

# REVIEW OF ELECTORAL LEGAL FRAMEWORK OF THE MALDIVES

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## List of abbreviations

ACC	Anti-Corruption Commission
AGO	Attorney General's Office
AuGO	Auditor General's Office
CEDAW	Convention on Elimination of Discrimination against Women
COG	Commonwealth Observer Group
CRPD	Convention of Rights of Persons with Disabilities
CSC	Civil Service Commission
DRM	Dispute resolution mechanism
EC	Elections Commission of Maldives
EU	European Union
EU EOM	European Union Elections Observer Mission
HRCM	Human Rights Commission of Maldives
ICCPR	International Convention on Civil and Political Rights
IDEA	International Institute for Democracy and Electoral Assistance
IFES	International Foundation for Electoral Systems
MAPD	Maldives Association for Persons with Disabilities
MPS	Maldives Police Services
PGO	Prosecutor General's Office
PSM	Public Service Media
PWD	Persons with Disabilities
SOE	State-owned Enterprises
TM	Transparency Maldives
UDHR	Universal Declaration of Human Rights
UNDP	United Nations Development Programme

## Introduction

A significant milestone in the democratic reform of the Maldives is the ratification of the sixth Constitution of the Maldives, on 7 August 2008, which paved the way for democratic elections. The 2008 Constitution established the requirement for presidential elections once every five years, selected on the basis of exceeding 50% of public vote. The Constitution also specified a unitary parliament, also elected every five years, to be elected using a first-past-the-post system from 87 single-member constituencies. Local elections were introduced to the country through this Constitution, and are mandated to be held once every three years. Presidents are appointed for maximum two terms but there is no limit to the number of terms served by parliamentarians and local councils.

Various other laws were subsequently passed to support multi-party democracy and free and fair elections, such as the Elections Commission Act 8/2008. This Act established an independent Elections Commission of five members, who were appointed by the President, with approval from the Parliament.

The Elections Commission has since then administered nine major elections and various by-elections. Election day proceedings have been largely peaceful in the Maldives with high turnout rates, from both men and women. These elections have been observed by various independent bodies who have generally reported favourably on the process of administration of elections. However, systemic issues in the electoral process have been raised by all observers, of which some issues have persisted across many elections and years.

This report aims to explore concerns in the electoral environment by looking at issues in depth and analysing extent and causes. The report also looks at the individual laws of the legal framework and highlights areas for reform. Such analysis of electoral framework is currently lacking for the Maldives and it is hoped that this report is useful to bring about holistic reform to the electoral framework, rather than by small and slow improvements.

## Scope of Review

This law review focuses specifically on the following Acts:

1. General Elections Act 11/2008
  - a. First Amendment to General Elections Act 4/2018
  - b. Second Amendment to General Elections Act 2/2019
2. Elections Commission Act 8/2008
3. Presidential Elections Act 12/2008
  - a. First Amendment to Presidential Act 3/2018
  - b. Second Amendment to Presidential Act 5/2018
  - c. Third Amendment to Presidential Act 17/2019
4. Parliamentary Elections Act 2/2009
  - a. First Amendment to Parliament Elections Act 6/2009
5. Local Elections Act 10/2010
  - a. First Amendment to Local Elections Act 8/2013
  - b. Second Amendment to Local Elections Act 21/2016
6. Political Parties Act 4/2013

The purpose of the review is to produce specific recommendations for reforming the above Acts. In addition to analysis of these laws, some thematic areas related to elections have been selected and explored in more detail. These are issues that are cross-cutting across institutions, and often require intervention beyond revisions to law and reflect deeper societal flaws.

The review is primarily based on over fifteen independent election observation reports, produced by various sources, based on elections conducted between 2008 and 2019 (see Annex 1 for list of references). These observer reports were prepared based on wide stakeholder consultations at the time.

## Guidelines used as international practices

Analysis of laws was carried out with consideration given to international conventions and electoral guidelines. Maldives has ratified or acceded to major human rights conventions, of which the following articles are noted to be relevant to this law review:

1. **Universal Declaration of Human Rights (UDHR):** Articles 19, 20 and 21 cover the rights of freedom of expression and opinion, peaceful assembly and association, and the right to take part in the government of one's own country.

2. **International Convention on Civil and Political Rights (ICCPR)**: Article 25 states the right of all citizens to take part in conduct of public affairs, to vote and to be elected at genuine periodic elections.
3. **Convention on the Rights of Persons with Disabilities (CRPD)**: Article 29 states that persons with disabilities should be able to participate in politics directly or through freely chosen representatives by accessible voting procedures.
4. **Convention on the Elimination of all forms of Discrimination against Women (CEDAW)**: Article 7 provides for equal terms for women and men to vote in all elections and to be eligible for elections, and end discrimination in political and public life.

In addition to the above conventions, the following international guidelines were used in this review as the basis of international best practices, given the wide acceptance of these guidelines, such as by the international organisations who have observed Maldives elections.

1. **'International Electoral Standards: Guidelines for reviewing the legal framework of elections'**, developed jointly by the International Institute for Democracy and Electoral Assistance (IDEA) and Office for Democratic Institutions and Human Rights, 2001. These guidelines are accompanied by a checklist of over 90 questions covering 15 aspects of electoral law.
2. **'The Code of Good Practice in Electoral Matters'** adopted by the European Commission of Democracy through Law (Venice Commission), 2002. This code elaborates on five underlying principles that must be adhered to in elections: universal, equal, free, secret, and direct suffrage.
3. **'Election Management: A compendium of Commonwealth Good Practices'**, published by Commonwealth Secretariat, 2016. This guide addresses the challenge of changing technologies and evolving social media platforms.

## Layout of Report

This law review consists of three main sections. **Section A** explores the prevalence and causes of eight major issues related to elections in the Maldives. While this is not an exhaustive list of issues, these were selected based on the persistence of the issue and the need for more corrective policy actions. Recommended interventions are given for each of these issues. **Section B** consists of the recommended amendments to the selected seven electoral laws. **Section C** presents the final conclusions of the report.

# SECTION A:

## Areas of concern in the electoral process in Maldives

This section includes observations on specific aspects of the elections. Issues have been selected based on persistent undesirable trends and inadequate corrective policy measures. The following eight issues are explored:

1. Misuse of state resources by incumbents
2. Issues with complaints mechanism
3. Issues with determining constituency boundaries
4. Inadequate voter education
5. Vote buying
6. Low political participation by women
7. Inadequate attention to the political rights of persons with disabilities
8. Weak regulation of political party financing

### 1. Misuse of state resources by incumbents

Misuse of state resources has been a regularly observed yet an unaddressed issue across multiple governments in the Maldives. The forms of misuse detailed below are noted by election observers, based on their interviews with institutions such as the Civil Service Commission (CSC), interviews with political parties, complaints lodged at Elections Commission (EC), and media reports.

#### (i) Misuse and coercion of staff of government and state institutions

During the pre-election period in 2008, the EC publicly announced that it had received complaints that atoll chiefs, assistant atoll chiefs, senior officials of the atoll offices, island



chiefs, and civil servants intimidated or used their official positions to influence voters. Similarly, CSC expressed concerns that 30,000 civil servants and public employees were subjected to undue influence and pressure regarding their electoral choices from their superiors.<sup>1</sup> Concerns about the use of civil service employees, as well as staff of state-owned enterprises (SOEs), in the electoral campaign of the incumbent party, were raised by the EC even later in 2014, where some civil servants and staff of SOEs were reportedly threatened by their superiors with job losses or relocation.<sup>2</sup> By 2019, reports indicated relatively fewer incidents regarding job security and abuse of authority for campaign purposes in comparison to previous elections. However, reports of civil servants and staff of SOEs being forced to attend rallies organised by the ruling coalition, with threats of termination or other forms of retribution if they failed to do so, were reported even in 2018.<sup>3</sup>

Subjecting civil servants to undue influence regarding their electoral choices to the point where they are faced with threats of losing their jobs or other serious repercussions is in direct contravention of point 19 of General Comment 25 on the ICCPR. It provides that voters “should be free to support or oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector’s will”.

#### **(ii) Misuse of state vehicles and venues**

In addition to misuse of human resources, state officials have also been reported as misusing state premises, vessels, and vehicles for their campaigns. In 2013, the Auditor General’s Office (AuGO) and the Anti-Corruption Commission (ACC) were quoted in the news as being concerned about the presidential trips to islands in the pre-election period as being potential cases of abuse of state resources for campaigning.<sup>4</sup> In 2014, the EU Elections Observation Mission (EU EOM) also noted that coalition candidates exercised undue influence by using state assets and vehicles during their campaigns.<sup>5</sup> Using state premises such as council offices for campaign purposes and use of state vessels for travels to islands has been consistently reported by Transparency Maldives (TM) in their election observation reports as well.<sup>6</sup> These referred trips include official work as well as campaign efforts. As the law currently does not give any guidance on limiting or regulating state expenses during election periods, it is difficult to control such spending or initiate

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<sup>1</sup> *Republic of the Maldives – Presidential Election, 8 October and 28 October 2008; Final Report (2<sup>nd</sup> DRAFT), EU and EEM*

<sup>2</sup> *2014 Parliamentary Elections, Final Report, EU Elections Observation Mission*

<sup>3</sup> *Parliamentary Elections 2019, Elections Observation Report, Transparency Maldives*

<sup>4</sup> *Election Observation Report – Presidential Elections 2013, Transparency Maldives, Page 27*

<sup>5</sup> *Parliamentary Election 2014, Final Report - EU Elections Observation Mission*

<sup>6</sup> *Presidential Election 2013, Election Observation Report, Transparency Maldives and Domestic Observation of the 2009 Maldivian Parliamentary Election, Transparency Maldives*

charges. Unregulated access to state resources by incumbents gives a significant and unfair advantage to candidates of the ruling party.

Most of the published independent election observation reports cover presidential and parliamentary elections in the Maldives, and there are few reports on local elections. However, given the precedence set by incumbent presidents, it must be noted that the local councils elections may also have undocumented cases of misuse, particularly of state facilities and government staff for campaigning.

### (iii) Government control of public media

Article 30 of the General Elections Act states that all broadcasters must provide airtime for candidates from announcement of elections to 6 pm on eve of election day. This article also emphasizes that media outlets should strive for equitable airtime, maintaining a margin of difference of less than 10 percent between times allocated for candidates or political parties. Penalties for not meeting this requirement is not stated in this Act.

Article 13 of the Presidential Elections Act reiterates the requirement for equitable airtime and also states that media outlets should provide some airtime at no-cost. Again, no penalty is stated. This free airtime is not extended to parliamentary elections, as there is no legal requirement.

In addition to these Acts, the Elections Commission issued a guideline for political coverage during elections, which includes rights of candidates and safety of journalists among other issues.

In 2018, the first amendment to the General Elections Act was passed and removed the criteria of 10 percent margin between airtime allocated. The amendment stated that no difference must be made, and that the Broadcasting Commission (formed in 2011) is responsible for monitoring broadcasters. The amendment also called for this Commission to issue a guideline for enforcing these legal requirements. The Commission issued this regulation accordingly.<sup>7</sup>

In practice, election observation reports note the provision of free airtime by state media, to both candidates and the EC.<sup>8</sup> However, bias by state media during the campaign period is also reported and is another example of misuse of state resources during campaign periods. In the presidential elections of 2008, Reporters without Borders stated that the opposition party did not get the same amount of time on public TV channel as the

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<sup>7</sup> <http://broadcom.org.mv/v2/dh/wp-content/uploads/2018/08/gazette-47-138.pdf>, 13 August 2008

<sup>8</sup> *Domestic Observation of the Parliamentary Elections 2009, Transparency Maldives*

ruling party.<sup>9</sup> In 2017, the Public State Media (PSM) was reported as allocating disproportionate coverage to different candidates, again in favour of ruling party.<sup>10</sup>

In addition to content on state media channels, Maldives has seen drastic controls on press freedom and violence against media outlets and journalists. By 2019, freedom of press and intimidation of press had improved and the observation reports of parliamentary elections in 2019 noted a healthier climate for free media.

**(iv) Inauguration or completion of government projects close to the election day**

There are various examples of the state announcing new projects or hosting large public events to inaugurate or announce new development projects close to elections, including the official 30-day campaign period. The new projects are typically announced weeks or days prior to the elections.

The public events provide a platform for incumbents to campaign at the expense of state funds. The Commonwealth Observer Group (COG) highlighted that a number of attractive new government projects and expenditures were announced during the campaign period of the parliamentary elections in 2014, which could have had an influence on the vote.<sup>11</sup> This was also noted by EU long-term observer team, giving examples of road construction projects that were inaugurated in Addu Atoll, in the presence of PPM candidates in 2014.<sup>12</sup> Likewise, multiple development projects were announced by the government closer to the 2019 election as well, including social housing schemes, development of the airport, and infrastructure development in some atolls.<sup>13</sup> Currently, there are no guidelines on how such public events can be held without allowing free reins for campaigning by the ruling party.

**Interventions required:**

1. The Auditor General and Anti-Corruption Commission should propose comprehensive guidelines on the use of state resources during election period by incumbents. These guidelines need to highlight on issues such as announcing new projects so close to the election, as well as restrictions on hiring new staff or promoting staff. Mechanisms also

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<sup>9</sup> *Republic of the Maldives – Presidential Election, 8 October and 28 October 2008 – Final Report 2<sup>nd</sup> Draft – EU, EEM, Page 25*

<sup>10</sup> *Statement regarding 2017 Local Council Elections, Transparency Maldives*

<sup>11</sup> *Maldives Parliamentary Elections 2014, Interim Statement, The Commonwealth*

<sup>12</sup> *2014 Parliamentary Elections, Final Report - EU Elections Observation Mission*

<sup>13</sup> *Parliamentary Election 2019, Election Observation Report, Transparency Maldives*. Other reports also refer to this such as the report on Local Council Elections of 2011 by Transparency Maldives , Page 14

need to be put in place in order to monitor and uphold transparency of government spending during election period.

2. Existing legal framework on anti-corruption needs to be revised to define offences in use of state assets for campaign purposes. Currently, the legal framework prohibits use of state resources for 'personal gain' (Article 14 of Prevention and Prohibition of Corruption Act). Relevant clauses in the Political Parties Act 4/2013 include Article 46 which prohibit use of government property by a government employee who is a member of a party, for that particular party. Nor should they be involved in party activities during office time. Article 47 prohibits the biased use of government assets, properties and resources, in favour of a single political party. Gaps in the current legal framework include: (i) campaigning for a party or for the incumbent government may not be clearly associated as 'personal gain', (ii) clauses of the Political Parties Act precludes any actions taken by or in support of an independent candidate, and (iii) only actions taken by government staff who is member of a political party is specified (non-member staff are excluded).
3. Effective voter education needs to be carried out on what constitutes as misuse of state resources, what are the penalties, and how it is defined. Civil society and media can play an important role in monitoring and making the public aware of this particular type of fraud. To date there have been no cases lodged at court on misuse of state resources despite significant concerns raised by stakeholders, government employees, independent institutions and international observers, since 2008.

## 2. Issues related to complaints mechanisms

The structure of the complaints systems for elections in the Maldives has largely remained constant since 2008, and has been noted to have deep flaws, which persist in every election.

### (i) Inconsistencies in complaints mechanism

Article 113 of the Constitution states that the Supreme Court has the sole and final jurisdiction regarding qualification or disqualification of candidates or of election or removal of a President. Article 172 of the 2008 Constitution grants the right to all to present a petition to the High Court on issues of a decision of the EC, results of elections, or any other matter related to an election. The High Court has the jurisdiction to invalidate election results in a voting area where it is proven that an irregularity took place in which

the result of the election could change. In such cases, the election for that area should be repeated. These provisions are in line with international best practices.<sup>14</sup>

However, in addition to the Supreme Court, High Court, and EC, temporary entities are set up by the EC to receive complaints during the election period. This is in accordance with Article 62 of the General Elections Act, which grants the power to the Elections Commission to ensure a mechanism is in place for receiving and expeditiously dealing with election related complaints.

The complaints mechanism for all elections is the same and is outlined in the respective regulations for Presidential Elections, Parliamentary Elections, and Local Council Elections (Articles 49 to 55 in all three regulations). According to these regulations, complaints can be submitted as follows:

Entity /Officer	Description and Role
Complaints Officers	For each voting station, the designated Head of Polling Station takes on the dual responsibility of the Complaints Officer. He/she may receive complaints and resolve issues immediately if possible. If not resolved, they may forward the issue to the Atoll Complaints Bureau. They are active only on the day of voting.
Island/Focal Points	Assigned to oversee election issues in that particular island or ward on a more long-term basis, as determined by Elections Commission. They may also receive complaints.
Atoll Complaints Bureau (ACB)	Three-member committee formed ten days prior to an election. They may receive complaints directly or from Complaints Officers or Island Focal Points. Resorts and industrial islands within the atoll also submit directly to the ACB. They may consult the National Complaints Bureau if unresolved, and must send a daily report to the National Complaints Bureau.
National Complaints Bureau (NCB)	Five-member committee set up ten days prior to an election. Complaints from all islands, resorts and inhabited islands in Male' atoll must be submitted to the NCB directly. Complaints unresolved by ACBs must be submitted to the NCB. Complaints from voters overseas and prisons are also directed to the NCB. In the case of Presidential and Parliament Elections, the NCB is required to submit a report on all complaints within 12 days of announcing election results, to the Elections Commission.
Elections Commission	Received complaints prior to the formation/identification of above persons and bureaus or after dissolution or relief of duties.

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<sup>14</sup> *European Commission for Democracy through Law (Venice Commission), Opinion No. 190/2002, October 2018, Para 3.3.*

The above procedures are in place for all three elections and each respective regulation has identical deadlines and procedures in place, with the exemption of one point. In the case of Local elections, there is no obligation for the National Complaints Bureau to submit a compiled report regarding complaints to the Elections Commission.

In addition to the above institutions, the Broadcasting Commission is now mandated to investigate complaints pertaining to broadcasters, and the Anti-Corruption Commission is mandated to investigate matters related to corruption (including abuse of state resources and vote buying) under the 2018 amendments to the General Elections Act. While the amendment addressed a long-standing ambiguity between these institutions, a need for greater coordination and compilation of election complaints is paramount to improve the electoral process over time.

The resulting multitude of avenues to submit complaints may create some confusion. This may also lead to inconsistent responses to complaints and mismanagement of complaints database.

**(ii) Inconsistent timeframes in the electoral dispute mechanism**

There are two situations in the current electoral legal framework that have conflicting timeframes for complaints and adjudication:

1. The first case is the deadline for submission of campaign finance reports. Candidates are expected to submit a report on their campaign finance within 30 days of announcement of results (Article 73a of General Elections Act). However, the deadline for submitting a petition to the High Court regarding any aspect of elections, including candidate campaign finance, is 14 days (Article 64c of General Elections Act).
2. The other conflict arises in the period for adjudication by the High Court. The High Court has a period of 30 days after announcement of results to resolve any issue after the results are announced (Article 65b of General Elections Act). However, this is problematic for Presidential elections, as any subsequent round of election must be held within 21 days after results are announced (Article 19a of Presidential Elections Act)

The recommendations for amendments to the General Elections Act to address these issues are stated in Section B of this report.

**(iii) Lack of public awareness and trust in the electoral dispute system**

In the 2018 Pre-Election Assessment by Transparency Maldives, it was reported that the public had two major concerns regarding the complaints mechanism. Firstly, the authorities were noted as not taking timely actions for complaints, which adds to frustration and lack of public trust and confidence in the electoral process and the EC. Another issue is the lack of public awareness about the complaints mechanism itself and about what type of complaints can be submitted. As a result, it was noted that complaints

about abuse of state resources and vote buying were not submitted and these avenues were used mainly for administrative complaints. This is evident in that most of the complaints reported are related to the voter registry.<sup>15</sup> The ACC does investigate cases of misuse and bribery, both in its own initiation and based on complaints, but have noted their own capacity restraints to investigate.<sup>16</sup>

As a result, despite widespread accusations since 2008 of electoral violations including alleged bribery, political patronage and vote buying, and misuse of state resources, these types of complaints are rarely lodged officially, and no case has been prosecuted.

### **Interventions required:**

1. Creative and collaborative voter education campaigns are needed to inform the general public about the type of complaints that can be submitted and where to submit them. Such awareness must commence in the early stages of the election period. Coordination is critical to ensure all relevant institutions have consistent messages in their respective public awareness campaigns. It should be acknowledged that civil society organisations and media groups have a key role in spreading awareness and need to be included in rolling out voter education campaigns. Awareness campaigns should include information on the electoral dispute mechanism and avenues for submitting complaints, with a special focus on submission of other forms of electoral complaints (such as vote buying) and not only administrative complaints on election day.
2. Strengthen the quality of training provided to all election officials. Objectives of these trainings should include reducing conflicting responses to complaints resolved at island or atoll level, and reducing simple cases being referred to the national committee.
3. EC needs to strengthen coordination with stakeholders relevant to addressing election related complaints and maintain a lead role in receiving complaints. This will enable better compilation of complaints related statistics to identify areas for improvement, both immediately and in the long term.
4. Amend timeframes given in the General Elections Act to allow time for submission of complaints regarding campaign finance reports (See Section B for recommendations to address this issue).

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<sup>15</sup> This was noted by Transparency Maldives in their report, *Election Observation Report; Parliamentary Election 2019, page 1*, and also by European Union Election Observation Mission in their report on Parliamentary Elections of March, Page 20.

<sup>16</sup> Election Observation Report: Parliamentary Election 2019, Transparency Maldives, Page 12

### 3. Issues with determining constituency boundaries

The Constitution stipulates that each administrative unit is allocated two members of the parliament for the first 5,000 registered residents and if the number of residents increases, one additional member is allocated for each further 5,000 residents. The process of drawing electoral boundaries is defined in the Electoral Constituencies Act 1/2009. In practice the EC follows the legal requirements. However, some fundamental issues arise in the current legal framework.

#### (i) Significant differences in size of constituencies

Under Article 10 of the Electoral Constituencies Act, EC is required to consider several principles on delineation of the electoral constituencies. For instance, maintaining an equal balance in the population of electoral constituencies, in which the number of registered residents in a constituency should not vary by more than 15% of the constituency population. And in addition to maintaining the existing electoral constituencies as much as possible when new ones are created from the same administrative division, EC is required to maintain the population of one island in one electoral constituency wherever possible, in order not to upset social harmony. It is also recommended for the Elections Commission to have neighbouring islands of the administrative division together to form electoral constituencies, while taking into account any administrative or social divisions on that island.

According to the reports on the delineation of electoral constituencies published by the Elections Commission for the parliamentary elections of 2014 and 2019, the number of constituents varied greatly. The law states that the maximum margin of 15 percent is applied by considering the number of constituents against the average of that particular administrative area as the benchmark. As a result, there were only 824 registered residents in the smallest constituency in Felidhoo Atoll compared to some 5,000 in the urban constituencies of Malé and Addu City.<sup>17</sup> In 2019, the smallest constituency was 1,228, again for Felidhoo Atoll with the maximum number being 5,779 for Hithadhoo.<sup>18</sup> Using the national average as the benchmark may achieve smaller margins of difference.

International best practices acknowledge that constitutional delineations should consider various factors such as natural boundaries, administrative or historical boundaries as well as social harmony. However, the principle of equality of vote is tantamount, whereby each vote should have equal weight or value. When some constituents are significantly fewer than others, their vote is more valuable. The EU observation team noted that the general

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<sup>17</sup> *2014 Parliamentary Elections, Final Report* - EU Elections Observation Mission, page 13

<sup>18</sup> *Final report on Constituency populations for 2019 Parliament Elections*, Elections Commission of Maldives,



principle of equality of the vote is not respected in the Maldivian constituency delineations.<sup>19</sup>

**(ii) Constituencies being defined close to election period**

International recommended practices for determining electoral constituencies are to finalise boundaries outside of election periods to reduce political manipulation. One guideline recommends to not amend constituency boundaries (amongst other fundamental elements of electoral law) less than one year before election – that is, finalise the boundaries one year before elections.<sup>20</sup>

The timeframe in the Law on Determining Parliamentary Constituencies (Number 4-2009) states that the EC must begin finalising constituencies by: (i) gathering information on population distribution at least 10-12 months prior to election, (ii) publishing an interim report within eight months of an election, and (iii) finalising the constituencies at least 150 days before election.<sup>21</sup> Given that this is only five months prior to the election and not within the one-year duration recommended, it is favourable to amend the Act to set deadlines well before the election period.

**(iii) Possibility of gerrymandering**

The most controversial issue in constituency delineation has been the allocation of specific groups of residents of Malé who are on the *Male' Khaassa Dhafthar* (Male' Special Registry, which is a list of temporary residents who have been permanently relocated from their island of birth and are awaiting assignment to another island. More than 10,000 residents of Malé are on this list, translating to 6,575 voters not having a permanent registered residence. Participation in parliament and local elections is only possible when allocated to a certain constituency and therefore temporary assignments are made by the Elections Commission for each election. Issues arising here stem mainly from: (i) policy of allocation not being stated in regulation or law, thus different policies being adopted for different elections, and (ii) the resulting possibility of gerrymandering.

During the parliamentary elections prior to 2014, *Dhafthar* was assigned in equal numbers to all constituencies in Malé. However, that approach was deemed impracticable by EC during the 2014 Parliamentary Election, as it would result in unequal constituencies, violating the requirement of no more than a 15 percent variation. Since then, for both the 2014 and 2019 Parliamentary Elections, *Dhafthar* voters have been unequally distributed randomly to Male' constituencies to balance the total number of registered voters in these

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<sup>19</sup> 2014 Parliamentary Elections, Final Report - EU Elections Observation Mission, page 13

<sup>20</sup> European Commission for Democracy through Law (Venice Commission), Opinion No. 190/2002, October 2018, Para 3.3.

<sup>21</sup> Articles 7, 12, and 14 of Law on determining parliamentary constituencies.

constituencies, which meant that they were assigned to constituencies where they do not reside. According to EU Election Observation Mission, this approach raised some unsubstantiated allegations that these allocations had been made selectively.<sup>22</sup> The allocation of *Dhafthar* voters is also not specified in the reports published by Elections Commission on constituency allocations, nor is it legally required to be. The policy of allocating such voters needs to be included in regulation or law, after participatory discussions. The law also needs to be amended to clearly include the process followed in the reports published by EC.

**(iv) Significant portion of the population not effectively represented**

The 2014 Census reported that 44 percent of the population of the Maldives are said to be residing on an island different from their place of birth.<sup>23</sup> No official database is maintained on current addresses of persons and it is often difficult for people to prove whether they are residing in another part of the country or for how long they have been resident of another constituency. Thus, the current electoral framework does not consider place of residence when allocating constituents. The resulting electoral framework weakens effective representation for these citizens who can only vote for their place of birth and have no influence on their place of long-term residence. This may be one factor contributing to lower interest in participating in such elections, particularly local council elections where the detachment from elected official to the voter is greater than a member of parliament.<sup>24</sup>

**Interventions required:**

1. Amend the Law on Determining Parliamentary Constituencies (Number 4-2009) to finalise constituencies twelve months prior to parliamentary elections, in line with international recommendations.
2. Educate civil society organizations, general public and media on the process of demarking constituencies and encourage feedback on the published interim reports by Elections Commission.
3. Review the current process of allocating constituencies with the objective of abiding by the principle of 'equality of vote'. Currently, this is not present in the parliament elections, where a single vote from the smallest constituency is more valuable than from the larger constituencies.

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<sup>22</sup> 2014 Parliamentary Elections, Final Report, EU Elections Observation Mission

<sup>23</sup> <http://statisticsmaldives.gov.mv/nbs/wp-content/uploads/2015/12/final-migration-Page-1.jpg>

<sup>24</sup> [http://transparency.mv/v16/wp-content/uploads/2019/08/RDFM\\_ENG\\_FINAL-for-Website.pdf](http://transparency.mv/v16/wp-content/uploads/2019/08/RDFM_ENG_FINAL-for-Website.pdf)

4. A long-term solution to acknowledge internal migration in constituency determination is crucial to give effective representation to all. This will necessitate registration of new island of residence.

#### 4. Inadequate Voter Education

According to Article 170 of the Constitution and Section 21(g) of the Elections Commission Act, the EC is mandated to educate and create awareness among the general public on the electoral process and its purpose. In practice, many institutions have carried out voter education programs, as well as civil society organisations and international bodies.

Voter information on issues such as registration was widely disseminated as evident from the high percentage of registration and unprecedented voter turnout rates since the first democratic elections in 2008. Political parties have played a crucial role in spreading voter information messages, especially via call stations, text messaging, and social media. Social media outlets such as Facebook and Twitter, aided by high mobile network and internet penetration, proved to be particularly useful during both the Presidential Elections in 2013 and 2018, as well as Parliamentary Elections in 2014 and 2019. EC used several other mainstream media platforms such as billboards, loudspeakers, and TV and radio outlets to spread voter information, educational messages, and informative video clips.

In addition to EC, the ACC, Human Rights Commission of the Maldives (HRCM), Maldives Police Services (MPS), United Nations Development Program (UNDP), TM and other local civil society organizations,<sup>25</sup> and media outlets have been proactively engaged in voter education since 2013. For instance, the Maldives Broadcasting Corporation (MBC) partnered with EC along with TM, ACC, HRCM, and MPS in 2013 to organize weekly voter and civic education and information programmes dubbed *Votah Thayyaaru* (“Ready for Vote”) via public broadcasters TVM, Voice of Maldives, Dhivehi FM. All the aforementioned institutions and organizations have been conducting voter education programs since then. Between them, key messages have reached nation-wide across many platforms.

Examples of collaborative efforts are also evident. In 2019, EC collaborated with HRCM, ACC, and PSM in voter education efforts for the parliamentary elections. And the public broadcaster, Maldives Broadcasting Corporation, in partnership with the Maldives National University has been organizing two widely watched debates for the presidential and vice-presidential candidates since 2013.

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<sup>25</sup> Such as DhiYouth Movement, a local non-profit organisation focusing on youth development

However, the following shortcomings related to civic and voter education need to be urgently addressed.<sup>26</sup>

1. Lack of information about critical topics such as elections complaints mechanism, vote buying, misuse of state resources, and campaign finance expenditure reports by candidates.
2. Lack of messages made accessible to persons with disabilities. This has been a recurring issue which has not been resolved.

### **Interventions required:**

1. A long-term comprehensive voter education program, developed cohesively with all relevant stakeholders, is needed. Voter education programs should include information on why voting is important and how citizens can cast their votes. This is particularly important to combat the culture of giving and accepting bribes or abuse of power in general situations as well as outside of the electoral context. There also needs to be key messages on what constitutes as vote buying or as misuse of state resources. Public education on acceptable funding sources and limits of political finance and campaigning is also important.
2. Evaluation and analysis of all voter education programs and efforts needs to be systematically carried out to assess their impact and effectiveness. This will ensure that resources are most effectively used and crucial messages are well-understood.
3. Continuous discussion about civic responsibilities needs to be maintained. Since the current method of providing voter education only during the electoral period is clearly inefficient as it does not result in behavioural changes desired, voter education and civic education can be introduced into the national education curriculum as well as vocational training programs targeted at vulnerable youth and rehabilitation and social reintegration programs for juvenile and adult offenders.
4. It is important to ensure that the all election-related information is accessible and proactively disseminated to the most vulnerable people in the community such as persons with disabilities and senior citizens.

### **5. Vote buying**

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<sup>26</sup> Parliamentary Election 2019, Election Observation Report, Transparency Maldives and Transparency Maldives' Pre-Election Assessment of 2018

Gifts and cash other than donations have been reported to be disseminated to individuals and families throughout the country during all the elections since 2008. Such reports of vote buying and bribery in elections have been widespread in the Maldives. However, no legal case has been prosecuted to date. This is believed to be primarily due to loopholes in the legal framework despite existence of clauses in multiple laws addressing this.

For instance, amendments brought to the General Elections Act (GEA) in 2018 recognises gift giving to influence voting as an act of bribery including giving gifts or providing a service to an individual or a group or a community. This law extends this act as an offence to even 30 days after the announcement of official results. In addition to this, the General Elections Act (65(a)(2)) stipulates bribery as a ground for annulling an election. Article 44(g) of Political Parties Act as well as Section 23 of the Parliamentary Elections Regulation 2019 admonishes political parties and candidates alike not to “bribe, terrorise, and carry out prohibited activities in the Elections Act and regulations under the law”.

Article 120(a) of the Penal Code stipulates “it is a criminal offence to induce the inclination of the exercise of an electoral right for the benefit of a certain party or to offer or promise to offer anything as a gesture of gratitude or gratification or reward for having exercised the electoral right in a certain manner”. However, given that it has general benefits, donations made by candidates, even if directly, are not considered as vote buying under the Penal Code. Thus, ‘gifts’ donated by candidates or parties to schools, clubs, community-based organisations, and island communities continue to be a common trend during all elections.

Another weakness in addressing this is the lack of formal complaints regarding bribery, yet widespread reporting by communities and media of accusations.

For instance, in 2013 the COG reported concerns regarding allegations of financial and material assistance to gain support for a candidate, which included a donation by a former first lady to a school in Meemu Atoll.<sup>27</sup> Similar concerns were raised in TM's 2013 and 2019 election observation reports, which noted highly visible instances of ‘gift’ donations (such as laptops, TVs, sports equipment, and even cheques) to schools, clubs, and island communities by parties associated with some presidential candidates with no repercussions.

TM's Pre-Election Assessment in 2018 showed some other forms of vote buying practices such as candidates and parties providing drugs to buy votes from youth and those suffering from addiction, and providing funds to families that required healthcare and

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<sup>27</sup> Maldives Presidential Election and Re-run of Maldives Presidential Election and Maldives Presidential Run-off Election 2013

other necessities. A survey conducted by International Foundation of Electoral Systems (IFES) following the Parliamentary Election in 2014, proves that a large number of respondents were offered money or gifts for their votes personally or have personally witnessed or have had a family member who has been offered money or gifts.<sup>28</sup> For example, according to several media reports published in 2019 during the parliamentary election period, the ruling party's candidates allegedly offered flats to voters as bribes.

A common method used by candidates and parties to confirm that people voted as promised after accepting money or gifts is by asking voters to draw a certain mark on the ballot paper. There were numerous allegations of ballot papers with special marks in the 2014 Parliamentary Election, and the police temporarily detained several people who had shown their checked ballot papers before placing them in the ballot box. TM's election day observation in 2018 also showed that ballot papers across 70 percent of polling stations had additional markings, which could be indicative of vote buying.<sup>29</sup> An amendment to invalidate ballot papers with additional markings was finally approved by the Parliament in 2019, after being rejected twice.<sup>30</sup> Future elections will reveal if this amendment is being enforced and has addressed the issue.

During the parliamentary elections in 2019, the ACC investigated 22 cases related to vote buying or bribery, out of which they themselves initiated ten cases following a social media monitoring activity they conducted. The cases included pledges made by candidates that could fall under the ambit of bribery. However, no cases were sent for prosecution despite the large number of complaints received regarding the issue given insufficient evidence and legal ambiguities.

#### **Interventions required:**

1. State authorities including the ACC, MPS, EC and Prosecutor General's Office (PGO) need to coordinate to monitor, investigate and prosecute vote buying through the proper implementation of the existing legal provisions.
2. Civil society organizations and media should continue to play their role in informing the general public of the short- and long-term consequences of selling their vote and to encourage reporting.

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<sup>28</sup> Money and Elections in the Maldives: Perceptions and Reality, 2014.

<sup>29</sup> Presidential Elections 2018, Elections Observer Report, Transparency Maldives

<sup>30</sup> Second Amendment to the General Elections Act 2/2019

## 6. Low political participation by women

In 2014, only 23 women contested for the Parliament among a total of 302 candidates, five of whom secured seats. It represented an actual decrease in the proportion of women in parliament, with a fall from 6.4% to 5.8% female members in comparison to the parliament of 2009.<sup>31</sup> In 2019, out of the 386 candidates, 35 were women and only four of them were elected. This is far below the international average, and one of the lowest rates of women's representation in South Asia. This comparison as well as the consistent drop in the number of women getting elected to the Parliament is highly concerning.

Article 17 of the Constitution of Maldives guarantees the rights and freedoms of citizens, without discrimination of any kind, including gender, and Article 20 guarantees equality before the law. The Gender Equality Law (GEL) 2016 further seeks to establish gender equality principles in making social, economic, political and cultural policies to end gender-based violence, and take special steps to establish gender equality.

Chapter 2, Article 2(17)(b) of the Maldives Constitution, and Sections 37 and 38 of GEL, allow special measures to be taken “where participation of a particular gender is of a lower rate in public service and public life” through the passing of legislation or other initiatives. It is noteworthy that Section 24 of this Act explicitly places a special responsibility on the state, political parties, and the responsible ministries to ensure equal opportunities for both genders in all levels of the political arena. It requires “political parties to work towards facilitating women with equal opportunities as men, in running for candidacy in an elected post, and in fielding candidates for such posts”.

In addition to that, Section 44 of the Political Parties Act 2013 prohibits inciting hatred or hostility based on gender among the general public. Likewise, political parties, their members and candidates are not to dissuade anyone from voting for other people because of their gender.

At the international level, Maldives has ratified the Convention on the Elimination of Discrimination against Women (CEDAW). These commitments are referenced in the Gender Equality Act, which seeks to ensure that, “women enjoy equal terms with men in the economic, social, cultural, civil and political life of the Maldives”. States parties to CEDAW are obliged under general recommendation No. 25, on Article 4(1), of CEDAW, paragraph 7, to improve the de facto position of and to address prevailing gender relations and the persistence of gender-based stereotypes that affect women, in law as well as in legal and societal structures and programmes.

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<sup>31</sup> 2014 Parliamentary Elections, Final Report - EU Elections Observation Mission

During the drafting of the current Constitution, a debate took place in 2006 in the Special Majlis as to whether a 15 percent quota should be reserved for women in the People's Majlis, a proposal which suffered defeat. Unsuccessful efforts were made by women MPs again in 2007, as political parties legislation was being drafted, to include a measure allocating just ten seats reserved for women in the People's Majlis. The recommendation that the legislation ought to have stipulated that a specified percentage of women be selected as party candidates was supported by CEDAW as well.<sup>32</sup>

In 2019, the COG also shared concerns that while women's involvement remained vibrant in grassroot-level activities such as campaign activities and rallies in the pre-election period, there were relatively few women in elected offices, leadership positions and paid senior management positions in political parties or the government.<sup>33</sup> It is also important to note that there has only been one candidate who chose a woman candidate as their running mate.

Regardless of the fact that there is no evidence of major problems with regard to women exercising autonomy in their right to vote, given the high female voter turnout, there was an acknowledgment of the barriers to women's participation in politics, including socio-cultural beliefs, the economic disadvantages faced by women, and the burden of women's traditional roles in the home. Added to these, Transparency Maldives identified "a striking technical knowledge gap when it comes to effective campaigning, lobbying, fundraising, budgeting, legislative drafting, constituency relations, and public speaking", which significantly impacts women's interest and confidence in running for political positions.<sup>34</sup>

The Maldives is amongst the two countries ranked at 184 out of 193 countries highlighted in the Inter-Parliamentary Union index of parliaments in terms of gender balance. It has become imperative that all relevant institutions such as the government, HRCM, political parties and civil society organisations identify and address all barriers for women's equal political participation and work towards increasing women's representation in public office. Mass advocacy campaigns on women's political empowerment and equal political participation is needed. Issues such as gender equality and women's empowerment can be included in the education curriculum to improve awareness and understanding about the limitations to women's empowerment in general.

Amendments passed in 2019 to the Decentralisation Act included the provision of one third quota on all local councils to women. The first ever election under this new electoral

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<sup>32</sup> CEDAW Concluding Comment, 2007, CEDAW/C/MDV/2-3, paragraph 24

<sup>33</sup> 2019 Parliamentary Elections - Reports of The Commonwealth Observer Group

<sup>34</sup> Parliamentary Election 2019, Election Observation Report, TM



framework will be held in April 2020 and is a positive step to improving gender imbalance in decision-making levels.

#### Interventions required:

1. Carry out multi-stakeholder programs to educate, empower and assist interested women candidates for leadership positions and decision-making roles.
2. Political parties to provide women candidates with training and financial assistance to hold effective campaigns.
3. Political parties to introduce or amend their voluntary quota policies to ensure effective representation of women in political party leadership and decision-making processes.
4. The Parliament to set a legislative quota for women in the parliament.

#### 7. Inadequate attention to the political rights of persons with disabilities

Section 35 of the Constitution states that “elderly and disadvantaged persons are entitled to protection and special assistance from the family, the community and the State”. The Disability Act was enacted in 2010 in order to promote inclusivity and provide equal opportunities for persons with disabilities (PWDs). As mandated by this law, the Disability Council of the Maldives, was formed within six months after the law came into effect, with a role to ensure the implementation of laws and regulations concerning persons with disabilities.

Article 45 of the General Elections Act permits an individual to assist a physically challenged person to mark their ballot if they are unable to do so by themselves. Additionally, the corresponding regulations for each election sets out the category of persons covered under this provision as voters who cannot mark the ballot papers due to visual impairment, voters who cannot use both hands due to an incapacitation, and those who are incapacitated from marking on the ballot paper due to weakening of the physique as a result of old age or an illness.<sup>35</sup>

In 2019, the COG reported several positive developments regarding the electoral system and PWDs, which was shared with them by the civil society organisation Maldives Association of Physical Disabilities (MAPD).<sup>36</sup> Firstly, the organisation noted that, for the first

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<sup>35</sup> Article 36 of the Parliamentary Elections Regulation, Article 36 of Presidential Regulation and Article 35 of Local Elections Regulation

<sup>36</sup> Parliamentary Elections, Reports of The Commonwealth Observer Group, 2019

time, 20 PWDs had been included as polling officials. Secondly, MAPD was also provided with the opportunity to represent PWDs at the National Advisory Committee on Parliamentary Elections, giving the PWD community a voice. And finally, the incorporation of disability concerns in the manifesto of at least one of the political parties was celebrated in 2019.

Regardless of the existing regulations, the national apparatus and the electoral legal framework are still relatively inadequate in dealing with persons with disabilities. For instance, even though access to assistance in voting is ensured for persons with physical disabilities, there are no measures in place to ensure that the assistance does not infringe on the right to secrecy of the ballot for voters with disabilities.

Moreover, MAPD has highlighted the urgent need for a disability registry to take accurate stock of the number of PWDs in the Maldives. It is absolutely vital in order to take adequate and appropriate measures to facilitate voting based on types of disability. Due to the lack of a comprehensive national registry of persons with disabilities, EC has been unaware of PWDs who will be voting at any given polling station. Voters who require assistance in voting are identified after tests administered by a polling station official at the polling station, on the spot, which may disrupt smooth and speedy voting process.

Another concerning issue highlighted by MAPD is that the definition of 'disability' under the electoral laws is inadequate, as it is limited to physically challenged voters, which could lead to disenfranchisement of those with other disabilities, including mental impairment.

Furthermore, Elections Commission's ad hoc decisions with regard to assisted voting in the Presidential Election 2018, further decreased public trust in the electoral process. EC announced that their officials will be providing assistance to voters that require help to cast their vote. Even though EC revoked this decision later on, given the general atmosphere of mistrust towards EC, the opposition, civil society organisations and the public perceived it as an attempt to influence the vote.

The lack of targeted voter education in an accessible format for PWDs is also an area that requires substantial improvement. Although local organizations such as MAPD and TM are involved in efforts to make their voter education materials more accessible to PWDs, the efforts by state institutions seem minimal at best.

#### **Interventions required:**

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1. Develop long-term strategies to enable more PWDs to vote independently where possible. A useful tool for this would be the establishment of a disability registry by the relevant authority. This would help EC to prepare voting mechanisms to provide assistive/facilitative technologies for people with disabilities. Such measures would contribute to maintaining the secrecy of the ballot, promote universal suffrage and increase the autonomy of people with disabilities.
2. Measures are needed to address the right of persons who are hospitalised, bedridden or otherwise unable to come to polling stations to cast their vote.
3. Introduce measures to promote and empower PWDs to actively participate in political life, including being elected to political office, such as providing specific support for interested candidates.

#### 8. Weak regulation of Political Party Financing

Financing of political parties is generally covered under the Political Parties Act of 2013, in which Section 40 contains provisions related to parties' maintenance of financial records and Section 41 provides for parties to submit audited reports to the EC and the Auditor General at the end of each financial year. Violations of the Act are punishable by a fine and the EC is authorised to enforce these sanctions.

Weaknesses in regulation of political finances stem from both legal loopholes and inadequate implementation of existing stipulations. Issues that need attention to regulate political party and candidate finances are given below:

- Lack of provisions on how campaign expenditure must be spent.
- High spending limits: The General Elections Act specifies the management of campaign and candidate finances, and also stipulates that each candidate should open a bank account that reflects expenditures and donations. The General Elections Act also permits a candidate to spend MVR 1,500 per eligible voter. The average population of a constituency is approximately 4,000 of which 3,000 are eligible to vote. This amounts to multiple candidates each being able to spend MVR 4.5 million per constituency. The Act was amended in 2018 to allow MVR 2,000 per voter. This allows even higher levels of spending on campaigns with no basis that previous levels were insufficient. Furthermore, this does not include third party and political parties' own expenditure on behalf of the candidates or in-kind expenditures. There are no equivalent provisions for political parties or third parties, in terms of capping expenditure on election campaigns.

- Unclear procedures for approval of foreign/anonymous funding: Section 37 of the Political Parties Act, permits political parties, unlike candidates, to receive donations from anonymous and foreign sources, provided written permission is obtained from the Elections Commission. However, there are no details in the Act or the Political Parties Regulation on the procedures for providing the aforementioned approval.
- Political parties are not required to submit campaign finances: Clauses in the legal framework related to transparency in campaign finances apply only to candidates specifically. Candidates are required to make all campaign transactions through a bank account set up for the purpose of campaign spending, and are required to submit a report within 30 days after the elections. Candidates can exclude mention of excessive expenses or particular sources of funds by having political parties manage their funds. Political parties are required to submit annual audited reports. In the end, neither the political finance reporting period nor the candidate reporting period fall within the 14-day period given for submitting cases to the PG.
- Lack of enforcement of disclosure: The political parties that met with COG in 2019 admitted that these regulations on reporting audited financial reports were not enforced. It is also noteworthy that, with the exception of the 2019 Parliamentary Elections, the financial statements for candidates were not published by the Elections Commission.

#### **Interventions required:**

1. Clear demarcations are needed to differentiate unfavourable campaign expenditures and acceptable social/humanitarian activities (this is also covered under vote buying in Section A and Section B).
2. Revise the spending limit per voter by candidate based on robust analysis of required campaign finances, in consideration of the consequences of unnecessary financial injections into economy during campaign period.
3. Include provisions for parties to report on campaign expenses and include a spending limit by political parties during election period.
4. State the criteria and procedures for EC to grant approval for foreign and anonymous funding for political parties.
5. Build capacity of EC to enforce and review financial reporting by candidates and parties.

# SECTION B:

## Review of laws

This section provides recommendations for the following laws:

1. General Elections Act 11/2008
  - a. First Amendment to General Elections Act 4/2018
  - b. Second Amendment to General Elections Act 2/2019
2. Elections Commission Act 8/2008
3. Presidential Elections Act 12/2008
  - a. First Amendment to Presidential Act 3/2018
  - b. Second Amendment to Presidential Act 5/2018
  - c. Third Amendment to Presidential Act 17/2019
4. Parliamentary Elections Act 2/2009
  - a. First Amendment to Parliamentary Elections Act 6/2009
5. **Local Council Election Act 10/2010**
  - a. First Amendment to Local Elections Act 8/2013
  - b. Second Amendment to Local Elections Act 21/2016
6. Political Parties Act 4/2013

In general, the electoral legal framework of the Maldives has been noted by various observers as being largely consistent with international standards for conducting democratic elections.<sup>37</sup> The post-2008 laws and regulations had significantly improved on previous electoral legislation by increasing transparency and accountability.

However, areas for reform are also noted by international and local organisations. The concluding observations in the 2011 Maldives periodic report to the ICCPR raised concerns about the constitutional requirement for all citizens (and thereby candidates and appointees to independent institutions) to be Muslims, and the under-representation of women in political affairs at decision-making levels.<sup>38</sup> The 2015 concluding report from

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<sup>37</sup> Noted in various election observation reports by Commonwealth Observer Groups and European Union

<sup>38</sup> Concluding Observations adopted by the Human Rights Committee at its 105th session, 9-27 July 2012, Paragraphs 5 and 10, United Nations, CCPR/C/MDV/CO/1, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhspfqgftv24miQXms>

CEDAW on the Maldives periodic reports expressed concern that the introduction of the temporary special measure of a quota for women in parliament and local elections was rejected by Parliament in 2015<sup>39</sup>, although revisions to the Decentralisation Act were made in 2019 to allow one third quota to women in all local councils.

Reports by COG and the EU, who sent observer missions to the Maldives between 2008 and 2019, also noted issues with legislation. Some positive improvements were noted, in particular pertaining to two amendments made to the General Elections Act that clarified the roles of the various electoral players, and set the stage for improved campaign finance, election dispute resolution, and data protection. Aspects where reforms are needed include lack of transparency in political financing and election dispute resolution and regulation of state resources for campaigning, as explored in Section A of this report.

Furthermore, events during recent election periods have demonstrated the weakness in law to provide for a stable electoral environment. In 2015, the Supreme Court dismissed the President and Vice President of the EC, in proceedings outside of the parliamentary-led dismissal procedures stipulated in laws, and introduced administrative guidelines to conduct elections, thus encroaching on the independence of both the Parliament and the EC. Thus, it is important to consider the extent to which shortcomings in electoral environment are a result of law design or failure to implement laws.

## 1. General Elections Act 11/2008 and its amendments

The existence of the General Elections Act is in line with international best practices as one electoral law regulating all elections is highly recommended to encourage consistency and reduce confusion.

The first amendment to the General Elections Act was ratified in July 2018 while the second amendment was ratified on 12 March 2019. These amendments contained provisions that improved upon the existing framework. For example, granting greater protection of the data collected on electors. The amendments also listed areas of support for the Commission from other institutions, which created avenues for greater coordination and more efficient use of resources. Given the overlapping roles of the EC,

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<sup>39</sup> 'Concluding observations on the combined fourth and fifth periodic reports of Maldives', United Nations, 11 March 2015, CEDAW/C/MDV/CO/4-5, Paragraph 18, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsGOTxO5cLIZOCwAvhyns%2ByJdRc6Rqh%2BOOY2iQmDN8jkoPjuCy6P9dRDPkNKiHh6JDogwfNhQAPDULOebgMCKqXCRF9DVcFRKiFvLNs28K688hxawuKb7BgXZzPrEGOcBgA%3D%3D>

Broadcasting Commission, and Maldives Media Council, the question of media regulation during election periods had been one issue of confusion. This function is now entrusted to the Broadcasting Commission, an independent institution formed to regulate all broadcasting outlets in the country. This clear demarcation was a needed clarification although subsequent elections will determine if this issue persists. This decision is in line with the recommendation to entrust the task of media regulation to an institution other than the Elections Commission, given the high burden of election administration.<sup>40</sup>

The amendments also elaborated on: (i) documenting the election proceedings, (ii) submission and investigation of complaints, (iii) maintaining financial records by candidates, and (iv) electoral offenses.

While the legislature has improved with the amendments, improvements in both the General Elections Act and other laws in the electoral framework are needed to strengthen the integrity of the Maldives' electoral process. The following subsections present recommendations to each of the Acts selected for this review.

The following table outlines the issues identified by observers with the electoral legislation, as well as recommendations for electoral reform.

Chapter	Areas of concern and recommended best practice	Recommended reform to General Elections Act
2. Right to Vote	Both the Law and the Constitution grant every citizen over the age of 18 to vote in all public elections held in the country. However, provisions are not made for hospitalised or home-bound persons to cast their votes. Any procedures introduced for hospitalised or home-bound voters must consider maintaining the secrecy of their vote, risks of intimidation of vote and other fraudulent practices. <sup>41</sup>	R1: Special voting procedures need to be in place for hospitalised and home-bound electors.
3. Register of Electors	Registration in elections is a two-step process: passive registration by the EC based on permanent residence and active re-registration by the voter, should they wish to cast their vote in a different location. The amended Article 12 gives the right to any voter who wishes to re-register. However, a	R2: Amend the act to specify that the Elections Commission must announce a deadline for re-registration. <sup>42</sup>

<sup>40</sup> *Republic of Maldives – Presidential Election, 8 October and 28 October 2008 – Final Report 2nd draft, European Union, page 37*

<sup>41</sup> *Handbook for European Union Elections Observation, Second Edition, Page 81*

<sup>42</sup> *Handbook for European Union Elections Observation, Second Edition, Page 44*

	<p>deadline for re-registration is not specified nor legally required. This could potentially lead to disfranchisement of some voters if they failed to re-register in time. While a deadline may be stated by the Commission in practice, the Act needs to specify that this is a requirement.</p>	
5. Candidates	<p>The Law is unclear on what the procedure is if the party no longer endorses their candidate or if the candidate revokes party membership during the campaign period. The clause on withdrawal of name (Article 23) states that any candidate may withdraw their application before the EC publicly announces the names of candidates.</p>	<p>R3: The Law needs to specify what the procedure will be if there is a change in the status of the candidate's political affiliations after announcement of candidates and prior to election day. For instance, if an independent candidate joins a party, if a party renounces their candidate, or if a candidate revokes party membership.</p>
6. Election Campaigning	<p>Article 30 was amended to specify the role of Broadcasting Commission to regulate the media during election time. This commission is required to submit a report on the complaints received and investigated, to the Elections Commission. In the case of misconduct, actions against broadcasters are taken by the Broadcasting Commission (Article 30(g)) while actions against candidates are taken by the Elections Commission. Deadlines for investigation of media malpractices are not specified, which may create a situation where the EC or another agency fails to take action against a candidate before an election. In addition, Article 31 forbids the use of international broadcast media by a candidate. International broadcasters may be useful to enhance transparency in elections and also to reach out to overseas voters.</p> <p>State abuse of resources by incumbent governments includes the use of civil servants and employees of state-owned companies for campaigning, and the use of state vessels and vehicles for campaign trips which are combined with official business and dominating public media. There are no laws or regulations governing use of state resources during election period, although the Prevention and Prohibition of Corruption Act 2/2000 prohibits the use of any government property and also compelling another</p>	<p>R4: Specify a deadline for the Broadcasting Commission to submit a report to the Elections Commission prior to voting day, on completed investigations and ongoing investigations of all complaints received.</p> <p>R5: Remove Article 31, which states that international broadcasters cannot be used during the campaign period.</p> <p>R6: ACC and AGO to introduce guidelines for use of state resources during election period.</p>



	<p>government employee to undertake a task for personal gain.</p> <p>Incumbent administrations have also announced major social and infrastructure projects close to the election period, a grey area between governance and using state resources to support a campaign.</p> <p>While these cases are reported by observers and opposition parties, there has never been any cases of prosecution or conviction of abuse of state resources.</p>	
7. Preparing for voting	<p>This section allows monitors and observers to participate in the elections and provides an expected code of conduct. The law fails to ensure that an accommodating environment exists for accreditation and observation. During the 2018 presidential elections concerns were widely circulated by international observers who were accredited by the Elections Commission but were unable to obtain a business visa, which was necessary to carry out the observation.<sup>43</sup> Another restriction on observers is the items that can be taken into the voting centre to carry out their duties. The 2013 Supreme Court's 16-point guideline had specified that only a pen can be taken in by anyone. This point was later clarified by a court order specifying that journalists and observers can take in what is necessary for their professional responsibility. In practice this was enforced to varying degrees during the 2013 presidential election, and to a lesser extent in subsequent elections. The 2018 Amendment to the General Elections Act added a clause that observers can take in a copy of the voter registry. A copy of the voter registry may not be sufficient for observers to record notes thoroughly and efficiently. The Supreme court ruling still holds for monitors (ie media personnel).</p>	<p>R7: Amend the Law to specify on what grounds the Elections Commission may refuse to grant accreditation to a request for observing or monitoring an election. Law needs to be enhanced to either specify that the Election Commission must assist in obtaining visa or the relevant authorities must provide the relevant visa to accredited persons.</p> <p>R8. Amend the Law to permit observers and monitors to take in what is needed for their professional duties.</p>
8. Voting	<p>Three aspects of current voting procedures are noted for improvement; voting hours,</p>	<p>R9: Amend Article 45 (b) to clarify that those who need assistance in voting have the right to appoint the</p>

<sup>43</sup> <https://maldivesindependent.com/society/election-monitors-and-observers-lack-maldives-visa-141368>

	<p>assisted voting and guaranteeing secrecy of vote.</p> <p>Voters who are unable to vote unaided have the right to be provided with assistance and this is granted by Law to persons with physical impediments (Article 45 b). However, the Elections Commission must strive to improve voting procedures to minimise the need for assistance as much as possible to allow persons with disabilities to participate with equal rights and protect secrecy of their vote.<sup>44</sup> Possible measures include the introduction of tactile voting devices or having a large print version of the ballot paper on display for visually impaired persons. Furthermore, in cases where assistance is required, it is the right of the voter to choose the person who provides assistance, a principle which is not specified in Law.</p> <p>Given the geographical disbursement of the Maldivian population over numerous islands, resorts and industrial islands, some polling stations have few voters. This weakens the secrecy of the votes cast particularly in parliament or local elections where some voting booths may have a single or a few voters assigned for a constituency in that polling centre. Measures have been taken to address this (see Section 3) however the problem persists. This creates a serious breach of right to secrecy of the vote and high risk of intimidation or vote buying. Internationally recommended measures in such cases are to transport the votes in a sealed envelope to another polling centre for counting.<sup>45</sup></p>	<p>person who will be assisting them. Include the obligation of the Elections Commission to minimise the need for assisted voting as much as possible, by making the procedure more accessible.</p> <p>R10: Amend Clause 51 b to provide instructions that in situations where the number of voters per ballot box is inadequate to guarantee the secrecy of the votes, such votes are to be transferred to another polling centre, in a sealed envelope, for counting.</p>
9. Counting ballots and announcing results	Votes are currently counted in the presence of observers and monitors. It has been recommended that an additional procedure be introduced whereby the number of ballots in the box are counted and announced first, prior	R11. State the responsibility of the Elections Commission polling agents to ensure that the observers and monitors are seated where they can see the mark on

<sup>44</sup> Article 29, Convention on Rights of Persons with Disabilities

<sup>45</sup> Good Commonwealth Electoral Practice, A working Document, June 2007, Commonwealth Secretariat, Page 12

	to sorting votes for different candidates or invalid votes. It was also recommended that observers and monitors should be seated at a distance where they are able to view the mark on the ballot paper easily. <sup>46</sup>	the ballot paper during the time of counting and sorting the ballot papers.  R12: Include in article 55a, the additional step of counting all the ballot papers in the box and announcing this figure first before sorting for different candidates and assessing invalid votes.
10. Election Complaints	A constitutional right is granted to any person to submit a petition to the High Court, on any legal matter related to elections. However, the General Elections Act limits this to a period of 14 days after elections. While a short period is advisable here to finalise election results, concerns are raised in the fact that the amended deadline for candidates to disclose their financial statements is 21 days after elections (Article 73a).	R13: Amend the general Election Act to give the opportunity to submit complaints after the deadline for disclosure of financial statements by all candidates.
11. Finances and Financial Matters	<p>The General Elections Act includes guidelines and restrictions on financing and reporting of expenditure for campaigns. The 2018 amendments increased the spending limit by candidates from MVR 1500 per voter to MVR 2000 per voter. This change is concerning as the initial amount was regarded as extremely high by observers and the increment was brought about with no justification that the initial limit was a barrier for campaigning. A reasonable spending limit ensures a competitive environment for campaigning.<sup>47</sup></p> <p>The Act does not mention the need for political parties to disclose their expenditures in support of their candidate. Articles 67 to 73 regulate campaign finance during elections and refer only to the expenditures made by candidates.</p> <p>Furthermore, the enforcement of the requirement for financial reporting by candidates is weak. It is also not clear whether the submitted reports are to be reviewed by</p>	<p>R14: Revise the spending limit per voter after stakeholder consultations and in line with international good practice</p> <p>R15: Mandate all parties to submit reports on campaign expenditure during the election period with a clear deadline.</p> <p>R16: Specify the penalty for candidates who do not submit financial reports in time or who</p>

<sup>46</sup> *Maldives Parliamentary Elections 6 April 2019 - Report of the Commonwealth Observer Group*, The Commonwealth Observer Group, Page 33

<sup>47</sup> [http://eeas.europa.eu/archives/docs/eueom/pdf/handbook-eueom-en-2nd-edition\\_en.pdf](http://eeas.europa.eu/archives/docs/eueom/pdf/handbook-eueom-en-2nd-edition_en.pdf) and

International Electoral Standards Guidelines for reviewing the legal framework of election, International IDEA and the Office for Democratic Institutions and Human Rights (ODIHR) of OSCE in Warsaw 2001

	<p>the Elections Commission or not. In general, the practice of enforcing asset declarations and review of these statements are weak across all institutions in the Maldives.</p>	<p>submit incomplete reports. Specify the deadline by which Elections Commission should make these reports public.</p>
<p>12. Election related offences and penalties</p>	<p>Limited investigation and weak enforcement of penalties on election related offenses is a serious flaw in the conduct of elections in the country.</p> <p>Issues such as vote-buying and state misuse of resources have persisted across multiple government administrations.</p> <p>The Penal Code prohibits bribes accepted by public officials or candidates for a public office and commercial bribery (Section 314 and 510). It remains silent on the issue of candidates offering gifts or donations to voters.</p> <p>Article 65 of General Elections Act states that an election may be annulled if a bribe was given or undue influence was exerted that could have changed the result of the election. This may be interpreted to signify that such offences will be given serious consideration only in cases that impact outcome.</p> <p>More elaboration is given in Article 74 of the General Elections Act which lists electoral offences which also include giving a gift or compensation in return for advantage in elections.</p> <p>Article 8 of the Prevention and Prohibition of Corruption Act 2/2000 condemn bribery to exert influence which can be applied to elections. Article 9 condemns the person who accepted or tried to accept bribery and imposes a penalty/sentence of up to 2 years.</p> <p>A significant challenge in addressing the widely-reported high prevalence of vote-buying in the Maldives is the lack of evidence to support claims due to a reluctance by persons accepting bribes to come forward.</p>	<p>R17: Amend the General Election Act to incentivise reporting bribes and reduce undue influence on voters in addition to penalising those who accepted bribes.</p>

## 2. Elections Commissions Act 8/2008

Following the promulgation of the 2008 Constitution, the parliament worked to create the legislature necessary for implementation. The first law that was passed was the Elections Commission Act 8/2008, ratified in less than a month, on 25th August 2008. This Act established an independent Elections Commission of five members, who are appointed by the President, with approval from the Parliament. Two major elections in 2008 were overseen by an interim EC, as outlined by the Constitution. The interim commission served until the appointment of members by the Parliament in 2009.

Maldives does not have absentee voting for any state election and the turnout on election day is generally high, necessitating huge number of temporary manpower to support the Elections Commission.

Organising an election carries two principle tasks – maintaining the register of voters and running the election itself. In general, local and international observers have highly commended the efforts of the EC. However, the independence and integrity of the EC has been significantly challenged, when the Supreme Court removed the Chair and Vice Chair of the EC in 2014, overriding the parliamentary procedures for removal of members. The Supreme Court also issued administrative guidelines for the commission to adhere

to when conducting elections<sup>48</sup>. It is concerning that these administrative guidelines continue to be in effect.

The following issues are identified as areas to be improved upon in the Elections Commissions Act.

Chapter	Areas of concern and recommended best practice	Recommended reform to General Elections Act
Article 5 – Mandatory Criteria for Members	Stronger provisions to ensure the neutrality of commission members is desirable. Currently, a member of EC cannot be a member of a political party or be involved in the activities of a party. However, there are no provisions in law regarding actions by members prior to taking up the post. Close association with a particular party unto point of assuming office as EC member, may diminish public confidence in the institution.	R18: State a minimum period of no prominent affiliations with any political party prior to appointment to be included in the criteria for EC members.
Article 14 – Dismissal of Members	The procedure for dismissal for an EC member is a simple majority vote by parliament based on a parliament committee finding of misconduct, incapacity or incompetence. Given that there are no clear guidelines for determining grounds for dismissal and no safeguards for abrupt dismissal during election periods, there is high risk of unfair dismissal.	R19: Strengthen the process for dismissal of EC members to ensure dismissal of EC members are on professional grounds, rather than political grounds. Examples can be seen in the dismissal process for some other independent institutions such as a vote by two-third majority, allowing the member in question time to address the parliament to speak in defence prior to vote, and informing the member in writing of the reason of dismissal.
Article 21 (f)- Powers and Responsibilities of Commission	Transparency of political financing in the Maldives is weak. Regulation of political parties is mandated with the Commission however the Act does not specify aspects of regulation, except registration. Misuse of state resources is also difficult to regulate given the lack of clear guidelines on this.	R20: Amend the article to oblige the Elections Commission to make publicly available audited annual financial reports of political parties and to give greater powers to the commission to determine guidelines for acceptable use of state resources by incumbents during elections.

<sup>48</sup> Supreme Court Ruling Number 2013/SC-C/42

### 3. Presidential Elections Act 12/2008, Parliamentary Elections Act 2/2009, Local Elections Act 10/2010, their amendments and their regulations

In general, these Acts are believed to be in line with international best practices,<sup>49</sup> although issues noted in other acts such as the General Elections Act will also affect the integrity of presidential elections.

One key administrative difference between the presidential elections and the parliamentary elections is the challenge in guaranteeing secrecy of vote for all voters. Elections in the Maldives have yet to overcome challenges to ensure the fundamental principle of ensuring secrecy of vote to all voters in parliamentary and local elections. The issue arises due to two reasons: alleged practices of vote-buying and marking of ballot papers, and some ballot boxes having very few voters per constituency. The second amendment to the General Elections Act, issued in March 2019 (Act 2/2019) declared that ballot papers with any marking other than the required tick indicating the chosen candidate, will be considered invalid. With effective voter education, this amendment has the potential to reduce vote buying to a large extent.

The issue of few voters in some ballot boxes is still not fully resolved. In the parliament elections for March 2019, there were 3,993 cases of single voters and 3,256 cases of two voters for some ballot boxes. An amendment to the General Elections Act mandated the EC to take extra precautions to safeguard the secrecy of votes in such cases, but no steps were taken.<sup>50</sup> A recommended international practice is to transfer such ballots to a

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<sup>49</sup> See for example Chapter 7 of *International Electoral Standards: guidelines for reviewing the legal framework of elections*, International Institute for Democracy and Electoral Assistance (2002), and *Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report*, adopted by the Venice Commission on 2002, Page 4-11

<sup>50</sup> Elections Observation Report – Parliamentary Election 2019, Transparency Maldives, Page 7

central location for counting. This amendment is recommended to be incorporated into General Elections Act, as mentioned in the relevant section.

Another cause of electoral manipulation that may arise in parliamentary elections is by biased demarcation of constituencies. This is covered under the section on the relevant law, Electoral Constituencies for the Parliament.

The following issues are commonly noted as areas for reform in these Acts and/or their regulations.

Subject	Areas of concern and recommended best practice	Recommended reform to General Elections Act
Candidates to submit an audited financial report of their campaign expenditures within 60 days of elections.	<p>The laws refer only to the expenditure made by candidates. The Act does not mention the need for political parties to disclose their expenditures in support of their candidate.</p> <p>Furthermore, the enforcement of the requirement for financial reporting by candidates is weak. Actions that can be taken if the candidate does not submit is not prescribed.</p>	<p>R21: Mandate all parties to submit reports on campaign expenditure during the election period with a clear deadline.</p> <p>R22: Specify the penalty for candidates who do not submit financial reports in time or who submit incomplete reports. Specify the deadline by which Elections Commission should make the financial reports public.</p>
Formation of National Advisory Committee	<p>The Regulations on Presidential and Parliamentary elections mandate the formation of a multi-stakeholder National Advisory Committee to coordinate the election process. Regulation on Local Elections states that this committee may be formed, if needed by the Elections Commission. None of the laws gives a timeframe by when the committee must be formed. In 2011 the board was formed only three days prior to the elections and in 2018 a civil society member was not included.</p>	<p>R23: It is recommended to include the formation of the National Advisory Committee in the relevant Act for all elections, with a specific timeframe prior to the election period.</p>



#### 4. Political Parties Act 4/2013

Political parties were first registered in the Maldives in 2005, by presidential decree, as part of the reforms introduced at the time for multi-party democracy.<sup>51</sup> The Political Parties Act was ratified in 2013 and replaced the decree. The Regulation of Political Parties was introduced in 2019 (2019/R-110). The list of political parties in the Maldives has been fluid with many parties failing to mature. Currently, there are ten political parties in the country, of which the two major parties were established in 2005.<sup>52</sup> Political Parties are registered and regulated by the EC. Approximately 24 per cent of the population are registered in a political party as of September 2019.<sup>53</sup>

A contentious point in the 2006 Political Parties Act was the minimum number of members required for membership. Initially the minimum number was set at 10,000. Six months later, the requirement of 10,000 was ruled unconstitutional by the Supreme Court on grounds that a high minimum number of members obstructed the Constitutional right to participate in political associations. The first amendment was passed to the Political Parties Act in 2015 and lowered the limit to 3000 (Act number 24/2015). The second amendment was passed in 2016 and was related to membership and registration procedures.

The third amendment to the Political Parties Act was ratified in 2016 and related to elections. The amendment stated that candidates who failed to secure party ticket in primaries cannot contest for that particular election (Act number 28/2016). This amendment was overturned by the Supreme Court in 2019 and the restriction was lifted by the Parliamentary election of 2019.<sup>54</sup>

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<sup>51</sup> <https://www.elections.gov.mv/en/ec/page/political-parties.html>

<sup>52</sup> <https://www.elections.gov.mv/ec/political-parties/Siyaasee%20Partythah.html>

<sup>53</sup> Based on membership numbers of nine political parties as at September 2019 ([www.elections.gov.mv](http://www.elections.gov.mv)) and registered total population of the country as at September 2019 (<http://statisticsmaldives.gov.mv/maldives-in-figures-september-2019/>). A tenth party was registered in November 2019, its membership is not available provided by Elections Commission of the Maldives.

<sup>54</sup> <https://maldivesindependent.com/politics/primary-losers-allowed-to-contest-143947>, see also Supreme Court Ruling 2019/SC-C/06, 11 February 2019, (<http://www.supremecourt.gov.mv/uploads/3/sc-ninmunthah/hukum/2019-sc-c-0506.pdf>)

Political parties have been at the centre of the turbulent affairs of the country in the past decade. A research published in 2014 noted that political parties in the Maldives were not free from “unwarranted external interference” in their activities and had faced intimidation from state authorities such as Police.<sup>55</sup> This report also stated that political parties are perceived as the most corrupt institutions in the country (citing a survey conducted in 2013). Parties in the country also often fail to promote a consistent ideology and often reflect the support for the leader. Abrupt formation and dissolution of coalitions impact outcome of elections or lead to high turnover in senior positions.<sup>56</sup>

Recommendations for changes to the Political Parties Act centre on improving transparency in political financing. The articles in the Law on regulating finances of political parties are similar to the articles contained in the initial Regulation of 2005. The table below lists recommendations to the Political Parties Act to improve electoral integrity and party accountability.<sup>57</sup>

Subject	Areas of concern and recommended best practice	Recommendation
Campaign Finance	<p>There is no legal requirement for political parties to disclose their expenditures in support of their candidate in relation to the election period. Audited financial reports are only required to be submitted on an annual basis, however this would exceed the timeframe for raising complaints regarding elections. Nor is there a cap on the funding by political parties for campaigns, despite an upper limit being prescribed for candidates, to curb excessive spending.</p> <p>The current legal framework does not mandate political parties and candidates to provide official identification of donors and vendors. In</p>	<p>R24: Mandate all parties to submit reports on campaign expenditure during the election period with a clear deadline. Specify penalties for parties that do not submit financial reports in time or who submit incomplete reports. Specify the deadline by which Elections Commission should make the financial reports public.</p> <p>R 25: Prescribe an upper limit for expenditure by political parties for purposes of campaigning (as prescribed for candidates)</p>

<sup>55</sup> *National Integrity System Assessment, Maldives 2014, Transparency Maldives*

<sup>56</sup> See for example <https://maldivesindependent.com/politics/president-downplays-rifts-in-coalition-143593> or <https://maldivesindependent.com/politics/future-of-maldives-ruling-coalition-into-doubt-143524> or <https://maldivesindependent.com/politics/yameen-appoints-third-vice-president-reshuffles-cabinet-124967/comment-page-1>

<sup>57</sup> It is noted that most of the recommendations give here were highlighted in the *CRINIS research Project, Transparency Maldives 2011*, which was based on the 2005 Regulation to Political Parties. Many of the articles in the Political Parties Act was carried over from this Regulation.

	<p>the absence of official identification, it is difficult to ensure the reliability of the information provided.</p> <p>The 2013 Act improves upon the 2005 Regulation by mandating all parties to open a bank account. However, the Act does not mandate all transactions to be carried out through this account, nor is there a limit on cash transactions.</p>	<p>R26 Mandate parties to include in financial statements names and detailed identification of all donors.</p> <p>R27 Maintain a limit on cash donations to be accepted by parties. Rephrase Article 40(a)2 to clarify that all transactions must be carried out through this bank account.</p>
Section 37: Funds from foreign and anonymous sources	<p>This section allows political parties to accept anonymous funds and funds from international donors with prior approval from Elections Commission. However, the Act and its regulation lacks guidance on what factors to consider to granting approval.</p>	<p>R28: Include guidelines for Elections Commission to abide by when granting approval to political parties for accepting anonymous donations or from foreign sources.</p>

## 5. Other Recommendations

In addition to a robust and thorough legal framework, various other aspects influence electoral integrity. The issues noted below relate to the commitment of institutions to respect stability during election times and the need to explore different technology to grant more voters their right to vote.

Subject	Areas of concern and recommended best practice	Recommendation
Stability of electoral law	<p>International best practices suggest to maintain stability in the law for one year prior to an election. Even when no manipulation is intended, changes will seem to be dictated by immediate party/political interests.</p> <p>The amendments that were brought to the legislative framework for presidential elections illustrate the malleability of law to political whims. One aspect was the qualifications of candidates who are eligible for presidency and vice presidency. These qualifications are listed in the Constitution 2008 (Article 109). In 2015 the minimum age was reduced from 35 years to between 30 and 60 years, as the first amendment to the Constitution, enabling the</p>	<p>A recommended best practice is to stipulate in legislature that, if the electoral law is amended, the old system will apply to the next election – at least if it takes place within the coming year – and the new one will take effect after that.<sup>59</sup></p>

<sup>59</sup> Venice Commission, Code of Good Practice in Electoral Matters, 23 May 2003, CDLAD(2002)023rev, page 24, paragraph 64

	<p>appointment of a new Vice President in the following month. In 2018, two amendments were passed to the Presidential Act two months before the Presidential elections. The first introduced a minimum of 10 years to have been elapsed before a candidate had forgone asylum or citizenship of another country, if the candidate had received such at any point; and the second amendment increased administrative fees for candidature application. These changes were noted to result in limiting candidate eligibility and barring specific individuals.<sup>58</sup></p> <p>After the government changed in 2018, the first amendment to the constitution was revoked and first amendment to the presidential act was also removed.</p>	
<p>Secrecy of Vote</p>	<p>In the case of Parliament and Local elections, secrecy of vote is still not ensured for many voters given that some polling stations have only one or few voters per constituency. The Law has been amended to enable Elections Commission to take extra measures to address this however this issue was still persistent in the subsequent elections.</p> <p>This issue also arises for disabled persons who may require the help from others, yet who may be able to vote unassisted with additional devices or aids if provided by the state.</p>	<p>Elections Commission to explore alternative methods to enable secrecy of vote for more voters.</p>

<sup>58</sup> <http://transparency.mv/v16/wp-content/uploads/2018/06/Statement-on-amendments-EN.pdf>

# SECTION C:

## Conclusions

The electoral framework for Maldives was produced and ratified swiftly in 2008 in time for the various elections mandated by the 2008 Constitution. The Elections Commission also organised themselves quickly to deliver these elections, and have since then matured as an organisation and improved on various aspects such as more comprehensive voters registry, more inclusivity and preparing their officials to conduct elections. The Maldives has experienced significant shifts in its political setting, with some regressive laws and amendments. However, elections have been regular, peaceful and with a high turnout. Attempts have been made to improve on specific aspects of elections. However, a holistic scrutiny of electoral laws is needed to bring Maldives' elections in line with international best practices.

Section A of this report presents eight selected issues of concern that have persisted across the years and require focused interventions. These include some areas where remedial action has been attempted, such as vote buying and low political participation of women, and also areas where there is, to date, a complete lack of dialogue and political commitment to address. These include state misuse of resource during campaigns and weak oversight of political party financing. Finally issues that are related to weak and inefficient administration are also highlighted, such as a weak complaints mechanism, inadequate attention to the rights of persons with disabilities and determination of constituent boundaries. For each of these issues, recommended interventions are given.

Section B of the report reviews the six Acts that constitute the electoral framework and their respective amendments. Selected regulations supporting these Laws have also been reviewed where major causes of concern are related. Recommendations are geared towards objectives such as administrative improvements, improving transparency or preventing corruption. The legal recommendations given in Section B are also in support of the issues explored in Section A.

Weaknesses in the legal framework is a repetitive finding in all election observations and comprehensive review and reform of all legal instruments of the electoral legal framework is required.

Vote-buying and misuse of state resources are reported to be widespread during campaigning. There are concerns that existing legislation does not allow all voters to exercise their political liberties to directly better their lives, such as for those who are required to vote for their native constituency rather than their area of residence. More troubling is the abrupt involvement of the judiciary in the elections process and legislative amendments during the election periods. The issues that are presented in this analysis require voter education, multi stakeholder commitments as well as informed legislative reform.

Of the issues raised in the report, the commitment to improve transparency in political financing is urgently noted. A culture of negligence has grown towards both reporting of finances and oversight of political parties. Analysis shows that there are weaknesses in both reporting (such as parties not having to report election specific funds, period for public complaints regarding elections being shorter than the duration for candidates to declare finances, etc) and lack of enforcement of transparency by EC.

The recommendations presented in this report are mainly immediate and short-term corrections that are needed to align Maldives' electoral environment with best practices and to protect the sanctity of both the vote and the right to vote. There is also a lack of discussion and analysis on long-term measures needed for the democracy of Maldives to mature and keep ahead of changing times. Alternative electoral systems, technology-based voting mechanisms and comprehensive voters' registry with key information are among areas of long-term changes that need its foundations to be started now.

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