

European Union Election Observation Mission



Final Report **Maldives 2014**



Parliamentary Elections



REPUBLIC OF MALDIVES

FINAL REPORT

Parliamentary Elections
22 March 2014

EUROPEAN UNION
ELECTION OBSERVATION MISSION

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EUROPEAN UNION ELECTION OBSERVATION MISSION

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FINAL REPORT

I. SUMMARY

The 22 March 2014 elections to the People's Majlis were the second multiparty parliamentary elections in the Maldives. They were conducted in the midst of a political crisis that had created uncertainty about further transition to democracy. Following an invitation from the Maldivian Elections Commission (EC), the European Union established an Election Observation Mission (EOM) to observe these elections.

The 22 March elections were assessed by the EU EOM as well administered despite interference by the Supreme Court, and its action against Elections Commission members, which overshadowed the electoral period and *inter alia* led to uncertainty over whether the elections would take place as planned. The Supreme Court ruling to remove two members of the Elections Commission less than two weeks before the elections was contrary to the provisions of the Constitution regulating dismissal of Commission members. It violated principles of the separation of powers and raised serious concerns about safeguarding the independence of the Elections Commission. The main opposition party considered, but rejected, an election boycott, arising from the Supreme Court decision.

Voting was assessed by EU EOM observers as calm and orderly, and polling staff as competent and professional. Some minor problems were noted on Election Day but they did not impact on the integrity of the vote. Secrecy was not always protected due to inadequate procedures for voters to vote outside their constituency, the absence of tactile ballot guides for visually impaired voters, and the placement and structure of voting booths in some polling stations. The vote count was assessed positively as the procedures were generally followed and the process was transparent. The result sheets were posted immediately.

The elections were competitive, offering to voters a genuine choice and to candidates campaign freedom. Candidate registration was inclusive, with a total of 302 candidates running in the 85 single-mandate constituencies. Candidates from all six registered political parties were contesting, including the ruling coalition led by the Progressive Party of Maldives, and the main

opposition Maldivian Democratic Party. The participation of women was extremely low with only 23 female candidates, just five of whom were elected.

Candidates could campaign freely with freedoms of association, expression and movement respected. However, the area of campaign finance was insufficiently regulated. Allegations of prevalent vote-buying, excessive campaign expenditure and abuse of state resources, appeared to be serious problems that undermined the level playing field.

The legal framework provided an adequate basis for the conduct of democratic elections, broadly in line with regional and international standards subscribed to by the Maldives. However, some deficiencies exist, including in the protection of the secrecy of the vote and adjudication of complaints and appeals. Contrary to the ICCPR, the rights to vote and to stand for election are limited on the grounds of religion, as citizenship is limited to Maldivians of Muslim faith, and candidates must be Sunni Muslim. The existing proliferation of electoral law means that particular areas are regulated by a variety of legal instruments, rendering the law sometimes difficult to ascertain and to apply by those responsible for enforcement of the law. Moreover, there is a lack of legal certainty as the legal system is based on a joint application of common law and Islamic Sharia, meaning that the interpretation of law may be indeterminate and unpredictable.

The elections to the People's Majlis were administered by the Elections Commission at a central level and at 20 Atoll Election Units/Offices by 194 Island Election Officers. The elections were well organised by the EC and its staff, and the Commission conducted the process in a transparent and inclusive manner. There was a high level of confidence among election stakeholders in the performance of the election administration and the only criticism noted was related to the process of delineation of parliamentary constituencies in Malé – some political parties and candidates expressed concerns that more than 6,000 voters without permanent residence in Malé (*dhaftaru*) were unequally distributed among nine constituencies in the capital. The Final Voters' List totalled 240,652 a slight increase since the 2013 presidential election. Generally, stakeholders expressed confidence in the accuracy of the voter register.

The Constitution guarantees freedom of expression provided the freedom is exercised in a manner "not contrary to any tenet of Islam" thus eroding rights enshrined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The media landscape has changed significantly since the introduction in 2007 of private commercial radio and television. However, the liberalisation of the sector has so far not led to media pluralism. Ownership of the main private television and radio stations, and their respective websites, is concentrated in the hands of a small number of businesspeople and politicians whose political ideologies are reflected in editorial decisions. This has led to significantly biased electoral coverage, thus undermining the principles of balance and impartiality. The results of media monitoring by the EU EOM reflect the polarised nature of the country's broadcast media. While public service broadcaster MBC made efforts to ensure equitable access for all candidates and parties, as set out under the Elections (General) Act, private TV stations such as Raajje TV and VTV devoted the majority of political/electoral-related coverage to overtly promoting their chosen candidates.

A. PRIORITY RECOMMENDATIONS

- Legislation should clearly define the division of competences of the courts, the Election Commission, the police and the Anti-Corruption Commission during the electoral process as well as other independent institutions where there is regulatory or jurisdiction overlap to provide for legal certainty.
- Comprehensive regulations should be introduced to ensure accountability and transparency of campaign and political party finance, including of donations in-kind. Consideration should be given to lowering campaign spending limits, as well as to introducing limits on all donations, including from third parties. An adequate and impartial monitoring mechanism is also required.
- Serious efforts and commitments by all relevant state institutions are required to combat vote buying practices that undermine the core of democratic elections. Police and other state agencies, in cooperation with the EC, should prioritise monitoring, investigation and prosecution of all reported cases of vote buying before and after elections.
- Secrecy of the vote should be ensured for all voters. Adequate measures should be taken in order to guarantee the secrecy of the vote to voters voting outside their home constituency. Several mechanisms existing in international best practice are used to achieve this and they could be considered.
- Media freedom should be strengthened by amending Article 27 of the Constitution to bring it in line with Article 19 of the ICCPR in order to include freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers”. Updated legislation giving greater clarity on the mandates of media regulatory bodies and a clear delineation of responsibility for regulatory oversight of broadcast coverage of elections is also required. This could involve amongst others e.g. a merger between the Broadcasting Commission and the Media Council. An overall media strategy should be put in place, with training for journalists among its priorities.
- Greater efforts should be made to promote the participation of women in public life. Domestic law reform is necessary to ensure full equality between the sexes in family law and rules of inheritance, thereby removing one of the barriers to participation of women in public life. Consideration should be given to adopting legislation requiring affirmative action policies within political parties for the promotion of women.
- The Elections Commission should review the operation of the existing complaints and appeals mechanism to ensure effective dispute resolution process.

II. INTRODUCTION

Following an invitation from the Maldivian Elections Commission, the European Union established an Election Observation Mission (EOM) to observe the 22 March 2014 elections to the People's Majlis.

The EU EOM was led by Chief Observer Mr Eduard Kukan, a Member of the European Parliament from Slovakia and former Minister for Foreign Affairs. The EU EOM included a Core Team of five experts and four Long-Term Observers (LTOs). Some 16 Short-Term Observers (STOs) joined the EOM closer to Election Day, including a group of observers locally recruited from EU member states' embassies in Colombo.

On Election Day, the EU EOM deployed some 30 observers from 16 EU Member States across the country to assess the whole electoral process in accordance with international and regional commitments for elections as well as the laws of the Maldives.

This report provides details of the EU EOM's findings and presents its recommendations for the enhancement of the Maldives' future elections. The EU EOM was independent in its findings and conclusions and adhered to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. The mission wishes to express its appreciation to the Elections Commission and the other authorities, political parties and civil society organisations for their cooperation and assistance. The EU EOM is also grateful to the Delegation of the European Union to Sri Lanka and the Maldives, and the European Union Member States' diplomatic missions for their support throughout.

III. POLITICAL BACKGROUND

A. POLITICAL CONTEXT

The 22 March polls were the second multiparty parliamentary elections since the introduction of a new Constitution in 2008 that accelerated democratic reform in the Maldives. These elections were conducted in the midst of a political crisis that created uncertainty about further transition to democracy.

The Maldives held its first competitive presidential election in 2008 and the first multiparty parliamentary elections in 2009. The new government, led by the leader of the Maldivian Democratic Party (MDP) President Mohamed Nasheed, elected in 2008, was unable to reach a broad political consensus to continue democratic reforms. The opposition, led by former President Maumoon Gayoom of the Progressive Party of the Maldives (PPM), and supported by key members of the judiciary and police, organised a protest leading to the resignation of President Nasheed in February 2012 and the controversial transfer of power to Vice-president Mohamed Waheed, supported by the opposition.

The contentious transfer of power and the subsequent protracted presidential election in 2013 deepened the polarisation of Maldivian society. These political developments were seen as a regressive step away from transition to democracy due to interference by the judiciary and police. While the first round on 7 September 2013, won by Mr Nasheed, was reportedly well

administered, the election process was later derailed and concluded only on 16 November 2013, 35 days after the constitutional deadline for electing a new president, with the narrow victory of Abdullah Yameen. While Mr Nasheed received only 6,022 fewer votes, he conceded defeat and called for his party to focus on upcoming local council and parliamentary elections. In January 2014, local elections took place and the MDP won control of more local councils than the ruling coalition.

B. MAIN POLITICAL ACTORS

Candidates from all six registered political parties contested the 2014 elections. The ruling coalition consisted of three parties – the Progressive Party of the Maldives, the Jumhoree Party (JP) and the Maldivian Development Alliance (MDA). The Adhaalath Party, which supported the coalition, decided to run separately, fielding 12 candidates. The remaining coalition partners divided all contested seats among themselves, with PPM candidates competing in 50 constituencies, JP in 28 and the MDA in seven.

The Maldivian Democratic Party (MDP) is the main opposition and the largest party in the Maldives with over 40,000 members. It fielded candidates in all 85 constituencies. The formerly ruling Dhivehi Rayyithunge Party, which was the strongest party in the 2009 elections, nominated only six candidates.

The ruling coalition faced internal competition in over 60 constituencies where their official candidates were opposed by candidates affiliated with the individual coalition parties but who registered as independents. Some of them had failed to be nominated by the party leadership or had lost in primary elections. This resulted in a split vote among coalition supporters and was often cited by opposition politicians as a reason for a possible postponement of the elections.

IV. LEGAL FRAMEWORK

A. ELECTORAL SYSTEM

The People's Majlis is a unicameral parliament, comprising members elected by a simple majority in single-seat constituencies (first past the post). The term of office for the People's Majlis is five years. Article 71 of the Constitution provides that every administrative division in the country, ie the 20 administrative Atolls plus the capital Malé, shall have at least two representatives in parliament, with additional constituencies added for each additional 5,000 residents. While there were 77 members in the outgoing parliament, 85 MPs were elected in the 2014 polls due to a population increase.

B. INTERNATIONAL PRINCIPLES AND COMMITMENTS

The Republic of the Maldives has undertaken a broad range of international commitments which relate to the electoral process, comprising both universal civil and political rights, and specific norms relating to persons with disabilities. The pertinent international treaties include the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention against Corruption, and the Convention on the Rights of Persons with Disabilities. The Maldives is also a party to the Commonwealth Charter, which sets out a commitment to democratic processes, in particular through free and fair elections, and to the regional, non-treaty, commitment in this sphere, the South Asian Association for Regional Co-operation Charter of Democracy.

There are two reservations which detract from the applicability of the afore-mentioned treaties, creating deficiencies in the protection of the right of political participation in the Maldives. The right to vote and to run for public office, as set out in Article 26 of the Constitution of the Maldives, restricts the application of these rights to Maldivian citizens who must be Muslim (Article 9) to be citizens, and thus to vote, and specifically followers of a Sunni school of Islam to run for election (Article 73). These constitutional provisions circumscribe political participation on the grounds of religion. The Maldives entered a reservation to Article 18 of the ICCPR, the provision which establishes that everyone shall have the right to freedom of thought, conscience and religion, stating that this principle is to be without prejudice to the Constitution of the Maldives. However, while this is a clear attempt to restrain the applicability of freedom of religion principles in the Maldives, no specific reservation has been entered to Article 2.1 of the ICCPR, which extends recognition to all political rights, without distinction on the grounds of religion. The UN Human Rights Committee has recommended¹ that the Maldives should withdraw its reservation to Article 18, considering the reservation “to be incompatible with the object and purpose of the Covenant”. It has further recommended that the Maldives should revise its Constitution to ensure that religion is not a basis for citizenship. In addition to this situation having been the subject of negative appraisal in the context of the ICCPR, the Committee on the Elimination of Racial Discrimination has further contended that these provisions effect discrimination on the grounds of ethnic origin².

The Maldives has entered a reservation to Article 16 of CEDAW, the provision which obliges states to eliminate discrimination against women in all matters relating to marriage and family relations, and to ensure that laws and practices in this area are based on the equality of men and women. On accession to CEDAW in 1993, the Maldives had entered a blanket reservation that excluded compliance with CEDAW where the Government considered there to be any contradiction with the principles of Islamic Sharia. This reservation was altered in 1999, with the

¹ UN Human Rights Committee Concluding Observations, July 2012, CCPR/C/MDV/CO/1, page 2.

² Committee on the Elimination of Racial Discrimination, Concluding Observations, August 2011, CERD/C/MDV/CO/5-12, page 3.

substitution of two specific reservations to Articles 7(a) and 16. While the reservation to Article 7(a)³ was subsequently withdrawn, the reservation to Article 16 remains, with which the Maldives seeks to apply the provisions of Article 16 subject to the provisions of Islamic Sharia. This offers protection to inheritance laws which discriminate against women⁴ and, thus, diminish their access to financial resources, lack of which pose a barrier to participation in public life. The UN Human Rights Committee has expressed concern⁵ that women in the Maldives continue to be discriminated against with regard to inheritance, and has recommended that equality should be guaranteed between men and women by ensuring, both *de jure* and *de facto*, the right of women to inherit property on an equal footing with men.

C. ELECTORAL LEGAL FRAMEWORK

The legal framework for the conduct of elections is to be found in the Constitution of the Republic of Maldives (2008), with greater detail in the Elections (General) Act (2008), the Parliamentary Elections Act (2009), the Electoral Constituencies for the Parliamentary Elections Act (2009), the Elections Commission Act (2008), and the Political Parties Act (2013). Further elaboration of the law has been set out in the Regulation on Political Parties (2005), and the Regulations for Parliamentary Elections (2014), which applied specifically to these elections. There is also a set of rules, known as the 16-point guidelines, introduced by an order of the Supreme Court in the context of the 2013 presidential election, which have been applied on an *ad hoc* basis to these elections. Election offences are governed by the aforementioned Elections (General) Act, as well as by the Penal Code of 1968. This proliferation of electoral law means that particular areas are regulated by a variety of legal instruments, rendering the law sometimes difficult to ascertain and to apply by those responsible for enforcement of the law.

While the legal framework overall provides an adequate basis for the conduct of democratic elections, there are grave deficiencies in the rights to vote and to stand for election, as well as in the protection of the secrecy of the vote. Moreover, there is a lack of legal certainty as the legal system is based on a joint application of common law and Islamic Sharia, meaning that the interpretation of law may be indeterminate and unpredictable⁶. While there is a chapter on human rights in the 2008 Constitution, the UN Human Rights Committee has expressed its concern⁷ that the protection therein afforded is inadequate, and impedes the full effect of the ICCPR in the Maldives. Article 16 (b) of the Constitution provides that rights and freedoms may

³ Article 7 (a) provides for equality in public life, including the right “to be eligible for election to all publicly elected bodies”. Prior to 2008 and the introduction of the new Constitution, Maldivian women were excluded from contesting for the offices of president and vice-president. The reservation was withdrawn on 31/3/2010.

⁴ Government of the Maldives, Combined Fourth & Fifth Periodic Report to CEDAW, April 2013, page 47: Sharia governs estate inheritance that grants male heirs twice the share of female heirs.

⁵ Concluding Observations, July 2012, CCPR/C/MDV/CO/1, paragraph 12.

⁶ UN Report of the Working Group on the Universal Periodic Review, Human Rights Council, A/HRC/23/43/Add.3, May 2013.

⁷ Concluding Observations, July 2012, CCPR/C/MDV/CO/1, paragraph 6.

be limited “in order to protect and maintain the tenets of Islam”, a formulation which allows for fundamental rights to be abridged. The rights to vote and to run for public office, as well as the freedoms of expression, association and assembly, are included in the human rights chapter, and therefore can be made the subject of such limitation.

The law governing the registration and dissolution of political parties is unclear, as there have been several Supreme Court orders in this sphere. The Constitution, in Article 30, sets out the right of every citizen to establish and to participate in the activities of political parties. The rules governing the exercise of this right are to be found principally in the 2013 Political Parties Act. This Act had purported to require a minimum of 10,000 members for registration of a political party, with a further requirement that this membership level be maintained or the party could face dissolution. This requirement was struck down by the Supreme Court⁸ on 1 September 2013, with a re-instatement of the requirement of 3,000 signatures, as had been laid down in the 2005 Political Parties Regulation. The continuing validity of this Regulation is also questionable, as it may not have successfully been carried over under the 2008 Constitution. A further series of sometimes contradictory rulings by the Supreme Court created uncertainty as to which provisions of the Political Parties Act remain in force, in particular regarding the rules for registration and maintenance of a political party.

There is also an absence of clarity as to the legal validity of the 16 guidelines which were introduced by the Supreme Court during the presidential election. The authoritative legal source of the rules is uncertain, while their content, some of which refers specifically to the presidential election, has included specific instructions to the Elections Commission. However, these guidelines did not appear to improve the election process and they were not always practical or implementable, as reported by the representatives of the EC as well as by other election stakeholders.

Further flaws in the electoral framework are manifest in the fact that secrecy of the ballot is circumscribed, procedurally, for many voters who registered to vote for their constituency of origin (absentee voting) from another location. This is the case for those who may be alone, or be as few as two or three voters, on a register at a particular polling station, in which instances their votes may be identified, contrary to Article 25 ICCPR requiring secrecy of the ballot, including for absentee voters. The absence of tactile ballot guides for voters with visual impairments also encroaches upon secrecy rights.

⁸ Supreme Court Case No. 11/SC-C/2013: Validity of Sections 8(b) & 11 of the Political Parties Act, 2013.

V. THE ROLE OF THE SUPREME COURT

The Constitution of 2008 enshrines principles of separation of powers and independence of the judiciary. The UN Special Rapporteur on the independence of judges and lawyers⁹, reporting on a visit to the Maldives in 2013, stated that the delivery of justice was not taking place in a fair, independent and impartial way. This was a re-iteration of the substance of a report by the International Commission of Jurists in 2011¹⁰ which stated that democratic transition “remains fragile as nascent institutions are yet to be consolidated through laws, regulations and the inculcation of new institutional cultures that embody and promote unquestioned respect for the rule of law”. The functioning of the judicial system has not improved since then, as is demonstrated by proceedings against the Elections Commission taken by the Supreme Court.

A new Constitution enacted in the Maldives in 2008 introduced a new governance structure and a separation of powers. An Elections Commission was created under Article 167, which stated that the EC was to be an independent and impartial institution, accountable to the People’s Majlis. The creation of just such an independent electoral authority is a prerequisite to the conduct of genuine elections, according to Article 25 of the ICCPR. A protracted legal action by the Supreme Court, however, raised the possibility of abridgement of the independence of the EC, and represented an interference in the electoral process.

In early February 2014 the Supreme Court launched a *suo moto*¹¹ action against the Elections Commission, which concluded on 9 March. In the case, the four members of the EC were accused of contempt of court, based on commentary on the difficulty of implementing the 16 point guidelines, including before a parliamentary committee; as well as on EC management of political party registration. The verdict included a finding that the commissioners had disrespected several judgments and orders of the Supreme Court, amounting to contempt of court. The chairperson and his deputy were removed from their offices, while the chairperson was sentenced to six months in prison, suspended for three years. The executive, legislature and Elections Commission were ordered to complete all necessary arrangements within six days (inclusive of holidays) to ensure that the elections were held as scheduled.

The ruling in this case raised many legal and constitutional issues. It represented an assertion by the Supreme Court of a power to remove officers appointed by the People’s Majlis, which was clearly an intrusion by the judiciary on the role of the parliament, and a violation of the separation of powers. It was also a violation of the rules in both the Constitution and the Elections Commission Act which regulate the dismissal of members of the Elections Commission. Removal from office of members of the Elections Commission is stated, in Article

⁹ UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, A/HRC/23/43/Add.3, May 2013.

¹⁰ Maldives: Securing an Independent Judiciary in a Time of Transition, International Commission of Jurists, February 2011.

¹¹ The *suo moto* procedure, introduced by the Supreme Court on February 6th, allows the Court to take cases on its own initiative. The case against the EC was the first use of this procedure.

177 (a) of the Constitution, to be “on the ground of misconduct, incapacity or incompetence”, and (b) pursuant to a finding to that effect by a committee of the People’s Majlis, endorsed by the house. The Supreme Court order stated that the chairperson and deputy-chairperson were deprived of their office, a ruling which the Court did not have the power to make.

Beyond the separation of powers, this case raised significant political issues, both by virtue of its timing so close to the election, and also due to the cases which had been taken during the 2013 presidential election (during the course of which the Supreme Court had issued two rulings and seven orders related to the election process), which had led to much disruption of election scheduling. The initiation of this case raised widespread doubt as to whether the 2014 elections would take place as scheduled, and as to whether the independence of operation of the EC could be preserved. The fact that this case against the EC was taking place for the duration of the elections had an intimidating impact on the commissioners, created pressure on them, and undermined their freedom of action. The existence of an independent and professional Elections Commission, functioning in accordance with law and international standards, is a crucial condition for holding democratic elections in the Maldives.

VI. ELECTION ADMINISTRATION

A. STRUCTURE OF ELECTION ADMINISTRATION

The elections to the People’s Majlis were administered by the Elections Commission at a central level and at 20 Atoll Election Units/Offices by 194 Island Election Officers. The Secretariat of the Elections Commission directly appointed all temporarily recruited staff at atoll and island levels.

The Election Atoll Units (EAUs) consisted of an assistant director and two support officials, usually employed on a one-year contract. The EAUs were supported by the Complaints Bureaus which report to a National Complaint Bureau at the EC headquarters in Malé. At island level, the main responsibility for election preparation was in the hands of Island Election Officers.

More than 4,000 polling staff were recruited by Atoll and Island election officials to organise elections across the country. A total of 473 polling stations were established, including five polling stations in three Maldivian diplomatic missions in Trivandrum (India), Colombo and Kuala Lumpur.

The EC consists of five members (with a quorum of three) approved by the parliament and appointed by the President. One EC member resigned during the 2013 presidential election and subsequently the EC functioned with just four members. The 9 March Supreme Court ruling left the EC with only two members, thus without a quorum. Despite this, the remaining two members of the EC decided to continue preparations for elections to ensure they were held on schedule.

On 12 March, parliament approved the nomination of Mr Ismail Habeeb to replace the EC member who resigned in 2013. The EC thus had the quorum needed for the announcement of results and other important decisions required to complete the election process.

B. ADMINISTRATION OF THE ELECTIONS

The parliamentary elections were well administered by EC and its staff. The Commission conducted the process in a transparent and inclusive manner. There was a high level of confidence among election stakeholders in the performance of the election administration. Just before the parliamentary elections the election administration successfully organised presidential and local council elections, which also raised the level of preparedness of election officials.

Despite some uncertainty created by the ongoing Supreme Court trial and removal of EC members, all key administrative preparations for the elections were on track. Besides some minor criticism related to the process of delineation of parliamentary constituencies in Malé, which was concluded by the EC in December 2013, the election administration successfully organised key aspects of the election process including: drafting the rules and regulations for elections, voter registration, candidate registration, preparation of training materials, and recruitment and training of election personnel. Ballot papers for all 85 constituencies were printed and, along with all other necessary materials, were distributed on time to Atoll Election Offices.

Training of polling station officials was well organised. The EC trainers completed a training of trainers programme, and provided seven hours of training for polling staff per island. There were eight to 12 officials per polling station depending on the number of voters assigned to each. Polling stations were also located in some resort islands, industrial islands and prisons.

In line with the EC Rules and Regulations for Parliamentary Elections, the National Elections Advisory Committee was established, comprising representatives of all registered political parties, police, the Human Rights Commission and civil society. Its main role was to advise the Elections Commission on various issues related to the electoral process. With the high number of domestic observers, party and candidate representatives and media monitors accredited, the EC maintained a high level of transparency, although there was some criticism by domestic observers regarding the limited information available on its website.

In preparation for these elections, the EC was obliged to follow the 16-point guidelines issued by the Supreme Court. The SC guidelines introduced the requirement that voter lists be signed by all candidates or their representatives. The EC initially provided two days for candidates or their representatives to sign the voter lists. As more than 50 candidates did not sign, the EC extended the deadline by a day. While all party candidates signed the voter lists for their constituencies, 16 independent candidates from 13 constituencies failed to sign, without officially stating the reason.

The EC was unable to resolve the issue if elections could be held in those 13 constituencies. A decision not to hold elections in those constituencies would have affected some 70 other constituencies due to many voters voting absentee ballot for other locations (see *Voter Registration*). On 18 March, the National Advisory Committee advised the EC to seek an advisory opinion from the Supreme Court. In response to an Elections Commission query, the Supreme Court announced that the elections could be held without all signatures. The EC also requested the opinion of the Attorney General (AG) on the matter. The AG in response stated that the EC had done everything in its power to ensure that voter lists were signed, that non-compliance by independent candidates was not a matter that could be controlled by the EC, and therefore there was no legal grounds to stop the elections from going ahead.

As such, this measure created uncertainty and was seen as a provision that could be misused by political parties/candidates to obstruct the election process or possibly challenge the final election results in those constituencies.

VII. VOTER REGISTRATION

The Constitution stipulates that every Maldivian citizen aged 18 or older has the right to vote. The Elections Commission has responsibility for preparing, maintaining and updating the voter register, as well as compiling the register of voters in each constituency, reviewing it in periods determined by law, and publishing the register in the official gazette. The EC is required to follow the existing legal framework for voter registration as well as the Supreme Court guidelines, as some of these relate to the registration of voters.

Voter registration consists of two phases. The initial phase is passive and is done by the EC where all voters are registered at their permanent address. The SC guidelines establish that the EC should use the database of the Department of National Registration (DNR). However, the guidelines establish no detailed procedures or deadlines, leaving the EC with a degree of uncertainty over the correct procedures to follow. As required by law, the EC updated the data received by the DNR and published the voter lists in the official gazette on 5 February for initial inspection. The Commission accepted 1,020 complaints, mostly regarding the omission of voters, the misspelling of names, incorrect addresses and the inclusion of deceased and underage voters. The amended voter lists were published on 18 February.

Voters are generally registered based on their permanent address. However, the law allows voters to vote in another location for their constituency of origin provided they inform the EC where they would like to vote within a time limit before each election. This is common practice prior to each election, as thousands of people have moved from their permanent residence to live and work in other parts of country, predominantly in the capital Malé. After the amended voters' list was published, voters had 10 days to re-register to vote outside their constituencies. More than a quarter (some 62,000 applications) of the total number of registered voters submitted their applications for re-registration.

A total of 58,501 voters successfully re-registered to vote outside their constituency. The Final Voters' List, published on 12 March, included 240,652 voters, a slight increase since the 2013 presidential election. Voters were able to check their voter registration entries and their allocated polling stations on the EC website and by SMS. Stakeholders shared a significant level of confidence in the accuracy of the voter register. There were only a few complaints regarding the voter lists on Election Day.

A. CONSTITUENCY DELINEATION AND DELIMITATION

According to the law, the EC is responsible for updating and verifying delimitation of constituencies prior to each parliamentary election. The Constitution prescribes that each administrative unit is allocated two Members of Parliament for the first 5,000 registered residents. If the number of residents exceeds 5,000, one additional member is allocated for each further 5,000 residents. Each administrative unit should establish separate constituencies and, as stipulated in the Electoral Constituency Act, the number of registered residents in a constituency should not vary by more than 15 per cent of the constituency population. The other requirements are that, in order not to upset social harmony, the population of one island should be kept, where possible, within one constituency, as should neighbouring islands in one administrative division.

On 23 December, the EC published its report on the delineation of electoral constituencies. Eighty-five were proposed, an increase of eight constituencies over the 2009 election. In order to respect the principle of maintaining social harmony, the EC allowed for the creation of five administrative divisions¹² where the size of the constituencies varied more than the prescribed 15 per cent. All constituencies in other administrative units fulfilled the criteria, including Malé and Addu, with the highest number of electoral constituencies per administrative unit. However, the general principle of equality of the vote was not respected as constituency size differed significantly, for example from only 824 registered residents in the smallest constituency in Felidhoo Atoll compared to some 5,000 in the urban constituencies of Malé and Addu.

The most controversial issue in constituency delimitation involved the allocation of specific groups of residents of Malé who are on the “*dhaftaru* list”. More than 10,000 residents of Malé have no permanent registered residence¹³, among them over 6,000 voters who live in the Malé municipality – so-called *dhaftaru* voters. These are citizens who are waiting to be allocated land or property where they can register their permanent residence. Since they did not yet belong to any constituency, the Elections Commission had to find a solution as to where to register them to vote. During the previous parliamentary elections *dhaftaru* were assigned in equal numbers to all

¹² These were – Naifaru (+23,5 per cent), Kurendhoo (-36,4 per cent), Fuwamulaku Uthuru (+16 per cent), Hulhudhoo Dhaaira (-19,5 per cent) and Maradhoo (-24,4 per cent).

¹³ Permanent registered residence is a requirement for voter to be registered in the specific constituency. “Dhaftaru voters” do have only their number on Dhaftaru list in Male municipality. This number is used for the voter registration purpose instead of the permanent address.

constituencies in Malé. This approach, however, was not repeated as it would result – according to EC – in unequal constituencies, violating the requirement of no more than a 15 per cent variation. Thus, *dhaftaru* were unequally distributed among the nine constituencies with the lowest numbers of registered residents. It resulted in the situation where most *dhaftaru* voters were assigned to constituencies where they do not reside. This approach raised some unsubstantiated allegations that these allocations had been made selectively.

VIII. REGISTRATION OF CANDIDATES

According to EU EOM interlocutors, candidate registration was inclusive and there was only one complaint reported regarding this part of the electoral process. The criteria for candidates contesting the parliamentary elections are defined by the Parliamentary Elections Act. A candidate must be, among other things, a Maldivian citizen with no other citizenship, a Sunni Muslim and at least 18 years of age. A potential candidate is disqualified if he or she has a court-decreed debt which is not being paid as provided for in the court judgment, or has been convicted of a criminal offence and is serving or has served within the last three years a sentence of more than 12 months.

All candidates, both independent and those nominated by registered political parties, must pay a deposit of 5,000 MVR (230 EUR). The deposit is refunded to candidates who win more than 10 per cent of votes. Independent candidates were also required to submit a statement of support signed by at least 50 eligible voters from the constituency in which the candidate intended to stand. A candidate could contest elections only in one constituency.

During the 14-day registration period, the Elections Commission received 316 nominations. It registered 302 candidates and rejected 14 nominees who in most cases did not provide the necessary supporting documents or required signatures. Some EU EOM interlocutors criticised the short period (two days) granted by law to the Elections Commission to review properly all applications. Out of 302 registered candidates, there was a high number of independent candidates (114), including those affiliated with coalition parties.

IX. CAMPAIGN ENVIRONMENT

The official 30-day campaign period concluded on the eve of Election Day. Despite ongoing uncertainty over whether the elections would be held as scheduled, party candidates and many independents actively campaigned across the country. A variety of strategies was used, including door-to-door canvassing, community gatherings, TV and radio advertisements, use of social media, phoning voters, and rallies. The various campaign materials were displayed across the capital, Malé, and throughout the country.

The rights of parties and candidates to campaign freely were widely respected and there were no complaints received by EU observers. In general, the campaign was peaceful and calm. However, there were two isolated media reports of violence against the MDP. The campaign office in Malé of the prominent MDP candidate and Speaker of the outgoing parliament was damaged. Another incident occurred on the island of Kuribee in Haa Dhaalu atoll where a meeting hall used by the MDP was set on fire.

Due to a rather low number of voters per constituency (on average there were fewer than 3,000 voters per constituency), candidates were able to organise well-structured canvassing systems, dividing up their constituencies in order to target voters. Candidates and party agents visited voters at their households. The agents regularly conducted surveys among voters to inform their candidate on his/her current outreach. These agents were generally paid for their services as volunteerism was not a feature of the campaign.

The main campaign message from the ruling coalition, voiced mainly by the PPM, focused on strength in national unity – “everyone together” – and on urging voters to recognise coalition achievements. Coalition parties promised to improve healthcare, provide development assistance to the islands and fulfil promises made during the campaign for presidential elections in 2013.

The MDP’s primary campaign message was to “vote for justice”, as the party supported the overhaul of the judicial system, while promising to empower local councils, improve service delivery and to uphold basic human rights. It promised to take on the establishment if it won a majority.

Following the Supreme Court’s decision to remove the President and Vice-President from their positions in the Elections Commission, the main opposition party MDP threatened to boycott the elections. It saw the charges as politically motivated and aimed at influencing the outcome. On 10 March the MDP held a National Council meeting during which a number of speakers favoured a boycott. The National Council decided against, however, since a number of members were also candidates. Most party activists, especially the youth wing, strongly supported the call for a boycott. According to several EU EOM interlocutors, the MDP’s decision to participate in the polls had a negative impact on its overall campaign and voter support.

A. CAMPAIGN FINANCE

The area of campaign finance is insufficiently regulated and there were widespread allegations that overspending as well as vote-buying¹⁴ were common practice. Regulation of campaign finance and expenditure is minimal. While the law is clear, in that there are generous spending limits for each candidate laid down by law¹⁵, there is an absence of rules relating to spending by

¹⁴ In a survey conducted by the Transparency Maldives prior the 2013 presidential election, 15 per cent of respondents reported that money or other incentives were offered in exchange for their vote.

¹⁵ Elections (General) Act, 2008, Section 69.

political parties, or other in-kind expenses and donations¹⁶, with the exception only of foreign donations. Candidates are bound to submit declarations of their spending to the Elections Commission within 30 days of the publication of official results, but the period of time afforded is too lengthy, in the light of the fact that the period for challenging results expires 16 days before this deadline. The Elections Commission lacks monitoring and enforcement powers beyond this. Disproportionate campaign expenditure has the potential to undermine the free choice of voters and to distort the democratic process, as protected in Article 25 of the ICCPR.

Election campaigns have traditionally been very expensive in the Maldives, with candidates legally spending substantial amounts – a candidate could spend up to 1,500 MVR (70 EUR) per voter. An average constituency has around 3,000 voters thus on average the campaign expenditure might reach 210,000 EUR per candidate.

Numerous reports of excessive campaign expenditure, as well as abuse of state resources, suggest that the playing field was not level. There was no institution effectively in charge of monitoring campaign expenditure. There were reports by national observers and opposition candidates that coalition candidates exercised undue influence by using state assets and vehicles during their campaigns. There were also concerns raised by the Elections Commission about the use of civil service employees in the electoral campaign. Some civil servants were reportedly threatened by their superiors with job losses or relocation. Government-aligned candidates openly pledged new development projects and initiatives should they win. As reported by the EU LTO team, road construction projects were inaugurated in Hithadhoo and Hulhudhoo, Addu Atoll, in the presence of PPM candidates. Normally, projects of this kind are planned and inaugurated by the City Council. Participants in this particular campaign event also included President Abdulah Yameen and two ministers.

According to many EU EOM interlocutors, vote-buying and bribery of voters was widespread practice. Voters allegedly received offers from all sides. There were reports¹⁷ of distribution of various goods such as washing machines and TVs. There were also allegations that candidates provided voters with cash for medical treatments, scholarships, loans and other goods in order to secure their votes. Many voters confirmed to EU Long-Term Observers that candidates or party representatives secured such services or goods for them. Given the lack of legal provisions regarding bribery of voters, and the lack of evidence in these cases, such accusations were not investigated by police. In general state institutions were not able to prosecute for vote-buying. Moreover, there was a lack of awareness and insufficient voter and civic education to combat vote-buying.

On 27 March the Adhaalath Party announced it had not offered bribes to voters. Out of the party's 12 candidates, just one won a parliamentary seat. AP spokesperson Ali Zahir claimed

¹⁶ Elections (General) Act, 2008, Section 72: donations by individuals may amount to 0.5 per cent of the total, by legal entities, 2 per cent.

¹⁷ As stated by one of the candidates in Male to EU observers "Money matters, we do what we have to do".

candidates in the governing coalition used their influence to promise new projects, amongst other things, and that AP had only limited financial resources in comparison to PPM or MDP.

X. MEDIA ENVIRONMENT

A. MEDIA LANDSCAPE

The Maldivian media landscape has changed significantly since the introduction in 2007 of private commercial radio and television. However, the liberalisation of the sector has so far not led to media pluralism. Ownership of the main private television and radio stations, and their respective websites, is concentrated in the hands of a small number of businesspeople and politicians¹⁸ whose political ideologies are reflected in editorial decisions. This has led to significantly biased electoral coverage, thus undermining the principles of balance and impartiality. Major stakeholders at several private media outlets are either candidates or active in politics. Cross-ownership is common, with a media empire often comprising a TV channel, radio station and website.

Television and the internet, including several “visual radio” websites¹⁹ are the most important sources of information for the majority of Maldivians. However, many communities outside Malé still rely on radio. Much political debate also takes place on social media platforms. Licences for 33 broadcast channels have been issued. All broadcast in Dhivehi, with some offering short news programmes in English. Public service broadcaster Maldives Broadcasting Corporation, which reports to parliament and is dependent on government funding, operates national TV channel Television Maldives (TVM) and national radio station Voice of Maldives. The newspaper sector has been in decline recently as titles have gone online-only, with just a few, such as *Haveeru* and *Miadhu*, still appearing in print.

B. LEGAL FRAMEWORK

The Constitution guarantees freedom of expression provided the freedom is exercised in a manner “not contrary to any tenet of Islam” (Article 27), thus eroding rights enshrined in Article

¹⁸ Jumhoree Party leader and tourism tycoon Gasim Ibrahim, for example, owns VTV and related website vnews. Raajje TV and its associated website are owned jointly by former Minister of State in ex-President Mohamed Nasheed’s government, Akram Kamaluddin, and by Ahmed Saleem, who was an unsuccessful MDP candidate in these elections. Business tycoon Champa Mohamed Moosa owns DhiTV, DhiFM and related website dhity.com.mv.

¹⁹ Visual radio is FM radio with synchronised visual information on display, for example via a website or mobile phone app.

19 of the ICCPR. The Maldives has entered no reservation to this Article. The wide interpretation of “tenet of Islam” during the election campaign – for example, President Abdulla Yameen stated that foreign criticism of court verdicts was tantamount to criticism of Islam²⁰ – underscores the many ways and unpredictable manner in which freedom of expression is open to infringement while this constitutional provision remains in place. The provision has led to prevalent self-censorship in newsrooms, and to the avoidance of reporting on religious issues.

While no violence against journalists was reported during this electoral period, instances in the recent past of attacks (some religion-based) against reporters and media premises – condemned by rights groups such as Amnesty International, Reporters Without Borders and Article 19 – have clearly had a detrimental effect on media freedom. The Maldives Journalist Association is pressing for legislation to better protect journalists in their work. The country has regressed to 108th place on the Reporters Without Borders Press Freedom Index (the closer to first place, the freer the media), having shared joint 51st place in 2010. The Constitution’s guarantees of freedom of the media (Article 28) and to acquire and impart knowledge (Article 29) must therefore be viewed within the limiting context of Article 27.

Many media interlocutors spoke of editorial pressure, usually subtle but sometimes overt, from channel owners and/or government ministries. Journalists from some media outlets reported increasing difficulties in gaining access to government information or in securing ministers’ responses to stories.

A lack of clarity in the regulatory framework has led to uncertainty over which agency is primarily responsible for oversight of the broadcasting sector in respect to elections coverage: the Elections Commission, the Broadcasting Commission or the Media Council. An overlap in the mandates of all three bodies has added to the confusion. The Elections Commission oversees the Elections (General) Act, the only instrument that provides for the allocation of airtime to parties and candidates. This Act pre-dates the Broadcasting Commission’s existence and has not been amended to take the broadcast body into account. The Broadcasting Commission has its own code of practice for broadcasters, drawn up under the Broadcasting Act (2010). However, neither this code nor the Broadcasting Act makes specific reference to elections coverage. The Media Council, for its part, has the power to investigate complaints and to order media outlets – whether print, broadcast or online – to publish or broadcast its adjudications. Complaints about electoral coverage may be addressed to any of the three bodies, and an adjudication by one of them is sometimes the subject of an appeal to another.

The Elections (General) Act 2008 stipulates that all broadcasters (public and private) provide airtime to all parties and candidates during the campaign, which lasts until 6pm on the eve of Election Day. Under the Act, a ceiling is placed on each broadcaster to ensure no candidate gets more than 10 per cent above the time allocated to any other candidate. While public service broadcaster Maldives Broadcasting Corporation made efforts to comply with this rule and established its own set of guidelines for coverage of these elections, private channels such as

²⁰ Mr Yameen was speaking at a PPM political rally on the island of Fuvahmulah on 19 March.

VTV and Raajje TV were highly partisan in their coverage and openly promoted candidates and parties (*see Media Monitoring Findings below*).

A lack of resources has prevented the Broadcasting Commission from monitoring airtime allocation during the election campaign. This limits the possible actions that the commission may take against broadcasters for non-compliance with the law. The Media Council has a TV recording unit in place and can refer back to broadcasts in cases of complaints, but it does not measure airtime. The Broadcasting Commission told the EU EOM it was dealing with three complaints related to elections coverage but declined to give details given the cases were ongoing. The Media Council received one complaint regarding an advert for a candidate that had not been taken down from a website by 6pm on the eve of Election Day.

C. MEDIA MONITORING FINDINGS

The EU EOM monitoring unit carried out a quantitative and qualitative analysis of six broadcast media outlets during primetime viewing/listening from 11-21 March (TVM, VTV, Raajje TV, Voice of Maldives, SunFM and DhiFM)²¹, and a qualitative analysis of four news websites (Haveeru, Miadhu, CNM and Minivan).

The final results of the EU EOM media monitoring reflect the polarised nature of the broadcast media landscape, with the private channels focusing extensively on their chosen candidates and party.

Public service broadcaster MBC produced a wide range of programmes, including live debates between candidates during which the 10 per cent time limit was strictly adhered to.²² While MBC's overall allocation of airtime to the PPM (47 per cent) is explained by its news coverage of the many government programmes announced in the run-up to the elections, this level of coverage represents a clear imbalance. Criticism of TVM by the president's office in the last week of the campaign for failing to do a live broadcast of a ministerial press conference – despite the fact the channel had devoted several minutes to the story – represented an encroachment on the broadcaster's independence from political interference as stipulated in the Maldives Broadcasting Corporation Establishment Act.

VTV devoted 96 per cent of its primetime elections-related coverage to parties in the government coalition – predominantly JP (50 per cent) and PPM (37 per cent) – and four per cent to the opposition MDP. Raajje TV allocated 86 per cent of its primetime elections-related coverage to the MDP. Both private channels broadcast negative campaigning and unverified rumours about

²¹ TV stations were monitored from 6pm to midnight; radios during morning primetime from 7am to 10.30am.

²² Given the prevalence of news stories on TVM citing not individual politicians but government ministries (especially those launching new programmes in the lead-up to elections), these ministries were included as political actors for data analysis purposes.

candidates. Political programmes on VTV served as billboards for JP and coalition candidates. *Fasmanzaru*, an evening talk-show on VTV, often featured coalition candidates campaigning negatively against the MDP. The station also carried out a personal campaign against MDP candidate Ali Waheed, broadcasting allegations against him in a report that was aired on five consecutive nights. While Raajje TV engaged in negative campaigning to a lesser extent than VTV, it nonetheless devoted a vast amount of airtime to promoting the MDP in a positive tone. Its satirical programme *Fala Surukhee* was also a vehicle for MDP promotion.

In its morning primetime slots Sun FM devoted only six per cent of election-related airtime to the MDP and 94 per cent to government coalition parties – mostly PPM (76 per cent). Its morning talk show *Aafeshumeh* tended to discuss the government coalition and its candidates in a mostly positive tone. The show's presenters were openly critical of the MDP, often making jokes about its leaders and candidates. Dhi FM devoted most election-related airtime during morning primetime to the PPM (53 per cent), most of it in a positive tone.

Websites *Miadhu* and *Haveeru* tended to give most space to government coalition parties, which again reflects the high number of government programmes announced in the run-up to the elections. Both websites' coverage of the coalition was usually positive in tone. Coverage by CNM was more balanced, while MinivanNews provided neutral coverage of the campaign and included points of view from all sides of the political spectrum.

EU EOM observers in polling stations on Election Day noted that monitors from the media openly declared their individual political bias.

XI. ELECTORAL DISPUTES

Powers to adjudicate upon election-related complaints and disputes are given to the Elections Commission, which has competence in areas such as deciding on the registration of political parties and the qualification of candidates for nomination. The existence of an efficient and effective system of electoral justice is fundamental to securing a credible election process. The EC has the power, under Section 62 of the Elections (General) Act, to establish a mechanism to resolve elections complaints, with such a mechanism being essential to ensuring that electoral processes are not marred by irregularities, and for defending electoral rights. Pursuant to the Regulations for Parliamentary Elections 2014, the EC created a National Elections Complaint Bureau operating in Male' and Atoll/City Elections Complaints Bureaus throughout the country, all on an *ad hoc* basis. Prior to this, the EC itself, its election units and focal points, received complaints. Powers to investigate complaints, however, and the relationship with the office of the Prosecutor General, are absent from the law and remain unregulated.

Complaints submitted in advance of the election amounted to 18 in Male' and fewer than 30 for the rest of the country as a whole. Most of these complaints related to registration issues, according to the EC, with many of the issues have arisen from voters having missed the

deadlines for corrections to the voters list. Complaints on Election Day amounted to 72 in number and ranged in nature from several domestic disputes between spouses or parents as to who to vote for, to allegations of campaigning within 100 feet of the ballot box. The EC attempted to take immediate remedial action in as many instances as possible. In a few cases the complaints relating to the processes of polling and counting on Election Day resulted in recounts of four ballot boxes, and of an entire constituency in one instance.

The courts also have extensive jurisdiction to adjudicate upon complaints, sometimes simultaneously with the EC. The Constitution provides, in Article 72, that the High Court has jurisdiction in relation to election petitions, cases which may challenge decisions of the EC, the legality of any other matter related to an election, and election results, with appeals from all of their rulings possible to the Supreme Court. The Supreme Court also has exclusive jurisdiction in relation to disputes concerning the eligibility of candidates for election and of MPs to hold office. The overlapping of jurisdiction between the EC and the courts creates a situation which lacks certainty as to which forum will be used, the complaints bureaus or the courts, and then which court. Should a case be initiated in the Supreme Court, then the possibility of an appeal is removed. Prior to the election, a single case was taken to both the Civil Court and the High Court by a disappointed incumbent MDP MP, Alhan Fahmy, who had failed to secure the party nomination in the Feydhoo constituency. He was unsuccessful in his attempt to overturn the decision of the party not to select him, as well as in his attempt to restrain the EC from conducting the election. Subsequent to the election, cases were initiated in the High Court by fifteen disappointed candidates, challenging the success of other candidates, based on allegations of illegal practices during the election.²³ None of these resulted in an order to recount or re-poll.

While the time limit of 14 days for election petitions seems, *prima facie*, to be somewhat long if remedies are to be provided in a timely manner, procedures which involve several tiers of investigation and adjudication, as detailed above, may give rise to protracted proceedings prior to commencement in court. This creates the possibility that electoral law will fail to be implemented, and the principle of the achievement of timely and effective remedies for complaints made may be undermined.

Electoral Offences have been spelled out in Chapter IV of the Penal Code since 1968. The Elections (General) Act, 2008 augmented this list of offences, while the EC Regulations for Parliamentary Elections, 2014 creates a virtual code of conduct for the election campaign, detailing the conduct expected of candidates during the election period. All sets of laws apply simultaneously, and continue to be used as a basis for prosecutions. A new Penal Code and Criminal Procedure Code were submitted to the People's Majlis in 2007, but have yet to be enacted. Such legislation, to codify criminal law in the Maldives, will serve to better clarify existing offences, while sanctions and potential defences will also be combined in a single legal instrument.

²³ The constituencies affected were: S. Feydhoo, Kaashidhoo, Gemanafushi, Isdhoo, Hithadhoo Uthuru, Hithadhoo Medhu, Funadhoo, Kurendhoo, Thimarafushi, Mahibadhoo, Felidhoo, Naifaru, Villingill, Meedhoo and Nolvivaram.

XII. PARTICIPATION OF WOMEN

Women are acutely under-represented in public life in the Maldives. The society is deeply patriarchal, and women have traditionally been relegated to the private rather than the public sphere of life. There are a multiplicity of barriers which inhibit the participation of women in public life, with the result that global indicators on gender equality are revealing negative trends for the Maldives. The CEDAW Committee noted²⁴, in its last consideration of the record of the Maldives, that women play a subordinate and subservient role within the family, and that deep-rooted, traditional, stereotyped attitudes persist, all of which are reflected in women's professional and educational opportunities and choices, and their participation in public and political life. Islamic Sharia is widely being interpreted in an ever more conservative manner, which is operating to the disadvantage of women. Indeed the government has noted²⁵ that religious extremist interpretations have introduced practices of under-aged marriages and decreased school enrolment rates of girls. It stated that "these extremist ideologies confining women in the domestic sphere also hinder women's participation in the public sphere".

The Maldives itself has also acknowledged²⁶ that progress towards the achievement of Millennium Development Goal three, the promotion of gender equality and the empowerment of women, has not been achieved in the state. It has accepted that, while gender equality provisions were included in the 2008 Constitution, women continue to experience *de facto* discrimination in most walks of life, with election results from 2008 and 2009 cited as clear evidence that negative gender stereotyping and societal discrimination continue to pose significant challenges. Also, while there are provisions on equality in the Constitution, there is an absence of a general provision of the nature spelt out in Article 1 of CEDAW, defining and prohibiting all direct and indirect discrimination on the grounds of sex, while there is also no secondary legislation to this effect. The drafting of a "gender equality bill" has been on the agenda of the Ministry of Health and Gender for many years, but progress has been extremely slow, and indications are²⁷ that it is unlikely to address many of these deficiencies.

States parties' to CEDAW are obliged²⁸ 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. The use of temporary special measures for this purpose is encouraged by CEDAW as a means to eliminate discriminatory dimensions of past and current societal contexts, in order to achieve *de facto* or substantive equality for women. Civil society has criticised²⁹ the failure to adopt such measures, which is particularly serious as such measures are arguably foreseen within the scope of Article 35 of the Constitution which allows for "special protection and assistance" for, among others,

²⁴ CEDAW, Concluding Comment, 2007, CEDAW/C/MDV/2-3.

²⁵ The Maldives, Combined Fourth & Fifth State Report to CEDAW, 2012, paragraph 24.

²⁶ The Maldives, Combined Fourth & Fifth State Report to CEDAW, 2012, paragraph 6.

²⁷ Meeting between EU EOM and Minister for Health & Gender, 30/3/2014.

²⁸ General recommendation No. 25, on article 4(1), of CEDAW, paragraph 7.

²⁹ NGO Shadow Report, CEDAW Combined fourth & Fifth Report, 2012

“disadvantaged people”. On the other hand, however, all the provisions on fundamental rights in the Constitution are, pursuant to Article 16 (a), to be guaranteed only to the extent to which they are not contrary to any tenet of Islam, a provision which raises potential for discrimination on the grounds of sex. The promotion of gender stereotypes, sex segregation in social organisation, and attempts to solidify gender roles, are increasingly endorsed.

The introduction of special temporary measures to promote the greater political participation of women has been discussed on several occasions by successive Maldivian parliaments. During the drafting of the current Constitution, a debate took place in 2006 in the Special Majlis as to whether a 15 per cent quota should be reserved for women in the People’s Majlis, a proposal which suffered defeat. Unsuccessful efforts were made by female MPs in 2007 to include a measure allocating just ten seats reserved for women in the People’s Majlis; while an unsuccessful attempt was also made to include a women’s quota for local council elections in the drafting of the Decentralisation Bill, which was discussed by Parliament in 2010. In 2007, as political parties legislation was being drafted, CEDAW³⁰ recommended that the legislation ought to have stipulated that a specified percentage of women be selected as party candidates. The situation remains, however, that there are no affirmative action measures in place to promote the participation of women in public life. This was particularly evident in the extremely low number of female candidates in these elections, with a mere 23 women among a total field of 302 candidates, five of whom secured seats. This represents an actual decrease in the proportion of women in parliament, with a fall from 6.4 to 5.8 per cent female members.

XIII. ELECTION OBSERVATION

Transparency Maldives (TM) is the only domestic observer organisation with a long-term observation methodology in the Maldives. The organisation produced a comprehensive pre-election assessment on all relevant aspects of the election process which also comprised a number of recommendations.

Representatives of TM also took part in meetings of the National Advisory Committee. On Election Day, TM deployed the highest number of domestic non-party observers (over 300) who observed voting and counting in all atolls and conducted a quick count exercise based on a statistical sample. After the elections Transparency Maldives issued its Preliminary Statement on 23 March in which the domestic observers assessed Election Day as “well administered and transparent but wider issues of money politics threatens to hijack democratic process”. TM planned to publish its final report within a month after the elections.

The Human Rights Commission of the Maldives deployed its entire 52-member staff to observe the elections. They also engaged in media monitoring for the final week of the campaign. In

³⁰ CEDAW Concluding Comment, 2007, CEDAW/C/MDV/2-3, paragraph 24.

addition to the EU EOM, the Commonwealth of Nations deployed a group of international observers.

XIV. POLLING AND COUNTING

Voting was assessed as “very good” to “good” and described by observers as calm, orderly and efficient. Some minor deviations from procedure were observed, but observers assessed that procedural safeguards ensured that they did not impact on the integrity of the process. In the few instances where disputes arose, they were resolved promptly by polling staff to the satisfaction of party and candidate agents present. However, there was some campaigning in the vicinity of polling stations and observers reported that the secrecy of the vote was compromised in a small number of polling stations.

Polling staff was characterized as competent and professional. In few polling stations observed, polling staff did not explicitly instruct voters on how to vote and in some PS voters’ names were ticked off on the voter list instead of having their queue numbers written in. However, these procedural oversights did not affect the vote’s integrity.

The method of marking ballots, in which only ticks are valid, meant that ballots in which the voters’ intention was clear but the tick was misshapen were in some cases not counted. The EC adopted this rule to thwart attempts by voters to mark ballot papers with identifiable signs as part of a possible vote-buying scheme.

There was only one per cent of reserve ballots in regular polling stations and no reserve ballots for re-registered voters. This provision was insufficient and might have disenfranchised voters who mistakenly spoiled their ballots.

Party and candidate agents were present inside and around all polling stations visited by observers. The majority of them were male. Party and candidate representatives established desks outside polling stations from where they were active in keeping track of who voted and in mobilizing remaining voters to do so. All parties and candidates engaged in this practice, but PPM, MDP and JP had the heaviest presences. The desks often featured campaign materials but although they created opportunities for influencing voters, no such activity was directly observed. It was assessed that they were more interested in influencing people to come and vote than in influencing people to vote a certain way, although the practice raises questions over the freedom of voters to make their own choices. Polling stations in which there were re-registered voters were covered by the higher number of party and candidate representatives due to its importance to other constituencies. There was an unusually high number of assisted voting. The desks outside polling stations where party and candidate representatives monitored voters were a common source of “assisters”. This raised the possibility that some people were assisted who were not really in need of it. As observed, polling staff performed elaborate tests to ensure that only people who really need assistance were assisted.

While the Constitution provides for secrecy of voting, procedures for voters to vote outside their constituency do not ensure secrecy of the vote when there are only single or a small number of ballots cast for a particular constituency. There were up to 2,947 cases of single voters and more than 1,000 cases of only two voters voting in polling stations which has on its voter lists re-registered voters for particular constituency.

In regular polling stations, the secrecy of the vote was generally well-protected, although observers reported that in a small number of polling stations, the placement and structure of voting booths allowed observers to see for whom a voter marked their ballot. The absence of tactile ballot guides for visually impaired voters limited the secrecy rights of these voters.

National observers were present at 30 per cent of polling stations observed. Media monitors, who were granted access to polling stations in order to enable them to report on proceedings, were in practice partisan and were allowed substantial freedoms by polling staff. Media monitors openly displayed party affiliations and were present in some polling stations in groups. In many cases they took photos of voters putting ballots in the ballot box and in isolated cases assisted polling staff and voters. Media monitors were present in 33 per cent of polling stations observed.

Many polling stations closed after the official closing time at 4pm as there were high numbers of voters in the queues, especially in Malé. Counting was assessed as “good” to “very good” and described as orderly, transparent and professional, with exceptionally transparent procedures in the ten polling stations where counting was observed. In all polling stations observed the result sheets were posted immediately, although they were often removed within 24 hours.

XV. ANNOUNCEMENT OF RESULTS

Out of 473 polling stations some 100 had to administer elections for several constituencies, given the high number of voters who voted outside their constituencies of origin. A total of 6,110 result forms from 473 polling stations had to be either delivered or faxed to the EC Coordination Centre and subsequently to the EC Result Centre in Malé. The tabulation process at EC HQ started immediately after the first result forms were faxed and checked by the Results Centre. The EC made available information online with a breakdown of individual polling stations, allowing representatives of political parties/candidates and the media to cross-check results with their representatives/agents present in almost all polling stations.

According to the Elections Commission, a small number of result forms were delivered with various errors or missing data, requiring clarifications with respective presiding officers. The presiding officers were asked to fax the corrected result forms back to EC HQ. In several cases the forms were not delivered, mainly because the presiding officers failed to fill in the separate result form for constituencies where no ballot was cast. In those cases the Elections Commission had to investigate and cross-check the data, which often required opening envelopes with

sensitive material and led to a prolongation of the tabulation process as these procedures were time consuming.

Due to a rather small number of results forms (13) not being processed, the EC postponed the announcement of the provisional results for one day. The provisional results were announced for 84 constituencies on 25 March. The results for the constituency of Nilandhoo were not announced as an unsuccessful candidate filed complaints over the counting process at an unspecified number of polling stations in his constituency. The PPM candidate had lost by one vote to an independent candidate. The EC decided to recount ballots for all polling stations in the constituency although the complaint did not justify this decision. The recount confirmed the provisional results. There were also four additional recounts of polling stations in various constituencies based on candidates' complaints. None resulted in a change to the provisional results or revealed any serious flaws in the voting or counting processes.

The final results were announced by the EC within the seven-day legal deadline on 29 March. The election stakeholders could appeal the final results within 14 days. The ruling coalition received a strong majority as 33 candidates were elected from the main coalition party PPM, 15 from JP and five from the MDA. The Adhaalath Party won one seat. Five independent candidates were also elected. However, it was expected that some of them would join individual parties within the coalition. The MDP is the only opposition party whose candidates were elected. In comparison with the 2009 election results, the MDP has one extra Member of Parliament, as 26 of its candidates were elected. All political parties accepted the final results of the 2014 Parliamentary Elections.

XVI. RECOMMENDATIONS

Purpose	Recommendation	Targeted Institutions	Principle
Legal Framework			
To avoid regulatory or jurisdiction overlap and to provide for legal certainty	Legislation should clearly define the division of competences of the courts, the Elections Commission, the police and the Anti-Corruption Commission during the electoral process as well as other independent institutions.	People's Majlis,	Separation of powers, legal certainty
To promote realisation of freedom of association, through membership of political parties	Enact new legislation on minimum requirements for registration & continued operation of political parties.	People's Majlis	ICCPR Article 22.1 Everyone shall have the right to freedom of association with others
To promote the implementation of	Consider ending discrimination in family laws, including inheritance laws.	People's Majlis	To ensure the equal right of women to

CEDAW & reduce discrimination against women			enjoy political rights; Art. 3 ICCPR; Art. 1 CEDAW Right to participate in political life & public affairs, without distinction as to religion
To promote the right to vote and stand for election, in compliance with ICCPR Article 2.1	Revise Constitution: Article 9 – that one be a Muslim to be a citizen & vote; Article 73 – that one be a Sunni Muslim citizen to stand for election.	People's Majlis	Compliance with ICCPR
Electoral Administration			
To allow voters to cast their ballots in secret	In case of one voter or small number of voters voting for particular constituency in the polling station located outside of their constituency appropriate measures should be taken in order to guarantee the secrecy of vote.	EC, People's Majlis	Secrecy of vote ICCPR
To establish equality of the vote	Consideration could be given to decrease significant variation in the population size of electoral constituencies. Preferably the size of the electoral constituencies should not vary more than 15 per cent in the whole country not only in administrative units.	People's Majlis, EC	Equality of the vote ICCPR
To guarantee an effective representation of voters by the members of parliament elected from constituencies where voters permanently live	The people should have a right to register themselves as voters in electoral constituencies they permanently reside in, in order to be effectively represented by Members of Parliament. The process should be accompanied by an information campaign.	People's Majlis, EC	Effective Representation
Guarantee where is a clear intent at polling station level in how an individual has voted that this vote is included as valid	Greater flexibility is required in the area of invalid ballots to grant discretion at the polling station to ascertain the intent of the voter. If intent is clear on the ballot paper, consideration should be given to including that vote as valid.	EC	Right to vote
To allow voters who spoil their ballot to vote	In case a voter mistakenly spoils his/her ballot, there should be a provision to obtain a new ballot. There should be a surplus of additional ballots provided also for voters voting outside their constituencies.	People's Majlis, EC	Right to vote
Voter Registration			
Increase confidence in the voter registration process	To improve the update of the voter register, the process of the display of voter register should be extended so there would be more time for voters to check their data. The process could be accompanied by a massive information campaign reminding voters about their responsibility.	EC, People's Majlis	Universal suffrage
Campaign Environment			

Increase the efficacy of the system of accountability of campaign contributions and spending making it more transparent and effective in providing public accountability and creating a level playing field between contesting candidates and political parties	Campaign finance rules need to be overhauled and revised to ensure accountability and transparency in contributions and spending on campaigns of political parties and candidates. An adequate and impartial monitoring framework is also required to provide an appropriate regulatory environment in this area with reasonable donation and spending ceilings, and provisions regulating third party spending and in-kind contributions put in place to ensure a level playing field between candidates.	People's Majlis, EC	ICCPR; Transparency of campaign finance and equality of campaign opportunities
Reduce the use of state resources attached to public office in campaigns that is against the law and undermines the concept of a level playing field between candidates and political parties during the campaign period	Clearer regulations and an adequate framework for minimising the use of state resources during campaign periods should be introduced. A moratorium on the government members and ruling parties' candidates opening public works should be considered during a campaign period. The civil service should introduce a code of conduct providing for measures to ensure scheduling, finalisation and inauguration of these works is not used instrumentally, by elected officials, for campaign purposes	People's Majlis, EC	ICCPR; Equality of campaign opportunities
To combat vote buying	Police and other state agencies in cooperation with EC should prioritize monitoring, investigation and prosecution of all reported cases of vote buying before and after elections.	People's Majlis, Police EC	Respect for the rule of law
Strengthen the ability of civil society organisations to provide voter awareness and anti-vote buying campaign in order for the general public to be informed on their rights and responsibilities	Civil society should be more actively engaged in civic and voter education across the country and a wider range of civil society organisations should be identified that can provide appropriate civic and voter education tools and platforms.	EC, Civil Society	Voter awareness; ICCPR
Electoral Justice			
To clarify & codify electoral offences	Review the provision of criminal law dealing with electoral offences, codifying all rules in either a single chapter of a new penal code; or in a new law on electoral offences.	People's Majlis	Uphold integrity of electoral law; legal certainty
To ensure that there is an effective electoral dispute resolution process	Review the operation of the existing complaints & appeals mechanism, considering the introduction of an alternative model.	EC	Right to a timely & effective remedy: Art. 8, UDHR Art. 2, ICCPR
Gender Equality			

To promote the participation of women in politics	Adopt legislation requiring affirmative action policies within political parties, requiring integration of women within party structures and selection of women as candidates. Confer enforcement powers upon the EC.	People's Majlis; political parties	To ensure the equal right of women to enjoy political rights; affirmative action. Art. 3, ICCPR; Art. 4.1 CEDAW
To promote the participation of women in public life	Adopt equality legislation which outlaws both direct and indirect discrimination on the grounds of sex.	People's Majlis	To ensure the equal right of women to enjoy political rights; Art. 3 ICCPR; Art. 1 CEDAW
Media			
Compliance with ICCPR; ensure freedom of expression	Amend Article 27 of the Constitution to bring it in line with Article 19 of the ICCPR.	People's Majlis	Freedom of expression
Provide greater legal clarity, reduce the overlap in mandates between institutions, and introduce an effective, proportionate oversight mechanism with greater accountability among broadcasters for their election coverage	Update legislation – Elections (General) Act 2008; Broadcasting Act (2010) and Media Council Law (2008) – to clarify the mandates of the regulatory bodies and provide a clear delineation of responsibilities for regulatory oversight of broadcast coverage of elections. A merger between the Media Council and the Broadcasting Commission could be considered.	Broadcasting Commission; Media Council; Elections Commission	System of proportionate regulation conducive to media responsibility and accountability while respecting freedom of expression
Professional capacity-building to help develop media sector and ensure balanced, accurate and responsible journalism	Provide training and professional development courses for journalists and managing editors. Technical assistance could be provided to help develop the recently established journalism faculty at the Maldives National University into a centre of excellence offering practical work placements in newsrooms. This could be carried out as part of a wider media strategy aimed at developing a pluralistic and independent media sector producing high-quality content on a wide variety of issues (not just politics), including social, environmental, health, arts and education issues.	People's Majlis; Broadcasting Commission; Media Council; Maldives Journalist Association; Maldives National University	Support for professional, independent and pluralistic media; media as a platform for democratic discourse
Facilitate "participation of multiple parties in the dissemination of news and information and provide opportunity for diverse ideas and opinions," as set out by the Maldives Broadcasting Act (2010)	Use of the Broadcasting Commission's licensing system to promote diversity on the airwaves and foster media pluralism. Efforts should be made to encourage and facilitate the development of community/associative broadcasters and websites.		Support for independent, pluralistic and diverse media

APPENDICES - FINAL RESULTS

Maldives Parliamentary Elections Results

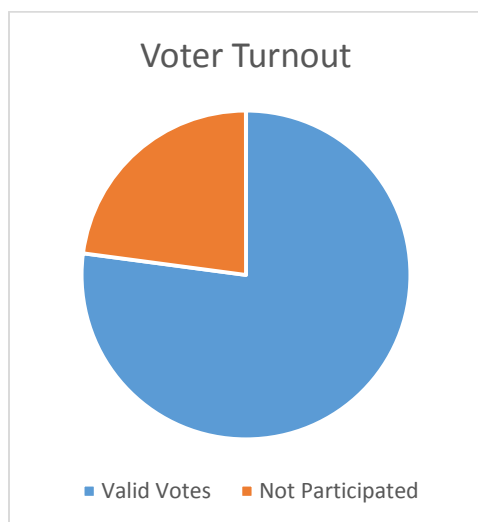
Cast Votes: 187'547

Valid Votes: 185'537

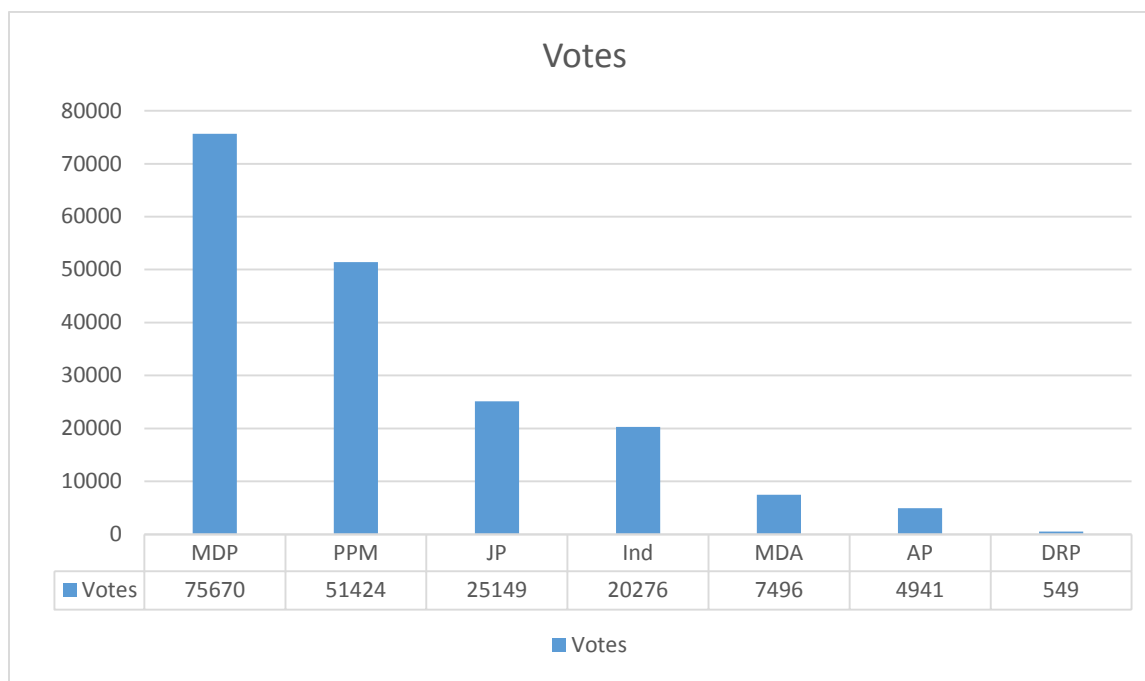
Invalid Votes: 2'011

Registered Voters: 240'652

Voter Turnout: 77%



Share of Vote for Political Parties



Share of Seats in the Parliament

