities
3. Raajje TV
 - Mr. Hussein Fiyaz Moosa, COO
 - Mr. Amir Saleem, Head of Programmes
4. Mr. Mohamed Junayd Saleem, Head of Political Desk at Maldives Independent
5. Mr. Misbah Abbas, Member of the Media Council and Senior Editor at VFP
6. Mr. Mohamed Sharafudheen, Editor at Addu Live
7. Adhaalath Party
 - Mr. Ahmed Shareef, Secretary General
 - Uz. Anara Naeem, Member of Parliament
8. Maldivian Democratic Party
 - Uz. Imthiyaz Fahmy, Member of Parliament
 - Mr. Anas Abdul Sattar
9. Jumhooree Party
 - Dr. Hussain Rasheed Hassan, Deputy Leader
 - Mr. Moosa Nizar Ibrahim, Member of Parliament
 - Mr. Mahmood Rameez, JP Council Member
 - Mr. Hussain Shafeeu, JP Member
10. Addu City Council
11. Addu City Women's Development Committee
12. H.Dh. Kulhudhufushi Council
13. H.Dh. Kulhudhufushi Women's Development Committee
14. L. Gan Council
15. L. Gan Women's Development Committee
16. L. Fonadhoo Council
17. L. Fonadhoo Women's Development Committee
18. K. Maafushi Council
19. K. Maafushi Women's Development Committee
20. Elections Commission (written responses to Transparency Maldives' questionnaire)

ENDNOTES

ENDNOTES

1. Longhurst, R. (2016), Semi-structured Interviews and Focus Groups, in Clifford, N., Cope, M., Gillespie, T. and French, S. (eds), *Key Methods in Geography*, p. 143-156, London: SAGE Publications.
2. Rabiee, F. (2004), Focus-group Interview and Data Analysis, *Proceedings of the Nutrition Society*, 63(1), p. 655-660.
3. Article 2 of the International Covenant on Civil and Political Rights, 1966.
4. Carter Center (2014), *Election Obligations and Standards*.
5. UN CCPR, General Comment 25, para. 4.
6. UN CCPR, General Comment 29, para. 8.
7. UN CCPR, General Comment 25, para. 4.
8. Carter Center (2014), *Election Obligations and Standards*.
9. Article 23 of the American Convention on Human Rights, 1969.
10. UN Center for Human Rights (1994), *Human Rights and Elections*, para. 75.
11. Article 5 (f) of the International Convention on Elimination of Racial Discrimination, 1965.
12. Article 3 of the International Covenant on Civil and Political Rights, 1966.
13. Carter Center (2014), *Election Obligations and Standards*.
14. Article 4 of the Convention on the Rights of People with Disabilities, 2007.
15. Article 5 of the Convention on the Rights of People with Disabilities, 2007.
16. Southern African Development Community (2004), *SADC Principles and Guidelines Governing Democratic Elections*, para. 2.1.10.
17. Tuccinardi, D. and Wally, M. (n.d.), *International obligations for elections*, p.159.
18. Aceproject.org, *Basic Voter Education*, <https://aceproject.org/ace-en/topics/ve/vea/vea03> [accessed: 11 March 2018].
19. Carter Center (2014), *Election Obligations and Standards*.
20. European Commission (2008), *Handbook for European Union Election Observation*, 2nd ed., p. 43.
21. Tuccinardi, D. and Wally, M. (2014), *International obligations for elections*. Stockholm: International Institute for Democracy and Electoral Assistance, p. 179.
22. OSCE Office for Democratic Institutions and Human Rights (2012), *Handbook for the observation of voter registration*, p. 31, Warsaw: OSCE.
23. Commonwealth Secretariat (1997), *Good Commonwealth Electoral Practice: A Working Document*, Commonwealth Secretariat: London.
24. European Commission (2008), *Handbook for European Union Election Observation*, 2nd ed., p. 44.
25. UN CCPR, General Comment 34, para. 18.
26. Article 5 of the International Convention on Elimination of Racial Discrimination, 1965.
27. Article 29 of the Convention on the Rights of People with Disabilities, 2007.
28. Article 10 of the United Nations Convention Against Corruption, 2004.
29. Article 17 of the International Covenant on Civil and Political Rights, 1966

30. Article 2 of the Convention on Standards of Democratic Election, Voting Rights and Freedoms in the Member States of the Commonwealth of Independent States, 2007.
31. Organization for Security and Co-operation in Europe (1991), Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, para. 43.
32. The African Commission on Human and Peoples' Rights (2003), Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.
33. Article 2 of the International Covenant on Civil and Political Rights, 1966.
34. Article 19 of the International Covenant on Civil and Political Rights, 1966.
35. European Commission (2008), Handbook for European Union Election Observation, 2nd ed., p. 52.
36. Article 22 of the International Covenant on Civil and Political Rights, 1966.
37. UN CCPR, General Comment 25, para. 27.
38. UN CCPR, Concluding Observations on Azerbaijan (2001), p. 23.
39. Article 25 of the International Covenant on Civil and Political Rights, 1966.
40. Carter Center (2014), Election Obligations and Standards, p. 112.
41. UN CCPR, General Comment 25, para. 4.
42. Carter Center (2014), Election Obligations and Standards, p. 113.
43. UN CCPR, General Comment 25, para. 7.
44. Article 26 of the International Covenant on Civil and Political Rights, 1966.
45. UN CCPR, General Comment 25, para. 15.
46. Article 3 of the International Covenant on Civil and Political Rights, 1966.
47. Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979.
48. Article 20 of the International Covenant on Civil and Political Rights, 1966.
49. Council of Europe (2007), Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, para. 3.1.
50. Article 21 of the International Covenant on Civil and Political Rights, 1966.
51. Organization for Security and Co-operation in Europe (1989), Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, para. 9.2.
52. UN CCPR (1994), Concluding Observations on Cyprus, para. 312-333.
53. Article 12 of the International Covenant on Civil and Political Rights, 1966.
54. European Commission for Democracy Through Law (2010), Guidelines on Political Party Regulation, para. E.
55. European Commission (2008), Handbook for European Union Election Observation, 2nd ed., p. 52.
56. European Convention (2000), Charter of Fundamental Rights of the European Union, Article 11.
57. UN CCPR, General Comment 34, para. 16.
58. UN CCPR, General Comment 34, para. 38.
59. European Commission for Democracy Through Law (2009), Guidelines on Media Analysis During Election Observation Missions, p. 8.
60. UN CCPR, General Comment 34, para. 44.
61. Council of Europe (1994), Recommendation No. R (94) 13 of the Committee of Ministers to member states on measures to promote media transparency, guideline 1.

62. Article 2 of the International Covenant on Civil and Political Rights, 1966.
63. Article 19 of the International Covenant on Civil and Political Rights, 1966.
64. Article 19 of the International Covenant on Civil and Political Rights, 1966.
65. Organization of American States (1978), American Convention on Human Rights, Article 13.
66. African Commission on Human and Peoples' Rights (2002), Declaration of Principles on Freedom of Expression in Africa, Article 12.
67. UN CCPR, General Comment 34, para. 38.
68. UN CCPR, General Comment 34, para. 42 and 47.
69. European Commission (2008), Handbook for European Union Election Observation, 2nd ed., p.54.
70. Article 19 of the International Covenant on Civil and Political Rights, 1966.
71. Article 10 of the United Nations Convention Against Corruption, 2004.
72. Article 26 of the International Covenant on Civil and Political Rights, 1966.
73. UN CEDAW, Concluding Observations on Switzerland (2009), para. 34.
74. UN Center for Human Rights (1994), Human Rights and Elections, para. 120.
75. Council of Europe (2007), Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, para. 12.
76. Article 12 of the International Covenant on Civil and Political Rights, 1966.
77. UN CCPR, General Comment 34, para. 23.
78. African Commission on Human and Peoples' Rights (2002), Declaration of Principles on Freedom of Expression in Africa, Principle 9.2.
79. UN CRPD (2012), Concluding Observations, Hungary, para. 26.
80. Article 4 of the Convention on the Rights of Persons with Disabilities, 2007.
81. Article 29 of the Convention on the Rights of Persons with Disabilities, 2007.
82. UN CCPR, General Comment 25, para. 20.
83. Article 24 and Article 29 of the Convention on the Rights of Persons with Disabilities, 2007.
84. Article 29 of the Convention on the Rights of Persons with Disabilities, 2007.
85. Carter Center (2014), Election Obligations and Standards.
86. CIS. Convention on Democratic Elections, article 12.
87. Congress of Local and Regional Authorities of the Council of Europe (2000), Resolution No. 105(2000) on the financial transparency of political parties and their democratic functioning at regional level, para. 16.
88. Council of Europe (2003), Recommendation Rec (2003)4 of the Committee of Ministers to Member States on common rules against corruption in the funding of political parties and electoral campaigns, Article 1.
89. Commonwealth Secretariat, Reference Guide for Election Observers, p. 24.
90. CIS. Convention on Democratic Elections, article 12.
91. Council of Europe (2003), Recommendation Rec (2003)4 of the Committee of Ministers to Member States on common rules against corruption in the funding of political parties and electoral campaigns, para. 12(a).
92. Council of Europe, Committee of Ministers (2008), Declaration on the Code of Good Practice in Electoral Matters, para. 41.

93. UN CCPR, General Comment 25, para. 20.
94. Jauregui, B. (2010), *Bluing Green in the Maldives by “Civil”-izing National Security*, in Kelly, J., Jauregui, B., Mitchell, S. & Walton, J. (Eds.), *Anthropology and Global Counterinsurgency*, p. 23–37, Chicago: University of Chicago Press.
95. Naish, A. (2017), “Maldives slides on press freedom index”, *Maldives Independent*, www.maldivesindependent.com/politics/maldives-slides-on-press-freedom-index-130217 [accessed: 20 January 2018].
96. European Union Election Observation Mission (2014), *Final Report: Maldives 2014*, p. 4, www.eods.eu/library/eu-eom-maldives2014-final-report_en.pdf [accessed: 10 February 2018].
97. Maldivian Democracy Network (2010), *Human Rights in the Work of the People’s Majlis, Male’*: Novelty
98. Reporters Without Borders (2012), “Leading journalist released, his blog remains banned”, ifex, www.ifex.org/maldives/2012/01/10/rasheed_released/ [accessed: 12 February 2018].
99. All of whom were appointed by Gayoom himself.
100. It should be noted that the Judicial Service Commission was made up of members whose majority still supported the Gayoom-regime. According to the Constitution, the composition of the Judicial Service Commission is as follows: the Speaker of the People’s Majlis; a Judge of the Supreme Court (other than the Chief Justice) elected by the judges of that court; a Judge of the High Court elected by the judges of that court; a Trial Court Judge elected by the judges of that court; a Member of Parliament appointed by the Parliament; a member of the general public appointed by the Parliament; the Chair of the Civil Service Commission (appointed by the President from a list approved by the Parliament); a person appointed by the President; the Attorney-General (appointed by the President under article 133); and a lawyer elected from among the lawyers licensed to practice in the Maldives.
101. See for instance: International Commission of Jurists and South Asians for Human Rights (2015), *Justice Adrift: Rule of Law and Political Crisis in the Maldives – A Fact-Finding Mission Report*, p. 11, Geneva: ICJ.
102. Ibid.
103. Ibid., p. 13.
104. Yameen is the half-brother of former president Gayoom. Prior to running for presidency, he was a Member of Parliament and also served in Gayoom’s government at various high-level posts.
105. PPM is an offshoot of the DRP, which was formed following infights within the party. Former President Gayoom was a lead figure in forming the party, with support from his half-brother Yameen.
106. The ruling is discussed in more detail in the following sections of this report. It is also noteworthy that there have been several trials over the years where secret forensic reports that are not shared with the defendant have been presented as evidence.
107. *Timeline of the 2013 Presidential Elections from: The Commonwealth (2013)*, Reports of the Commonwealth Observer Group, p. x-xi, available online [accessed: 17 January 2018]. For more details about the 2013 Elections, see the full Commonwealth report, and Transparency Maldives’ Election Observation report.
108. President Nasheed along with other former presidents were in attendance as guests at the inauguration ceremony of Yameen Abdul Gayoom.
109. Rasheed, Z. (2016), “PPM division reopen over Gayoom’s opposition to grant Yameen party ticket”, *Maldives Independent*, www.maldivesindependent.com/politics/ppm-divisions-reopen-over-gayooms-opposition-to-grant-yameen-party-ticket-124858 [accessed: 20 January 2018].
110. *The Economist* (2016), “Politics in the Maldives: Sibling Rivalry”, www.economist.com/news/asia/21709335-president-falls-out-his-brother-sibling-rivalry [accessed: 14 April 2018].
111. See 109.
112. Visham, M. (2016), “Maldives court orders Gayoom to handover ruling party control to pres Yameen”, *Mihaaru News*, www.en.mihaaru.com/maldives-court-orders-gayoom-to-handover-ruling-party-control-to-pres-yameen/ [accessed: 18 January 2018].
113. Naish, A. (2017), “Draconian anti-terrorism bill passed into law”, *Maldives Independent*, www.maldivesindependent.com/politics/draconian-anti-terrorism-bill-passed-into-law-118990 [accessed: 20 January 2018].
114. The rights enshrined in Chapter 2 of the Constitution which were withheld by the State of Emergency Declaration are: Article 24 – Right to privacy; Article 29 – Freedom of acquiring and imparting knowledge; Article 31 – Right to strike; Article 32 – Freedom of assembly; Article 43 – Right to fair administrative action; Article 44 – Personal liability; Article 45 – Freedom from unlawful arrest or detention; Article 46 – Limitations to power of arrest and detention; Article 47 – Limitations to search and seizure powers; Article 49 – Release of the accused; Article 50 – Right to prompt investigation and prosecution; Article 56 – Right to appeal; Article 58 – Right to compensation; and Article 65 – Right to apply to court to obtain a remedy.
115. *Maldives Independent* (2018), “Maldives state of emergency detainees charged with terrorism”, www.maldivesindependent.com/politics/maldives-state-of-emergency-detainees-charged-with-terrorism-136648 [accessed: 20 March 2018]. According to the article, the charges against some high-profile detainees are as follows:
1. Former president Maumoon Abdul Gayoom – attempting an act of terrorism and obstruction of justice.
 2. Chief Justice Abdulla Saeed – attempting an act of terrorism, accepting bribes, obstructing state functions and obstruction of justice.
 3. Justice Ali Hameed Mohamed – attempting an act of terrorism, accepting bribes and obstruction of justice.
 4. Judicial administrator Hassan Saeed Hussain – accepting bribes and obstruction of law enforcement.
 5. Former Commissioner of Police Ahmed Areef (Commissioner of Police at the time of the announcement of the State of Emergency) – attempting an act of terrorism.
 6. MP Faris Maumoon (MP and Gayoom’s son) – attempting an act of terrorism.
 7. MP Abdulla Riyaz (former police commissioner) – attempting an act of terrorism.
 8. MP Ilham Ahmed – attempting an act of terrorism.
 9. MP Abdulla Sinan – attempting an act of terrorism.
 10. Mohamed Nadheem (Gayoom’s son-in-law) – attempting an act of terrorism.
 11. Ibrahim Siyad Gasim (exiled Jumhooree Party leader Gasim Ibrahim’s son and Managing Director of his Villa Shipping and Trading conglomerate) – offering bribes
116. Transparency Maldives (2015), *A troubled future for democracy: The results of the 2015 Maldives Democracy Survey*, p. 25–36.

117. European Union (2016), EU Annual Report on Human Rights and Democracy in the World in 2016, p. 209, www.eeas.europa.eu/sites/eeas/files/annual_report_on_human_rights_and_democracy_in_the_world_2016_0.pdf [accessed: 23 February 2018].
118. Maldives Independent (2018), “Police dismantles Ihavandhoo opposition hut”, www.maldivesindependent.com/politics/police-dismantles-ihavandhoo-opposition-hut-136738 [accessed: 22 March 2018].
119. Ibid.
120. Bar Human Rights Committee of England and Wales (2015), Trial Observation Report: Prosecution of Mohamed Nasheed, Former President of the Republic of Maldives, www.barhumanrights.org.uk/wp-content/uploads/2015/05/Nasheed-2.pdf [accessed: 20 April 2018].
121. Working Group on Arbitrary Detention (2015), Opinions adopted by the Working Group on Arbitrary Detention at its seventy-third session, 31 August–4 September 2015, www.ohchr.org/Documents/Issues/Detention/Opinions2015AUV/Opinion%202015%2033_Maldives_Nasheed_AUV.pdf [accessed: 28 March 2018]. Please refer to this document for full details regarding Nasheed’s arrest, trial and subsequent imprisonment.
122. Maldives Independent (2018), “Maldives must restore Nasheed’s right to run for office, says UN”, www.vnews.mv/46538 [accessed: 17 April 2018].
123. VNews (2015), “President Yameen ratifies amendment to President’s age bill”, www.vnews.mv/46538 [accessed: 22 March 2018].
124. Rasheed, Z. (2015), “Cutting a Deal with the Devil?”, Minivan News, <https://minivannewsarchive.com/politics/cutting-a-deal-with-the-devil-100121> [accessed: 22 March 2018].
125. The sentence also meant that Gasim lost his seat at the People’s Majlis, as the Constitution states that any member sentenced to imprisonment for a period longer than a year will be disqualified.
126. Maldives Independent (2017), “Gasim sentenced in absentia to three years, stripped of seat”, Maldives Independent, www.maldivesindependent.com/politics/gasim-sentenced-in-absentia-to-three-years-stripped-of-seat-132255 [accessed: 22 March 2018].
127. Maldives Independent (2017), “Gasim departs for Singapore on a 10-day medical leave”, www.maldivesindependent.com/politics/gasim-leaves-for-singapore-on-10-day-medical-leave-132457 [accessed: 22 March 2018].
128. Maldives Independent (2016), “Sheikh Imran sentenced to 12 years in prison”, www.maldivesindependent.com/politics/sheikh-imran-sentenced-to-12-years-in-prison-122226 [accessed: 22 March 2018].
129. Ibrahim, N. (2018), “UN Working Group calls to free Adhaalath Party Leader”, Mihaaru, www.en.mihaaru.com/un-working-group-calls-to-free-adhaalath-party-leader/ [accessed: 22 March 2018].
130. Ali, A. S. (2018), “The Opposition Candidate is Ready: Parties”, Mihaaru News, www.mihaaru.com/news/34121 [accessed: 10 April 2018].
131. Maldives Independent (2018), “Agreement over opposition leaders’ proposals”, www.maldivesindependent.com/politics/agreement-over-opposition-leaders-proposals-135024 [accessed: 22 March 2018].
132. Ibid.
133. Transparency Maldives (2013), Pre-election Assessment: 2013 Presidential Elections in the Maldives, www.transparency.mv/wp-content/uploads/2013/03/tm_pre_election_assessment.pdf [accessed: 28 March 2018].

134. Even at present, there are several anecdotal accounts of personal information held at government agencies being shared with the President’s campaign office. It is alleged by a number of people that they had received phone calls from the campaign office, shortly after they gave their contact details to government agencies when applying for various services. This included the Maldives Immigration, the government-run hospital and Maldivian embassies abroad.
135. Transparency Maldives (2016), Review of Appointment and Dismissal of Members of Selected Independent Institutions of Maldives 2008 – 2016, www.transparency.mv/v16/wp-content/uploads/2017/04/Review_Report_Web.pdf [accessed: 28 March 2018].
136. This statement is in line with the findings of Transparency Maldives’ 2015 Democracy Survey.
137. International Foundation for Electoral Systems (2014), Money and Elections in the Maldives: Perceptions and Reality, www.ifes.org/sites/default/files/maldives_money_and_politics_survey_final_0.pdf [accessed: 20 March 2018].
138. Transparency Maldives (2013), Election Observation Report: Presidential Elections 2013, p. 26, www.transparency.mv/v16/wp-content/uploads/2017/04/PRESIDENTIAL-ELECTIONS-2013-FINAL-REPORT.pdf [accessed: 20 March 2018].
139. Maldives Independent (2017), “Housing minister defends anonymised flat winners list”, www.maldivesindependent.com/society/housing-minister-defends-anonymised-flat-winners-list-132619 [accessed: 22 March 2018].
140. Avas (2017), “Investigation started on the “leaked” flat list”, www.avas.mv/44513 [accessed: 22 March 2018].
141. In the 2014 study by IFES, it was found that four out of five respondents report hearing nothing about how political parties and candidates spent their money on political campaigns.
142. Ginsburg, T. (2012), Democratic Transition in the Maldives: An Assessment.
143. Ahmed, F. (2018), “Intentions of the EC are sinister, will not provide them with the information they request: Opposition”, Mihaaru News, www.mihaaru.com/news/34138 [accessed: 10 April 2018].
144. Maldives Independent (2018), “Shareef made new Elections Commission chief”, www.maldivesindependent.com/politics/parliament-approves-shareef-to-elections-commission-136251 [accessed: 22 March 2018].
144. Huzam, A. (2018), “Electronic voting will not be used for Presidential Elections: Election”, Addu Live, www.addulive.com/100342 [accessed: 22 March 2018].
146. Fazeena, A. (2018), “Discussions held in relation to elections security”, Mihaaru News, www.mihaaru.com/news/34551 [accessed: 19 April 2018].
147. Mohamed, F.S. (2018), “First training in relation to the Presidential Elections held”, Raajje.mv, www.raajje.mv/news/30448 [accessed: 19 April 2018].
148. Yameen, M. (2018), “The current environment is conducive for elections: Shareef”, Mihaaru News, www.mihaaru.com/news/34551 [accessed: 19 April 2018].
149. Nawaz, A. (2018), “Opposition calls to reconstitute the Elections Commission”, Vaguthu, www.vaguthu.mv/news/30853 [accessed: 21 April 2018].
150. Reporters without Borders (2017), Persecuting independent and opposition media, www.rsf.org/en/maldives [accessed: 16 January 2018].
151. Sun Online (2013), “Raajje TV building set on fire”, www.english.sun.mv/16573 [accessed: 22 March 2018].
152. Committee to Protect Journalists (2013), “Maldives journalists assaulted in political violence”, www.cpj.org/2013/02/maldives-journalists-assaulted-in-political-violence.php [accessed: 22 March 2018].

153. Rasheed, Z. (2016), "Rilwan was abducted, confirms police", Maldives Independent, www.maldivesindependent.com/crime-2/rilwan-was-abducted-after-hostile-surveillance-police-confirm-123185 [accessed: 22 March 2018].
154. An interesting point of note here is that one of these suspects was placed in the "Minister List" discussed in the Vote Buying section above, and given a flat.
155. Maldives Independent (2017), "Yameen Rasheed murder trial begins with secret hearing", www.maldivesindependent.com/crime-2/yameen-rasheed-murder-trial-begins-with-secret-hearing-132477 [accessed: 22 March 2018].
156. Maldives Independent (2018), "Maldives protests call for Yameen arrest", www.maldivesindependent.com/society/maldives-protests-call-for-yameens-arrest-135895 [accessed: 22 March 2018].
157. Ali, H. (2018), "RaajjeTV's Amir and Wisam released over lack of evidence", Raajje.mv, www.raajje.mv/en/news/29350 [accessed: 29 March 2018].
158. Bosley, D. (2012), "Self-exiled blogger Hilath Rasheed speaks at UN Human Rights Conference", Minivan News, www.minivannewsarchive.com/politics/self-exiled-blogger-hilath-speaks-at-un-human-rights-council-43905/comment-page-1 [accessed: 22 March 2018].
159. Parshley, L. (2017), "Editor in Exile", Pacific Standard, www.psmag.com/magazine/editor-in-exile-zaheena-rasheed-maldives-independent-press-freedom [accessed: 28 March 2018].
160. Human Rights Commission of the Maldives (2012), Six Years On – "The Rights Side of Life": The Second Maldives Baseline Human Rights Survey, p. 10, Male': Human Rights Commission of the Maldives.
161. Ibid.
162. Hope for Women (2012), Maldives NGO Shadow Report to the Committee on the Elimination of Discrimination against Women, p. 56.
163. International Foundation for Electoral Systems (2014), Qualitative Assessment: Perceptions About Women's Participation in Public Life in the Maldives, p. 27, www.ifes.org/sites/default/files/maldives_qualitativeassessment_final_o.pdf [accessed: 20 March 2018].
164. Transparency Maldives (2015), Assessment of Women's Development Committees in the Maldives, p. 8, www.transparency.mv/files/download/16cd3989cddf0d79797a1df09ccf6aa.pdf [accessed 29 March 2018].
165. Ritchie, M., Rogers, T.A. and Sauer, L. (2014), Women's Empowerment in Political Processes in the Maldives, p. 16, Washington, D.C.: IFES.
166. Ibid., p. 8.
167. Hope for Women (2016), Women's Participation in Politics: Paper Presented to the human Rights Conference Organized by Transparency Maldives, p. 7-8, www.hopeforwomen.org.mv/wp-content/uploads/2016/06/Womens-Participation-in-Politics-Paper-2.pdf [accessed: 31 March 2018].
168. Maldivian Democracy Network (2011), Electoral Violence Monitoring: Local Council Elections 2011, p. 7, Male': Novelty Printers.
169. Ibid.
170. Ali, A.S. (2018), "An arrest made over the torching of PPM campaign station", Mihaaru News, www.mihaaru.com/news/33852 [accessed: 05 April 2018].
171. Waheeda, M. (2018), "Entrance of VMedia Station Broken", Miadhu News, www.miadhu.mv/article/read/36456 [accessed: 05 April 2018].
172. ZEE News (2018), "Maldives crisis: Lawmaker alleges President Yameen of inciting violence", <http://zeenews.india.com/world/maldives-crisis-lawmaker-alleges-president-yameen-of-inciting-violence-2081308.html> [accessed 28 February 2018].
173. Article 170(g) of the Constitution.
174. Jumhooree Party v Elections Commission [2013] 2013/SC-C/42.
175. Unofficial English translation of the 16-point guideline: The Commonwealth (2013), Reports of the Commonwealth Observer Group, p. 71, available online [accessed: 17 January 2018].
176. Ibrahim, M. (2018), "Will present amendments to elections-related laws this year: Anil", Mihaaru News, www.mihaaru.com/news/29337 [accessed: 18 January 2018].
177. See 133.
178. Article 5(a) of the Elections Commission Act, 2008.
179. Transparency Maldives (2015), Position paper: Challenges to interpreting and implementing the RTI Act, www.transparency.mv/2015/09/position-paper-challenges-to-interpreting-and-implementing-the-rti-act/ [accessed: 27 January 2018].
180. Reporters without Borders (2017), Persecuting independent and opposition media, www.rsf.org/en/maldives [accessed: 16 January 2018].
181. Shaahunaaz, F. (2017), "Raajje TV slapped with third fine over defaming Maldives press", Mihaaru News, www.en.mihaaru.com/raajje-tv-slapped-with-third-fine-over-defaming-maldives-pres/ [accessed: 18 January 2018].
182. Reporters without Borders (2017).
183. UNDP (2014), Media and Elections: A Guide for Electoral Practitioners, p. 1). New York: UNDP.
184. European Parliament (2012), Criteria, conditions, and procedures for establishing a political party in the Member States of the EU, p. 35), www.europarl.europa.eu/studies [accessed: 17 January 2018].
185. Samah, M. (2018), "Plans to conduct party primaries through the Elections Commission", Sun Online, www.sun.mv/104058 [accessed: 18 April 2018].
186. United Nations General Assembly (2013), Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, p. 9-13, Geneva: United Nations.
187. Freedom House (2016), Freedom in the World 2016: The Annual Survey of the Political Rights and Civil Liberties, p. 436, London: Rowman & Littlefield.
188. Article 144 of the Constitution.
189. The Commonwealth (2013), p. 40.
190. The Commonwealth (2013), (p. 36).
191. European Union Election Observation Mission (2014), Final Report: Maldives 2014, p. 9-10, www.eods.eu/library/eu-eom-maldives2014-final-report_en.pdf [accessed: 10 February 2018].
- In September 2014, a suo moto case was also initiated by the Supreme Court against the Human Rights Commission of the Maldives, charging the commission members with treason in relation to the Commission's stakeholder submission to the Universal Periodic Review. The Court found the submission illegal and imposed heavy restrictions to the Commission's engagement with International Human Rights Mechanisms.
192. Maldivian Democracy Network (2017), Local Council Election 2017: A Report on Election Environment in the Maldives, p. 4-5, www.mdn.mv/wp-content/uploads/2017/08/LCE2017.pdf [accessed: 19 January 2018].
193. Article 70 of the General Elections Act.
194. Article 67 of the General Elections Act.
195. Article 72 of the General Elections Act.

196. Article 70 of the General Elections Act.
197. The difference between the reports stipulated by both Acts is not immediately clear. The General Elections Act broadly states that a report should be filed by the candidates through their official agent, with details of all finances and expenditures, along with supporting documents. The Presidential Elections Act stipulates the submission of an audited report prepared by the official auditor of the candidate and submitted through the official agent.
198. Article 55 (e) of the Presidential Elections Regulations.
199. Article 19 (a) and (e) of the Presidential Elections Act.
200. Article 44 of the Presidential Elections Regulation.
201. Yameen, M. (2016), "The Bill Was Rejected After Taking into Consideration the Feelings of the People: PPM", Mihaaru News, www.mihaaru.com/news/9309 [accessed: 18 January 2018].
202. European Union Election Observation Mission (2014), p. 16.
203. Yameen, M. (2016), "MDP has submitted a case to the EC regarding PPM's usage of Muliaage and TVM resources", Sun Online, www.sun.mv/76362 [accessed: 10 February 2018].
204. For instance, see European Union Electoral Follow-up Mission to the maldives (2018). Political Report: March 2018. Available at: https://eeas.europa.eu/sites/eeas/files/final_mal_2017_eu_efm_report_final_2_formatted.pdf [accessed: 19 April 2018]

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