

Statement on amendments

The government submitted three bills to the Majlis on 24 June to amend the General Elections Act and the Presidential Elections Act. While most of the amendments would help address issues raised by domestic and international observers including Transparency Maldives, the Commonwealth and European Union observers, some amendments are also likely to produce additional problems.

The three bills, and their implications are discussed separately below.

1. Proposal to amendment 34 of 79 Articles of the General Elections Act

This bill is generally positive as it attempts to address several dimensions of elections that were problematic in the past. Key electoral aspects the bill improves upon are:

1.1 Invalidation of marked ballots

The bill proposes to invalidate ballots that have marks or drawings other than the check mark used to indicate the voter's preference. If passed, this proposal may help alleviate vote buying by helping to ensure secrecy of the ballot.

1.2 Electoral administration

The bill seeks to clarify roles of government institutions regarding electoral administration including voter registration, polling officials selection, and clarification of roles of election officials and state agencies.

1.3 Strengthening the complaints mechanism by clarifying the roles of state authorities

The unclear boundaries between state institutions with regard to investigation and prosecution of electoral offences meant that the state failed to adequately address electoral issues such as allegations of bribery and intimidation. However, these issues would be largely addressed, as specific aspects of offences are assigned to the relevant state authority in the current bill. For example, the roles of the Anti-Corruption Commission and the Prosecutor General's Office are clarified.

1.4 Strengthening political financing reporting

Another key problem raised by Transparency Maldives is the weak reporting and transparency mechanisms of political financing in elections. The current proposal addresses criticisms by making the candidate responsible for the proper maintenance and reporting of finances, in addition to the candidates' agent. The proposals also specify the details to be included in reporting, and clarifies who can donate and how much.

However, the raising of the spending ceiling from MVR 1,500 to MVR 2,000 with no evidence that the previous cap hindered ability to campaign means that money could possibly play a bigger role in future elections. The implication of this amendment is that candidates who are able to spend more out of pocket, and candidates who are able to raise more funds may be at an advantage over others. Also important to note, while provisions on reporting are improved, transparency of political financing remains to be addressed.

While the proposals to amend the General Election Act are mostly positive, raising the spending ceiling and allowing the Elections Commission discretion to initiate criminal proceedings (via the Prosecutor General's Office) against TV channels that provide unequal airtime to candidates are cause for concern. This is because the Elections Commission via the Prosecutor General's Office, based on a report by the Broadcasting Commission, could seek to criminalise TV channels. Some TV channels have already voiced concern that the proposal presents problems due to lack of trust in state institutions and due to potential loss in revenue.

2. Amending the Presidential Elections Act to limit candidacy of Maldivians who hold foreign citizenship by requiring the individuals to give up foreign citizenship at least ten years prior to contesting elections.

An additional amendment that would barr candidates who have sought asylum in foreign countries from running for ten years after giving up asylum was adopted in the Majlis committee on 26 June.

A number of potential candidates could become ineligible to run for presidency upon passage and ratification of this bill.

3. Raising the minimum administrative fee of candidates from MVR 40,000 (USD 2,600) to MVR 100,000 (USD 6,500) by amending Article 9 of the Presidential Elections Act.

The Presidential Elections Act requires that candidates deposit MVR 40,000 when filing for candidacy. The rationale behind this proposal could be to limit the number of candidates on the ballot paper by ensuring only serious candidates contest the elections. However, independent

candidates, running for election on a low budget may be disproportionately affected by increasing the deposit amount from MVR 40,000 to MVR 100,000.

While the bills are generally positive developments, the draft bills also include provisions on limiting candidacy eligibility and provides discretion for the Maldives Broadcasting Commission and the Elections Commission to initiate criminal proceedings against TV stations. Additionally, the amendments to the electoral legal framework with fewer than three-months to the election day, raises several questions regarding the electoral processes. The presentation of bills close to election also lends credence to the argument that some of the amendments are targeted towards eliminating competition and skewing the playing field in favour of the incumbent.

Furthermore, according to the government, the amendments to the General Elections Act attempts to address the controversial 16-point guideline issued by the Supreme Court as part of the verdict that annulled the first-round of the Presidential Elections in 2013. There is uncertainty as to whether the amendments proposed by the government are sufficient to address the legal issues created by the Supreme Court guideline, as the court guideline is yet to be repealed.