



Position Paper

Political Finance Transparency

Introduction

Political finance affects almost every aspect of democratic politics. Political parties and candidates need resources to access basic tools of a modern democracy such as for campaign activities, running political parties, mobilizing voters, and selecting candidates. In this context, money also illustrates a concerning scenario in the political arena. While wealthy interests may provide financial assistance to political parties for undue influence over political processes, acts of corruption and unethical behaviour undermines ordinary citizens' ability to influence policies and policymakers through their vote.

Lack of disclosure and transparency on how much money circulates during electoral processes, sources of resources, and how they are spent makes it harder for constituents to make informed decisions. This coupled with lack of implementation, monitoring, and enforcement of existing political finance regulations exacerbates the culture of patronage, adds to political corruption, and erodes citizen trust in political processes and institutions.

In order to prevent abuse of political processes using undue influence of money, a democracy must regulate funding of and spending on politics.

Political party finance regulations

Article 33(a) of the Political Parties Act (Act No: 4/2013) lists 1) members and supporters of the party, 2) financial assistance from the government, 3) commercial activities, 4) fundraising activities, and 5) loans as sources for political parties to mobilize money and resources.

Noting that members of political parties are Maldivian citizens above the age of 18, individuals are allowed to contribute money and resources to political parties. However, a lack of definition of "supporter" leaves a grey area. Furthermore, political parties are allowed to engage in commercial activities and fundraising activities without any limitation. Additionally, there is no restriction for political parties to receive loans.

The government's financial assistance to political parties is disbursed based on their membership. Political parties with a membership lower than 10,000 are ineligible to receive government funding.¹ While this provision prevents the government from favouring a particular political party, this leads to fraud in membership recruitment by political parties, and effectively bans smaller political parties.

Political parties are also allowed to source finance and resources from foreign governments, foreign sources, international organizations, and anonymous sources, with the caveat of written approval from the Elections Commission.² The problematic here is that the law does not provide guidance to the Commission on the prospects to approve or disapprove such donations.

The abovementioned provisions mean there are no sources that political parties are completely banned from receiving finance and assets. With the lack of absolute interdicts, the legal framework enables political parties to seek unlimited funding from almost any source. The only exception for this, however, is that political parties are disallowed from seeking financial assistance for campaign purposes from any foreign government or foreign source.³

Furthermore, political parties have no spending limits outside electoral periods. Having such limitations could minimize the advantage of political parties with access to significant resources.

Political party bookkeeping and reporting

Each political party is required to appoint a person responsible for financial matters.⁴ The bookkeeping requirements are detailed in Article 40 of the Act. The provisions include:

1. Maintain records as maintained for state assets and monies
2. Open and deposit money to an account in its name in a bank operated in the Maldives, and maintain records of all transactions
3. Prepare and maintain an inventory of all party assets
4. Maintain records of all donations and monies acquired by the party
5. Maintain records of all expenses incurred by the political party
6. Audit all financial records once a year by an external auditor accredited by the Auditor General
7. Submit the audit reports to the Elections Commission
8. Record and maintain details of donors

Furthermore, the Elections Commission is able to access political party finances including donations and expenses at any time. While the Political Parties Act includes reporting requirements for political parties, these requirements are not particularly detailed. Political parties are required to report assets and monies to the Auditor General, submit an annual report to the Commission, and submit an audit report to the Elections Commission and the Auditor General no later than 90 days after the end of the fiscal year.

Weak reporting requires combined with lack of provisions for the Commission to publish received annual or audit reports mean the transparency of political party financing is hindered.

¹ Political Parties Act, Article 35

² The Political Parties Act, Article 37

³ The Political Parties Act, Article 7(9)

⁴ The Political Parties Act, Article 39.

Campaign finance regulations

The General Elections Act (Act No: 11/2008) bans the following donations received by a candidate or on behalf of a candidate:⁵

1. Contributions given by foreigners, foreign individuals and foreign associations
2. Contributions given by foreign organizations and foreign governments
3. Contributions given by international organizations
4. Contributions given anonymously
5. Contributions given by a government authority other than the contributions made available to political parties through the government
6. Contributions given by a quango (quasi-autonomous non-governmental organization) or a company in which the government is a shareholder

Permitted donors include Maldivian individuals and legal entities. Candidates are allowed to seek loans from the permitted donors.⁶ Donations to a candidate must only be accepted by the candidate or an official elections agent appointed by the candidate.⁷

While candidates are banned from receiving donations from anonymous sources, political parties are allowed to receive such donations. Therefore, to ensure candidates are not influenced by anonymous sources, permission should not be given to political parties to receive anonymous donations for campaign activities.

Campaign finance spending and donation limits

While there is a donation limit to candidates in the Elections General Act, political parties can receive and spend unlimited amounts on election campaigns for their candidates, rendering the candidate spending limit irrelevant. The donation limit for individuals is 0.5% of the candidate's total spending limit, while for legal entities the limit is 2%.⁸ It is noteworthy, however, that there is no regulation of in-kind assistance from donors or third-party expenditures, which effectively restricts any meaningful enforcement of donation limitations.

The Elections General Act includes a limit on the spending for candidates in elections:

“In relation to an election, a candidate should only spend an amount not more than the equivalent of the total amount of money calculated on the basis of MVR2,000 per eligible elector from the electoral constituency for which he/she is standing for elections.”⁹

In the 2018 presidential elections, there were 262,135 registered voters, which means that a presidential candidate was allowed to spend around MVR 524 million.

While the spending limit for presidential candidates is extremely high, for parliamentary elections the donation limit is significantly lower since the spending limit is calculated in relation to the size of the electoral area.

⁵ General Elections Act, Article 70.

⁶ Elections General Act, Article 72.a.

⁷ Elections General Act, Article 72.d.

⁸ Elections General Act Section 72.

⁹First Amendment Act of Elections General Act, Article 69.

The Elections General Act requires all candidates to designate a financial agent.¹⁰ Candidates are also required to open a bank account through which all financial transactions must flow. The candidate agent should maintain records of all donations, including information about the donor, the amount and the form in which it is given. There are no special bookkeeping requirements for political parties in relation to election campaigns.

Candidates are required to submit financial reports within 30 days of the election, while this has been extended to 60 days for presidential candidates.

Political parties are not required to submit financial statements in relation to election campaigns. Funds that they raise and spend as part of election campaigns are therefore not reported until the end of March the following year.

There are further regulations in the 2014 Regulations for Parliamentary Elections, where it is stated that “all candidates contesting in the Parliamentary Elections must submit a financial report outlining all financial transactions relevant to the election” within 21 days of the date of election.¹¹ The report should be submitted to the Elections Commission.

The Elections Commission is required to make received financial reports available to the public.¹² According to the 2013 and 2014 election regulations, the reports from parliamentary and presidential candidates should be published on the website of the Elections Commission.¹³ However, no deadline is given for when these reports need to be published or made publicly available.

Recommendations

Political finance regulations are based on very few limitations on how political parties and election campaigns are allowed to raise and spend money. There are reporting requirements that, if implemented, could bring significant transparency regarding the role of money in Maldivian politics. However, the current regulatory situation and actual practice arguably does not lend itself to effective disclosure.

1. Review the regulatory framework for political party financing and campaign financing to harmonise the two systems, regulate in-kind donations, and third-party expenditure.
2. Improve transparency of political finance by requiring that reports on political party funding (during election and non-election periods) and candidate funding are publicly available. This should include both the source of funds as well as types of expenditure.
3. Amend the law to close loopholes in campaign financing, include stricter reporting requirements and improve the enforcement of campaign finance regulation
4. Legislation should provide guidance to the Elections Commission on situations in which it should give permits to political parties receiving anonymous or foreign financial assistance
5. The Elections Commission should provide reporting templates to political parties that are developed in consultation with political parties, and evaluate the reports after each reporting deadline.
6. The spending limit should be reviewed and lowered.

¹⁰ Elections General Act, Article 66.

¹¹ Parliamentary Elections Regulation, Article 43.a.

¹² Elections General Act, Article 73.d.

¹³ Parliamentary Elections Regulation, Article 41.a. and Presidential Elections Regulation, Article 45.a