

# PRESIDENTIAL ELECTION: PRE-ELECTION ASSESSMENT

# 2023



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

Transparency Maldives extends its gratitude to all interlocutors and participants of the focus group discussions for giving us their valuable insight into a highly nuanced political and electoral environment.

The information in this report was collected between May - June 11th, 2023.

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# 1. INTRODUCTION

Transparency Maldives (TM) is a non-partisan, non-governmental and non-profit organization. It has been the main domestic Elections Observer Group since 2008. Prior to fielding its nation-wide observation, TM conducts pre-election assessments to provide recommendations to mitigate challenges for holding free, fair and credible elections.

The main objectives of the 2023 Pre-Election Assessment are to:

- Assess the current political and electoral environment, and preparations for the 2023 presidential election.
- Understand the emerging and upcoming challenges for holding a free and fair election.
- Review the electoral legal framework.

## 2023 PRESIDENTIAL ELECTION

The 2023 presidential election has the potential to be a pivotal moment for the future of democracy in the Maldives. It is the fourth presidential election since the country adopted a multiparty political system under a new constitution adopted in 2008.

In contrast to the past presidential terms since 2008, the country has seen relative political calm during the past five years. Less than three months to the election day on 9 September, generally, a public atmosphere of relative calm prevails. In contrast to previous elections, the electoral atmosphere has so far been 'unexciting'. However, uncertainties exist. The political context is rapidly evolving.

The electoral legal framework provides for minimum conditions for free, fair and credible elections. The Elections Commission (EC) has, in the past, proven to be technically competent in holding credible and transparent elections. Overall, key preparations for the upcoming election appear to be progressing according to the EC's timeline.

However, there are some significant challenges for the elections. These include similar challenges as observed in the previous election cycles.

The main key challenges relate to the electoral level playing field. It is therefore crucial to mitigate those challenges to enhance the fairness of the upcoming election and the free choice of voters.

## METHODOLOGY

The assessment used a qualitative approach, using desk research, interviews with key electoral stakeholders, and two Focus Group Discussions (FGDs). The interviews and fieldwork took place in May and June, with the last interview conducted on 12 June.

The individual interviews were conducted with an array of actors: state election stakeholders, political parties, media outlets, civil society organizations, and some representatives from international stakeholders. The interviews were based on a semi-structured questionnaire to assess concerns and perceptions around key areas relevant for a free, fair and credible election. The FGDs took place in Male' and Kulhudhuffushi with young people (18-35 years) from different demographic backgrounds. With time and resource constraints, we were not able to conduct further FGDs (for example in a smaller, less urban setting), which could have further added to the analysis.

## 2. QUICK FACTS AND FIGURES

### KEY STATISTICS

Maldivian population	<b>382,751</b>
Male	166,472
Female	171,962
18-35 Years	118,838 (31%)

Source: National Bureau of Statistics

Estimated eligible voters	<b>282,755</b>
Male	138,347
Female	144,408
18-35 Years	118,838 (42%)
New voters	21,137
Ballot boxes	604

### ELECTION TIMELINE

Activity	Date
Election Day	9 September 2023
Any Second Round	30 September 2023
Candidacy Application Open	23 July - 7 August 2023
Candidacy Announced	9 August 2023
Voter Registry Complaints	11 - 22 June 2023
Re-registration for Voting	16 July - 5 August 2023
Observers and Monitors Application	25 July - 13 August 2023

## POLITICAL PARTIES

REGISTERED DATE	POLITICAL PARTY	MEMBERSHIP
21 June 2005	Maldivian Democratic Party (MDP)	57660
18 August 2005	Adhaalath Party (AP)	9786
3 August 2008	Jumhooree Party (JP)	22607
17 October 2011	Progressive Party of Maldives (PPM)	38704
20 December 2012	Maldives Development Alliance (MDA)	10386
27 December 2018	Maldives Third Way Democratic (MTD)	3016
31 January 2019	People's National Congress	3159
25 October 2021	Maldives National Party	9838

## CANDIDATES (WHO HAVE ANNOUNCED THEIR CANDIDACY)

1. Ibrahim Mohamed Solih, Current President, Maldivian Democratic Party
2. Abdullah Yameen, Former President, Progressive Party of Maldives and People's National Congress alliance
3. Gasim Ibrahim, Jumhooree Party
4. Dr Mohamed Munavvar, Former Attorney General (independent)
5. Umar Naseer, Former Home Minister (independent)

## KEY TIMEFRAMES IN THE LEGAL FRAMEWORK

Publishing initial voter registry	At least 45 days before elections
Voter registry complaints submission period	10 days
Voter registry complaints adjudication by EC	Within 5 days
Appeal of EC decisions on voter registry at the High Court	Within 5 days
High Court decision on voter registry appeals	Within 15 days
Period for application for candidacy	At least 14 days
Candidacy acceptance/rejection by EC	Within 48 hours of submission
Appeal of EC decision on candidacy at the Supreme Court	Within 5 days
Supreme Court decision	Within 7 days
Provisional results announcement	As counted at the voting centres
Final results announcement	Within 7 days of elections
Complaints to the EC	Within 5 days of elections
Complaints adjudication by the EC	Within 2 days of submission
Appeals to the High Court	Within 14 days of official results
Adjudication by High Court	Within 30 days of official results
Audited campaign finance report submission	Within 60 days

### 3. KEY FINDINGS

#### 1. MINIMUM PREREQUISITE FREEDOMS

The current electoral legal framework generally provides for minimum prerequisite freedoms for holding free, fair and credible elections. The Maldives is also party to key international human rights instruments.

Yet, there are some challenges, including especially the following<sup>[1]</sup>:

- The curtailment of freedom of expression and/or freedom of campaigning, especially by religious actors, under section 24(a) in the code of conduct issued under Presidential Election Regulations.<sup>[2]</sup> It states:
  - 3. Campaigning or anti-campaigning for a candidate or a political party during religious occasions, through religious lectures [dharus], and through Friday sermons, is prohibited.
  - 4. Campaigning or anti-campaigning for a candidate or a political party through classroom lessons in schools, colleges, universities and other educational facilities is prohibited.

These provisions are too broad. Campaigning may be prohibited where it involves misuse of state resources. These include, for example, campaigning by misusing state mosques, government-paid imams misusing their official capacity, government-written sermons, or misusing government educational institutions. In other words, such a prohibition should not apply to private individuals and private settings as this would infringe on freedom of expression or freedom of campaigning.

- Another area of concern is freedom of assembly: the requirement to seek permission from the police and protest only in designated areas restrict freedom of assembly.<sup>[3]</sup> The main official opposition, Progressive Party of Maldives (PPM), raised concerns that this law restricted holding its political rallies and demonstrations, and they faced undue restrictions from the police.

#### **Recommendations:**

- *Review and amend the Presidential Election Regulations to ensure freedom of expression and freedom in campaigning as per the constitutional provisions and best practices.*
- *Review and amend the provisions restricting freedom of assembly as per the constitutional provisions and best practices.*

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[1] [1] The right to association is another area of concern, including for, for example, Maldives Reform Movement, as the current Political Parties Act requires a minimum of 3,000 members to form and maintain a political party. MRM was removed from the register of parties by the EC last month after the party's membership number fell below 3,000. MRM is contesting the EC's decision at the Civil Court and informed it was getting ready to submit a case at the Supreme Court to contest the legal requirement of 3,000 members. It is recommended to review the current membership requirement of 3,000 to assess if this is a reasonable restriction on freedom of association in a democratic society.

[2] This was also the case under the previous Regulations.

[3] Bar Council of the Maldives. 2020. Press Release [on freedom of assembly]: [https://maldivesbarcouncil.org/wp-content/uploads/2020/07/20200715-Press-Release-restrictions-on-freedom-of-assembly\\_ENGLISH.pdf](https://maldivesbarcouncil.org/wp-content/uploads/2020/07/20200715-Press-Release-restrictions-on-freedom-of-assembly_ENGLISH.pdf). See also Human Rights Watch, Maldives: Events of 2022: <https://www.hrw.org/world-report/2023/country-chapters/maldives>.

## 2. ELECTORAL ADMINISTRATION AND PROCESSES

The EC is a constitutionally independent body. It has, in the past, proven to be technically capable of conducting generally transparent and credible elections.

Most of the stakeholders interviewed agreed the technical aspects and processes on the Election Day are transparent and robust enough to prevent systematic voter fraud. There are also no serious systematic issues around the secrecy of the ballot.[4]

However, concerns exist, including:

- **Impartiality of the EC:** Several stakeholders, including most of the political parties interviewed, raised concerns around the alleged political influence on the EC. This also includes alleged government influence on the EC.

The vagueness around some of the provisions in the code of conduct[5] of the Commissioners under the Elections Commission Act (Art. 17) together with the fact that the EC members could be dismissed by a majority of the Parliament, lend room for perceived, if not real, influence. The ruling Maldivian Democratic Party (MDP) has a majority in the People's Majlis.

The MRM and The Democrats have raised concerns over the impartiality of the EC. In May 2023, the EC dissolved MRM stating the party registry no longer had the required 3,000 members. The Civil Court has issued a stay order allowing the continuation of party activities until a case filed by MRM is decided. The Democrats submitted required membership forms to register the party in early June, but alleged the government is obstructing its registration by influencing the EC.

- **Confidence in the EC:** Perceptions of political influence and the emerging narrative of a politicized EC by key political parties could further undermine voter confidence in the EC. When key parties question the credibility of the EC in the run up to the elections, it creates room for contesting election results however credible they may be.

Surveys since 2013 indicate public confidence in the EC has been declining. In 2013, 74% of the population had confidence in the Commission. In 2015, this fell to 56%.[6] By 2022, according to an IRI survey, 43% had confidence in the Commission.[7]

- **Complaints Mechanisms:** The structure of the complaints mechanisms for elections has remained largely unchanged since 2008. They have significant flaws, which persist in every election. The 2023 Presidential Elections Regulation provides for a multi-level dispute resolution mechanism with options to submit complaints at island level, atoll/city level, or to the national complaints bureau established by the EC, or directly to the EC. Any violation of the electoral legal framework by any person should be submitted within five days following the election day.

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[4] Secrecy issue arises in cases of assisted voting and where individuals may take photos of their ballots.

[5] For example, 17 (11): 'Shall at all times maintain socially acceptable standards of conduct and protect their dignity' appears to be too broad and vague.

[6] Transparency Maldives. 2013. Democracy Survey 2013 and Transparency Maldives. 2015. Democracy Survey 2015.

[7] International Republican Institute. 2022. National Survey of Residents of The Republic of Maldives | August-September 2022: <https://www.iri.org/resources/national-survey-of-residents-of-the-republic-of-maldives-august-september-2022/>

However, the regulation does not provide clear and detailed responsibilities of the complaints mechanism and a detailed procedure to adjudicate complaints. Furthermore, the General Elections Act mandates the Anti-Corruption Commission to investigate electoral corruption cases, and the Maldives Broadcasting Commission to investigate complaints related to broadcasters. This adds to the already complicated nature of this multi-level mechanism creating confusion among voters as to which institution to lodge complaints at.

Another concern with the complaints mechanism relates to the timeframes. For instance, presidential candidates are required to submit their audited financial report within 60 days following the election[8], while the final election results are to be announced within seven days following the election. This challenges the possibility to hold candidates accountable for financial misconduct in a timely manner.

Additionally, information about the complaints mechanism is not adequately provided to the public. While most of the complaints lodged and resolved are administrative in nature (for example, related to voter registry), issues of vote buying or misuse of state resources are reported less and almost never prosecuted.

- Changes to the electoral legal framework: Elections Observers, Civil Society actors such as Transparency Maldives, and other actors such as Anti-Corruption Commission have in the past provided several recommendations to further reform the electoral legal framework. Proposing and bringing reforms is not entirely an EC's role. The government and the parliament have a key role to play.

However, instead of a more inclusive, participatory, and systematic process of reform, there are ad hoc attempts and amendments too close to the elections. The recent amendments to the General Elections Act (yet to be approved), the amendments to the Political Parties Regulations, and the Presidential Elections Regulations, are cases in point.

- In terms of Electoral Administration, however, overall, there is less concern about the EC's technical competency. Crucially, systematic election fraud is unlikely. The high level of transparency and presence of election observers, media monitors, representatives of candidates at the polling centers, as well as the tight processes on Election Day, prevent systematic fraud.

### **Recommendations:**

- *Relevant institutions (including the Attorney General (AG) and the Parliament) should review and propose amendments to the Elections Commission Act, including the code of conduct, to further ensure that EC members can fulfill their responsibilities without undue political interference.*
- *Political parties and actors should refrain from unfounded allegations against the EC and rhetoric that could further undermine EC's credibility in the eyes of the public.*
- *The EC should increase transparency around all its work and provide timely and regular updates to the public.*
- *The EC and other relevant institutions should review and amend electoral legal framework in a more inclusive, participatory, and timely manner by also considering previous recommendations by an array of actors.*

[8] Article 16, Presidential Elections Regulation 2023.

- *The EC and other relevant actors should review and amend the electoral legal framework to clarify the roles, responsibilities, and procedures of the complaints mechanism to ensure effective coordination among stakeholders, and make the mechanism accessible to the public.*

### 3. POLITICAL CONTEXT

The political environment for the upcoming presidential election is rapidly evolving. Even though not to the same extent as in the previous elections, uncertainties and concerns exist.

One issue relates to the intra-MDP rivalry between former President and current Speaker of the People's Majlis, Mohamed Nasheed, and current President Ibrahim Mohamed Solih. This has led to a split within MDP. The split transpired in the wake of MDP's presidential primary in which Solih defeated Nasheed. The breakaway faction is now attempting to register a new political party, The Democrats.

Worryingly, the political clashes between the MDP and The Democrats have led to a temporary paralysis of the work of the People's Majlis, following the attempts by the MDP to table no-confidence motions against the Speaker, Mohamed Nasheed, and Deputy Speaker, Eva Abdulla, now affiliated with The Democrats.

All three – Solih, Nasheed, and Eva – are also linked through their close family relations. Hence, several stakeholders pointed to the family dimension of the intra-MDP disputes as having a negative impact on the political developments in the coming months.

It is worth to note that MDP's breakaway faction has also joined other opposition parties in their bid to take no confidence vote against the Attorney General over a recent decision by the International Tribunal for the Law of the Sea to delimit the maritime boundary between the Maldives and Chagos Archipelago. There are allegations that the Solih government failed to protect Maldivian interests and claims in the Chagos issue.

Another concern relates to former President Yameen's candidacy and PPM and PNC's ongoing protests in the capital (see below).

- However, most stakeholders interviewed believed the current context is less tumultuous and the chances for breakout of electoral violence, or at least widespread violence, is not high.
- There are though worrying signs of possible individual cases of violence to come, including the recent incident in which used oil was thrown at The Democrats' supporters. [9]

#### **Recommendations:**

- *All parties, political leaders, and voters should engage in political and electoral activities in a peaceful manner and respect human rights and electoral best practices.*
- *Parties should use dialogue over tactics that may lead to provocation, political instability, or worse, unrest and paralysis of key democratic institutions.*

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[9] See: Mihaaru. 2023. Demokretsge harugeyah kalhutheyoyahaifi. [8] [Article 4\(a\), Presidential Elections Regulation 2023](#). [Dhivehi]

- *Government, including the Police, should ensure that electoral and political rights of parties and candidates are protected. While peace and security must be provided, individual rights should not be unduly curtailed in the pretext of security. It should be noted the Police is implementing a nation-wide plan to ensure safety and security around elections.*

## 4. CANDIDACY OF FORMER PRESIDENT YAMEEN

A key issue of concern by many stakeholders relates to the candidacy of former President (2013-2018) and leader of the main official opposition, Progressive Party of the Maldives (PPM), Abdulla Yameen Abdul Gayoom.

Systemic corruption continues to blight the Maldives. Organizations such as Transparency Maldives have continuously called for prevention of corruption, and the effective and swift prosecution of individuals involved in corruption. The mega corruption related to the Maldives Marketing and Public Relations Corporation (MMPRC) during President Yameen's government has been one of the most systemic and massive corruption cases in the recent past.

Yameen is currently serving an 11-year prison sentence for corruption related charges relating to the MMPRC scandal.

However, PPM and People's National Congress (PNC) alliance has decided to field Yameen as their presidential candidate. Given this, many stakeholders, including some ruling coalition parties, expressed concern that there is yet no clarity over the candidacy of Yameen. There is an ongoing appeal case at the High Court, as a criminal sentence of more than 12 months would disqualify him.[10] There is also another ongoing court case against Yameen at the Criminal Court.

Some pointed out there has been undue political influence on the Criminal Court from the government. Alleged political influence through the Judicial Services Commission (JSC) and President's Office was also highlighted. JSC's dismissal of Criminal Court's chief judge who had presided over Yameen's case, and the promotion of another (who had meted out the conviction judgment) to the High Court, were also reasons for those allegations of political influence.

Irrespective of the merit of Yameen's conviction case, when a key opposition leader is not able to contest elections, there is room for some to perceive that it fits into an existing pattern whereby the opposition of the day face electoral obstructions. In 2018, for example, when Yameen was the president, all major opposition leaders were disqualified due to court cases. This context could give room for Yameen's supporters to question the legitimacy of the upcoming election.

Some political parties, including PPM, expressed concern the continued imprisonment of Yameen is constraining PPM's electoral activities and preparations, including organizing their presidential campaign and strategies.

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[10] Qualification for President include: 'not have been convicted of a criminal offense and sentenced to a term of more than twelve months, unless a period of three years has elapsed since his release, or pardon for the offense for which he was sentenced' (109 (f), Constitution)

- Many stakeholders interviewed expressed at least some level of confidence in the current Supreme Court bench. Many therefore believed there is a public interest in reaching judicial clarity on Yameen's case (through completion of the trial and appeal processes) as soon as possible, and at least before the EC opens for candidacy applications. This, it is suggested, will minimise uncertainty in the electoral landscape and the room for questioning the legitimacy of the upcoming election.

#### **Recommendations:**

- *Courts should ensure their impartiality at all times, including in high profile cases involving political figures.*
- *Courts as well as oversight actors, including JSC, should work in a manner to prevent perceptions of politicization or undue political influence over courts.*
- *The government and parliament should bring any necessary judicial reforms to ensure further independence and impartiality of Courts. The issue of JSC's composition should be urgently reviewed and considered by the Parliament.*
- *As the election nears, a final judicial clarity on Yameen's court cases as soon as possible, but ensuring the rule of law, due processes, and ensuring fair trial, is important.*

## **5. MISUSE OF STATE RESOURCES, VOTE BUYING, AND RISK OF SYSTEMATIC AND COORDINATED INFLUENCE ON VOTERS THROUGH STATE-OWNED ENTERPRISES (SOES)**

Vote buying and misuse of state resources have always been major issues of concern observed in previous elections and recent by-elections. All stakeholders expressed concern over these issues in the run up to the elections.

**Vote buying:** Interviews conducted for this report raised concerns over the prevalence of vote buying. Money is a key method of vote buying. However, other forms of vote buying include exploiting vulnerable groups. For instance, by providing drugs to the youth and individuals struggling with addiction, and 'buying' ID cards so those individuals cannot vote. Candidates and parties are believed to offer financial assistance for healthcare and basic needs to incentivize specific voting behavior.

**Misuse of state resources:** Misuse of state resources is a recurring issue around all the major elections. The electoral legal framework of the Maldives has inadequacies in effectively addressing the problem of misuse of state resources during political campaigns. State officials often exploit a loophole by categorizing campaign trips as official trips, which allows them to evade accountability for their actions.

Misuse of state venues, vehicles, and human resources are frequently utilized for campaign activities. The timing of government project inauguration or completion coinciding with election/campaign timeframe is another aspect of concern. Such concerns were raised even during recent Komandoo and Guraidhoo parliamentary by-elections in 2022 and 2023, respectively.

- While the Anti-Corruption Commission (ACC) is in the process of developing guidelines, it is also yet to publish guidelines around the issue of use of state resources during elections.

Misuse of SOEs: However, the issue of misuse of state resources and vote buying could also may worryingly go beyond individual cases of misuse of state resources and vote buying through SOEs.

SOEs form one of the largest sectors of the economy. SOEs account for more than 50% of the GDP.[11] SOEs accounted for 28,800 jobs in December 2022, an increase of 3,760 jobs compared to December 2021.[12] This reflected more than 18% of the workforce.[13] Through SOE branches and projects, jobs are being created throughout the country.

SOEs play a vital role. Essential services and utilities are crucial. Jobs are important. And, the ruling party of the day with its electoral mandate should have space for fulfilling its electoral pledges through democratic processes.

Yet, there are governance risks around:

- a.Appointment of SOE boards, which allows undue political influence. A key oversight institution interviewed portrayed SOE boards as politically ‘captured’. Through a policy issued under Privatization and Corporatization Board Act, the President submits nominees to the PCB, which allows the President to nominate his or party loyalists. While there is an appointment criteria set under the policy, in practice, PCB tends to appoint whatever name the President proposes, including even in cases where there is only one nominee. In 2021, 48 names out of 56 proposed were approved by the PCB. [14]
- b.SOE recruitment of jobs throughout the country, which could be politically motivated or used for political gain and loyalty given the close links between SOE leadership and politicians/incumbent parties. The hiring processes across SOEs are also not consistent.
- c.Spendings for activities under the pretext of Corporate Social Responsibility (CSR) throughout the country without a robust, transparent, and consistently applied policy framework
- d.Procurements and projects due to lack of or weak internal risk management systems and transparency. Only 65% of SOEs implemented Corporate Governance Code in 2021. Risk management system in SOEs is a particularly worrying area, with only 63% having such a system in 2022 (an improvement from 21% in 2021) according to PCB.[15] 906 cases out of the 4,864 cases registered at ACC from 2017 to 2021 were related to SOEs and most cases registered in 2020 were related to procurement and recruitment.[16]
- e.Fundings for the media outlets, which could create a biased media landscape in a more subtle yet impactful way in favor of the government (more below).

Some of these risks are already highlighted by TM in a recent report, which states there is overall ‘weak governance within SOEs’.[17] TM’s report project piloted a new Corporate Governance Transparency Index with five SOEs and found the overall level of disclosure with

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[11] Ministry of Finance and Treasury. SOE Gateway: <https://soegateway.finance.gov.mv/>

[12] This figure has been revised with new data from PCB received on 4 July 2023. The previous figures were based on information from the interview with Privatization and Corporatization Board in June 2023 and figure available on SOE Gateway: Ministry of Finance and Treasury. SOE Gateway: <https://soegateway.finance.gov.mv/>

[13] [https://transparency.mv/v17/wp-content/uploads/2023/05/SOE-Self-Assessment-Toolkit-FINAL-LATEST-155-4-1\\_compressed.pdf](https://transparency.mv/v17/wp-content/uploads/2023/05/SOE-Self-Assessment-Toolkit-FINAL-LATEST-155-4-1_compressed.pdf)

[14] Privatization and Corporatization Board. 2022. Annual Report: <https://www.pcb.gov.mv/documents/publications/annual-reports/PCB%20Annual%20Report%202021.pdf>

[15] Privatization and Corporatization Board. 2023. Annual Report 2022: <https://www.pcb.gov.mv/documents/publications/annual-reports/PCB%20Annual%20Report%202022.pdf>, p. 27.

[16] Anti-Corruption Commission. Statistics. <https://acc.gov.mv/en/publications/statistics?category=8> and Anti-Corruption Commission. Annual Report 2020: <https://acc.gov.mv/en/publications/11>, p. 29

[17] Transparency Maldives. 2023. Corporate Governance Transparency Index: For Maldivian State-Owned Enterprises: <https://transparency.mv/v17/wp-content/uploads/2023/05/INDEX-REPORT-new-revised-24-May-for-WEB.pdf>

the quality of information disclosed via SOE websites was very weak in all five SOEs, with the lowest score being 7% and the highest 33%. Since 2019, Information Commissioner's Office of the Maldives (ICOM) received 64 cases of Right to Appeal relating to 25 SOEs, indicating the challenges in obtaining information from SOEs.[18] A World Bank report also highlighted the fiscal risks from SOEs.[19]

Crucially, the state oversight bodies have been weak. The PCB has limited personnel resources (7 staff) and no independent budget at their disposal. Parliamentary SOE committee is dominated by incumbent party members. Some stakeholders also raised concerns that the Auditor General's Office has not adequately focused on SOEs, with some suggesting there is real or internalized undue political influence on it.[20]

- Consequently, there is a risk that the state (including the government and oversight bodies) may be paving way for a patronage and clientelist system through SOEs.[21] The concern is that, if entrenched, this system could pose a subtle yet more systemic and potentially more impactful threat to the electoral level playing field, unduly favoring the incumbent.
- This Pre-Election report does not claim this is definitely the case for the upcoming presidential election. However, there are risks of more systemic electoral influence (going beyond individual cases of misuse of state resources and vote buying) in favor of the incumbent through SOEs.
- Most of the stakeholders interviewed also say the incumbent government is using State-Owned Enterprises as a vehicle to influence voters as well as the media, thereby skewing the electoral playing field in favor of President Solih.

### **Recommendations:**

- *A coordinated effort among stakeholders including the EC, ACC, Maldives Police Service (MPS), Prosecutor General's Office to monitor, investigate, and prosecute vote buying and misuse of state resources through effective implementation of existing laws as well as amending the laws where necessary.*
- *The ACC and Auditor General should provide clear guidelines on the use of state resources by the incumbent government during the election period, and enforce such guidelines.*
- *Relevant actors, including the Parliament, should review and urgently strengthen SOE governance in all necessary areas of governance risks to prevent a possible entrenchment of a patronage and clientelist system in the Maldives (that could unduly electorally benefit the incumbent).*

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[18] Interview with Information Commissioner's Office of the Maldives, 13 June 2023.

[19] The World Bank, 2022, *Maldives Public Expenditure Review*: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099205108062235369/p174394036aa910c309ecf0fbecff0d7654>, p. 44.

[20] *The fate that two previous Auditor Generals had faced, following their audit reports, was suggested as an example of how undue political influence might have created a chilling effect on the current or future Auditor Generals.*

[21] Patronage is a 'Form of favouritism in which a person is selected, regardless of qualifications or entitlement, for a job or government benefit because of affiliations or connections' (see Transparency International: <https://www.transparency.org/en/corruptionary/patronage>). When there is a patronage system, patronage happens or exists more systematically. Clientelism is related to patronage, but is much broader. It refers to, among other things, the practice of providing personal favors, such as jobs, contracts, money, in exchange for electoral/political support.

## 6. MEDIA LANDSCAPE AND CONCERN OVER SUBTLE YET SYSTEMATIC INFLUENCE ON THE MEDIA

On the surface, there is a robust and plural media landscape in the Maldives. The Constitution provides for media freedom. The Maldivian Media Council (MMC), which is a statutory body, is mandated to promote and protect media freedom and independence. The Maldives Journalists Association (MJA) also acts as a bulwark for media freedom. The state media does not monopolize the media landscape and there are over two hundred registered newspapers/magazines. There are also active newspapers and broadcasters aligned with different political sides. Social media is widely popular; a December 2022 survey shows 53% of Maldivians rely on social media as a source of political news and information.[22] Clubhouse is also another platform for political discussions.

- However, the World Press Freedom Index has seen a sharp decline in the country's ranking from 87 to 100 in 2023. Major concerns include attacks and threats towards media workers as well as certain legislative restrictions.
- There have been attacks and threats against local media workers in recent months. Journalists and media personnel covering opposition protests have been assaulted and detained by police on multiple occasions. Some others have received death threats from non-state actors after reporting on areas such as religious extremism, gang activities, and corruption. Such threats and intimidation could lead to self-censorship in reporting sensitive topics.
- There are also legislative challenges. The Evidence Act, effective from January 2023, compels journalists and media outlets to reveal their sources under certain circumstances. A failure to comply could result in prison sentences of up to three months. This creates a chilling effect in investigative journalism to speak truth to the power.
- Another area of concern for the upcoming election relates to disinformation, misinformation and hate speech. Social media has particularly been a toxic environment of hate speech, disinformation and misinformation.
- Some stakeholders also raised concerns that there is potential for a more organized campaign of disinformation, which may be externally led or funded. However, there is no credible evidence of this.
- The lack of independence of the Public Service Media (PSM), which is funded via public money, was another major concern for several stakeholders. PSM's propaganda for the government was a key concern. The General Elections Act requires fair access to airtime for all candidates. Yet, monitoring compliance is limited - the Maldives Broadcasting Commission's media monitoring only covers the allotted airtime for candidates, not beyond it.

Bias in favor of the incumbent: As serious as the above concerns are, when it comes to the electoral level playing field, a key issue around the media landscape goes beyond those concerns.

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[22] International Republican Institute. 2022. National Survey of Residents of The Republic of Maldives | August-September 2022: <https://www.iri.org/resources/national-survey-of-residents-of-the-republic-of-maldives-august-september-2022/>

There appears to be a subtle yet significant influence on the mainstream media (especially newspaper) landscape by the government. Most stakeholders who discussed the media expressed concern that dominant mainstream media has an explicit or internalized/subtle bias in favor of the incumbent.

This bias is being secured through two ways, taking place apparently in tandem:

1. Sponsorship funding by SOEs (and the President's Office[23]).

According to one media outlet, up to 70% of the revenue base of some mainstream media outlets, including their own, depend on sponsorship from SOEs. However, there is no transparent and consistent policy for SOE sponsorships. A survey conducted by MMC in 2020 suggested there was a clientelist culture, as connections through 'friends' was the avenue to get sponsorships. It also revealed 90% of the media outlets interviewed believed there was no 'fairness' in the sponsorship process by SOEs.[24]

2. Through 'Public Relations' ('PR') efforts by the government and/or government affiliated private actors.

The issue of government funding for media without transparent and fair processes is not new. But this funding dependency at the whim of SOEs together with systematic 'PR' influences by actors either within the government or linked to the government tend to skew the media landscape. In other words, such systematic 'PR' influences levels of agenda-setting, framing and priming. Some media stakeholders interviewed expressed serious concerns around systematic and coordinated 'PR' attempts from government and/or individuals affiliated with government.

- Consequently, most stakeholders interviewed believe that while the government is not openly suppressing the media, most mainstream media outlets are unable to hold the government to account. In other words, while there is media freedom and plurality in a narrow sense, the overall mainstream media appears to be biased in favor of the government.

### **Recommendations:**

- *Strengthen the legal framework to ensure media freedom, including amending the Evidence Act.*
- *Establish a clear, fair and transparent funding/sponsorship system to support media whereby the government cannot apply undue influence on the media.*
- *Regulatory bodies and civil society organizations should monitor media and establish fact checking mechanisms.*
- *Relevant institutions should address the issue of disinformation and hate speech.*
- *MBC should widen the scope of its media monitoring, especially to ensure PSM is not biased in favor of the incumbent president.*

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[23] Dhiyares. 2022. Raaed Solih promotukuran mediathakah behi faisaa haamavejje [President's Office RTI request data] [22]. International Republican Institute. 2022. National Survey of Residents of The Republic of Maldives | August-September 2022: <https://www.iri.org/resources/national-survey-of-residents-of-the-republic-of-maldives-august-september-2022/> [Dhivehi]

[24] Maldives Media Council. 2020. [Media survey]: [http://www.mmc.org.mv/storage/app/media/MMC2020/REPORTS/Survey%20Report\\_FINAL\\_AAM\\_16062020.pdf](http://www.mmc.org.mv/storage/app/media/MMC2020/REPORTS/Survey%20Report_FINAL_AAM_16062020.pdf) [Dhivehi]

## 7. CAMPAIGN FINANCING

Ensuring that disproportionate campaign expenditure does not distort the democratic process or undermine free choice of voters is vital.[25] Yet there are concerns related to high spending limits, transparency and disclosure requirements for campaign financing. Some of the key issues include:

- The high spending limit for candidates. The General Elections Act permits a candidate to spend up to MVR 2,000 per eligible elector. The estimated 280,000 eligible voters for the 2023 Presidential Election will allow a presidential candidate to spend MVR 560 million.
- Although candidates are prohibited from accepting donations from anonymous sources, political parties are permitted to receive such contributions rendering the ban on party affiliated candidates irrelevant.
- Political parties are not required to report campaign finances leaving party spending for a candidate unaccounted for in reporting.
- In-kind donations are not included in donations.
- The campaign spending outside the official campaign period is not accounted for in bookkeeping.

Candidates are required to submit audited campaign finance reports to the EC within 60 days.[26] However, while the EC is required to publicize the reports, there is no timeframe to do so after the elections. However, the EC informed us it intended to disclose the reports in a timely manner and stronger processes would be implemented for the upcoming elections.

- Article 45 (b) of the new Presidential Elections Regulation stipulates the auditor for the campaign financial reports by candidates must be a registered auditor.

### **Recommendations:**

- *Relevant actors to review and propose amendments to the law to close the loopholes in the campaign financing regime, include stricter reporting requirements and improve the enforcement of campaign finance regulations.*
- *Include provisions for parties to report on campaign expenses and include a spending limit by political parties during election period.*
- *Include provisions to ensure all spending are accounted for in reporting including in-kind donations and third-party spending on behalf of the candidate.*

## 8. OTHER CHALLENGES

### 8.1 VOTER EDUCATION AND INFORMATION

The Constitution and the Elections Commission Act mandate the EC to educate and create awareness among the public on the electoral process and its purpose. Political parties play a crucial role in creating awareness about voter information through social media platforms, public events, and door-to-door campaigns. Civil society organizations, the EC, ACC, and the Human Rights Commission of the Maldives (HRCM) also conduct voter education programs through different mediums.

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[25] UN Human Rights Committee. CCPR General Comment 25.

[26] Article 16 of the Presidential Elections Act.

- With less than three months to the presidential election, most stakeholders highlighted the delay in voter education and information campaigns.
- Another key concern is that voter education and information have in the past not been adequately targeted, especially for PWDs. The use of sign language to reach hearing impaired people is limited, and efforts to reach visually impaired people are also limited.
- For the upcoming election, EC is in the process of developing and rolling out voter education and information campaigns. The International Foundation for Electoral System (IFES) is supporting this activity.
- Other actors, including ICOM, HRCM, TM, UNDP, and ACC are also planning to conduct/support voter education.
- There is also a gap in educating the public on crucial topics such as the complaints mechanism, for example, to report instances of vote buying, the misuse of state resources, and the disclosure of campaign finance expenditure reports by candidates.

### **Recommendations:**

- *Initiate voter education programs urgently and in an inclusive manner to ensure vulnerable constituencies have access to such programs.*
- *Voter education programs should go beyond voter information and the importance of voting to cover key electoral issues and mechanisms such as vote buying, misuse of state resources, and the complaints mechanism.*
- *The EC, civil society, and media to conduct long-term extensive voter education programs in a timely manner.*

## **8.2 PERSONS WITH DISABILITIES**

The General Elections Act provides for assisted voting for physically challenged voters (section 45). However, there are gaps and weaknesses in electoral laws. Key gaps include:

1. Narrow scope of disabilities. Consequently, those who may be intellectually impaired are not covered.
  2. There are no provisions to ensure secrecy of assisted voting, including for the visually impaired.
- There were concerns raised by some stakeholders that PWDs faced undue influence to vote one way or another.
  - Another key concern is lack of, or very limited, voter information and, especially voter education programs, catering for different PWDs.
  - A further key concern is the overall lack of political participation opportunities for PWDs, including representation at electoral advisory platforms (including National Advisory Committee).
  - A lack of a national disability register was also highlighted as a barrier for catering for the needs of the disabled people. Assisted voters are identified at the polling station after administering a test by a polling station official at the polling station.
  - There are attempts to amend the General Elections Act to enable the blind community adults to vote without assistance. However, uncertainty over the amendment exists given the current paralysis of the People's Majlis.

### **Recommendations:**

- *EC should consider provisions in the voter registration/re-registration forms to capture disabilities of voters to the extent provided for in the relevant laws.*
- *Ensure voter information and education programs and materials are targeted for and accessible to disabled people.*
- *Introduce facilitative tools or technologies to ensure disabled voters can vote independently.*
- *Parliament to bring amendments to enable voting by the blind community adults without assistance by another in order to ensure ballot secrecy.*
- *Political parties and other institutions, including the EC, should ensure that PWDs are represented in policy- and decision-making platforms. This also includes their inclusion in electoral advisory platforms.*

## **8.3 WOMEN CANDIDATES**

There is no legal barrier for a woman to contest in presidential elections. However, to date there has been no woman presidential candidate.

- Stakeholders were quick to point out it was unlikely there would be a woman presidential candidate contesting the upcoming election.
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Despite this, campaigns to encourage women's participation are still few and far between. Voluntary efforts by political parties to encourage women's participation, especially as candidates, are limited.

Currently there are only four women in the People's Majlis. With a quota of 33% for women in the Decentralization Act, women constitute 39.7% in the local councils.

Despite that there is no evidence of major problems about women exercising autonomy in their right to vote, as evidenced by high female voter turnout. Overall, there are still significant barriers to women's political participation.[27] They include:

- Cultural and religious beliefs around women's political leadership
- Negative portrayal of women in the media.
- Limited socio-economic mobility for women.
- Lack of technical skills and networking opportunities.
- Lack of political will.

### **Recommendations:**

- *Political parties should strengthen internal policies to encourage women's political participation, and field more women candidates in the elections and primaries.*
- *The government, media, and civil society organizations should promote alternative and counter narratives to those that limit women's agency, autonomy and women's public and political participation, including as candidates for the presidential elections.*

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[27] See Ritchie, M. Rogers, T.A. and Sauer, L. 2014. Women's empowerment in political processes in the Maldives and United Nations Development Programme. 2017. Women's political participation in the Maldives. Issue brief.

## 8.4 YOUTH PARTICIPATION

People aged from 18 to 35 are identified as youth in the Maldives. 31% of the population fall into this age group, and approximately 41% of the electorate constitute youth. There is also a large number of new voters. Voter turnout has been high in past presidential elections - over 80%.

Major political parties have one or other form of a youth wing. While such mechanisms in principle present opportunities for youth to move into leadership positions, leadership positions are still disproportionately held by older men. Such opportunities are even less favorable for women to rise to real political leadership positions.

There are high levels of cynicism and mistrust among some youth constituencies towards politics and political institutions. FGD conducted, for example, in Male suggests there are deep grievances among young people towards the political order and the way politics is conducted. These 'critical citizens' are deeply disengaged from mainstream political parties. They characterize mainstream parties and politicians as 'the same' (ekahcheh). One participant in the Male FGD characterized mainstream politics as 'family' affairs.

They may be disengaged with parties. But they appear to be passionate about larger issues: women, gender, children, corruption, employment, equality, and real participatory politics. There was also a suggestion to give the option of not voting for anyone – or 'None Of The Above' (NOTA). This latter suggestion was also proposed by a civil society organization that was interviewed for the report.

But this is not a picture generalisable to all youth. Some feel voting is a 'civic duty' and an 'opportunity' to choose a better or at least less bad option. Most indicated they would vote for one or another candidate.

- Some stakeholders raised concerns that youth participation in the elections will be lower in the upcoming elections. This is more so given the political atmosphere during the past five years did not experience sustained high stakes or politically charged divisions capturing public attention. A lot of new voters also experienced the Covid-19 pandemic and lockdowns, which may have shifted their focus away from politics. The general lack of space for effective youth participation and engagement in policy- and decision-making adds to this.
- Some stakeholders also raised concerns that there have been no robust voter education and information programmes, especially targeting new voters.

### **Recommendations:**

- *Civil society actors, political parties and the State in general should work to increase youth confidence in key democratic institutions and politics. Giving and creating space and opportunities for youth to organize at local levels, have an effective voice in decision-making, and be equal participants at the 'table' is urgently needed.*
- *Relevant actors, including the EC, should conduct effective and robust voter education and information targeting youth.*
- *As recommended in TM's 2018 Pre-Election Assessment, a public discourse on the merit of NOTA should be initiated by civil society actors, political parties, and other relevant stakeholders.*

## 4. REVIEW OF THE ELECTORAL LEGAL FRAMEWORK<sup>[28]</sup>

The electoral legal framework for the presidential elections consists of, inter alia, the following key documents:

- 1.The Constitution (2008)
- 2.The Presidential Elections Act (2008)
- 3.The General Elections Act (2008)
- 4.The Presidential Elections Regulation (2023)
- 5.The Political Parties Act (2013)

### ELECTORAL SYSTEM FOR PRESIDENTIAL ELECTIONS

The presidential elections are conducted under a majoritarian, two-round system (TRS). If no candidate secures more than 50 percent of the votes, a runoff is held between the two candidates who receive the most votes (Article 111, Constitution).

### PREREQUISITE FREEDOMS

The 2008 Constitution provides for key fundamental freedoms and liberties, including those relating to elections. The Maldives is also party to the key international human rights conventions that provide for these fundamental freedoms. The relevant constitutional rights and freedoms include:

- 1.Freedom of movement (Article 41)
- 2.Freedom of assembly (Article 32)
- 3.Freedom of association and to form political parties (Article 30)
- 4.Freedom of expression (Article 27)
- 5.Freedom of the media (Article 28)
- 6.An independent judiciary (Article 7)
- 7.Right to vote and run for public office (Article 26)

However, there are concerns around laws and regulations that limit some of the constitutional rights and freedoms. These include:

- Freedom of expression/campaigning: The curtailment of freedom of expression and/or freedom of campaigning, especially by religious actors, under section 24(a) in the code of conduct issued under Presidential Election Regulations.<sup>[29]</sup>
- Freedom of assembly: The 2013 Freedom of Assembly Act and amendment in 2016 restrict freedom of assembly. The restrictions include the requirement to seek permission from the police and restriction on the places for assembly in the capital.<sup>[30]</sup>

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[28] This review is an overview of important areas. For a comprehensive review of the laws see Transparency Maldives. 2013. Pre-Election Assessments 2013 and Transparency Maldives. 2018. Pre-Election Assessments 2018 as well as Transparency Maldives. 2019. Electoral Legal Framework Review: <https://transparency.mv/publications/>

[29] This was also the case under the previous Regulations.

[30] Human Rights Watch. 2023. Maldives: 2022 Events: <https://www.hrw.org/world-report/2023/country-chapters/maldives>

→ Media freedom: Under the Evidence Act 2022 journalists and media outlets could be compelled to reveal their sources in matters relating to 'terrorism' and 'national security' Article 136 (b)) under a court order. This stipulation is arguably in violation of Article 28 of the Constitution, which states:

Everyone has the right to freedom of the press, and other means of communication, including the right to espouse, disseminate and publish news, information, views and ideas. No person shall be compelled to disclose the source of any information that is espoused, disseminated or published by that person.

A failure to comply with the Act could lead to a prison sentence of up to three months.[31]

## ELECTORAL MANAGEMENT BODY

The Constitution provides for an independent and impartial Electoral Management Body (the Elections Commission of the Maldives). It consists of at least five members, appointed by the President following approval by a majority of the Parliament (Article 168 (b)). The Elections Commissions Act 2008 also provides for a code of conduct for the members (s. 17).

However, there are some legal weaknesses:

- The qualifications for Commission members require a candidate not to be engaged in partisan politics only at the time of appointment.
- The vagueness in some areas of the code of conduct could allow politically motivated dismissal of Commission members. A simple majority of the Parliament could dismiss a Commission member.
- There is no code of conduct for the technical staff of the Commission.
- There are gaps in the Commission's transparency requirements. For instance, there is no clear requirement to proactive disclosure of information relating to the Commission's work.
- There are no adequate provisions for inter-agency coordination in matters relating to, inter alia, vote buying, campaign financing, equal access to public media.

## VOTER REGISTRY

Provisions relating to registry generally provide for efficient and transparent processes, as evidenced by high voter turnout and minimal voter registry issues on election day in the previous elections. In the 2018 presidential election, only 0.03% of voters were unable to vote because their names were not on the voter registry.[32]

The voter registry is to be based on the national register of citizens maintained by the Department of National Registration. However, the law empowers the Elections Commission to source information from other state institutions to verify the voter registry.

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[31] For an overview see Library of Congress. 2022. Maldives: President Ratifies New Evidence Act with Controversial Provision on Revealing Journalist Sources: 20: [https://www.loc.gov/item/global-legal-monitor/2022-08-09/maldives-president-ratifies-new-evidence-act-with-controversial-provision-on-revealing-journalist-sources/#:~:text=Article%20136\(a\)%20is%20in,\(a\)%20%E2%80%9Cprohibits%20any%20compulsion](https://www.loc.gov/item/global-legal-monitor/2022-08-09/maldives-president-ratifies-new-evidence-act-with-controversial-provision-on-revealing-journalist-sources/#:~:text=Article%20136(a)%20is%20in,(a)%20%E2%80%9Cprohibits%20any%20compulsion)

[32] Transparency Maldives. 2019. Election Observation Report 2019: [https://transparency.mv/v17/wp-content/uploads/2019/03/Election-Observation-Report\\_-1.pdf](https://transparency.mv/v17/wp-content/uploads/2019/03/Election-Observation-Report_-1.pdf)

The Commission is required to publish the voter registry at least 45 days before the elections, and a 10-day period should be given to submit complaints to the voter registry. The Elections Commission gets a 5-day period to respond to complaints. The Commission's decision regarding a complaint may be appealed at the High Court of the Maldives within five days.

Following the initial voter registry process, a 're-registration' process takes place (Article 12, General Elections Act). During this period, those who intend to vote outside the islands of their permanent addresses could nominate the locations in which they will be voting. This process also includes those who are incarcerated. The relevant government authority mandated with overseeing the incarcerated is required to nominate locations for voting for those who are incarcerated (Article 12 (f), Presidential Election Regulations).

→ For 2023 elections, besides the manual process, EC is introducing an online re-registration process through a portal. An amendment to the Presidential Election Regulations allows it (Article 12 (b)), which could in theory be a much more convenient and efficient process. However, there is no explicit mention of the online system in the Presidential Election Regulations, and there are no provisions for transparency and security related matters.

## CAMPAIGN FINANCE REGULATION

Campaign finance regulation is a particularly concerning area. The law does not identify the broader objectives of regulating campaign financing. Key specific concerns relate to high spending limits, transparency and disclosure requirements for campaign financing. Some of the key issues include:

- The high spending limit for candidates. The General Elections Act permits a candidate to spend up to MVR2,000 per eligible elector (Article 69). The estimated 280,000 eligible voters for the 2023 presidential election will allow a presidential candidate to spend MVR 560 million.
- Although candidates are prohibited from accepting donations from anonymous sources, political parties are permitted to receive such contributions rendering the ban on candidates irrelevant.
- In-kind donations are not included under donations.
- While foreign donations to candidates are prohibited, the Political Parties Act 2013 allows foreign donations (Article 37), which could technically be used for campaigning.
- The campaign spending outside the official campaign period is not accounted for in bookkeeping.
- Accountability weakness is another gap. While presidential candidates are required to submit an audited finance report within 60 days to the EC (Article 16, Presidential Elections Act), there is no timeframe for the EC to publicise these reports. This could limit timely public scrutiny and holding candidates accountable.

## VOTE BUYING

Vote buying has been a serious concern in past elections and takes many forms. However, there are provisions that could prohibit vote buying. The General Elections Act stipulates offering of gifts with the intention of influencing voting as an act of bribery (Article 74 (a) (11)). The act of providing or pledging to provide 'a material benefit' or 'a service' to a specific individual, or a specific group, or for general benefit, in the period from the election

announcement to 30 days after the official results are declared, is also classified as bribery (Article 74 (a) (12)).

The Penal Code 2014 also stipulates:

It is an 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' (Article 120).

This offence is categorized as 'electoral bribery' under the Penal Code and can carry a prison sentence of up to one year.

→ While these provisions may not specifically mention 'vote buying' or may still not be fully adequate to capture all forms of vote buying[33], the key concerns around vote buying are now mostly related to the complaints mechanisms, monitoring of vote buying, and enforcement weaknesses.

## MISUSE OF PUBLIC RESOURCES

The electoral legal framework of the Maldives is largely inadequate when it comes to addressing the issue of misusing state resources for election campaigns. However, the Prevention and Prohibition of Corruption Act (2000) could cover the issue to some extent. Article 14 (a) of the Act stipulates:

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

The Political Parties Act also prohibits the misuse of state resources for the private benefit of parties (Articles 45 and 46). However, there are several issues.

→ Lack of provisions on the use of state resources by incumbent officials/parties during election/campaign periods. For example, state officials often exploit a loophole by categorizing campaign trips as official trips, which allows them to evade accountability for their actions.[34]

→ Lack of provisions on the announcement/inauguration of new projects during election/campaign periods.

→ The effective control of state media by the incumbent.

→ The misuse of basic services such as the national health insurance system.

→ Governance loopholes and risks that allow political/electoral misuse of State-Owned Enterprises

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[33] See Review of the Transparency Maldives. 2019. Electoral Legal Framework Review: [32] [Transparency Maldives. 2019. Election Observation Report 2019: https://transparency.mv/v17/wp-content/uploads/2019/03/Election-Observation-Report\\_-1.pdf](https://transparency.mv/v17/wp-content/uploads/2019/03/Election-Observation-Report_-1.pdf), pp. 19-21.

[34] Transparency Maldives. 2019. Parliamentary Election Observation Report: [Election-Observation-Report\\_-3.pdf \(transparency.mv\)](https://transparency.mv/v17/wp-content/uploads/2019/03/Election-Observation-Report_-3.pdf)

## COMPLAINTS MECHANISMS

The Elections Commission is required to establish a convenient, efficient and effective electoral complaints mechanism (Article 62, The General Elections Act). The Presidential Elections Regulations of 2023 and Regulations No. 2020/R-15 (Regulations on the Procedures for Complaints) provide further details the multi-level complaints mechanisms to be established for every election (Article 51, Presidential Election Regulations). These include:

- The National Elections Complaints Bureau (5-member bureau established following announcement for candidacy application)
- The City/Atoll National Elections Complaints Bureau (3-member bureau established at least 10 days before voting day)
- Island Focal Points (appealing decisions of the individual ballot box officers)
- Complaints Officers (for issues arising at the voting centres).

However, if there are any complaints prior to the establishment of the complaints bureaus, there are also provisions to submit complaints to the Elections Commission directly. A five-day period following elections is given to submit any complaints. All complaints must be adjudicated within 2 days. The Regulations on Procedures for Complaints 2020 provides for greater clarity on adjudication procedures and powers.

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

- The decisions by the Elections Commission may be appealed at the High Court (Article 64, General Elections Act). The court is required to adjudicate on the appeals within 30 days. However, any second round of the presidential elections has to be held within 21 days and final results of the elections must be announced within 7 days. In principle, therefore, the timeframes for appeal decisions and elections appear to be in tension.
- While qualifications for three of the members of the National Elections Bureau are mentioned (they are required to be lawyers or having worked in the legal area), there are no provisions for other members or on training requirements.
- The multi-level nature of the system makes it harder for voters to understand the procedures and which type of complaint is decided by which level.

## ACCESS TO MEDIA

Under Article 30 of the General Elections Act all broadcasters are required to allocate airtime to candidates starting from the announcement of elections until 6 pm on the day before election day. It also requires the broadcasters to provide equal time to candidates and political parties. Article 13 of the Presidential Elections Act also reiterates Article 30 of the General Elections Act, and adds that state broadcasting authorities shall give free airtime, in accordance with the manner determined and publicized by them, without discriminating, to all candidates.

The Broadcasting Commission is also required to monitor broadcasters, and establish a complaints mechanism to receive and adjudicate complaints related to broadcasters (Article 30 (d), General Elections Act). The Broadcasting Commission has the powers to take administrative measures against a broadcaster. It is also required to submit a report with complaints and decisions taken to the EC. The EC may investigate any criminal matter and decide to submit to the Prosecutor General (30 (f), General Elections Act).

- While the law provides for equitable media access, there are concerns around practice and enforcement. Observer groups during previous elections noted that broadcasters do not follow equitable access requirements.
- The government (through appointments to the SOE boards and subsidies) could also influence the state media. State media's coverage of news and reports of the incumbent government beyond the allocated candidate times could also favour the incumbent. There are no specific provisions in the law on these issues.
- Broadcasting Commission's limited media monitoring may not be able to cover media bias outside the officially allocated times for candidates.

## RIGHTS OF PERSONS WITH DISABILITIES (PWDs)

The elderly and disadvantaged persons are entitled to protection and special assistance from the state under the Constitution. The Disability Act 2010 also provides for equal opportunities for PWDs. The General Elections Act provides for assisted voting for physically challenged voters (section 45). However, there are gaps and weaknesses in electoral laws.

- Narrow scope of disabilities in the law. Consequently, those who may be intellectually impaired are not covered.
- No provisions in law for targeted and accessible civic/voter education for PWDs.
- No provisions for an official register of PWDs. Lack of such a register could hamper smooth and efficient running of voting on Election Day.

An amendment to the General Elections Act passed by the People's Majlis in June 2023 allows visually impaired persons to vote using a special plastic template (Article 45 (c) and 45-1). This welcome amendment can in principle ensure ballot secrecy for the visually impaired persons.

# ANNEX 1: LIST OF INTERVIEWS

- 1.Elections Commission
- 2.Human Rights Commission of the Maldives
- 3.Anti-Corruption Commission
- 4.Broadcasting Commission of the Maldives
- 5.Auditor General's Office
- 6.Privatisation and Corporatisation Board
- 7.Information Commissioner's Office of Maldives
- 8.Maldives Police Service
- 9.Maldivian Democratic Party
- 10.The Democrats (not registered at the time of interview)
- 11.Progressive Party of Maldives
- 12.Jumhooree Party
- 13.Maldivian National Party
- 14.Adhaalath Party
- 15.Maldives Reform Movement
- 16.Maldivian Association of Persons with Disabilities
- 17.Hope For Women
- 18.Uthema
- 19.Maldives Journalist Association
- 20.Adhadhu
- 21.Dhiyares
- 22.Male City Women's Development Committee
- 23.International Republican Institute
- 24.National Democratic Institute
- 25.International Foundation for Electoral Systems
- 26.Muizz and Co.
- 27.Kulhudhufushi Council
- 28.Women's Development Committee, Kulhudhufushi
- 29.Progressive Party of Maldives, Kulhudhufushi
30. The Democrats, Kulhudhufushi

## ANNEX 2: QUESTIONNAIRE

1. Are electoral laws fair to all parties?
2. What are the key concerns around election management?
3. Any concerns around voter registration?
4. What are the concerns around fielding a candidate? Candidate registration?
5. What are the obstacles for a woman candidate?
6. What are the concerns for campaigning? Are candidate/parties facing restrictions?
7. Are media outlets covering elections fairly? What restrictions, if any, do media outlets face?  
How about social media – what are the restrictions? is it fair to all candidates?
8. Do all candidates have equal access to public media outlets?
9. Do all candidates/parties have equitable access to campaign finance/donations?
10. Are state recourses being improperly used for campaigning?
11. What are the concerns around vote buying?
12. Are there any security related threats, intimidation?
13. What are the concerns for Election Day? And election management, including post-election dispute resolutions?
14. Are there any concerns for voter fraud?
15. Do you have concerns that courts might interfere?
16. Are there any concerns around external interference (cyber, money, or another) in elections?

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## ***Laws and Regulations***

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- Regulations on Complaints Mechanisms Procedures 2020
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- Evidence Act 2022 (Act No. 11/2022)

