

**Reports of the Commonwealth Observer Group**

**MALDIVES PRESIDENTIAL ELECTION**

7 September 2013

and

**RE-RUN OF MALDIVES  
PRESIDENTIAL ELECTION**

9 November 2013

and

**MALDIVES PRESIDENTIAL  
RUN-OFF ELECTION**

16 November 2013



**The Commonwealth**



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## **MALDIVES PRESIDENTIAL ELECTION**

7 September 2013

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9 November 2013

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## **Commonwealth Observer Group**

**Maldives Presidential Election, 9 November 2013**

19 November 2013

Dear Secretary-General,

As Chair of the Commonwealth Observer Group to the 2013 Maldivian Presidential election, I have the pleasure of conveying to you the enclosed Report, encapsulating the Group's reporting on the three elections that we have observed in Maldives. This extended Report reflects the fact that Commonwealth Observers visited Maldives on four occasions between 31 August and 19 November, as our observation mission became unexpectedly protracted due to the political and legal complications that repeatedly arose during the electoral process.

We were pleased to have found the first-round election that took place on 7 September 2013 to have been credible and consistent with the international standards to which Maldives has committed itself.

However, shortly after election day, the process moved to the courts, with the Supreme Court subsequently ordering an injunction against the holding of the scheduled second round election on 28 September, and later, on 7 October, the Supreme Court ruling that the 7 September election be annulled.

As part of its verdict, the majority of the Supreme Court Bench also issued 16 Guidelines for the conduct of the re-run election. Many of these Guidelines are incompatible with existing Maldivian electoral law and, in our view, do not conform with electoral best practice.

Further challenges were faced when a scheduled re-run election on 19 October had to be called off at the last minute. This re-run election was eventually successfully held on 9 November, again in a credible and peaceful manner.

However, there was continued uncertainty over the date of the associated run-off election, which was initially set as 16 November, then brought forward to 10 November at the candidates' request, only to be later moved back to 16 November by a Supreme Court ruling. This lack of predictability over the electoral timetable has been deeply regrettable, given its negative impact on voters, the Elections Commission and indeed the candidates.

The Observer Group was therefore pleased to observe the successful conclusion of the electoral process on 16 November, with a competitive and transparent run-off election having taken place.

Our overall conclusion is that the Maldives 2013 Presidential elections have been credible and have duly reflected the democratic will of the Maldivian electorate. We have, however, provided a number of recommendations within our enclosed reports for how the process might be further strengthened for future elections, which we hope will be useful to the relevant Maldivian stakeholders.

Lastly, we would note that we have consistently been impressed by the enduring commitment of the Maldivian people to the democratic process, who on each occasion have turned out to vote in very high numbers. We have also been impressed by the professionalism of the Elections Commission and its staff, who have shown a great determination to fulfil their mandate in extremely challenging circumstances.

On behalf of the Commonwealth Observer Group, I would like to express our gratitude for this opportunity to contribute to the democratic process in Maldives.



**Dr Lawrence Gonzi**  
Chairperson

## Commonwealth Observer Group

Maldives Presidential Election, 7 September 2013

14 September 2013

Dear Secretary-General,

Following your invitation to observe the 7 September 2013 Presidential Election in Maldives, the Commonwealth Observer Group has now completed its Report and we are pleased to forward it to you for onward transmittal.

This election, the second presidential election under a multi-party democratic system, was competitive and credible. We observed that on election day the process was managed in a transparent and efficient manner. Maldivians turned out in large numbers and in a peaceful manner to exercise their right to vote. We were impressed by the confidence, professionalism and transparency of polling officials in the management of the process. The high numbers of women voters and women polling officials was another positive feature of this election.

The country's legal framework provides the basis for credible and competitive elections. The Group found that key constitutional rights and freedoms were widely respected during the election campaign

The Group has offered some recommendations in this Report to help further strengthen the electoral process. We highlight in our Report the importance of mechanisms to foster better coordination among institutions and to ensure compliance with relevant regulations. As this electoral process is not yet over and will go to a second round of voting on 28 September, some of us will return to observe the conclusion of the process. We wish to thank you for selecting us for this mission. We would also like to express our appreciation to all those whom we met during our briefings in Maldives, as well as the interpreters, boat crews and others who enabled us to fulfil our mandate effectively. Finally, we would like to thank the Secretariat for its support to this Observer Group. We hope we have made a positive contribution to Maldives and to the Commonwealth's continuing engagement here.



Dr Lawrence Gonzi  
Chairperson



**Mr Navin Bratt Chawla**

**Dr Hugh Craft**

**Mr Hendrick Paul Gappy**

**Dr Alphonse Reure Mathew Gelu**

**Mr Bruce Hatch**

**Mrs Zobaida Jalal**

**Professor Attahiru M. Jega**

**Ms Lindiwe Mokate**

**Ms Elizabeth Akua Ohene**

**Mr Stefan Andj Schubert**



**Adv. Notemba Tjipueja**



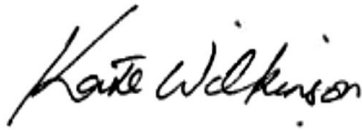
**Professor Sylvia Tamale**



**Mr John Turner**



**Dr Lisa-Ann Vasciannie**



**Hon. Kate Wilkinson, MP**



**Mr Yusmadi Yusoff**

## Maldives Presidential Election 2013: Timeline of Events

7 Sept	<b>Presidential Election is held.</b> As no candidate receives over 50 per cent of the vote, according to the Constitution a run-off election must be held within 21 days.
15 Sept	Jumhooree Party files a petition to the Supreme Court seeking annulment of 7 September election.
23 Sept	Supreme Court (four of the seven-member Bench) issues injunction against the holding of the scheduled 28 September run-off election.
25 Sept	Supreme Court hearings of the Jumhooree petition are concluded.
26 Sept	Supreme Court issues order for security forces to enforce the injunction and to take action against those who violate the injunction.
27 Sept	<b>Elections Commission announces that the scheduled 28 September election cannot take place</b> given the lack of a conducive environment.
7 Oct	Supreme Court majority verdict (four of the seven-member Bench) rules to annul the 7 September election. Supreme Court issues 16 Guidelines for holding the next election before 20 October.
8 Oct	Elections Commission announces that the re-run of the 7 September election will take place on 19 October, with a possible run-off election on 26 October.
11 Oct	Supreme Court issues an order that the Elections Commission must start anew the process of compiling the voter register and voter re-registration in accordance with the Guidelines.
13 Oct	Supreme Court issues an order that candidates' concerns regarding fingerprint verification of re-registration forms must be addressed.
18 Oct	Jumhooree Party and PPM file a petition with the Supreme Court requesting an injunction against the 19 October election.
19 Oct	Supreme Court does not deliver a judgment on the injunction petition but instead refers all parties to the Guidelines. PPM and Jumhooree do not sign the voters lists; the police refuse to assist with transporting voting materials, and police officers prevent elections officials from leaving the Elections Commission building with voting materials. <b>The Chair of the Elections Commission announces that the 19 October election cannot proceed.</b>
21 Oct	Elections Commission announces that the re-run election will take place on 9 November, with a possible run-off election on 16 November.

22 Oct	Supreme Court issues an order that all future elections must be held in accordance with the Guidelines.
6 Nov	Elections Commission agrees to request by President Waheed and the three candidates to bring forward the date of the possible run-off election from 16 to 10 November.
9 Nov	<b>The re-run Presidential Election is held.</b> No candidate receives over 50 per cent of the vote. A Jumhooree Party member petitions the court for an injunction against holding the run-off election on 10 November.
10 Nov	<b>Supreme Court orders that the run-off election scheduled for 10 November be held instead on 16 November.</b>
11 Nov	According to the Constitution, the five-year term of the incumbent government expires.
16 Nov	<b>Run-off election is held.</b>
17 Nov	The newly-elected President is inaugurated.

# Chapter 1

## Introduction

Following an invitation from the Chairman of the Elections Commission of Maldives (EC), the Commonwealth Secretary-General, Kamalesh Sharma, constituted an Observer Group for the Presidential Elections of 7 September 2013. Prior to this, the Secretary-General had sent an Assessment Mission to Maldives in June 2013 to consider the pre-electoral environment.

The Commonwealth Observer Group for the 2013 elections in Maldives was led by Dr Lawrence Gonzi, former Prime Minister of Malta, and comprised 17 eminent persons. The Observer Group was supported by a six-person staff team from the Commonwealth Secretariat. A full list of members is at Annex 1.

### Terms of Reference

*'The Group is established by the Commonwealth Secretary-General at the request of the Elections Commission Maldives. It is to observe relevant aspects of the organisation and conduct of the Presidential Elections which are scheduled to take place on 7 September 2013, in accordance with the laws of Maldives.*

*The Group is to consider the various factors impinging on the credibility of the electoral process as a whole. It will determine in its own judgment whether the elections have been conducted according to the standards for democratic elections to which Maldives has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.*

*The Group is to act impartially and independently and shall conduct itself according to the standards expressed in the International Declaration of Principles to which the Commonwealth is a signatory. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. In its Final Report, the Group is also free to propose to the authorities concerned recommendations for change on institutional, procedural and other matters as would assist the holding of future elections.*

*The Group is to submit its report to the Commonwealth Secretary-General who will forward it to the Government of Maldives, the Elections Commission, political and civil society organisations and thereafter to all Commonwealth Governments.'*

### Activities

The Observer Group arrived in Maldives on 31 August 2013. During four days of briefings, the Group met with the Elections Commission, political party representatives, civil society groups, the Broadcasting Commission, the Police, the Human Rights Commission, Commonwealth High Commissions, representatives of the United Nations, and domestic and international observers.

The Group issued an Arrival Statement on 2 September 2013 (Annex 2). Observers deployed in the atolls from 5 to 9 September 2013, and on election day teams visited polling stations in 14 atolls across the country. During deployment, teams met with election officials, political party and civil society representatives, and the police, as well as other observers.

On the basis of the Group's initial findings and observations, the Chairperson issued an Interim Statement on 9 September 2013 (Annex 3). The Group's Final Report on the first round of voting was completed in Malé prior to departure on 14 September 2013 and thereafter transmitted to the Commonwealth Secretary-General.

## **Chapter 2**

### **Political Background**

#### **Pre-2008 Democratic Reform**

Maldives achieved independence in 1965, and established itself as a republic in 1968. The country was ruled by President Maumoon Abdul Gayoom from 1978 to 2008, with Gayoom elected for six successive terms by single-candidate referenda. In 2004, in response to civil unrest and domestic pressure, President Gayoom and his government pledged to embark upon democratic reforms that would include a more representative political system and expanded political freedoms. Political parties were subsequently legalised in 2005, and in 2006 the Government launched a 'Roadmap for Reform', setting out a two-year timeline for implementing a number of reforms, including a new Constitution and related bills on the freedom of assembly, the judiciary, police powers and the establishment of a Human Rights Commission. The new Constitution was ratified in 2008; the constitutional model adopted was that of a Presidential Republic, with a directly elected President and Parliament (People's Majlis).

#### **2008 Presidential Elections**

The first-ever multi-candidate, multi-party presidential election was held on 8 October 2008. There was no decisive winner in the first round. The Dhivehi Rayyithunge Party (DRP) candidate, President Gayoom, received 40 per cent of the vote, falling short of the 50 per cent plus 1 required for outright victory. The Maldivian Democratic Party (MDP) candidate, a campaigner for democratic reform, Mohamed Nasheed, was the runner up, with approximately 25 per cent of the vote. An alliance of opposition parties was subsequently put together endorsing Nasheed for the second round of the election. With 54 per cent of the vote in the second round, Nasheed was elected President. Nasheed's running mate, Dr Mohamed Waheed Hassan (leader of the Gaume'e Ittihaad Party), became Vice President. Nasheed subsequently appointed a Cabinet that reflected the new alliance of parties. However, some of the alliance members left the Government very shortly into its term.

A Commonwealth Observer Group was present for both rounds of the 2008 Presidential election, and stated that overall the process was credible and met many of the benchmarks for democratic elections to which Maldives has committed itself. Recommendations were made regarding a number of issues in the electoral process.

#### **2009 Parliamentary Elections**

The first parliamentary elections were held in May 2009. MDP achieved the largest share of the vote (31 per cent compared with 25 per cent for DRP), which, under the First Past the Post electoral system, translated into 26 seats, slightly less than the 28 seats secured by DRP. DRP and other opposition parties (i.e. parties that were not in the MDP-alliance Government) were therefore able to command a working parliamentary majority between them, enabling them to block Executive-led legislative initiatives. Commonwealth observers were also present for the parliamentary elections.

## **Increasing Political Tensions**

The 2008 Constitution created an overall model that reflects a mix of political systems, a result of the compromises that were struck by the political parties during its development. Consequently, this new model is not always easily applied and disagreements between parties precipitated a power struggle in mid-2010 between the Executive and the opposition-dominated Legislature, and also between the Executive and the Judiciary. Arrests in June 2010 of two opposition MPs, which the Supreme Court ruled were unconstitutional, further exacerbated relations between the parties.

## **Local Council Elections**

In February 2011, the current Elections Commission oversaw Maldives' first Local Council elections. DRP obtained the largest number of seats - 496 seats with 46 per cent of the vote - compared with MDP's 387 seats with 36 per cent of the vote. MDP won in the two metropolitan areas, Malé (9 of 11 seats) and Addu (all 7 seats).

## **Formation of a New Political Party**

In October 2011, a new political party, the Progressive Party of Maldives (PPM), was formed as a breakaway of the DRP. This new party was led by former President Gayoom, who was joined by a number of DRP and other opposition MPs.

## **February 2012 Transfer of Power**

The political environment became increasingly unsettled in Maldives from November 2011 onwards, with rallies organised by some opposition parties and other groups in protest against the Government. Tensions escalated in mid-January 2012 following the allegedly unconstitutional arrest and detention of the Chief Judge of the Criminal Court, Judge Abdulla Mohamed. (This matter is still before the courts.) Protests took place in Malé throughout the period of the judge's detention. Late in the evening of 6 February, protests came to a head, and police officers demanded assurances that they not be given any 'unlawful orders'. On 7 February, President Nasheed resigned from office in contested circumstances. In accordance with the Constitution, Vice President Waheed was sworn in as President. President Waheed subsequently formed a 'Unity Government', which comprised all political parties except MDP. (MDP had turned down President Waheed's offer of three cabinet positions.)

The following day, on 8 February, former President Nasheed stated that he had been forced to resign, and large demonstrations by MDP supporters took place in reaction. Violence broke out in Malé and Addu, and arson attacks on government buildings were allegedly committed by protestors in Addu. Some police officers are alleged to have reacted with excessive force, with some MDP members having been subject to police brutality according to the subsequent findings of the Police Integrity Commission.

On 1 March, the Commonwealth Secretary-General appointed Sir Donald McKinnon as his Special Envoy to Maldives, with the objective of promoting the consolidation of democratic culture and institutions in Maldives, as well as Commonwealth values and principles.



The political environment remained highly strained for some time. MDP street protests against the Waheed Government took place on a regular basis, with members of Unity Government parties and the police complaining of continued harassment and intimidation by MDP supporters. MDP complained of alleged excessive use of force by police against protesters and complained of charges brought against MDP politicians.

Given former President Nasheed's assertion that he had been forced to resign under duress, a Commission of National Inquiry (CoNI) was established to examine the events surrounding the transfer of power. On 29 August, the Commission reported its main finding that "the change of President in the Republic of Maldives on 7 February 2012 was legal and constitutional". It also stated that "there were acts of police brutality on 6, 7 and 8 February 2012 that must be investigated and pursued further by the relevant authorities".

In its recommendations, the CoNI Report noted "an urgent need to address an apparent climate of popular discontent and division engendering hatred between individuals and communities, propelled by the politicisation of the media". It also recommended that institutional strengthening take place in a number of areas, including the Maldives Police Service and the Police Integrity Commission, the Judiciary and the Judicial Services Commission, the People's Majlis, and the Human Rights Commission.

Former President Nasheed initially accepted the CoNI Report "with reservations". However, in January 2013, the Majlis Executive Oversight Committee, in which MDP has a majority, sought to review the CoNI Report. Former President Nasheed subsequently stated that some key security services officials had testified to the Executive Oversight Committee that the CoNI Report did not reflect the statements they had made to the CoNI and had also testified that he had resigned under duress in a "police and military backed coup d'état".

In mid-2012 the Prosecutor-General filed a case against former President Nasheed for the detention of Judge Abdulla Mohamed. The Judicial Services Commission selected a three-member panel of judges to hear the case in the Hulhumalé Magistrate Court. The case has been suspended since April 2013 pending a High Court case into the legality of the composition of the Bench.

### **Significance of the 2013 Elections**

The 7 September 2013 elections are the second Maldivian presidential elections to be held under a democratic system and thus represent an important step forward in the further consolidation of democracy in Maldives. Furthermore, the elections have been viewed by some stakeholders as an opportunity to move on from the political upheaval and acrimony of the recent past.

## **Chapter 3**

### **Electoral Framework and Election Administration**

#### **Electoral System**

The President of Maldives is elected for a five-year term and can serve a maximum of two terms in office. The President is elected in a single national constituency on the basis of a majority system.

In order to be elected in the first round a candidate needs to secure more than half of all valid votes cast in the election. If no candidate fulfils this condition then the two leading candidates contest a run-off election. In the run-off, whichever candidate secures the most votes is the winner.

Maldives' administrative structure consists of 21 atolls, 200 inhabited islands, plus 90 tourist resort islands and the capital city Malé.

#### **International and Regional Commitments**

Maldives has committed itself to several major regional and international instruments relating to human rights and the conduct of elections. These include:

- International Convention on Civil and Political Rights (2006)
- South Asian Association for Regional Cooperation – Charter on Democracy (SAARC) (2010)
- Convention on the Elimination of all forms of Discrimination Against Women (2006)
- International Convention on the Elimination of all forms of Racial Discrimination (1984)
- Convention on Rights of People with Disabilities (2010)
- Commonwealth Charter (2012)

Additionally, the Maldives Constitution guarantees fundamental rights and freedoms, including freedom of expression, assembly, association and participation in elections.

#### **National Electoral Legal Framework**

The key documents providing the legal and regulatory framework for the conduct of the presidential election are:

- The Constitution (2008)
- The Presidential Elections Act (2008)
- The Elections (General) Act (2008)
- The Presidential Election Regulation (2013)
- The Political Parties Act (2013)

#### **Elections Commission Maldives (EC)**

The 2008 Constitution provides for the establishment of the Elections Commission (EC), which is comprised of five members: a Chairperson and Vice-Chairperson and three other Members. The President, on the advice of the Majlis (parliament), appoints

members of the Commission. To qualify as a member, a person must, among other things, be a Maldivian citizen, a Muslim, and not belong to a political party. Members can serve a maximum of two five-year terms on a full-time basis. The current Chairperson of the Commission is Mr Fuwad Thowfeek.

During an election period, the Commission establishes: an Elections Committee in each Atoll, comprised of three members; an Election Focal Point appointed for every inhabited island; and a City Elections Committee, comprised of three members in every city, except Malé, which is represented by the Elections Commission.

As provided for by Article 167 of the Constitution, the Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections. Its prescribed duties include to:

- prepare, maintain, and update electoral rolls;
- declare results of those elections and referenda within periods that shall be prescribed by law;
- fix, vary, demarcate and continuously review the boundaries and names of constituencies or voting units in all elections and to publish it in the Government Gazette;
- register political parties;
- verify political party finance;
- issue code of conduct for political parties;
- educate people on the electoral process and its purpose;
- formulate national and regional electoral policies; and
- conduct voter information and education.

The Elections (General) Act 2008 provides the regulatory framework for the administration and conduct of elections. The Presidential Elections Act 2008 provides the guidelines for the conduct of the presidential elections. The Presidential Election Regulation 2013 outlines the specific procedures for conducting the presidential elections. The Regulation also outlines the procedures for the establishment of mechanisms essential for the conduct of the elections such as the National Advisory Committee (NAC), a seven member advisory body comprising a representative each from the political parties or independent candidates contesting, the Human Rights Commission, the Maldives Police Service, a representative of a national Non-Governmental Organisation, the Media Council and the Broadcasting Commission. Its mandate is to advise the Elections Commission on matters specifically related to the presidential election.

### **Voter Eligibility and Voter Registration**

In order to be eligible to vote, a person must be a citizen of Maldives and at least 18 years of age. Additionally, persons who have been convicted of a criminal offence and sentenced to prison for a period of more than five years and serving that sentence are barred from voting.

The Elections Commission is mandated to maintain and update the Register. The Register is formed using data from the National ID system, hospital birth records, death records, and the family household registry, which lists the members of a family on an island. Once a Maldivian reaches the age of 18, they are to be automatically added to the Register. Consequently, instead of a manual registration period where

eligible voters physically register themselves, there are register verification periods. This is a time frame provided by the Elections Commission for citizens to verify their data on a list. For the purposes of this election, from 30 May to 9 June 2013, the Register was published and eligible voters were able to verify their data on the register and submit amendments or complaints. Then again from 30 June to 7 August 2013, a re-registration period was held, during which the Elections Commission published a provisional list and voters could change the location in which they would vote. The re-registration period was provided to enable those working and living outside of their permanent place of residence to change where they would actually be voting.

The Elections Commission also established an SMS service for voters, whereby they could text their National ID number and receive an automated response confirming the voter's name on the Register and their polling station location.

The Elections Commission stated that 65,745 persons (or 27 per cent of eligible voters) had re-registered their places of voting for the 7 September election.

In addition to eligible Maldivian citizens within the country, eligible citizens living overseas could also register to vote. According to the Presidential Election Regulation, diplomatic missions in locations with a minimum of 100 registered persons had to make provisions for those citizens to vote. As a result, voting took place in India, Malaysia, Sri Lanka, Singapore and the United Kingdom. The total number of registered voters in this category was 5,608.

The final Register contained a total of 239,593 eligible voters, with a disaggregation by gender of 123,175 males and 116,418 females.

### **Candidate Eligibility and Nomination**

According to the Maldives' Constitution, to be eligible as a presidential candidate, a person must be a Maldivian citizen born to parents who are Maldivian citizens, and who is not also a citizen of a foreign country; be a Muslim and "follower of a Sunni School of Islam"; be of sound mind; at least 35 years of age; not have an undischarged decreed debt; and not have been convicted of a criminal offence and sentenced to a term of more than twelve months, unless a period of three years has elapsed since his/her release or pardon.

For the nomination process prospective candidates had to submit to the Commission several documents which include an application form, their National ID card number, their party logo, the name of their vice presidential candidate, as well as a cash deposit of 40,000 Rufiyaa (USD 2,600 approx.). There are provisions for independent candidates who, in addition to the prescribed documents and information, must also submit a statement signed by at least 1,500 eligible voters showing support for the candidate.

### **Complaints, Appeals and Election Petitions**

Election Complaints Bureaus are established by the Elections Commission and are tasked with addressing electoral complaints. Complaints submitted to a Complaints Bureau are regarded as submitted to the Commission. The Presidential Elections Regulation 2013 provides for the establishment of two tiers of complaints bureaus. A National Elections Complaints Bureau, comprising five members and seven

administrative staff, is established at the start of the presidential candidate application period and remains in operation until 14 days after the official election results are announced. Where a second round of the election is required, the National Elections Complaints Bureau remains in effect from the date of its establishment up to a period of 14 days following the date on which the official election results of the second round are announced.

At the sub-national level, Atoll/City Elections Complaint Bureaus, comprising three members are established. These are set up ten days prior to election day and function for a period of seven days following the completion of the elections. Additionally, the Commission appoints an Election Focal Point to every inhabited island who is responsible for coordinating the logistical arrangements for an election and can also receive complaints prior to the establishment of the Atoll/City Elections Complaints Bureaus.

With regard to the procedures for filing a complaint, according to the Elections (General) Act, every individual having the right to vote in the election has the right to file a complaint. Elections related offences outlined in the Act include:

- voting more than once;
- giving false information in order to stand for elections;
- preventing or hindering an individual from voting;
- spending in excess of the limits specified;
- giving or accepting contribution in excess of limits specified;
- taking a ballot out of the voting area;
- selling or issuing a ballot to a person not entitled to it; and
- deliberately counting a valid ballot as invalid.

The penalties for the commission of any of the offences highlighted are imprisonment for a term between one and four years or a fine between 12,000MRF and 48,000 MRF.

Any decision of the Commission relating to a complaint, as well as decisions relating to the election results, can be challenged in the High Court. However, with regard to petitions relating to criminal offences, only the Elections Commission has the discretion to refer the matter for judgment to the High Court through the Prosecutor General.

Where a petition is filed with the High Court, it should be submitted to the Court not more than 14 days from the announcement of the official election results. The Court should provide its judgment not more than 30 days from the announcement of the official results.

Where a petition is filed for the invalidation of results due to irregularities, the challenge may have an impact on the outcome, and the Court determines that the results could change, the election from that area is declared invalid.

Two election-related complaints were filed in the courts by political parties during the election period. A PPM member lodged a challenge with the Supreme Court prior to election day, reportedly requesting an audit into the EC's IT system as well as a ruling confirming the legal mandate of security services to ensure a secure election. Complaints were also lodged at the High Court by the Jumhooree Party following the election, seeking the release of voter lists and ballot box sheets given allegations of voter fraud made by the Jumhooree Alliance candidate.

Commonwealth Observers were also informed that the Elections Commission had forwarded a small number of alleged fraudulent re-registrations of voters to the Police for investigation.

## **Key Issues**

### **1 Complaints and Appeals Mechanism**

One of the key recommendations outlined in the Commonwealth's 2008 Observer Group report was for clarity and coherence around the mechanisms for complaints and appeals.

Under Article 62 of the Elections (General) Act, the Elections Commission is responsible for establishing a mechanism to receive and expeditiously address elections complaints. Article 51 of the Presidential Election Regulation 2013 outlines the mechanism and the operational structure for addressing complaints.

The procedures, roles and responsibilities of the various national institutions, and the timeframe for a response and expeditious resolution of complaints, remain ambiguous. Furthermore, the gap period between the establishment of the National Elections Complaints Bureau and the Atoll/City Complaints Bureaus has the potential to cause confusion around the authority and mandate of the various levels.

As of 9 September 2013, the Elections Commission through the National Elections Complaints Bureau reported that it had received 454 complaints. The complaints filed ranged from issues related to the Register, to campaigning and 'anti-campaigning', to allegations of bias on the part of polling officials. The Bureau confirmed that 85 per cent of the complaints raised related to the Register.

The complaints process remains active as the Commission prepares for the run-off on 28 September. Commonwealth Observers will be following the process closely.

### **2 Voter Register**

Concerns about the integrity of the register were in the forefront of considerations approaching the 2013 elections, given the experiences of the 2008 election where the accuracy and quality was widely questioned.

The voter register for the 2013 election represented a major improvement. The Commission took steps to ensure accuracy of information and transparency in the administration of the process. The Commission engaged the electorate, providing two periods for verification of information and amendments. This was welcomed by the political parties and other national stakeholders. Additionally, the provisions made to enable those living outside of their permanent place of residence to change where they would actually be voting were well received, as was the SMS number through which voters could verify their status and information on the register.

Although there were some complaints, on election day the Register appeared to be accurate. Fears expressed by some political parties regarding possible large numbers of deceased voters remaining on the list and voters registered in the wrong geographic area seemed to be unfounded. In the few instances of omission or incorrect

registration that were observed, it was clear that polling officials followed the prescribed procedures to resolve the complaint.

### **3 Women's Participation and Representation**

The high level of women's participation as voters and as polling officials was a positive feature of this election. The total number of registered women voters was 116,418, which is 49 per cent of eligible voters. Furthermore, in the course of briefings, various national stakeholders informed the Group that women were active members within political parties, often serving as key mobilizers.

Despite the overwhelming representation and participation of women at the grassroots level of political parties, there were reportedly only a small number of women in paid senior management in political parties or in key party leadership positions. It was further noted that there remained socio-economic and political barriers to women's participation at the senior most level or even as candidates. Currently, there does not seem to be any formal incentive or requirement for political parties to promote women's participation as candidates.

### **4 Electoral Legislative Framework**

The legal framework governing this election provides adequately for the conduct of democratic elections. The Presidential Election Regulation 2013 further contributed to the framework and overall administration of competitive and credible elections.

However, the absence of effective enforcement mechanisms for the violation of electoral offences, and the lack of clarity and coordination between the relevant institutions has highlighted the gaps in the legislation. For example, the size of candidate expenditures, as well as allegations of vote buying and allegations of the misuse of state resources, was a focus of the elections period. The ability of candidates and the parties to spend on their campaigns without public accountability was of concern to many of the national stakeholders. The lack of clarity and inconsistencies in the Political Party Act 2013 weakened transparency and accountability in this regard.

### **Recommendations**

- There is a broader need to encourage and facilitate women's participation at senior management positions as well as being candidates for future elections. It is important that there are mechanisms put in place to promote gender balance in representation in the parliament and within other institutions.
- The Elections Commission has issued a series of Codes of Conduct to help regulate the electoral environment. However, to be effective these require suitable mechanisms to ensure compliance and accountability.
- Mechanisms for fostering better coordination, and clear guidelines for the complaints process, can only strengthen the authority and transparency of the Elections Commission. Additionally, they fully provide for the right to an effective legal remedy.

- There should be strengthened legislation governing campaign finance and expenditure, with enforceable sanctions, to ensure adequate transparency and accountability.



## Chapter 4

### Election Campaign and Media

#### Campaign

While the official campaign period started 30 days prior to the election, the four candidates' campaigning started much earlier, at least informally. Candidates held political rallies and events across Maldives in the preceding months, and conducted door-to-door campaigning with the active engagement of parties' local branches. Policy manifestos were also launched closer to the election date.

The Jumhooree Gulhun candidate, Qasim Ibrahim, made extensive visits to the islands in the months leading up to the election, and a campaign launching ceremony was held on 2 August at which the alliance's manifesto was released. It was reported that Jumhooree policies included increasing opportunities for higher education and vocational training, raising salaries for those in the health and education sectors, combating corruption, and improving the economy.

The independent candidate, the incumbent president, Mohamed Waheed Hassan, undertook visits to the islands with his running mate and their Gaumaigen Kuriah (Forward with the Nation) coalition. Various campaign policies were released from late June to mid-July, including on youth, healthcare, and social protection and women. Dr Waheed's full manifesto, released on 15 August, included pledges related to senior citizens, education, energy, health care, women's empowerment, housing, the economy and island development.

Following the PPM primary in March 2013, the PPM undertook campaigning in mid-2013, using the slogan 'Youth Economy Security (YES)' among others. The PPM candidate Abdulla Yameen Abdul Gayoom and his running mate each made a number of campaign visits to the islands; former President Gayoom also campaigned for PPM. On 3 September, PPM held a rally to release its three-part manifesto, covering issues such as youth, sports, education, the economy, health, fisheries, decentralisation, women's rights, national security, agriculture, transport and tourism.

The MDP candidate, Mohamed Nasheed, embarked on a 'Journey of Pledges' tour of the islands in late 2012, and in 2013 MDP adopted the campaign slogan of 'Eh Burun' (one round). MDP had a staggered release of 'mini manifestos' from April onwards covering policy areas such as guest-houses (tourism), labour, mariculture, agriculture, sports, health, education and foreign policy. The full MDP manifesto was released on 26 August. The MDP running mate also undertook a campaign visit of the islands in July/August.

Candidates and parties were able to assemble freely and express their views. The campaign was largely peaceful and political parties and their supporters acted responsibly overall. A few incidents of minor disruption to campaigning were reported, but these did not appear to be widespread. Atolls were vibrantly decorated with colourful party flags. Political party messages were evident on walls and houses across

Male and on other islands. Some graffiti and campaign posters negatively attacked rival candidates.

Some parties used negative rhetoric in reference to other candidates, which was not in the spirit of the code of conduct incorporated in the Presidential Election Regulation 2013. The Regulation on candidates and persons campaigning to gain support for candidates states that an act to diminish the character of any person shall not be done in efforts made to gain support for a candidate' and 'speech contradicting a tenet of Islam and acts causing disrespect to Islam shall not be done in efforts to gain support for a candidate. And allegations not possible of being proved, of the nature that any candidate or the party to which a candidate belongs to is a non-religious party or a traitor shall not be perpetrated'.

Candidates and parties generally respected legislation stipulating the cessation of campaigning at 6pm on the eve of the election. Some people clearly wore party colours when they voted the following day; however, barring one or two objections noted by the Group, this appeared to be accepted by other voters and did not cause tensions within the polling station area.

A small number of campaign-related concerns were noted to the Group, including allegations of financial and material assistance to gain support for a candidate, and alleged inappropriate use of state resources. These included:

- a donation by the First Lady Ilham Hussain to a school in Meemu Atoll;
- the Commissioner of Police, Abdulla Riyaz, tweeted a letter which asked the police not to vote for the MDP candidate Mohamed Nasheed. The Police Integrity Commission has since determined that this violated the Police Act and has recommended administrative action against the Commissioner; and
- donations of equipment and materials to schools and communities by Villa Foundation, a private charity founded by the Jumhooree candidate Qasim Ibrahim.

Candidates are permitted by law to spend up to 1,500 Maldivian Rufiyaa per voter (currently equivalent to USD 97.4 per voter or USD 23.5 million per candidate) during the 30-day campaign period. This is calculated from the day elections are announced. However, the period beforehand and the expenditure by the candidate's party are not reflected in this.

There is no limit on financial contributions to political parties and, under the Political Parties Act 2013, parties are permitted to receive anonymous donations and funding from foreign sources. Presidential candidates must declare their source of funds and expenditure; however, political parties are not obliged to make this information public.

A weak legal framework for electoral offences, combined with a lack of clarity regarding different institutions' roles in addressing some electoral offences, limits the ability for some issues of concern to be adequately addressed within a specific timeframe.

### **Media background**

Independent media in Maldives is in its infancy. State control over print media was relinquished in 2005 and permission to operate private broadcasters allowed in 2007. Prior to this, the government had a monopoly over the media.

Television is the most popular traditional medium, with the public broadcaster Television Maldives operating alongside a number of privately-owned cable and satellite channels which appear to be far better resourced. Many private broadcasters are either owned by politicians or linked to political interest groups. Radio is less popular, but a growing medium. Television and radio are regulated by the Maldives Broadcasting Commission although the Maldives Media Council also has regulatory powers under the Media Council Act (2008). In 2012, the state broadcaster, which had been operating under a government-owned company, was brought under the Maldives Broadcast Corporation, an independent statutory body.

There are a number of newspapers, again generally displaying political leanings. Literacy rates are high in Maldives and newspapers are widely read. Many are available online with both Dhivehi and English editions. The Maldives Media Council regulates all media, but in practice, focuses on print and online media. Privately-owned print media present a wide diversity of viewpoints. Most newspapers are not profitable and many rely on financial backing from business with vested political interests.

Social media is widely used and highly influential, given the large population of young people in Maldives. The Group noted that Twitter is a significant means of public communication in Maldives. The internet was accessed by about 39 per cent of the population in 2012.

Independent media is a new sector in Maldives and there is no established tradition of professional practice and ethics. The Maldives National University offers a diploma course in journalism that has been welcomed by media representatives and others.

In 2009, the Maldives Journalists Association was formed. Its goals are, amongst others, to advocate for the rights and protection of journalists and to promote cooperation and professionalism among journalists.

The 2012 Freedom House report described media in Maldives as 'partly free' and said the legal framework protecting free expression is weak, with many reform bills still awaiting passage.

In the 2013 Reporters without Borders Press Freedom Index, Maldives ranked 103, a fall of 30 places, reflecting threats and assaults against media following the unrest of February 2012.

### **Legal framework and press freedom**

The 2008 Constitution states that '[e]veryone has the right to freedom of thought and the freedom to communicate opinions and expression in a manner that is not contrary to any tenet of Islam'.

In 2010, the Maldives Media Council was established as an independent body tasked with developing a code of conduct for journalists and investigating complaints from the public. It comprises eight media workers and seven members of the public appointed by the Minister of Information.

The Maldives Media Council Act incorporates the main elements of a self-regulatory mechanism. The Council is an independent legal entity, possessing power to take and

be involved in legal proceedings and to make undertakings in its own capacity. The Maldives Media Code of Ethics lays down basic standards and norms of a free media.

The 2010 Broadcasting Act provides for the establishment of the Maldives Broadcasting Commission which oversees the licensing and regulatory process of broadcast media.

The Broadcasting Commission commenced work in 2011 and is composed of seven members selected by the People's Majlis and appointed by the President.

The media remains a sector that needs attention. Regulation is weakly implemented and the institutions responsible appear to lack capacity. Grey areas of oversight exist between the Broadcasting Commission and that of the Media Council and, during election periods, the Elections Commission.

### **Media and the Campaign**

In 2012, the Commission published a Broadcasting Code of Practice, but with no specific provisions for elections. In August 2013, the Broadcasting Commission issued 'Guideline[s] for Political Coverage During Elections' which specifies the standards and principles to be applied in the coverage and broadcast of political news during the election period.

The Broadcasting Commission informed the Group that due to budgetary constraints they were only able to undertake limited elections-related training for the media for this election.

Article 30 of the Elections (General) Act specifies that all candidates be given equal airtime to campaign on both public and private broadcast channels, but does not specify which Commission (the Broadcasting Commission or the Elections Commission) has the responsibility to address complaints during election time.

In August 2013, the Maldives Broadcasting Commission released a statement urging broadcasters to follow the Elections (General) Act, the Code of Practice and the Guideline[s] on Broadcasting Political Content During Elections.

Legislation governing the Maldives Broadcasting Corporation states that the channels run by the corporation shall provide airtime to the candidates competing in national and local elections throughout the duration of the campaign and in an equal and fair manner. Free airtime on Television Maldives and Dhivehi Raajjeyge Adu, the national radio, started in July for the candidates to broadcast their campaign pledges.

The national broadcaster Television Maldives (TVM) was widely considered to have acted fairly towards all political parties and candidates in line with Article 30 of the Elections (General) Act, which specifies that all candidates be given equal airtime to campaign on broadcast channels. TVM broadcast four live programmes, each focused on a single candidate. They also aired two debates, one with running mates and the other a presidential debate with all four candidates. TVM also provided regular voter education slots.

Coverage of the campaign by some privately-owned broadcast and print media generally reflected political bias associated with ownership and or affiliations.

During the campaign period, the Commission monitored 10 television stations for direct access time allocated to candidates and prime time coverage. It requested all broadcasters to submit recordings of content aired during direct access time. During prime time, the Broadcasting Commission monitored the time allocated to the topics of the Government, the Elections Commission and the four presidential candidates. The tone of the coverage was also monitored as being either positive, neutral or negative. The Commission was the only organisation monitoring media during the elections and it plans to issue a polls-related Broadcast Report shortly. The Commission reported that they did not have the facilities or equipment to monitor radio.

A number of stakeholders suggested reluctance by regulators to exercise their powers to enforce the legislation, ostensibly due to a mixture of capacity constraints and blurred boundaries between institutional responsibilities.

Social media was a popular campaign tool and was used prolifically by political parties, their supporters, officials and the public to convey and relay information and misinformation.

National and some international media were visible on election day. Media were accredited as 'monitors' and able to move between polling stations, filming and taking photographs. Not all monitors were working journalists, but were deployed by media houses to relay information during the day. Commonwealth Observers noted that, while enhancing transparency, freedom of the media to operate close to polling booths using cameras to zoom in on voters while they cast their ballot could have impacted on secrecy of the vote.

The code of conduct for candidates, candidates' representatives, observers and monitors in the Presidential Election Regulation 2013 stipulates that 'observers, monitors and representatives of candidates shall not enter the voting booth and shall not attempt to view the ticking of [a] ballot paper' and 'persons given permits to monitor election shall not go closer than 10 feet to voting booths, while taking photographs, and recording and broadcasting audio and video within the polling areas'. This should be more actively enforced by election officials, while media should be clear about their responsibilities as monitors on election day.

Television Maldives streamed live updates of the tally as results came in from the atolls. This was complemented by regular updates from online news channels. Twitter was active; many misleading tallies were tweeted by party supporters during the hours until provisional results were announced by the Elections Commission.

On a positive note, concerns by voters and political parties relayed extensively in the media prior to election day allowed institutions to address many concerns, such as turning the voting booths around to ensure full integrity of the voting and allowing voters to bring their own pens after rumours circulated of pens with disappearing ink being placed in voting booths.

## **Recommendations**

- There should be capacity building to strengthen regulatory media institutions so that they enforce regulation under their remit and are perceived to be responsive to complaints in a timely manner. This applies particularly to the monitoring of

private broadcasters and their adherence to regulation provided for in the Elections (General) Act, Article 30.

- The framework governing the Broadcasting Commission and the Media Council should be reviewed to ensure clarity as to their different oversight responsibilities.
- A review of legislation with regard to the roles and responsibilities of the Broadcasting Commission and the Media Council vis à vis the Electoral Commission should be undertaken.
- There should be media training on elections coverage to strengthen the media's ability to report fairly and responsibly and to promote the professionalisation of media within Maldives.
- The legal framework for electoral offences should be strengthened and the oversight roles of relevant institutions clarified.

## Chapter 5

### Voting, Counting and Results

The first round of the 2013 Presidential elections took place on 7 September. Polling was scheduled to occur from 0730 to 1600 hours in 470 polling stations. A polling station was defined by the Elections (General) Act as 'the area 100 feet from the ballot box, including parks, empty spaces and football grounds but excluding streets, roads and residential places inside the area'. Polling stations were organised within public facilities such as schools and community centres. For resort-worker voting, which took place on private property, the ballot boxes were placed in a staff-only area.

Campaigning is prohibited from 1800 hours the day before the election to 0600 hours the day after the election. During this period, no material other than that used by elections officials should be displayed.

Polling stations with fewer than 700 registered voters were managed by seven staff which included a Head of Polling Station who also served as Complaints Officer. For stations with more than 700 registered voters, the process was managed by a 10-person staff complement. Polling officials were directed to be present at least 45 minutes prior to the start of polling.

On 3 September, a Memorandum of Understanding was signed between the Maldives Police Service and the Elections Commission, stating the role of the police during the election period. Police officers were present outside all polling stations on election day to provide security and ensure observance of the general rule of law, but their presence was unobtrusive.

#### Key Procedures for Opening and Voting

The stated procedures for opening and voting are as follows:

##### *Opening*

- The polls are scheduled to open at 0730 hours.
- The candidate list and the register should be displayed where they can be easily seen by everyone.
- Fifteen minutes prior to the opening of polls, the sealed security envelope containing the ballot papers should be opened to determine that it contains the allocated number of ballot papers for that particular polling station.
- The ballot box is shown to all present to confirm that it is empty and then sealed.
- Accredited party agents, domestic and international observers, as well as media (monitors) are allowed to be present.

##### *Voting*

- The voter presents a valid personal ID (passport, driving license with photo or identity card number).
- The voter's name is confirmed against the register, a mark is made and the ID card number is noted.

- The voter's fingers are inspected for previous ink stain marks and then, using indelible ink, the left index finger is stained and kept for 30 seconds for the ink to dry.
- The voter is given a ballot paper.
- A second mark beside the name of the voter is made on the register to confirm that a ballot paper was given.
- The voter proceeds to the voting booth and casts his / her vote.
- The voter then places the ballot paper in the ballot box and exits the polling station.

The Presidential Election Regulation outlines provisions for assisted voting, which enables a voter requiring physical assistance to vote have another registered voter of their choice assist them on the day. The provisions limit those that can be assisted to the visually impaired, those with disabilities in both hands, and those incapable of placing a mark due to old age or weakness.

### **Assessment of Opening and Voting**

On election day, Commonwealth Observers reported a peaceful process that was well-managed and transparent. Voters were free to exercise their franchise. Polling officials were methodical in their approach and largely consistent in the application of procedures. Party agents and national observers were present throughout the country. Voters turned out in large numbers, particularly at the outset of the voting.

The key observations of Commonwealth teams were:

- Voting materials were delivered on time and all stations observed opened on time.
- Observers noted the important role of Netbooks (laptops) in verifying voters' details in the register, as well as the presence of a hardcopy of the register for that polling station.
- The layout of polling stations was generally good, facilitating the flow of voters, communication between officers and appropriate scrutiny of the process. However, in a few instances where there were space constraints, party agents and observers were situated too close to the booth and the secrecy of the vote could have been compromised.
- Additionally, Observers noted that the layout was based on the attempt by the Elections Commission to positively respond to fears expressed by political parties regarding voter fraud. Polling booths were rearranged so that the voter's back would be to the polling officials and observers, in order to minimize the risk of fraudulent practice.
- The Maldives Police Service maintained security around polling stations in accordance with its agreed role, while polling officials maintained order at all polling stations observed.
- Commonwealth Observers were impressed with the conduct and professionalism of the Commission's polling staff. They noted positively that the majority of polling officials were women. Polling officials displayed a commendable level of confidence and transparency in their management of the process.
- Observers noted ambiguity in the application of the assisted voting provisions.
- Observers also noted concerns raised by some political parties regarding the difference between the voter turnout figures officially announced by the Commission at midday (slightly above 70 per cent) and the final voter turnout



figures also announced by the Commission after close of voting (at 88 per cent). The Commission later explained that this difference was mainly due to missing data because of connectivity problems with some islands during the course of the day.

### **Procedures for Counting and Results Tabulation**

The stated procedures for the counting and results processes are as follows:

- The polls are scheduled to close at 1600 hours. Voters waiting in line at the close of poll are allowed to vote and voting continues until the last person in line has voted.
- Following the last vote, the Senior Polling Official closes the polling station by sealing the ballot box. There is a 30 minute rest period.
- Party agents, national and international observers and monitors are permitted to witness the count process.
- Party agents and observers are briefed on the counting procedures.
- The ballot box is opened and emptied.
- The ballots are sorted into piles for each candidate. Each ballot is shown clearly to all present.
- Invalid votes are placed in a separate pile.
- Ballot papers are then counted and organised into bundles of 50 and the vote tally is announced.
- A temporary results sheet is completed and signed by the Senior Polling Official and two other polling officials.
- The ballot papers, a copy of the temporary results sheet and all associated documents (counterfoil and unused ballots) are placed in tamper-proof envelopes and sealed.
- Results are then transmitted by Netbook, fax or mobile phone.
- Upon completion of the process, the results sheet is posted outside the polling station.

### **Assessment of Counting and Results Tabulation**

The vote count at the polling stations was transparent, with party agents and observers able to follow the process closely. The media were present for declaration of results at polling stations. Live results were broadcast on television as the results were calculated.

Key points noted by Commonwealth Observers were:

- Most people had voted by midday and most polling stations observed closed within the prescribed time.
- The count was conducted in an orderly, transparent and inclusive manner. Polling officials clearly communicated every aspect of the counting and tallying process to party agents and observers.
- Observers noted that despite the intention of the voter being clearly indicated, some ballots were invalidated due to the type of mark made.
- During the course of reporting the count from all stations to the Counting Centre, the IT system encountered connectivity problems as well as intermittent data overload. As a result, the Commission was unable to report real-time updates of counts as transmitted by polling stations during the course of the evening. It is recommended that for the future the Commission should make sure that the IT system can respond to the challenges that may arise.

Backup alternatives should be in place in order to make up for any eventual shortcomings in the system.

- Party agents were well represented during the count and were observed to be actively scrutinising the counting process.

### **Overview of the Countrywide Observation**

Commonwealth teams were based in nine atolls and, on election day, visited 14 atolls. Teams observed the voting, counting and results tabulation. During their period of deployment they met with electoral officials, observers and other stakeholders at the island level to build up a broader picture on the conduct of the process.

### **Alifu Alifu (North Ari) Atoll and Alifu Dhaalu (South Ari) Atoll**

- Campaigning in Ari was clearly dominated by two candidates, though campaign material of the other candidates was also visible.
- Observers noted that the election was characterised by a spirit of tolerance and that officials prioritised the maintenance of peace in the lead up to elections.
- There were a number of polling booths in resorts in Ari and concerns had been expressed about intimidation of staff members. However, the results of polling on these resorts suggests that this was not the case.
- Observers noticed that on resorts owned by one of the candidates, the only visible campaign material in the staff areas was in support of this candidate. The team noted that the display of campaign materials was not allowed on the other resorts that it visited.
- On polling day, the team was impressed by the level of organisation, meticulousness, confidence and efficiency of the officials at the polling booths. They also noted that a majority of officials at the polling booths in Ari were young women.
- The team noted that in some cases, polling stations were quite small and the positioning of the polling booth could potentially have had an impact on the integrity of the vote. The team were told that three complaints had been made to the Atoll Elections Complaints Bureau regarding the layout of one of the polling booths.
- Party representatives, observers and monitors were present in polling booths throughout the atoll.
- During the counting, the Observers noted that polling officials were transparent and professional, and the head of the polling station was always willing to respond to party representatives if they raised any queries during the process.
- Results were accepted without acrimony on the islands that observers visited.
- While some polling booths were coordinated by the Atoll Unit of the Elections Commission, others were directly coordinated by the Elections Commission in Malé. In some instances this led to a degree of confusion at the Atoll level. The team would recommend the development of clearer procedure with regard to this.

### **Baa Atoll and Lhaviyani Atoll**

- Campaign and voter education material was clearly visible.
- Candidates were given the opportunity to campaign freely.
- Polling stations opened at 0730 in the presence of all party observers, Transparency Maldives and media monitors.
- Voters' lists and instructions on how to vote were well displayed in polling stations.

- There were large queues in the morning and by noon almost over 60-70 per cent had voted.
- There were high numbers of women voters.
- Some media monitors zoomed their cameras onto the ballot whilst voters cast their vote: secrecy of the vote was slightly compromised.
- Polling station officials were well trained and worked in a transparent and professional manner.
- There were high numbers of young polling officials and of women polling officials.
- Police were visible, but discreet.
- The environment was calm and peaceful and no form of intimidation or fear was observed.
- Polling stations were accessible to all, especially persons with disabilities.
- Voters were identified according to prescribed procedures and no one was turned away from polling stations.
- After applying indelible ink on the voter's finger, polling officials allowed 30 seconds for the ink to dry; this ensured no double voting and ensured that the ink could not be wiped off.
- No voters were observed queuing after 1530 hours.
- Voting closed on time.
- There were very low numbers of invalid votes and Observers noted that voters clearly knew how to vote.

### **Gaafu Alifu Atoll and Gaafu Dhaalu Atoll**

- Pre-election day visits suggested that preparations were thorough and complete, and that the roles and responsibilities of election officials were well understood.
- Polling commenced on time in both Gaafu Alifu and Gaafu Dhaalu, with all polling stations properly equipped with materials and all staff on hand.
- The respective capitals, Villingili (North) and Thinadhoo (South), both areas of contention and protest during the events of February 2012, were calm and well-ordered throughout election day.
- All polling locations were well secured and administered by polling staff, with voting procedures well understood and consistently applied.
- Despite suggestions to the contrary, the voter register was accurate and there were no reports of voters being turned away for not appearing on the list.
- Polling officials in most instances set aside a table for cell phones to be retrieved by voters once having voted, thereby ensuring that the polling station's rules with regard to mobile phones were observed.
- There was significant participation of females among polling station staff, in many instances being the majority.
- There was a substantial presence of party agents in all polling stations visited, with all behaving responsibly.
- The police presence was reassuring but subtle and did not interfere in any way with the voting process.
- Closing was on time and counting methodical. Results were posted and transmitted as instructed.

### **Haa Alifu Atoll and Haa Dhaalu Atoll**

- There was much evidence of party activity and materials in the islands visited.
- Election day in both atolls was extremely well organised and conducted in a professional and competent manner by polling station staff.

- The staff had clearly been well trained and followed the process for polling as prescribed in the instructions they had been given.
- There were large numbers of female polling officials.
- Older and disabled voters together with pregnant women were given priority.
- There were queues in the morning at most polling stations but by noon the queues were much shorter and there were very few voters in the afternoon.
- The atmosphere in the polling stations was good with matters being dealt with in a calm way, including relationships between polling station staff and the various observers (domestic, party and international) and the media monitors.
- The police were present in the vicinity of all polling stations but were unobtrusive and respected the 100 feet zone.
- The count at the observed polling station was very efficiently carried out by an all-female team. The process they had to follow was slow and methodical.
- Two candidates were represented at the count by observers. Relationships between the two groups were good and there was total acceptance of decisions by the polling official and of the final result.

### **Laamu Atoll**

- The polling station observed at the start of the polls opened on time.
- The voters queued in an orderly manner.
- The police remained outside the polling station.
- The voter register was in order.
- Voter turnout was high, with women and youth turning out in large numbers to vote.
- The campaign in the islands had been reportedly peaceful, with no record of violence.
- In most polling stations, people had voted before 1600 hours.
- Candidates were free to promote their political messages and often painted messages on houses and walls to convey their manifestos.
- Specimens of the ballot papers were pasted at the entrance to polling stations to inform the voters.
- Representatives of the Human Rights Commission and Transparency Maldives, as well as overseas diplomats, were present at some of the polling stations.
- The media closely monitored the voting and counting process.
- The elderly and the disabled were given assistance to vote.
- The voting process was well organised and the voters were well behaved.
- Counting started on time at 1630 in the presence of political parties, media and observers.
- The process was transparent.
- All invalid votes were shown to the observers before being set aside.
- All observers were informed of the results immediately after the counting process completed.
- All party observers accepted the result peacefully.

### **Kaafu Atoll and Malé**

- Those polling stations observed opened on time and in accordance with prescribed procedures.
- Early morning queues were calm and orderly, and priority was given to disabled and some elderly voters.

- Police officers maintained a discreet presence, at a reasonable distance away from the polling stations observed.
- A few cases were observed that suggested some inconsistency in the approach being taken at different polling stations regarding assisted voting.
- One or more party observers were present at all polling stations and actively scrutinised the process.
- Voting booths in some smaller polling stations were positioned in a manner that could have compromised the secrecy of the vote.
- Many polling stations were empty of voters by the end of voting at 1600 hours. In a polling station where there was a sizeable voter queue at the time of closing, observers noted that polling officials adhered to the required procedure, with a polling official standing in place at the end of the queue at 1600 hours.
- Counting was undertaken in a highly methodical and careful manner, with polling officials taking time to ensure that all observers were able to see clearly each individual ballot paper.
- The number of invalid votes was low. In the very few cases where party observers queried decisions about invalid votes, polling officials were observed taking time to discuss the reasoning with party observers until there was general acceptance.

### **Noonu Atoll and Shaviyani Atoll**

- Polling in these atolls started on time and was orderly, peaceful and transparent.
- The polling booths were set up clearly, with arrows and signs for clarification. Most were spacious and protected the secrecy of the ballot.
- Polling staff at the stations were generally efficient with polling officials giving clear directions and showing leadership. Party monitors, local observers and members of the media had identification badges clearly displayed, and complied with the directives of the polling officials.
- Several Senior Polling Officials and polling officials were female.
- Voter turnout was high, particularly among women.
- Police officers were observed staying well outside the agreed distance of the polling stations and operated in a non-obtrusive manner.
- Elderly, less-abled voters were processed efficiently and quickly.
- Seats were provided in shaded areas for persons waiting in line to vote.
- Polling officials were receptive to Observers in all polling stations visited.
- There were short lines at the close of polling; polling officials observed the 30 minute period before counting the votes.
- Counting and tabulation of the vote was efficient, orderly and well conducted. Questions or requests were dealt with in a receptive and cordial manner.
- Results were posted within a reasonable time.

### **Raa Atoll**

- All polling stations were set up along the same lines and administered similarly in accordance with the Elections Commission's directives.
- Voter turnout was high in all areas, with almost equal numbers of men and women voters.
- All polling officers were well informed and well trained in their respective roles thereby inspiring confidence in voters, observers, party representatives and media monitors alike, all of whom were present displaying a close interest in each stage of the electoral process.

- Security at every stage of the ballot process was tight, particularly in respect to the storage and movement of boxes and electoral materials. The police presence, boosted on some islands, was obvious but unobtrusive.
- All four political parties were well established in all locations and representatives of all candidates moved and operated freely, without hindrance. There was significant evidence of major political activity taking place prior to election day.
- Voters were well behaved, patient and without complaint and the atmosphere at polling stations was quiet and peaceful.
- The conduct of the poll began and ended on time in the centres observed.
- The Elections Commission's arrangements and preparations for the poll were comprehensive and delivered to a high standard of efficiency and commitment by their personnel on the ground.
- Observers found that the complaints procedures worked well in the one case that was brought to their notice (the Atoll Complaints Bureau had to resolve an issue in Maakurath where PPM and MDP were in a dispute about contentious posters erected on the eve of polling day). The dispute was resolved and polling arrangements were not interrupted.

### **Seenu Atoll**

- Polling began on time and was orderly, efficient and transparent.
- Polling officers, many of whom were female, were generally efficient and organised.
- Secrecy of the ballot was slightly compromised in some stations due to the positioning of polling booths. In some cases this was exacerbated by the space constraints of the room.
- Security was visible, present, unobtrusive and friendly.
- Voter turnout was high. Some polling stations at times had long queues of people waiting to vote. Those queues had disappeared before the end of voting.
- One polling station had to be shifted due to the weather.
- In most polling stations visited, Observer identification details were checked and recorded.
- A complaint was made to Observers regarding the location of a negative campaign sign in close proximity to a polling station.
- Counting of the vote was conducted openly and transparently, with each ballot paper being held up for observers to see and then counted twice.

## The Results – First Round

### *Presidential Elections*

<b>Candidates (Ballot Order)</b>	<b>Votes</b>	<b>% (Votes Cast)</b>
Qasim Ibrahim, (Jumhooree Gulhun)	50,422	24.07%
Mohamed Waheed, (Indp.)	10,750	05.13%
Abdulla Yameen Abdul Gayoom, (PPM)	53,099	25.35%
Mohamed Nasheed, (MDP)	95,224	45.45%
Total Valid Votes Cast	209,495	
Total Invalid Votes	2,395	
Total Votes Cast	211,890	
Total Registered Voters	239,593	
Turnout %	88	
National Observers:	2306	
Local Monitors:	1736	
Candidate Representatives:	1408	

### **Recommendations**

- It is commendable that provisions were made for persons requiring assistance to vote. The Commission should ensure consistency in the application of the provision.
- Improvements could be made to the layout of smaller polling stations to enhance secrecy of the vote.
- Although the provisional percentage of invalid ballots (1.1 per cent) fell within the range of international best practice, the Commission should either increase voter education on the approved tick mark or change the legislation to ensure that indications of clear intent are also accepted.
- The Commission should ensure sure that its IT systems can respond to challenges that may arise. There should also be backup alternatives in place in order to make up for any shortcomings in the system.
- Publication of any Memorandum of Understanding between the Maldives Police Service and the Elections Commission should take place in a timely manner, in the interest of increased transparency and public awareness.

## Chapter 6

### Conclusions and Recommendations

The 7 September Presidential Election marked an important step for Maldives in its journey to further consolidate democracy. It was the second presidential poll to be conducted under a democratic legal framework. The election was inclusive and competitive.

The legal framework governing this election provides adequately for the conduct of credible and competitive elections, with the requisite freedoms. Within this context, the competent management and administration of election day represents further progress for the country in strengthening its democratic practices. It was clear that the Elections Commission was logistically well-prepared for this election. Election material was distributed in time to the atolls, and overall, the process was well-administered.

The Elections Commission of Maldives took steps to help ensure accuracy of information and transparency in the administration of the voter registration process.

The election campaign was reported to have been generally vibrant and peaceful and the Group was able to observe its last stages. Candidates and parties held rallies and meetings across the atolls and candidates representatives reported that candidates had been able to campaign freely during the official 30-day campaign period. A few incidents of minor disruption to campaigning were reported, but these did not appear to be widespread. Some parties used negative rhetoric in reference to other candidates, which was not in the spirit of the code of conduct incorporated in the Presidential Election Regulation 2013. The Group noted inadequate enforcement mechanisms for violations of the code of conduct for candidates and campaigners.

A weak legal framework for electoral offences, combined with a lack of clarity regarding different institutions' roles in addressing some electoral offences, limits the ability for some issues of concern to be adequately addressed within a specific timeframe.

The national broadcaster, Television Maldives, treated all candidates fairly. Candidate representatives expressed satisfaction with its coverage of the campaign. The Group noted grey areas of oversight between the Broadcasting Commission, Media Council and Elections Commission with respect to monitoring and enforcing legal provisions on equal airtime for candidates on national and private broadcast channels.

The Group was of the view that gaps in the legislation on political financing enabled presidential candidates to spend on their campaigns without adequate public accountability. A small number of campaign-related complaints, including allegations of financial and material assistance to gain support for a candidate, and alleged inappropriate use of state resources, were noted. The lack of a limit on financial contributions to political parties and the fact that, under the Political Parties Act 2013, parties were permitted to receive anonymous donations and funding from foreign sources, potentially enabled candidates to spend in excess of stipulated limits. While presidential candidates were obliged to declare their source of funds and expenditure to the Elections Commission, political parties were not under a similar obligation.



During the election period Commonwealth observers visited 14 atolls, as well as Male', and reported a peaceful and well-managed process. The Group observed a large early turnout across the islands, and was struck by the calm and patient manner in which voters conducted themselves.

Polling officials were consistent and meticulous in the application of procedures. It was evident that they had been well trained. Officials were observed to be transparent in their interactions with voters and observers. It was positively noted that a significant number of polling officials observed were women.

All the polling stations observed opened on time and voters were free to express their will. The secrecy of the ballot was provided for, although in a few cases, due to constraints of space in some polling stations, this was somewhat compromised. The count at polling stations was conducted transparently. The presence of party observers in all polling stations observed was welcomed. Although not all candidates or parties were represented at every polling station, those who were present carried out their role actively and responsibly.

The number of women voters was high; the Group did not note any practical impediments to women voters exercising their franchise.

On election day the voter register appeared to be accurate. Fears expressed by some political parties regarding possible large numbers of deceased voters and voters registered in the wrong geographic area did not appear to be borne out, based on observation on the day. In the few instances of omission or incorrect registration that were observed, it was clear that polling officials followed the prescribed procedures to resolve complaints.

A Memorandum of Understanding was signed between the Maldives Police Service (MPS) and the Elections Commission on 3 September, stating the role of the MPS during the election period. The Group would have been pleased to have seen the early publication of this memorandum, in the interest of increased transparency and public awareness.

On election day the police were observed acting in accordance with their agreed role and respecting the authority of polling officials. The Group observed that the MPS maintained an unobtrusive presence outside polling stations, and respected the spirit of the stipulated 100 feet boundary from the ballot box.

The Maldivian people participated in this election in large numbers and in a peaceful manner. The 88 per cent voter turnout reflects very positively on the Maldivian people's strong commitment to the democratic process. This was a credible electoral process and met the standards for democratic elections to which Maldives has committed itself. The Commonwealth will be present for the second round of polling and will conclude its observations on the process at that time.

## **Recommendations**

The Group was pleased to note that many of the recommendations of the Commonwealth Observer Group to the 2008 Presidential Election had been

implemented. The Group wishes to offer the following recommendations for consideration in the future:

### **The Electoral Framework and Electoral Administration**

- There is a broader need to encourage and facilitate women's participation at senior management positions within political parties as well as being candidates for future elections. It is important that mechanisms are put in place to promote gender balance in representation in the parliament and within other institutions.
- The Elections Commission issued a series of Codes of Conduct to help regulate the electoral environment. However, to be effective these require suitable mechanisms to ensure compliance and accountability. The legal framework on electoral offences should be strengthened, and the respective oversight roles of relevant institutions clarified.
- Mechanisms for fostering better coordination and clear guidelines for the complaints process should be developed to strengthen the authority and transparency of the Elections Commission, and should provide fully for the right to an effective legal remedy.
- Consideration should be given to strengthening legislation governing campaign finance and expenditure, with enforceable sanctions, to ensure adequate transparency and accountability.
- The possible misuse of state resources and the distribution of 'gifts' in a manner that could benefit candidates should be addressed through legislation and enforcement.
- Improvements could be made to the layout of smaller polling stations to enhance secrecy of the vote.
- The publication of any Memorandum of Understanding between the Maldives Police Service and the Elections Commission should take place in a timely manner, in the interest of increased transparency and public awareness.

### **The Election Campaign and Media**

- Consideration should be given to strengthening the legal framework for electoral offences.
- Capacity building should be undertaken to strengthen regulatory media institutions so that they enforce regulations under their remit and are perceived to be responsive to complaints in a timely manner. This applies particularly to the monitoring of private broadcasters and their adherence to regulations provided for in the Elections (General) Act.
- Consideration should be given to a review of the framework governing the Broadcasting Commission and the Media Council to ensure clarity as to their respective oversight responsibilities.
- The roles and responsibilities during an election period of the Broadcasting Commission and the Media Council vis à vis the Electoral Commission should be made clearer.
- Media training on elections coverage should be undertaken so as to strengthen the media's ability to report fairly and responsibly and to promote the professionalisation of media within Maldives.

## **Voting, Counting and Results**

- Voters were free to exercise their right to vote. The Group noted improved clarity in the criteria for assisted voting compared to the 2008 elections. However, observers witnessed inconsistent application of these provisions, and recommend additional training for polling officials in this area.
- Improvements could be made to the layout of smaller polling stations to enhance secrecy of the vote.
- Although the provisional percentage of invalid ballots (1.1 per cent) fell within the range of international best practice, the Commission should either increase voter education on the approved tick mark or change the legislation to ensure that indications of clear intent are also accepted.
- The Commission should ensure that its IT systems can respond to challenges that may arise. There should also be backup alternatives in place in order to make up for any shortcomings in the system.
- Consideration should be given to developing clearer procedures regarding coordination of polling stations on resort islands so that it is clear whether responsibility lies with the Elections Commission in Male' or with the Atoll Unit of the Elections Commission.

**REPORT ON MALDIVES**  
*9 NOVEMBER 2013 RE-RUN PRESIDENTIAL  
ELECTION*

## Section 1

### Introduction

The Commonwealth Observer Group continued to follow developments in Maldives following the 7 September election.

Five members of the Observer Group, led by Dr Lawrence Gonzi, former Prime Minister of Malta, returned to Maldives for 27 September – 3 October, for the scheduled 28 September run-off election. The Group comprised:

- Dr Lawrence Gonzi (Chair) - Malta
- Dr Hugh Craft - Australia
- Ms Lindiwe Mokate- South Africa
- Ms Elizabeth Ohene - Ghana
- Hon Kate Wilkinson - New Zealand

While in Male', the observers held meetings with a number of stakeholders, including the Elections Commission, candidates' representatives, domestic observers, the Maldives Police Service, independent institutions, and international representatives. The Elections Commission announced on 27 September that the run-off election could not take place as scheduled given it did not believe that there was, at that moment, an environment in which voters could exercise their right to vote in a free and fair manner.

Following the Supreme Court's annulment, on 7 October, of the 7 September election, and the subsequent announcement by the Elections Commission that a fresh election would take place on 19 October, a group of nine Commonwealth Observers returned to Maldives from 16 – 23 October. The Group comprised:

- Dr Lawrence Gonzi (Chair) - Malta
- Dr Hugh Craft - Australia
- Dr Alphonse Gelu - Papua New Guinea
- Ms Lindiwe Mokate - South Africa
- Ms Elizabeth Ohene - Ghana
- Mr John Turner - United Kingdom
- Ms Lisa Vasciannie - Jamaica
- Hon Kate Wilkinson - New Zealand
- Mr Yusmadi Yusoff - Malaysia

Prior to deployment on 18 October, the Observer Group met with the Elections Commission, candidates' representatives and domestic observers to receive briefings on the electoral environment. The election was, however, cancelled on the morning of 19 October, shortly before polling stations were scheduled to open.<sup>1</sup>

On 6 November, Commonwealth Observers returned to Male' a fourth time, for the re-scheduled second round election on 9 November. On this occasion, the Group comprised:

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<sup>1</sup> As detailed on p.37.

- Dr Lawrence Gonzi (Chair) - Malta
- Mr Irfan Abdul Rahman - Mauritius
- Dr Hugh Craft - Australia
- Mr Hendrick Gappy - Seychelles
- Mr Bruce Hatch - Canada
- Ms Elizabeth Ohene - Ghana
- Ms Notemba Tpueja - Namibia
- Hon Kate Wilkinson – New Zealand

## **Section 2**

### **Background to 9 November Election**

#### **Postponement of 28 September Run-Off Election**

Article 111 of the Constitution of Maldives states that “[t]he President shall be elected by over fifty per cent of the votes. If no candidate obtains such majority, a run-off election must be held within twenty-one days after the first election”. As no candidate had received over 50 per cent of the vote in the first round, a second run-off election was scheduled for 28 September 2013.

On 16 September, the Supreme Court entertained a petition lodged by the Jumhooree Party requesting that: the party be provided with the list of individuals who voted in the 7 September election; the voter registry be declared unlawful and invalidated; and that the presidential election held on 7 September 2013 be declared void, and the Elections Commission should be ordered to proceed with elections only in accordance with the Constitution, elections laws, the 2 September Supreme Court verdict, and after correcting the wrongs noted by the Jumhooree Party.<sup>2</sup>

On 23 September, the Supreme Court issued an injunction against the holding of the second round of the election until the court had issued a ruling on the Jumhooree Party’s petition. Hearings of the Jumhooree case were concluded on 25 September. A case was also filed with the Supreme Court on 25 September by the Progressive Party of Maldives (PPM), requesting an injunction against the holding of the second round until PPM’s concerns regarding the voter list had been addressed.

A further Supreme Court order was issued late in the night of 26 September for security forces to enforce the 23 September court order to delay the second round and to take action against those who violated that order.

Concerns were expressed to Commonwealth observers by the representatives of organisations who attended the court hearings that the process was not conducted in accordance with principles of natural justice or in an impartial manner.

On 27 September, the Elections Commission announced that the 28 September election would not proceed, stating “[i]t is the responsibility of this Commission to ensure an environment free of threats, intimidation, undue influence, violence and corruption, where citizens can exercise their right to vote in a free and fair manner. The Commission does not believe that such an environment exists in the Maldives at the moment.”

#### **Annulment of 7 September Election**

On 7 October, the Supreme Court issued its verdict in the Jumhooree Party case. In a 4-3 decision of the seven-member Bench, the majority of the Supreme Court ruled to

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<sup>2</sup> The Supreme Court ruling of 2 September 2013 was in response to a case filed by PPM regarding electoral preparations undertaken by the Elections Commission. The Court instructed the Elections Commission to ensure that the election was conducted in a fair manner and that all voters would have the opportunity to exercise their right to vote.

annul the 7 September election. (The court verdict and the dissenting opinions are attached at Annex 9.)

The majority ruling, by four of the judges on the Bench, made reference to the Elections Commission's "action" having resulted in "intimidation, undue influence and corruption on a large scale" and cited 5,623 various voter discrepancies. It stated that:

- 773 individuals had voted despite conflicting ID card numbers;
- 7 individuals whose names were not on the voter list had voted;
- 18 individuals had voted despite records that they were deceased;
- 7 children had voted;
- 3 individuals had voted twice;
- 225 people had voted despite not having ID cards as their records were considered "repeated" by the Department of National Registration (DNR);
- 2,830 people had voted despite mismatching addresses;
- 952 people had voted despite mismatching names;
- 7 people had voted despite their names not being listed by the DNR; and
- ID card numbers of 819 individuals did not match the printed voter register because of the "carelessness of officials" who had noted down the ID card numbers after the individuals had voted.

Three of the seven judges expressed dissenting opinions that the election should not be annulled. The dissenting opinion of two of these three judges included that, based on the secret forensic report compiled by the Maldives Police Service and provided to the Bench:

- 12 underage voters had voted in the election;
- 14 individuals had voted in the names of deceased people;
- none of the individuals whose information was considered to be repeated by the DNR had cast repeated votes;
- 207 individuals who had not been issued with ID cards voted in the election, with 96 of these 207 voting with ID card numbers different to those in the voter list;
- of the 1186 individuals, who were registered at addresses without the owner's consent, 1159 of these individuals did not vote in any other ballot box than that for which they were registered to vote;
- there was no repeated voting caused by instances where there were discrepancies in information of voters between the voter registry and the DNR database, for which the information was corrected with a pen as per the DNR information; and
- while 7 individuals were added by pen to the voter registry on 7 September 2013 and were allowed to vote, these seven votes were not repeated.

In reference to the above, the dissenting opinions of the two justices concluded that there were 473 votes that might have affected the first round of the presidential election. The Observer Group notes that this number of votes would not have been sufficient to materially affect the outcome of the 7 September election.

It should also be noted that during the Supreme Court hearing the Elections Commission was not provided with a copy of the Police forensic report nor given an opportunity to counter any of the report's findings. (In fact, in the following weeks it emerged that some of the report's findings were inaccurate, for example, some 'deceased' voters were in fact living.)



## **Establishment of the Supreme Court's Sixteen Guidelines**

The Supreme Court ordered the Elections Commission and other relevant state institutions to make arrangements for the first round of the presidential election to be held in accordance with 16 Guidelines established by the Court (See Annex 9). These included that the first round of the election must be held no later than 20 October, and that "in order for voting to commence in all constituencies in Maldives and abroad, the voter register ... must be approved by the Elections Commission and the candidates or their representatives, and must be the final list containing their signatures and finger prints". This has been described as effectively enabling the candidates to veto the election by refusing to sign the voter register.

Three further rulings were released by the Court during the following week, adding clarification or specifications to the 16 Guidelines. These included a ruling on 11 October that the Elections Commission must start anew the process of compiling the voter register and of re-registering those people wishing to vote in a different location - with the new Guidelines requiring fingerprints on all re-registration applications, and a ruling on 13 October that candidates' concerns regarding fingerprint verification of re-registration forms must be addressed. Approximately 71,000 voter re-registration applications were submitted for the 19 October election (out of a total voter base of 239,000).

## **Halting of the 19 October Election**

In the days preceding the scheduled 19 October election, the Jumhooree Alliance and PPM expressed repeated concerns regarding the voter re-registration process and verification of voter re-registration forms.

Throughout 18 October, the Maldives Police Service (MPS) remained on standby to assist the Elections Commission with transportation of voting materials to polling stations in the event that the voter lists were to be signed by the candidates as required by the Supreme Court Guidelines.

In the evening of 18 October, PPM and Jumhooree filed a petition with the Supreme Court requesting an injunction against the holding of the 19 October election.

At 0200 hours on 19 October, the Elections Commission advised that the MPS was not cooperating with the Commission for the transportation of voter materials and that the MPS had told the Commission that it was awaiting a decision by the Supreme Court. The Elections Commission announced that it would proceed with the election and was making its own arrangements for transporting voting materials.

Around 0200 hours, the Elections Commission advised candidates' representatives that the voter list was open for their signature in accordance with the Guidelines (later than the envisaged time for signature of 2200 hours the previous evening). The list was not, however, ready for signature until a few hours later that morning. While MDP subsequently signed the list, PPM and the Jumhooree Alliance did not do so.

At around 0400 hours, the media reported that the Supreme Court had not given a decision regarding the request for an injunction against the 19 October election, but instead had referred relevant parties to the 16 Guidelines.

Shortly before polling was due to start, at approximately 0630 hours, the Elections Commission announced that it was unable to continue with the election as police officers were stopping Commission staff from leaving their building with election materials. The Elections Commission Chair held a press conference in which he stated that he believed the MPS had acted beyond its mandate. When subsequently summoned to a parliamentary committee on 20 October, the Police Commissioner refuted the allegation that the MPS had obstructed the election.

### **9 November Re-Run of the First Round Election and the Subsequent Run-Off Election**

On 21 October, the Elections Commission announced that a new first round election would be held on 9 November 2013, with a second round to be held on 16 November should this be required. The Elections Commission stated that it would follow the Court Guidelines in preparing for the election. On 22 October, the Supreme Court issued an order for the Elections Commission and other relevant state institutions to hold all future elections in accordance with the Court's earlier Guidelines.

On 6 November, following a request by President Waheed and the three Presidential candidates, the Elections Commission agreed to change the date of the second round election from 16 November to 10 November given that, in accordance with the Constitution, the term in office of the incumbent government would expire at midnight on 10 November. Voter re-registration was subsequently undertaken for this new election date. However, PPM and Jumhooree Alliance did not complete the signing of the 10 November voter lists the day before the election, as required. In the early hours of 10 November, in response to a petition filed by a member of the Jumhooree Party, the Supreme Court ruled that the second round election be held instead on 16 November.

### **Political Environment and Electoral Campaign**

The Group noted that the largely positive political environment which the Group had observed in early September deteriorated during the events that followed the 7 September election.

While campaigning continued from 7 September to 9 November this was more subdued and political parties advised that uncertainty surrounding the holding of the election was having a negative effect on their ability to campaign. The Group noted that media coverage and political discourse in the lead-up to the 9 November election seemed to be dominated by consideration of the Supreme Court rulings and the associated electoral preparations rather than by the candidates' policy platforms. The national broadcaster, Television Maldives, had proposed holding a second presidential debate between the two candidates for the 28 September scheduled election; however, this did not take place as the Maldivian Democratic Party (MDP) candidate declined to participate.

It was reported that Elections Commission members and staff were subject to death threats and verbal harassment amid accusations from some that the Commission had committed fraudulent activities. Following a complaint by a private individual, the Maldives Broadcasting Commission launched an investigation into broadcasts by a private television station regarding allegations of inciting hatred against the Elections Commission in violation of the Broadcasting Code of Practice. On 24 September, the

Elections Commission requested a local NGO to provide information on a televised lecture that it had organised, in which it was alleged to have possibly implied that one of the presidential candidates was irreligious. The Elections Commission also requested that the deputy leader of a party belonging to the Jumhooree Alliance explain his assertions that one of the candidates was 'irreligious'. Protests took place in the lead-up to 7 October by MDP supporters, calling for the run-off election to be held. On 7 October, a private television station, Raajje TV, which is perceived to be aligned with MDP, was subject to a serious arson attack.

## Section 3

### Electoral Administration and Preparations

With the annulment of the 7 September election and subsequent rulings, the Supreme Court decided new electoral guidelines for the conduct and administration of elections. Unlike the 7 September election which were guided by and conducted within nationally agreed upon instruments such as the Constitution, the Presidential Elections Regulations and the Elections (General) Act, the 9 November election was conducted according to the Supreme Court's 16 Guidelines.

The Supreme Court Guidelines mandated several key procedures regarding the voter register, election day processes, the role of political parties and other key stakeholders supporting the electoral process. The broad procedural elements for the Commission and for election day processes outlined in the Guidelines include the following:

- A new Register be compiled solely from the database of the Department of National Registration (DNR).
- The only Register that is to be distributed and publically displayed on election day is the one signed by and including the fingerprints of the candidates or their representatives.
- The re-registration forms for those wanting to change their place of voting must include the voter's fingerprint, and the signature and fingerprints of two witnesses.

Several key national stakeholders expressed concerns to Commonwealth observers regarding the cumbersome and impractical nature of the Supreme Court Guidelines. Additionally, it was noted that the Supreme Court Guidelines appeared to undermine the authority of the Elections Commission, were inconsistent with or contrary to current electoral law, and were at odds with the Constitution.

#### The New Voter Register

According to the Supreme Court Guidelines, the Elections Commission had to use the DNR database as the main source for compiling the new register. While the Court's guidelines stipulate that "it must be guaranteed that minors under the age of 18 and those deceased are not included in the register", the DNR was reported in the media as stating that it would not be possible to ensure that there are no deceased people on the register.

Commonwealth Observers noted that it is unavoidable for there to be some deceased people in any voter register due to the interval between the closing of the register and election day.

#### Voter Re-registration

In Maldives, it is normal that citizens retain a specific original family address despite where they currently reside. To ensure that all citizens are able to vote at their preferred location, a re-registration period was established. Re-registration is the period in which those working and living outside their permanent place of residence can change where they would actually be voting.

For the 19 October election, the Elections Commission announced a 24-hour window from 9-10 October for voters wishing to re-register to cast their ballots in a different location (i.e. a location different to that for which they had re-registered for the 28 September election). Following the Supreme Court ruling and the ensuing Guidelines, the fingerprints of the voter and two witnesses were required on the new re-registration form. On 11 October, a ruling was issued by the Supreme Court ordering the Elections Commission to start the processes of compiling the register and of re-registration again, according to the new procedures.

The Elections Commission subsequently opened the re-registration period again, providing a 24-hour window from 11 to 12 October for voters to re-register to vote in a different location, using the new fingerprint forms. 71,000 voters submitted re-registration forms. A time period for complaints to be submitted was initially announced as from 13 to 15 October; however, this was extended until midnight on (the morning of) 18 October.

The final voter list was completed on 18 October and was provided to the candidates' representatives for them to sign and fingerprint each page, in accordance with the Supreme Court Guidelines.

However, with the cancellation of the 19 October election, and the subsequent announcement of the 9 November election date, another re-registration period was opened from 24 to 25 October with the complaints period from 1 – 2 November. For that re-registration period 19,345 voters changed the location in which they would be voting.

## **Section 4**

### **Voting, Counting and Results**

*9 November 2013 – Presidential Election – First Round Re-Run*

On 9 November a re-run of the first round of the 2013 Presidential elections occurred. Polling was scheduled to occur from 0700 to 1530 hours in 475 polling stations. As with the 7 September election, polling stations were organised within public facilities such as schools and community centres.

Unlike the 7 September election, the key procedures guiding the conduct and administration of the 9 November election were found in the 16 Guidelines provided by the Supreme Court of Maldives. Some of the key procedural elements outlined in the Guidelines relevant for the opening, voting and counting of results included:

- only the Register signed by the representatives of the three political parties and containing their fingerprint may be used and publically displayed on election day;
- handbags, files and mobile phones are not permitted within polling stations;
- a designated election official collects a numbered token provided to voters to identify their position in the queue;
- every 30 minutes, the total number of tokens collected is announced to voters and observers at the polling station; and
- at the close of polls, the compilation of the "Report on Election" must be completed at the polling station in the presence of the candidate representatives and observers.

Commonwealth Observers were deployed in seven of the country's atolls to witness the opening, voting, closing and counting of the ballot. During their deployment they met with elections officials, observers and other stakeholders at the island level to build up a broader picture of the conduct of the process.

#### **Assessment of the Opening and Voting**

Commonwealth Observers were deployed on election day to witness the opening and voting process. Observers reported a peaceful, transparent and credible process. Voters turned out in large numbers and were free to exercise their right to vote. Polling officials were noted for their professionalism and methodical approach to ensuring a credible process. Party agents and national observers were also visible and well-represented throughout the country.

Key observations of Commonwealth teams were:

- Despite initial procedural delays due to the signing of the register and provision of logistical support, electoral materials were distributed to all polling stations prior to the opening of polls.
- All stations observed opened on time, voters were free to exercise their right to vote and the secrecy of the ballot was ensured.
- Observers commended the patience and commitment of the Maldivian electorate to participate in an election despite two stalled attempts and one annulment.

- Observers noted that all polling stations visited had visibly displayed and used the register signed by the political parties.
- Observers also noted that the voter register did not substantively prevent voters from exercising their will.
- Observers noted that polling officials were helpful, methodical and understood their roles.
- Observers also reported a visible but discreet police presence.
- Additionally, observers noted positively the high participation of women and young voters.

### **Assessment of the Counting and Results Tabulation**

All Polling stations observed closed on time and the counting of votes at the stations was transparent and orderly. Candidate representatives, domestic and international observers were present in large numbers to observe the entire process. Additionally, results were broadcast live on television as they were compiled at the polling stations.

Key Observation of Commonwealth teams were:

- All polling stations observed closed on time, with polling officials following procedure by standing behind the last voter in the queue at 1530. In accordance with regulations, voting continued until the last voter in the queue at closing time voted. The counting and results tabulation process began approximately 30 minutes after the close.
- The few polling stations with a larger number of registered voters (800 – 1000), such as those in Malé, began the counting and tabulation of results late into the evening, as there was still a long queue of voters.
- Counting proceeded smoothly and transparently in the presence of domestic and international observers, party officials and monitors representing the media.
- Commonwealth Observers noted that voter turnout was again high (87 per cent) with a large number of women voters and women polling officials present.
- Representatives from all three parties were present at most observed polling stations. They appeared collegial and cooperative.
- Commonwealth Observers were again impressed with the professionalism and conduct of polling officials, commending them for their consistency in delivering another well-managed and credible election.

## **The Results – First Round Re-Run**

<b>Candidates (Ballot Order)</b>	<b>Votes</b>	<b>% (Votes Cast)</b>
Qasim Ibrahim (Jumhooree Gulhun)	48,131	23.34%
Abdulla Yameen Abdul Gayoom (PPM)	61,278	29.72%
Mohamed Nasheed (MDP)	96,764	46.93%
Total Valid Votes Cast	206,173	
Total Invalid Votes	2,331	
Total Vote Casts	208,504	
Total Registered Voters	239,105	
Male Voter	105,510	
Female Voter	102,994	
Turnout %	87	
National Observers:	1,640	
Local Monitors:	1,261	
Candidate Representatives:	1,505	



## Section 5

### Conclusion and Recommendations

As the second presidential election under a democratic legal framework, the 7 September election marked an important step for Maldives in its journey to further consolidate democracy. The annulment of that election, and the cancellation of three subsequent elections, has severely tested the democratic process in Maldives.

Consequently, the 9 November Election took place in a challenging and highly politicised context and under the burden of the Supreme Court imposed Guidelines that are inconsistent with the Maldivian electoral legislative framework. Commonwealth Observers reported that it was a peaceful, inclusive, free and fair process, in spite of these constraints.

Notwithstanding the 16 Guidelines of the Supreme Court, the Elections Commission again delivered a competitive, credible and transparent process. Despite restrictions such as no mobile phones or files being permitted in polling stations, polling officials remained professional and consistent in ensuring the transparency and credibility of the process. Again, it was positively noted that a significant number of polling officials were women. The Elections Commission should be commended for their consistency in delivering another well-managed and credible election, despite challenging circumstances.

On election day, all polling stations observed opened on time and voters were free to exercise their right to vote. The secrecy of the ballot was again provided for, and strengthened through improvements in the layout of polling stations. For the close and counting of results, all polling stations observed closed on time, with polling officials following procedure by standing behind the last voter in the queue at closing time and permitting them to vote. The count at polling stations was meticulous and transparent.

With an 87 per cent voter turnout, the Maldivian people again demonstrated their eagerness and commitment to democracy by turning out in large numbers to vote.

Following the 7 September Election, Commonwealth Observers commended the Maldives Police Service (MPS) for respecting the authority of the Elections Commission and maintaining a discreet and appropriate presence on polling day. However, the Group believes that it was unacceptable that on 19 October the MPS took it upon itself to act in a way that prevented the 19 October election from taking place, despite the fact that the Supreme Court did not respond to the application by Jumhooree and PPM for an injunction.

The Group was concerned by the clear lack of trust among some stakeholders in the institutions responsible for facilitating and supporting the conduct of elections. If this trust deficit is not substantively addressed, it could erode the confidence of the citizenry and the progress achieved in entrenching democratic values.

Commonwealth Observers urge all national stakeholders to recognise that their highest priority is the interest of the electorate.

The Commonwealth will be present for the run-off election on 16 November and will conclude its observation on the process at that time.

### **Recommendations**

For the 7 September Election, the Group provided several recommendations, many of which remain relevant following the 9 November election. Within the context and framework of the 9 November Election, the Group wishes to offer the following further recommendations for consideration in the future:

#### **With respect to the Electoral Framework and Administration, it is recommended that:**

- in accordance with international best practice, no significant changes should be made to the electoral framework six months prior to an election, in order to ensure predictability and certainty for voters, candidates, officials and other stakeholders. The Group was therefore particularly concerned that the Guidelines given by the Court in effect changed the electoral procedures in the middle of the electoral process, creating a great deal of unnecessary uncertainty and confusion;
- there should be greater predictability in, and respect for, the electoral timetable. Repeated changing of election dates and timings causes unnecessary disruption and uncertainty for voters;
- there should be better recognition of the mandate and statutory and constitutional independence of the Elections Commission;
- the Constitution and the laws regulating elections need to be adhered to. If the legislative and regulatory framework governing the electoral process is to be changed, this should be done by the Legislature not by the Judiciary. Commonwealth Observers noted that the doctrine of the separation of powers provides for the Legislature to make the law and the Judiciary to interpret the law. The Group therefore recommends that the People's Majlis (Parliament) should examine the consistency and workability of the Supreme Court's Guidelines and their relationship to existing electoral law. The Majlis should make any amendments that it believes necessary to the existing law so that all future elections are conducted according to the proper legal framework; and
- as recommended for the 7 September election, there should be better coordination and cooperation between the various national stakeholders and institutions.

#### **With respect to the Voter Register, it is recommended that:**

- the Elections Commission should maintain a separate voter register, and should have sole responsibility for, and be empowered to ensure, the credibility and accuracy of that register in accordance with the 2008 Constitution of Maldives; and
- there should be consistency in dealing with minor discrepancies that could affect citizens' ability to vote, such as spelling differences between the national register and ID cards. Again, this is an issue that seems to have arisen in the context of the Supreme Court Guidelines.

**REPORT ON MALDIVES**  
*16 NOVEMBER 2013 PRESIDENTIAL  
RUN-OFF ELECTION*

## **Section 1**

### **Introduction**

Following the 9 November election, the Commonwealth Observer Group remained in Maldives to observe the 16 November run-off election, with the Group comprising:

- Dr Lawrence Gonzi (Chair) - Malta
- Dr Hugh Craft - Australia
- Mr Bruce Hatch - Canada
- Ms Elizabeth Ohene - Ghana
- Mr Andi Schubert - Sri Lanka
- Hon Kate Wilkinson - New Zealand

Observers were deployed to five atolls from 15 November, returning to Male' on 17 November.

## **Section 2**

### **Background to 16 November Election**

In the days after the 9 November election, the party of the third-placed candidate, Jumhooree Party, held discussions with representatives of both the top polling Maldivian Democratic Party (MDP) and the second placed Progressive Party of Maldives (PPM) regarding which candidate Jumhooree might endorse for the run-off election. On 13 November, the Jumhooree Council announced its decision to support the PPM candidate, Abdulla Yameen Abdul Gayoom. Jumhooree's previous coalition partners, Adhaalath Party and Dhivehi Qaumeey Party, also extended their support for Mr Yameen.

Both MDP and PPM campaigned extensively throughout the intervening week, with Jumhooree also campaigning considerably following its endorsement of Mr Yameen. The issue of religion appeared as a dominant feature in the campaigns, and a high degree of negative campaigning against one candidate was reported in the media. As in the previous elections, the Group observed both parties respecting the cut-off time for campaigning activities of 1800 hours on the day prior to polling.

The Elections Commission briefly opened re-registration for the 16 November election over a two-day period, from 10-11 November. This was followed by a four-hour re-registration complaint window on 12 November. It was subsequently reported that 6,299 people had re-registered to vote on 16 November in a different location to that in which they had been registered to vote on 9 November.

Ballot papers were printed for the election, in black and white, with the names of the two candidates and their party logos. PPM submitted a complaint to the Elections Commission during the course of polling day regarding the quality of the ballot papers and the level of security features in the papers. The Elections Commission confirmed

that security features had been included in the ballot papers, but that information on these had not been made available publicly.

On 12 November, an electronic copy of the final voter lists was provided to candidates. Subsequently, on 14-15 November, representatives of both candidates signed the voter lists for each polling station, in accordance with the Supreme Court Guidelines.

## **Section 3**

### **Voting, Counting and Results**

*16 November 2013 – Presidential Run-off Election*

On 16 November, the run-off election between the two leading candidates from the 9 November first round Presidential election occurred. According to the Constitution, to be elected in the first round a candidate needs to secure more than half of all valid votes cast. If no candidate fulfils this condition then the leading candidates contest in a run-off election.

Polling was scheduled from 0730 to 1600 hours in 475 polling stations, six of which were overseas in India, Malaysia, Sri Lanka, Singapore, and the United Kingdom. Polling stations were within public facilities such as schools and community centres. The election was again administered according to the Supreme Court Guidelines.

#### **Assessment of the Opening and Voting**

Commonwealth Observers were deployed in five of the country's atolls and Malé to witness the process. Observers reported a largely peaceful, transparent and credible process. Voters turned out in large numbers and were free to exercise their right to vote. The Observer Group again commends polling officials for their professionalism and methodical approach to ensuring a credible process. The party agents of both candidates were visible and well-represented throughout the country, as were national observers.

Key observations of Commonwealth teams were:

- All stations observed opened on time, voters were free to exercise their right to vote and the secrecy of the ballot was ensured.
- Observers again reported that polling officials were meticulous, helpful, and focused on their tasks.
- There was a notably high voter turnout, with large orderly queues in the morning and a consistent flow of voters throughout the day.
- Observers noted that the processing of voters was smoother and swifter than on 9 November.
- Observers commended the continued enthusiasm and engagement of the Maldivian electorate, despite the various delays and challenges.
- Observers noted that there were only a very few isolated incidents of voters being turned away due to a mismatch between details in the voter register and on identity cards.
- Observers again reported an appropriately discreet police presence.

#### **Assessment of the Counting and Results Tabulation**

All polling stations observed closed on time in accordance with procedures and the counting of votes at the stations was transparent and orderly. The representatives of the two candidates, as well as domestic observers, were present in large numbers to observe the count. Again, results were broadcast live on television as they were compiled at the polling stations.

Key observations of Commonwealth teams were:

- Again, all polling stations observed closed on time, with polling officials following procedures. The counting and results tabulation process began approximately 30 minutes after the close, as prescribed.
- Counting proceeded smoothly and transparently in the presence of domestic and international observers, party officials and monitors representing the media.
- Commonwealth Observers noted that voter turnout was particularly high, exceeding both the 7 September and 9 November turnouts, at 91 per cent.
- Representatives from the two candidates were present at all polling stations observed. They remained civil and cooperative.
- Commonwealth Observers were again impressed with the professionalism and conduct of polling officials, commending them for their consistency in delivering another well-managed and credible election.

### **The Results: Run-Off**

<b>Candidates (Ballot Order)</b>	<b>Votes</b>	<b>% (Votes Cast)</b>
Abdulla Yameen Abdul Gayoom (PPM)	111,203	51.39
Mohamed Nasheed (MDP)	105,181	48.61
Total Valid Votes Cast	216,384	
Total Invalid Votes	2,237	
Total Vote Casts	218,621	
Total Registered Voters	239,165	
Male Voter	111,160	
Female Voter	107,459	
Turnout %	91.41	

## **Annex 1**

### **Composition of the Team**

#### **Dr Lawrence Gonzi (Malta) – Chair**

Dr Gonzi is the former Prime Minister of Malta, 2004 - 2013. Previous Parliamentary positions have included Opposition Party Whip, Secretary to the Parliamentary Group, Shadow Minister for Social Policy and Leader of the House of Representatives. He has twice been elected Speaker of the House of Representatives, 1988-1992 and 1992-1996. Additionally he served as Deputy Prime Minister between 1994 and 2004. Prior to entering politics he trained as a Lawyer and worked actively in the voluntary sector, particularly in the disability rights movement and mental health sector, serving as the first Chairman of the National Commission for the Disabled, 1987-1994.

#### **Mr Navin Bratt Chawla (India)**

Navin Chawla is an Indian bureaucrat (1969-2005), later Election Commissioner (2005-2009), and then Chief Election Commissioner of India (April 2009- July 2010), becoming Additional Secretary to the Government of India (2001), and then full Secretary to the Government (the highest level of the Civil Service), before being appointed to Constitutional office.

#### **Dr Niickless Hugh Craft (Australia)**

Hugh Craft is a former Australian diplomat, member of the Australian Senior Executive Service and senior international civil servant. He joined the Australian Department of Foreign Affairs and Trade in 1971. He was seconded to the Commonwealth Secretariat as Director of the International Affairs Division from 1979-1998. Dr Craft was Head of the Brisbane/Coolum Commonwealth Heads of Government Meeting (CHOGM) 2001/02 Task Force. He was Visiting Professor in the Centre for International and Regional Affairs, University of Fiji from 2010-2012.

#### **Mr Hendrick Paul Gappy (Seychelles)**

Hendrick Gappy has been the Electoral Commissioner of Seychelles since 1998. Prior to this, he served as the Director-General of the Management and Information Systems Division responsible for National Statistics Office and the National IT Office. He has been the Census Commissioner on several counts. Internationally, he has been involved with various organisations including the Commonwealth, SADC, COI, the United Nations and others in the context of electoral observation, statistical reform, et cetera. In 2007, he was part of the Commonwealth Expert Team to the Maldives Referendum. In 2008, he was part of the Commonwealth Observer Group for the Maldives Presidential Elections. In 2011, Mr Gappy was appointed as Chairman of the Electoral Commission, the Boundaries Commission and Registrar of Political Parties.

#### **Dr Alphonse Reure Mathew Gelu (Papua New Guinea)**

Alphonse Gelu has been Registrar with the Registry of Political Parties since 2012. An academic by background he was a Lecturer in Political Science at the University of Papua New Guinea from 1983 to 2006, a Senior Research Fellow with the National Research Institute from 2007 to 2008 and the Research Advisor to Coffey International contracted by AusAid to manage the decentralization program in Papua New Guinea from 2009 to 2011. His research is in the areas of elections, political parties and decentralization.



**Mr Robert Bruce Hatch (Canada)**

Bruce Hatch is an election operations expert with experience in all aspects of international election management, from voter registration to counting centre operations. He has been primarily involved in post-conflict election projects since 1993 in over 20 countries, having spent extensive periods in the likes of Cambodia, Bosnia, Kosovo, Serbia, Macedonia, East Timor, Sierra Leone, Haiti, and the Democratic Republic of Congo. He was also involved in more limited capacities in elections in both Iraq and Afghanistan.

**Mrs Zobaida Jalal (Pakistan)**

Zobaida Jalal began her career as an educationalist in 1982, opening the first school for girls in Makuean, Mand, Balochistan. In 1999 she was appointed to the position of Federal Minister for Education, Women Development and Social Welfare. From 2002 – 2004 she served as Federal Minister for Education, then as Federal Minister for Social Welfare and Special Education until 2007. She was elected a Member of the National Assembly in 2008 and remained a Parliamentarian until 2013. She is now working with her local community in Balochistan.

**Professor Attahiru Jega (Nigeria)**

Attahiru Muhammadu Jega is the Chairman of the Nigerian Independent Electoral Commission (INEC). Until his appointment in June 2010 he was a professor of political science and Vice Chancellor, Bayero University, Kano. He obtained a BSc (Hons) from Ahmadu Bello University, Zaria and an MA and PhD from Northwestern University Evanston, Illinois, USA.

**Ms Lindiwe Faith Mokate (South Africa)**

Lindiwe Mokate is a Human Rights Commissioner in South Africa. She has wide ranging experience in the areas of human rights, development and international relations. Her work involves working with multilateral institutions such as the Commonwealth, the UN Human Rights Council and the African Commission on Human and Peoples' Rights to strengthen the capacities of National Human Right Institutions. In her previous portfolio as Head of International Relations for the Parliament of South Africa she also worked with the Commonwealth Parliamentary Association on a number of areas including governance and elections.

**Ms Elizabeth Akua Ohene (Ghana)**

Elizabeth A. Ohene is a Ghanaian writer/broadcaster/politician. She was a newspaper editor in Ghana before she joined the BBC World Service. She became a well-known voice on the BBC African Service where she worked as a producer and correspondent for many years. Ms Ohene entered frontline politics when she served as a Minister of State in the Government of President J.A. Kufuor from 2001 to 2009. She retains an active interest in politics and writing.

**Mr Irfan Abdool Rahman (Mauritius)**

Irfan Abdool-Rahman has been the Electoral Commissioner of Mauritius since January 1998 and before that was a Returning Officer for 12 years. He worked previously as Crown Counsel in the Attorney-General's Office, and as a Senior District Magistrate and an Intermediate Court Magistrate. Mr Abdool Rahman has been a member of several observer missions and has acted as an Election Consultant for various international and regional organisations. He is a Council Member of International Institute for Democracy and Electoral Assistance (IDEA).

**Mr Andi Stefan Schubert (Sri Lanka)**

Andi Schubert is a researcher attached to the Social Scientists' Association (SSA), where he works on research related to democracy and reconciliation after the war in Sri Lanka. As a democracy researcher his interest is in understanding how democracy has been shaped by, and shapes the experiences of, countries in South Asia. He has been involved with a number of youth organizations in Sri Lanka, and has served as the co-convener of the Sri Lankan Youth Parliament. In 2010 he founded the Young Researchers' Collective to promote the work of young researchers.

**Ms Notemba Tjipueja (Namibia)**

Notemba Tjipueja is the Chairperson of the Electoral Commission of Namibia (ECN), appointed during August 2011. She is the first woman to be appointed as Chairperson of the ECN and has served as a Commissioner of the ECN from 2000-2005 and from 2007-2011. She represents the ECN on the EXCO of the Electoral Commissions Forum of SADC Countries and has observed elections in various SADC countries. Ms Tjipueja is a lawyer by profession having worked in government and the private sector for over 20 years. She also headed the Southern African Development Community (SADC) Legal Sector for a few years, being responsible amongst others for the establishment of the SADC Tribunal.

**Professor Sylvia Tamale (Uganda)**

Sylvia Tamale is a leading African feminist who teaches law at Makerere University in Uganda. Her research interests include "Women in Politics," "Gender, Law & Sexuality" and "Feminist Jurisprudence" and she has published extensively in these areas. She has served as Visiting Professor in several academic institutions globally and serves on several international human rights boards.

**Mr John Turner (United Kingdom)**

John Turner has been involved with electoral administration and law for over 30 years. He was formerly Deputy Chief Executive of Norwich City Council and, in that role, was Returning Officer and Electoral Registration Officer of the City for several years. He is a former Chairman of the Association of Electoral Administrators and became the first Chief Executive of the AEA in 2006. He is also Chairman of the Qualifications Board of the AEA and was responsible for the introduction of the first professional qualification for electoral administrators some 12 years ago. He has worked in four continents of the world on electoral related matters and has been involved with the Commonwealth in various roles in Maldives over the last 10 years.

**Dr Lisa Vasciannie (Jamaica)**

Lisa Vasciannie is a Lecturer in International Relations at the University of the West Indies, Mona (on leave of absence). She has done extensive research on international election observation in the Commonwealth Caribbean and with the Organization of American States (OAS). Dr Vasciannie currently resides in Washington DC where she serves on the board of the Organization of Women of the Americas (OWA) and on the diplomatic advisory board for THIS for Diplomats.

**Hon Catherine (Kate) Joan Wilkinson (New Zealand)**

Hon Kate Wilkinson was first elected as a Member of the Parliament of New Zealand in 2005 and represents the electorate of Waimakariri. Ms Wilkinson was a Cabinet Minister for four years and has held the positions of Minister of Labour, Minister of

Conservation, Minister of Food Safety, and Associate Minister of Immigration. Prior to entering Parliament, Ms Wilkinson practiced as a lawyer in Christchurch.

**Mr Yusmadi Yusoff (Malaysia)**

Yusmadi Yusoff is a former Member of Parliament of Malaysia (Balik Pulau) and the founder of RIGHTS Group (a collaboration of talents for the promotion and protection of rights of the people in the region). He is a partner at a small boutique law firm, Fahda Nur & Yusmadi, specialising in criminal defence, human rights and Islamic law related cases. He was appointed as a Special Committee for Anti-Corruption under the Malaysian Anti-Corruption Commission Act 2009 by the King of Malaysia.

## Annex 2

### Deployment Plan – 7 September 2013 Election

NO.	TEAMS	LOCATIONS
1	Mr Bruce Hatch Professor Sylvia Tamale	Gaafu Alifu Atoll Gaafu Dhaalu Atoll
2	Mr John Turner Ms Lindiwe Mokate	Haa Alifu Atoll Haa Dhaalu Atoll
3	Ms Notemba Tjipueja Dr Hugh Craft	Raa Atoll
4	Mr Hendrick Gappy Mrs Zobaida Jalal	Baa Atoll Lhaviyani Atoll
5	Professor Attahiru Jega Dr Lisa Vasciannie	Noonu Atoll Shiviyani Atoll
6	Mr Navin Chawla Hon Kate Wilkinson	Seenu Atoll
7	Mr Alphonse Gelu Mr Yusmadi Yusoff	Laamu Atoll Thaa Atoll
8	Mr Andi Schubert Ms Elizabeth Ohene	Alifu Alifu Atoll Alifu Dhaalu Atoll
9	Dr Lawrence Gonzi Ms Nishana Jayawickrama Ms Victoria Holdsworth	Kaafu Atoll, including Malé
10	Ms Alison Pearman Ms Clara Cole Ms Charlene Lee Ling Ms Hilary McEwan	Kaafu Atoll, including Malé

## Annex 3

### Arrival Statement



## Commonwealth Observer Group

Maldives Presidential Election, 7 September 2013

Arrival Statement by Dr Lawrence Gonzi, Chairperson

**Malé, 2 September 2013** -- Following an invitation from the Elections Commission, the Commonwealth Secretary-General has constituted an Observer Group to the 2013 Presidential Elections in Maldives. It is my honour and privilege to have been asked to lead the Group, and to be here in the country for these important elections.

Our Group has been drawn from across the Commonwealth, and includes politicians, members of election commissions, former diplomats, and representatives of civil society, media and youth.

The Commonwealth has a tradition of support for elections and democratic processes in Maldives, including observing the first multi-party elections in 2008 and 2009. We are pleased to be in the country to contribute to the further consolidation of democracy.

Our task is to consider all the factors impinging on the credibility of the electoral process as a whole, and to assess whether the election is conducted according to the standards for democratic elections to which Maldives has committed itself, with reference to its own election legislation as well as relevant regional, Commonwealth and other international commitments.

We will consider, among other things, whether conditions exist for free and competitive elections; whether the Elections Commission is independent and effective; the transparency of the process; whether candidates have been free to campaign; whether public media has been impartial; whether voters are free to express their will; and whether the results process is transparent.

In conducting our duties and undertaking our assessment, we will be neutral, impartial, objective and independent. We are here in our individual capacities as eminent and experienced Commonwealth citizens. The assessment by the Group will be its own and not that of any member government. Our intent is to offer constructive support to help strengthen the democratic process in the future.

We have already met with the Elections Commission, NGOs and international partners. Over the coming days we will be meeting with representatives of the candidates, independent institutions and other relevant stakeholders. We will then deploy across the atolls to observe the conclusion of the campaign and thereafter the voting, counting and results process. We will issue an Interim Statement after the election and a final report thereafter. On behalf of the Commonwealth Observer Group I wish the people of Maldives well as they embark upon this important step in strengthening the democratic culture of their country.

We encourage all Maldivians to do their part to ensure that a peaceful and credible election takes place on 7 September.

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## Annex 4

### Interim Statement



## Commonwealth Observer Group

Maldives Presidential Election, 7 September 2013

Interim Statement by Dr Lawrence Gonzi, Chairperson

**Malé, 9 September 2013** -- The 7 September Presidential Election marked an important step for Maldives in its journey to further consolidate democracy. The 17-member Commonwealth Observer Group has been present in Maldives since 31 August. Since then we have met with the Elections Commission, representatives of the presidential candidates, civil society, independent commissions, the Maldives Police Service, Commonwealth High Commissioners and representatives of the United Nations, as well as other international and national observers.

On election day, Commonwealth observers visited 14 of the country's atolls, and observed the opening, voting, closing and counting of ballots. Our teams met with election officials and other observers at the local level to build up a broader picture of the process.

As the electoral process will continue into a run-off poll, this Interim Statement outlines the Group's preliminary findings assessing the conduct of the process thus far. Commonwealth observers will return for the second round, and we will make our final assessment following the conclusion of the process.

### Key Findings

- This election was the second presidential poll to be conducted under a democratic legal framework. The election was inclusive and competitive, with freedoms of association, assembly and movement provided for.
- The election campaign was overall vibrant and peaceful. Candidates' representatives reported that candidates had been able to campaign freely during the official 30 day campaign period.

- The national broadcaster, Television Maldives, treated all candidates fairly. Candidate representatives expressed satisfaction with its coverage of the campaign. Concerns were expressed that political affiliations appear to influence the coverage of most privately owned broadcasters. We encourage the empowered regulatory bodies to monitor and enforce adherence to the prescribed electoral standards in this area.
- The legal framework governing this election provides adequately for the conduct of democratic elections. The absence of effective enforcement mechanisms for violations of the code of conduct for candidates and campaigners, and a lack of clarity and coordination between relevant institutions appears to have resulted in a lack of timely response to alleged violations.
- The Group found that gaps in the legislation on political financing enabled presidential candidates to spend on their campaigns with a lack of public accountability. In addition, the possible misuse of state resources and the distribution of 'gifts' in a manner that could benefit candidates should be addressed through legislation and enforcement.
- On election day Commonwealth observers reported positively on the voting and counting processes in the 14 atolls visited. The Group observed a large early turnout, particularly in Malé, and was struck by the calm and patient manner in which voters conducted themselves.
- The Group wishes to commend the professionalism of the polling staff we met. Procedures were followed in a consistent manner, and officials were transparent in their interactions with voters and observers.
- All the polling stations observed opened on time, the secrecy of the vote was provided for, and voters were free to express their will. However, improvements could be made to the layout of smaller polling stations to enhance secrecy of the vote. The count started within the required timeframe.
- The Group was pleased to see party and candidate observers in all the polling stations observed. Although not all candidates or parties were represented at every polling station, those who were present carried out their role actively and responsibly.
- The number of women voters was high, as was the number of women polling officials. The Group noted no practical impediments to women voters exercising their franchise.
- The voter register appeared to be accurate and robust. Fears expressed by some political parties regarding possible large numbers of deceased voters and voters registered in the wrong geographic area seem to be unfounded, based on the low incidence of election day complaints. In



the few instances of omission or incorrect registration that were observed, it was clear that polling officials followed the prescribed procedures to resolve complaints. As the complaints process is ongoing, we will comment further on the voter register at the conclusion of the electoral process.

- On election day the police were observed acting in accordance with their agreed role and respecting the authority of polling officials. A Memorandum of Understanding was signed between the Maldives Police Service (MPS) and the Elections Commission on 3 September, stating the role of the MPS during the election period. The Group would have been pleased to see the early publication of this memorandum, in the interest of increased transparency and public awareness.
- The count at polling stations was conducted transparently, if slowly. Polling officials worked methodically and party observers, national observers and the media were present to witness the outcome.
- It was clear that the Elections Commission was logistically well-prepared for this election. Election material was distributed in time to the atolls, and overall, the process was well-administered.
- Finally, the Commonwealth Observer Group would like to commend the people of Maldives for the spirit in which they participated in this election. The high voter turnout (provisionally estimated by the Elections Commission as 88 per cent) reflects very positively on the Maldivian people's strong commitment to the democratic process.
- As the country prepares for the second round vote, on 28 September, we encourage the candidates, parties and voters to continue in this spirit of peaceful democratic engagement.

### **Campaign and media**

Candidates and parties held rallies and meetings across the atolls and were able to assemble freely and express their views. The campaign was largely peaceful and political parties and their supporters acted responsibly overall. A few incidents of minor disruption to campaigning were reported, but these did not appear to be widespread. Some parties used negative rhetoric in reference to other candidates, which was not in the spirit of the code of conduct incorporated in the Presidential Election Regulation 2013. Candidates and parties generally respected legislation stipulating the cessation of campaigning at 6pm on the eve of the election.

A small number of campaign-related complaints, including allegations of the financial and material assistance to gain support for a candidate, and alleged inappropriate use of state resources, were noted by some stakeholders. Candidates are permitted by law to spend up to 1,500 Maldivian Rufiyaa per voter (currently equivalent to USD 23.5 million per candidate) during the 30-

day campaign period. However, there is no limit on financial contributions to political parties and, under the Political Parties Act 2013, parties are permitted to receive anonymous donations and funding from foreign sources. While presidential candidates must declare their assets and expenditure, political parties are not obliged to make this information public.

A weak legal framework for electoral offences, combined with a lack of clarity regarding different institutions' roles in addressing some electoral offences, limits the ability for some issues of concern to be adequately addressed in a timely manner.

The national broadcaster Television Maldives (TVM) was widely considered to have acted fairly towards all political parties and candidates. This is in line with legislation under the law governing the Maldives Broadcasting Commission and Article 30 of the Elections (General) Act. TVM broadcast four live programmes, each focused on a single candidate. They also aired two debates, one with running mates, and the other, a presidential debate with all four candidates. TVM also provided regular voter education slots.

Coverage of the campaign by some privately-owned broadcast and print media generally reflected political bias. Many private television stations and newspapers (print and online) are owned by or associated with political actors, with content perceived as slanted towards the associated political party.

In August 2013, the Maldives Broadcasting Commission released a statement urging broadcasters to follow the Elections (General) Act, the Code of Practice and the Guidelines on Broadcasting Political Content During Elections.

There remains lack of clarity as to the responsibilities of the Elections Commission (operating under Article 30 of the Elections (General) Act, and the Broadcasting Commission (operating under the Broadcasting Act). Article 30 specifies that all candidates be given equal airtime to campaign on broadcast channels. A number of stakeholders suggested reluctance by regulators to exercise their powers to enforce the legislation, ostensibly due to a mixture of capacity constraints and blurred boundaries between institutional responsibilities.

Social media was a popular campaign tool, appealing particularly to young voters. Twitter was used prolifically by political parties, their supporters, officials and the public to convey and relay information and misinformation.

### **The Electoral Framework and Election Administration**

The 7 September elections were the second multi-party Presidential Elections to be held in Maldives. The electoral framework provides the basic conditions for credible and competitive elections, with the requisite freedoms. Within this context, the competent management and administration of election day represents further progress for the country in strengthening its democratic practices.

The Elections Commission of Maldives took steps to ensure accuracy of information and transparency in the administration of the voter registration process. Integrity of the voter register is critical to ensuring public confidence in the polls.

The Presidential Election Regulation 2013 contains a code of conduct for candidates and persons campaigning in support of a candidate. However, the Regulation does not stipulate sanctions for breach of the code. Consideration should be given to strengthening legal provisions in this regard, including on the respective monitoring and enforcement roles of relevant national institutions.

The complaints and appeals mechanisms remain ambiguous and a potential weakness. One of the key recommendations outlined in the Commonwealth's 2008 Observer Group report was for greater clarity and coherence around these procedures. As the complaints process is still active, we are not in a position to comment on its overall efficacy, and will do so in our Final Report.

### **Voting and Counting Procedures**

Commonwealth observers reported a peaceful and well-managed process on election day. Polling officials were consistent and meticulous in the application of procedures. Most officials seemed well trained and experienced. It was positively noted that a significant majority of polling officials were women. The Group observed that the Maldives Police Service maintained an unobtrusive presence outside polling stations, and respected the spirit of the stipulated 100 feet boundary from the ballot box.

The turnout of voters was notably high, with long queues at many polling stations prior to the opening of the polls at 0730 hours. However, by midday the long queues had dissipated in the majority of places, and most voters had cast their ballot well before the close of polls at 1600 hours. It was observed that voters who were still queuing at the time the polls closed were able to cast their votes, as provided for by law.

Voters were free to exercise their right to vote. The secrecy of the ballot was provided for, although in a few cases, due to constraints of space in some polling stations, this was somewhat compromised. The Group noted improved clarity in the criteria for assisted voting compared to the 2008 elections. However, observers witnessed inconsistent application of these provisions, and recommend additional training for polling officials in this area.

The vote count at the polling station was highly transparent with media monitors, party observers, and national and international observers able to scrutinise the process closely. Polling officials were methodical in their approach, explaining decisions on any invalid ballots to those present. Although the provisional percentage of invalid ballots (1.1%) fell within the range of international best practice, the Group noted that in some instances where the

intent of the voter was clear, the ballot was invalidated as the mark was not the requisite check mark. We recommend additional voter education focussed on the acceptable mark and/or a review of this provision.

The count process was conducted in a consistently transparent manner, with officials observed by the Group demonstrating willingness to repeat steps in the process in response to concerns expressed by party observers. At the conclusion of the count, the results were announced and then posted at the polling station, as required.

The Commonwealth Observer Group will be present for the second round of voting on 28 September. We will issue a comprehensive Final Report, including recommendations, at the conclusion of the electoral process.

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## Annex 5

### Deployment Plan – 9 November 2013 Election

NO.	TEAMS	LOCATIONS
1	Mr Bruce Hatch Ms Elizabeth Ohene	Gaafu Alifu Atoll Gaafu Dhaalu Atoll
2	Mr Hendrick Gappy Ms Charlene Lee Ling	Haa Alifu Atoll Haa Dhaalu Atoll
3	Ms Notemba Tjipueja Dr Hugh Craft	Raa Atoll
4	Mr Irfan Rahman Hon Kate Wilkinson	Seenu Atoll
5	Dr Lawrence Gonzi – Chair Ms Alison Pearman	Malé
6	Ms Hilary McEwan Ms Clara Cole	Kaafu Atoll, including Malé

## Annex 6

### Interim Statement



## Commonwealth Observer Group

Maldives Presidential Election, 9 November 2013

Interim Statement by Dr Lawrence Gonzi, Chairperson

**Malé, 10 November 2013** — The 9 November Presidential Election was an important milestone towards sustaining the democratic process in Maldives.

The eight-member Commonwealth Observer Group, constituted by the Secretary-General, has been in the country since 6 November at the invitation of the Elections Commission of Maldives.

A Commonwealth Observer Group was first deployed for the 7 September Presidential Election, which was later annulled by the Supreme Court. The Commonwealth Secretary-General subsequently constituted an Observer Group for the 28 September and 19 October elections, both of which were cancelled.

On election day, Commonwealth observers visited seven of the country's atolls, and witnessed the opening, voting, closing and counting of ballots. The teams interacted with election officials and other observers during the course of the day.

Key findings:

- The 9 November election, which took place after three stalled attempts over the past nine weeks, was inclusive, free and fair.
- The Elections Commission should be commended for its professionalism and consistency in delivering another well-managed and credible election. Despite logistical and administrative challenges, the Commission was able to implement the new procedures and guidelines issued by the Supreme Court.

- Voter turnout was again high, with a large number of women voters and women polling officials present, demonstrating the country's commitment to inclusive democracy.
- Despite initial procedural delays due to the signing of the register and provision of logistical support, electoral materials were distributed to all polling stations prior to the opening of polls.
- Again, the voter register did not substantively prevent voters from exercising their will.
- Campaigning over the long election period was largely calm and peaceful. The patience of voters was acknowledged by the Observers.
- On election day, polling stations observed opened and closed on time, voters were free to express their will and secrecy of the ballot was ensured.
- Representatives from all three parties were present at most polling stations observed. They appeared collegial and cooperative.
- Polling station officials were helpful, methodical and understood their roles. Additional checks required in this election in some instances added to the time it took to process voters, but this was managed in an orderly and professional manner.
- On election day, observers reported a larger police presence in some locations than on 7 September; however, the police continued to maintain a low profile and respected the authority of polling officials.
- Counting proceeded smoothly and transparently, in the presence of domestic and international observers, party officials and monitors representing the media.

As the election process will continue into a run-off poll, scheduled now for 16 November, this interim statement outlines the Group's findings so far. Commonwealth Observers will be present for the second round and the Group will issue a final report, including recommendations, following the conclusion of the process.

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## Annex 7

### Deployment Plan – 16 November 2013 Election

NO.	TEAMS	LOCATIONS
1	Mr Bruce Hatch Ms Elizabeth Ohene	Haa Alifu Atoll Haa Dhaalu Atoll
2	Dr Hugh Craft Ms Charlene Lee Ling	Raa Atoll
4	Hon Kate Wilkinson Mr Andi Schubert	Seenu Atoll
5	Dr Lawrence Gonzi – Chair Ms Alison Pearman	Malé
6	Ms Hilary McEwan Ms Clara Cole	Kaafu Atoll, including Malé



## **Annex 8**

### **Statement**



## **Commonwealth Observer Group**

**Maldives Presidential Election, 16 November 2013**

**Statement by Dr Lawrence Gonzi, Chairperson**

The 16 November 2013 Maldivian presidential run-off election brings to a successful conclusion what has been a credible, but unnecessarily protracted, electoral process.

Commonwealth observers have been in Maldives since 6 November, at the invitation of the Elections Commission, to observe both the 9 November election and the 16 November run-off election. Six observers were present for the 16 November election, deployed in five atolls across Maldives. The observers witnessed the opening, voting, closing and counting of ballots on election day.

A Commonwealth Observer Group, constituted by the Secretary-General, was first deployed for the 7 September Presidential Election, which was later annulled by the Supreme Court. Observers were also present for the elections scheduled for 28 September, 19 October and 10 November that were subsequently cancelled.

#### **Key findings:**

- The 16 November run-off election was credible and peaceful.
- Voter turnout was impressively high, provisionally reported as 91 per cent.
- The Group congratulates the Elections Commission for its outstanding performance in delivering yet another credible and well-run election, despite the challenges faced in having to adhere to the guidelines imposed by the Supreme Court.
- Polling stations observed by the Group opened and closed on time, and voters were free to express their will. As before, the voter register did not substantively prevent voters from exercising their right to vote.

- Polling station officials were well-organised and focused. The voting process was notably faster than on 9 November, as officials seemed more familiar with the additional procedural requirements imposed by the Supreme Court guidelines.
- Representatives of the two candidates were present at all polling stations observed.
- As on 7 September and 9 November, the police maintained a discreet presence, at an appropriate distance, outside polling stations.
- Counting was again smooth, methodical and transparent, and was witnessed by domestic and international observers, party officials and media monitors.

The Group is pleased that the Presidential elections have now concluded after what has been a complicated and lengthy process. Commonwealth observers commend the voters for the patience they have shown throughout the election period and their continued determination to exercise their right to vote.

The Group notes that the conclusion of the election provides an opportunity for stakeholders to move forward in a conciliatory manner and to build trust and confidence in their democratic institutions.

The Observer Group will issue a final report, including recommendations, within the coming weeks.

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## Annex 9

### **Unofficial Translation of Supreme Court Judgment of 7 October 2013, released by the Office of the Attorney General of Maldives**

09 October 2013, Male'; Attorney General's Office has issued an unofficial translation of the Supreme Court Judgment on the first round of the Presidential Election. Please find below the unofficial translation:-

#### **42/SC-C/2013 Judgment of the Supreme Court of the Maldives (translation of the final verdict only, reasoning not included)**

Case number:	42/SC-C/2013
Claimant:	Jumhooree Party
Respondent:	Elections Commission
Intervening Parties:	State (Attorney General's Office) Progressive Party of Maldives
Case Type:	Constitutional
Form of Application:	Constitutional Dispute Form
Date of Application:	15th September 2013
Date of Registry:	16th September 2013
Date of Judgment:	7th October 2013
Time of Judgment:	23:30

#### **Bench:**

Chief Justice Ahmed Faiz Hussain, Justice Abdullah Saeed, Justice Abdullah Areef, Justice Ali Hameed Mohamed, Justice Adam Mohamed Abdullah, Justice Dr. Ahmed Abdullah Didi, Justice Ahmed Muthasim Adhnaan.

#### **HELD:**

Whereas, regarding the claim submitted by the Jumhooree Party to the Supreme Court of the Maldives, based on the statements submitted by the Plaintiff and the intervening Parties, Attorney General's Office and the Progressive Party of Maldives, the Supreme Court Judgment No. 39/SC-C/2013 which sets out the guidelines on arrangements and amendments in regard to the Presidential Elections held on 7th of September 2013 and the Principle of Legality, the Constitution of the Maldives, The Elections (General) Act (Law No: 11/2008), the evidence submitted, the expert report compiled by the Expert Forensic Team hired by the Supreme Court to analyze the evidence and the guidelines outlined in Article 170 of the Maldivian Constitution about elections and public referendums held in the Maldives, the Supreme Court notes the following in a judicial and legal perspective;

And the Jumhooree Party claims that the Elections Commission, which has the constitutional responsibility of arranging and overseeing an independent, impartial, free and fair Presidential Electoral process, in doing so during the voting for the Presidential Elections held on the 7th of September 2013, deprived the fundamental right of every citizen of and above 18 years of age to cast their vote guaranteed by the Constitution of the Maldives, deprived the right of many citizens to appoint freely chosen representatives; and while it is required to ensure that the Elections

Commission arranges the Presidential Election in accordance with Article 170(a) of the Constitution of Maldives, which details the powers and responsibilities of the Election Commission to hold all elections and public referendums and that they are conducted freely and fairly, without intimidation, aggression, undue influence and corruption, the Elections Commission did not accept the support and co-operation on issues that needed to be addressed provided by National Centre for Information Technology and Maldives Police Service; and since there is enough evidence to support the fact that the Elections Commission acted in an arbitrary manner to grant an undue advantage to a specific party, as they violated the guidelines highlighted in the Supreme Court Judgment No. 39/SC-C/2013, which directs the election and its process to be arranged in a way that would not lead to a perception of intimidation, undue influence and corruption and should be an election which guarantees an independent election which provides for every citizen's right to vote and therefore since the citizens have lost confidence in the election held on 7th September 2013, the election should be nullified:-

Hence it is clearly known that the fundamental right governed by Article 26 (a) and (c), the right to vote in elections and public referendums and to take part in the conduct of public affairs directly or through freely chosen representative is a right ensured under Chapter 2 of the Constitution, for every citizen of age 18 years or older, and that Article 69 of the Maldivian Constitution clearly states no provision of the Constitution shall be interpreted or translated in a matter that would grant to the state or any group or person the right to engage in any activity or perform any act aimed at the destruction the rights and freedoms set out in the Constitution, and by referring to the fundamental rights and freedom set out in Chapter 2, Article 65 states "anyone whose rights or freedoms, as guaranteed by this chapter have been infringed or denied may apply to a court to obtain a just remedy." And if it is believed that by directly the right of an individual, or a group of people has been violated or the right of a community is infringed by an administrative action, have the right to apply to court to obtain a just remedy.

Having said this, Article 113 of the Maldivian Constitution confers that the Supreme Court, sitting in session shall have sole and final jurisdiction to determine all disputes concerning the qualification or disqualification, election, status, of a Presidential candidate or running mate or removal of the President by the Parliament of the Maldives, and as such, it is clear that the Supreme Court decision is the final judgment.

Since Article 145 (c) of the Maldivian Constitution states that the Supreme Court shall be the final authority on the interpretation of the Constitution, the law, or any other matter dealt with by a court of law, and since the Article 20 (b) of the Judicature Act of the Maldives (Law No. 22/2010) states that a Supreme Court ruling on a matter shall be conformed to by the Executive, the Parliament, the Judiciary, those in independent posts, state institutions, those holding state positions, the police and the defense force and all the citizens, it is clearly evident that;

The claim is based on the dispute of the electoral process of a presidential candidate as stated under Article 113 of the Maldivian Constitution and it is also clear under Article 113 of the Constitution that in such a dispute the final jurisdiction lies with the Supreme Court, the Supreme Court of the Maldives has the final jurisdiction regarding the claim submitted by Jumhooree Party and since it is the constitutional responsibility of the Supreme Court conferred within the special jurisdiction, to provide a just ramification to the dispute regarding the election of a President, as the governing body

of the Constitution and there is no judicial and legal basis to dispute the power conferred to the Supreme Court under Article 113 of the Constitution of the Maldives within the jurisdiction of the Constitution of the Maldives;

The Election Commission who prepared the electoral rolls that has to be held in the year 2013 in the Maldives, is an independent and impartial Commission enacted under Article 167 of the Constitution of the Maldives and the Election Commission's responsibilities and powers include ensuring the process of all elections and public referendums are conducted fairly and freely, without intimidation, aggression, undue influence, or corruption;

It is clearly evident from Article 17 (a) (1), (6) and (7) of Elections Commission Act (Law No. 8/2008) that Election Commission members should uphold the rule of law, protect the rights and freedoms of the citizens, refrain from any activity that directly or indirectly support or object a candidate or a political party, the members should also refrain from any act or participation or communicating an opinion or by any such means which might lead to question the member's integrity and impartiality, and the members should refrain from any activity which might question the Commission's independency, impartiality and integrity, under the law; and because the arrangements of the Presidential election held on 7th September 2013 were carried out by the Elections Commission in a way which is in clear violation of the binding guidelines set out in the Maldivian Constitution and the Supreme Court's judgment No. 39/SC-C/2013 and since this action of the Elections Commission has resulted in intimidation, undue influence and corruption on a large scale, it led to 773 votes cast using incorrect Identity Card numbers, 7 voters whose names manually added to the list later, 18 votes cast in the names of individuals listed as deceased in the Department of National Registration's (DNR) database, 7 votes cast by minors, 3 cases of vote repetition, 225 cases of voting by individuals who were not issued an ID card by DNR as their records were repeated, 2830 individuals who voted even though they had conflicting addresses, 952 voters with incorrect names, 7 votes cast without a record in the DNR database, due to the lack of attention given by the officials of the Elections Commission, 819 individual discrepancies were found between the ID card numbers noted down by the officials of the Elections Commission, and the printed voters list;

It is evident that the fundamental right to vote ensured to all citizens by the Constitution of the Maldives was infringed and it paved the way for more than one vote to be cast per person;

the above mentioned Presidential Elections cannot be considered as one which provides for the right of every citizen to exercise their right to vote in a free and fair election, on either a legal or judicial basis as per Article 170(a) of the Maldivian Constitution, based on the witness statements, documentary evidence and the expert report compiled by the Expert Forensic Team hired by the Supreme Court to analyze the evidence, it is held that the Presidential Elections held on the 7th of September 2013 has no legitimacy, because of the above mentioned flaws, and is therefore annulled, and hereby order the Elections Commission and the relevant entities of the State to hold a fresh first round of the 2013 Presidential Elections as mandated under the Constitution, in accordance with the guidelines stipulated below in this verdict.

1. The Elections Commission and other relevant entities of the State must make arrangements to ensure that the first round of the 2013 Presidential Elections can be held before the 20th of October 2013, in accordance with the guidelines

stipulated in this verdict.

2. The Elections Commission and other relevant entities of the State must make arrangements to ensure that, if required, a second round of the Presidential Elections can be held before the 3rd of November 2013 as per the Constitution and relevant laws.
3. In accordance with the guidelines stipulated in this verdict, make arrangements to ensure that all citizens who turn the age of 18 by the date of the 2013 Presidential Elections are able to exercise their fundamental constitutional right to vote fully and independently.
4. In determining those who are eligible to vote in terms of age, the main source used to compile the voter register should be the Department of National Registration's Database and it must be guaranteed that minors under the age of 18 and those deceased are not included in the voter register.
5. In order for voting to commence in all constituencies in Maldives and abroad, the voter register must contain voter's name, permanent address, and Identity Card number, and must be approved by the Elections Commission and the candidates or their representatives, and must be the final list containing their signatures and finger prints, and no other lists must be used in any of the constituencies in the Maldives or abroad.
6. When voters are being assigned to respective constituencies after the announcement for voter registration, ensure that their names are not transferred to another constituency and that the list of a specific constituency contains only the names of those registered to that constituency.
7. As the law regards those registered under the Special Registry of Male' Municipality as residents of Male', and because there is no real need for them to be registered to a specific address in a particular province or constituency of Male' for the purpose of the Presidential Election, arrangements must be made such that those registered under the Special Registry of Male' Municipality, including those that have been transferred from the Special Registry of Male' Municipality to Male' addresses, are able to vote to ballot boxes specially allocated to them, and this must be announced publicly.
8. To ensure that no one can vote twice, and that only one ballot slip is issued per voter, and to ensure that all officials present at all polling stations are independent of any suspicions of being a supporter or a representative of any candidate or for having any political affiliations, all officials must be assigned with the knowledge of the candidates or their representatives.
9. After polling closes in every constituency, to ensure that the Report on Election is compiled truthfully, representatives of candidates who were assigned to be in that area beforehand must be present during the compilation process; and it must be ensured whether or not a person who has not voted has been struck off as voted or marked as voted, and whether more votes has been cast than those marked as voted on the list, and whether those who voted are only those who were registered to that list beforehand.

10. The Elections Commission and other relevant entities of the State must prohibit and ensure that those who enter the polling stations in order to vote or for any other purpose (including officials), do not carry phones, handbags, files or any other item (except pens) that may compromise the rights of candidates.
11. It must be ensured that a second list that has been verified as identical to the original voters list of every constituency is publicly displayed at that constituency.
12. In order to have the Presidential Elections mandated under the Constitution, before the 20th of October 2013, brand new ballot slips containing appropriate security features for a such an election must be printed, and the Elections Commission together with the security services of the Maldives must make arrangements to ensure that security is maintained during the process of printing and moving the ballot slips from one place to the other as well as ensuring the safekeeping of the ballot slips and ballot boxes after voting closes.
13. Assign an independent official in order to ensure that the latest token number issued for voters are announced every 30 minutes in a way apparent to those present at the polling station, and to ensure that the official notes-down the token number corresponding to every voter at the time when the voter's name is marked as having voted on the list, and also to ensure that no voters name is marked twice on the list and that no marked name has two token numbers corresponding to it.
14. In making arrangements necessary for the Presidential Elections mandated under the Constitution, the Elections Commission must comply with the binding guidelines stipulated in this verdict and collaborate with the relevant entities and authorities of the government to make the necessary arrangements, in a time frame no more than 72 hours after the delivery of this verdict.
15. In order to minimize the risk of unlawful transfer of a voters name to a constituency other than the one to which they are registered in without their knowledge, re-registration forms and forms submitted through others must not be accepted by the Elections Commission if they do not include the name of the person requesting re-registration, names of two witnesses other than the person submitting the form, address, Identity Card number and fingerprint of that person; and in order to ensure that such forms are not utilized, a list containing the people re-registering, their new constituencies, name, address and Identity Card number must be publicly announced.
16. The expert report referred previously shows that the server and database of the Elections Commission were accessible by many who should not have clearance to access them in both Maldives and abroad. Therefore to ensure that the server, database and the whole IT system of the Elections Commission is a reliable system, it must be improved and restructured as per the professional opinion of National Centre for Information Technology and other relevant Government entities.

**Unofficial Translation of Dissenting Opinions, as published in local media on 10 October 2013**

***Chief Justice Ahmed Faiz Hussein and Abdulla Areef***

The Jumhooree Party requested the annulment of the first round of the presidential election held on 7 September 2013, claiming the Elections Commission violated the Constitution, Elections laws and the Supreme Court verdict number 2013/SC-C/39, violated fundamental rights guaranteed in the constitution to every citizen and requested the Supreme Court to declare it a right for every presidential candidate to receive the registry of individuals of who had voted from the Elections Commission, and requested the voter registry be invalidated, claiming the registry was not accurate as it was not compiled in accordance with relevant laws and guidelines noted in the Supreme Court's verdict 2013/SC-C/39.

We note the following with reference to the testimony and evidence presented by the complainant, defendant and those who intervened in the case, the Maldives' constitution and Act no 12/2008 (Presidential Elections Act), and Act no. 11/2008 (General Elections Act).

1. The complainant, Jumhooree Party, has noted the following in contending the existence of irregularities in the "Voter Registry of Presidential Election 2013":

- 669 dead people noted on the Department of National Registration's list are included in the Voter Registry of Presidential Election 2013
- 41 individuals who were not 18 years of age by 07 September 2013 had changed their date of birth and are registered as 18 years old in the Voter Registry of Presidential Election 2013
- 102 individuals are repeated twice (due to possessing double ID cards) in the Voter Registry of Presidential Election 2013
- 1818 individuals who did not have valid ID cards and therefore were not included on the Department of National Registration's list were included in the Voter Registry of Presidential Election 2013
- 1187 individuals who are on the Malé Municipality Special Roster were registered in houses without the owner's permission and are registered on the Voter Registry of Presidential Election 2013. The Election Commission does not have the authority to do so.
- In compiling the Voter Registry of Presidential Election 2013, attention was not paid to find out and list the Maldivians who live abroad (this does not include Maldivians who registered to vote abroad)
- Among people who have the right to vote but were not listed on the voter registry, some were allowed to vote, while others were not.
- Upon arriving at the polling station, some individuals found votes had already been cast in their names, however, these individuals were allowed to vote again
- The ballot papers used in the presidential election on 07 September 2013 lacked strong security features and hence allowed for inauthentic ballot paper copies. This will affect the election outcome
- With reference to the points noted above, the Jumhooree Party believes 2630 people who do not have the right to vote were allowed to vote in the presidential election held on 07 September 2013

2. Although the Jumhooree Party filed this suit under Article 113 of the Constitution, with reference to the points noted below, it is clear this complaint relates to the voter registry as per Article 170 (b) of the Constitution. The Jumhooree Party has asked:



- For the list of individuals who have voted in the presidential election of 07 September 2013 be made available to all candidates
- To invalidate the Voter Registry contending the registry was not compiled in accordance with the constitution, relevant laws and Supreme Court verdict 2-13/SC-C/39
- For the Presidential Election of 2013 be invalidated
- To issue an injunction ordering the Elections Commission not to proceed with elections unless it corrects the wrongs raised by Jumhooree Party and abides by guidelines put forth in the Supreme Court verdict 2013/SC-C/39

3. The following points are noted with reference to relevant constitutional articles, Act no 12/2008 (Presidential Elections Act) and Act no. 11/2008 (General Elections Act):

- Article 171 (a) and (b) of the Constitution states that voting in all public elections or public referendums conducted by the Elections Commission, shall be by secret ballot and that immediately after the close of the polls, the presiding officer who is appointed by the Elections Commission shall, in the presence of such candidates or their representatives if present, count at the polling station the ballot papers of that station, and record and publicly declare the votes cast in favor of each candidate or question in public referendum
- Article 172 (a) and (b) states that a person may challenge a decision of the Elections Commission concerning an election or public referendum, or may challenge the results of an election, or contest the legality of any other matter related to an election, by means of an election petition presented to the High Court and the manner for dealing with any challenge submitted pursuant to article (a) shall be provided for in a statute on elections

4. Article 62 – 65 of the General Elections Act states the manner with which any challenge submitted pursuant to Article 172 (a) shall be dealt with.

- Article 64 states any individual may file a complaint at the High Court if election laws are violated, or if they are unhappy with the Election Commission's decision in an election complain.
- Article 63 states that any individual who has the right to vote, candidates standing for election, political parties, authorized observers and monitors have the right to file election related complaint.
- Article 64 (a) (b) (c) states that if a petition is submitted to the High Court, it must be accompanied by reasons, details and evidence and submitted within 14 days of the announcement of official result.
- Article 65 (a) states a court should annul the election in a specific geographical area and order a revote only in the area if the court finds undue influence, bribery to influence voting, or violation of the General Elections Act and subsidiary laws

5. The following is noted with reference to Act no 11/2008 that was passed pursuant to Article 170 of the Constitution. The Act states that the Elections Commission responsibilities and powers include conducting, managing, supervising, and facilitating all elections and public referendums, ensuring the proper exercise of the right to vote, and to ensure that all elections and public referendums are conducted freely and fairly without intimidation, aggression, undue influence or corruption and holding and declaring the results of those elections and public referendums within periods prescribed by law

- Article 4 of the General Elections Act states the Election Commission must conduct, manage and supervise all election

- Article 2 of the General Elections Act states that the Elections Commission must prepare and maintain a voter registry
- Article 9 (a) (b) (c) of the Act states that the Elections Commission must update the voter registry with most recent information and publish the voter registry in the government gazette with voter names, sex, and permanent address, 45 days before an election, and on that same day the registry must be published in a public space in every inhabited island, and ensure access to any individual who wants to see it and must publicize the place where the registry is published
- Article 10 (a) (b) (c) and (b) states that political parties and any individual who is above 18 years of age, regardless of whether they are included the voter registry, have the right to complain over information included or not included in the registry and if such a complaint exists they must submit a complaint in writing to the Elections Commission within ten days of the voter registry being published in the government gazette, and the Elections Commission must review the complaint within 5 days of the end of the 10 days, and inform the party who raised the complaint of the decision and the reasons for the decision, and must revise the voter registry accordingly and publish the new voter registry in the gazette and also make the revisions in the voter registry lists published in public.

6. Jumhooree Party submitted five lists as evidence to prove that the Elections Commission's Voter registry was not compiled in accordance with the constitution, relevant laws and Supreme Court verdict 2013/SC-C/39. However, the sources from which the information obtained for these five lists are not known. These lists are 1. A list of dead people present on the Voter registry (669 individuals) 2. A list of individuals who were not 18 years of age in the Voter registry (41 people) 3. Individuals whose names were repeated twice on the Voter Registry (204 names) 4. A list of individuals who were not issued ID cards by the Department of National Registration (1818 names) 5. A list of individuals who had registered at addresses without the knowledge of the owner of the address (1187 names). The Elections Commission submitted lists of those who had voted in the first round of the presidential election held on 07 September 2013 for all 470 ballot boxes (796 booklets) on orders of the Supreme Court. Jumhooree party's five lists and the Election Commission's list of those who had voted were given to a Maldives Police Services expert team consisting of document examiners of the forensic services directorate, computer forensic analysts and technical staff for comparison. We note the following from the expert report compiled by the Maldives Police Services:

- When the list of the 41 underage voters noted by the Jumhooree Party was matched with the DNR database, 32 of the 41 were found to be underage, but information for the remaining 9 could not be confirmed. The registry of individuals who had voted shows 12 of the 32 had voted in the presidential election of 2013 held on 7 September 2013.
- When the Jumhooree Party's list of 669 dead people included in the voter registry was compared with the Voter Registry, 637 of the 669 were found on the Voter registry. Of these 637, 14 individuals were found to have voted in the presidential election of 2013 held on 7 September 2013. Of these 14, two individuals voted with identity cards other than those issued to them
- When the Jumhooree Party's list of 204 repeated names was compared to the Voter Registry, 174 entries were found on the Voter Registry. Of these 174, 22 individuals' information due to repeated permanent addresses had been noted as repeated entries in the Department of National Registry. However, none of these people were found to have cast repeated votes

- When the Jumhooree Party's list of 1818 individuals who had not been issued ID cards by the Department of National Registration was compared with the Department of National Registration's database, it was found that 1637 of the 1818 were not issued ID cards by the Department of National Registration (the remaining 181 people's information was not found). Of the 1637, 207 individuals were found to have voted in the presidential election and 96 of the 207 voted with ID cards numbers that were different to that included in the list published in the gazette
- When the Jumhooree Party's list of 1187 individuals on the Voter Registry who had registered at addresses without the owner's consent was compared with the DNR database, 1186 individual's records were found, of these 44 are believed to have voted in locations other than their place of domicile, and 1115 of 1186 are found to have voted, however, 1159 of those who voted did not vote in any other ballot box than the one they registered to vote in
- In instances where there were discrepancies in information of voters between the voter registry and the DNR database, the information was corrected with a pen as per the DNR information, and these individuals were allowed to vote. However, this did not allow for repeated voting in the Presidential Election 2013 held on 07 September 2013
- 7 individuals were added by pen to the Voter registry on 7 September 2013 and were allowed to vote. However, as per the list of those who had voted on 7 September 2013, these seven votes were not repeated. With reference to the points noted above, there are 473 votes that may affect the first round of the presidential election 2013. In addition to these irregularities, there are other discrepancies noted in Maldives Police Services' forensic report. The Elections Commission must revise these discrepancies in order to maintain public trust and ensure elections are held as per the Constitution and election laws

7. The plaintiff and those who provided witness statements asked for anonymity. There were clarifications to be made in the 14 anonymised witness statements. However, since such clarifications may have violated the anonymity of the witnesses, such questions were not asked. Further, the secret Maldives Police Services document submitted by the Attorney General's Office submitted to court did not provide a right of response to the defendant. Hence these witness statements and the secret documents have not been counted [in this opinion].

Given, Article 172 (a) of the constitution states that a person may challenge a decision of the Elections Commission concerning an election or a public referendum, or may challenge the results of an election, or contest the legality of any other matter related to an election, by means of an election petition presented to the High Court,

Given the Majlis has passed a statutory elections law (Act 11/2008) as per Article 172 (b) of the constitution which states the manner for dealing with any challenge shall be provided for in a statute on elections, and as Article 65 (a) of Act 11/2008 with reference to Article 64 of the same act states a vote in a specific area may be annulled and a revote ordered in that area if the court decides there is undue influence in an election in that specific area,

Given official results of an election can only be annulled only in the specific area, specific ballot box or boxes, in which undue influence has occurred as per Article 65 of Act 11/2008 (Elections Act), there is no room to annul the votes of the 211,890 people who voted in the 2013 Presidential Election held on 7 September 2013."

**Justice Ahmed Muthasim Adnan's Dissenting Opinion**

The Jumhooree Party requested the Supreme Court – under Article 113 of the Constitution, Article 10 (b) and 11 (a1-3) of Act no 22/2010 (Judicature Act) - annul the first round of the presidential election held on 7 September 2013, claiming the Elections Commission violated the Constitution, Elections laws and the Supreme Court verdict number 2013/SC-C/39, violated fundamental rights guaranteed in the constitution to every citizen and requested the Supreme Court to declare it a right for every presidential candidate to receive the registry of individuals of who had voted from the Elections Commission, and requested the voter registry be invalidated, claiming the registry was not accurate as it was not compiled in accordance with relevant laws and the Supreme Court's verdict 2013/SC-C/39.

The defendant in this lawsuit is the Elections Commission. The Maldivian State, and the Maldivian Democratic Party (MDP) and Progressive Party of the Maldives (PPM) intervened in the case. However, the MDP later left the case.

I note the following with reference to the Constitution, Act no 08/2008 (Election Commission Act), Act no 11/2008 (General Elections Act), Act no 12/2008 (Presidential Elections Act), testimony provided by the Jumhooree Party, testimony provided by the Elections Commission, testimony provided by third party interveners, documents submitted to court, the answers provided to judges, and procedural aspects of this case.

1. The Jumhooree Party has three requests
  - Declare the handover of the list of individuals who voted in the Presidential Election of 2013 be a right afforded to every presidential candidate
  - Declare the voter registry unlawful as it was compiled in violation of the Constitution, relevant laws and Supreme Court verdict no 2013/SC-C/39 and invalidate the registry
  - Declare null the presidential election held on 7 September 2013, and order the Elections Commission to proceed with elections only in accordance with the Constitution, Elections laws, Supreme Court Verdict no 2013/SC-C/39, and after correcting the wrongs noted by the Jumhooree Party
  
2. As Article 172 (a) of the Constitution states that a person may challenge a decision of the Elections Commission concerning an election or public referendum, or may challenge the results of an election, or contest the legality of any other matter related to an election, by means of an election petition presented to the High Court, and with reference to Article 10, 64 and 65 of Act no. 11/2008 (General Elections Act), it is known that the Jumhooree Party's petition's jurisdiction lies with the High Court, and the aforementioned laws detail the manner in which such a challenge may be dealt with in a court of law, and that the Jumhooree Party submitted such a petition to the High Court and the High Court issued a final verdict in the case
  
3. When examining the Jumhooree Party's claim that the Voter Registry was not compiled in accordance with the Constitution, the relevant election laws and Supreme Court verdict 2013/SC-C/39, I note that the Elections Commission prepared a registry of all individuals who have the right to vote as per Act no 11/2008 (General Elections Act) and published the registry in the government gazette on 30 May 2013, and as per Act no 11/2008 (General Elections Act) the registry was revised and published for a second time in the government gazette on 21 July 2013. Article 8 through 12 of Act no 11/2008 (General Elections Act) clearly states that the Elections Commission must prepare and publicize the Voter Registry, allow revisions to the registry, allow individuals to re-register in instances

where they are not present in their place of domicile at the time of voting. With reference to testimony and documents provided to this court, it is evident the Elections Commission followed all the procedures outlined in Article 8 through 12 of Act no 11/2008 (General Elections Act)

4. The Supreme Court case no 2013/SC-C/39 was submitted to the court on 22 August 2013, and a verdict was issued on 02 September 2013, and the verdict was supported by a majority of the Supreme Court, and the verdict was issued five days before the presidential election to be held on 7 September 2013. Hence, when the Supreme Court verdict no 2013/SC-C/39 was issued, very little time remained for the presidential election on 7 September 2013.
5. Point five of the Supreme Court Verdict no 2013/SC-C/39 states: "while it is certain that none can deprive a person of age, his right to cast his vote pursuant to Article 26(a) of the Constitution, upon scrutiny of submissions of the parties at the proceedings and the evidence tendered with reference to the allegation of the applicant that the Elections Commission had failed to verify the accuracy of the voter registry forms required for the Voter Registry to be compiled for the upcoming elections of September 7, 2013, with specific reference given to the circumstantial evidence tendered i.e. selected forms from among the complaint forms material to this application themselves, the Justices find no avenue may be allowed for compromise of any constitutional right guaranteed to the people. Article 170(b) requires the Commission to compile, maintain, edit when necessary the Voter Registry for all public elections and referendums and this duty of maintaining this Registry with the registration of voters who wish to vote at places other than their place of domicile is a positive one which falls upon the Commission. This is essential to ensure that the competitive Presidential Elections impending do not end in circumstances of violence and hatred. Functions such as the duty to ensure that those temporarily impeded from exercising their voting rights owing to Registry irregularities at places of their domicile are catalogued and allowed to rectify the respective irregularity after normal polling hours and the duty to ensure that no one but eligible voters enter the voting premises are all duties which the Commission need necessarily undertake. These duties further include ensuring all eligible voters have the unimpeded opportunity to cast their vote at their respective places of domicile and that to ensure that all registered under the Malé Municipality Registry as legal residents of the capital city, to be able to vote in determined locations in the capital unless registered to vote elsewhere. The Commission shall also ensure positively pursuant to Article 170 that the election that is held throughout the country will be administered based on the final list issued by the Elections Commission and that the copy of this Registry is issued to the benefit of the Candidate's representatives and lastly, that there is no reference of any kind or nature towards any other document for such purpose. The Commission shall ensure all such procedures towards guaranteeing the integrity of the impending elections, all as positive constitutional duties entrusted upon them under Article 170 of the Constitution." It is evident the Elections Commission carried out orders noted in the Supreme Court's verdict no 2013/SC-C/39
6. I do not accept some of the evidence presented to court. A secret document the defendant was not given the right to respond to was submitted. (I am unable to provide more details on this note because of the secret nature of the evidence presented.

7. The plaintiff was not able to present credible evidence to annul the first round of the presidential election held on 7 September 2013. With reference to the Constitution, election laws and Supreme Court verdict no 2013/SC-C/39, I do not believe the irregularities noted in the report comparing the access log of the computer software, Ballot Progress Reporting System, used by the Election Commission on voting day, the voter registry issued by the Election Commission to the Jumhooree Party, the voter registry 2013 published in the government gazette, and the Department of National Registration's database, are enough to annul the presidential election held on 7 September 2013
8. Article 111 of the Constitution states a second round of the Presidential Election must be held within 21 days. Supreme Court verdict no 2009/SC-C/02 states "The constitution mandates that all state institutions ensure obligations which carry specific constitutional dates must be carried out within the specified timeline. The only lawful justification not to do so would be if events that are not within the control of man occur, such as natural disasters, war...." This verdict was a unanimous Supreme Court verdict and hence, all state institutions must carry out constitutional duties, as stated in the constitution within the time period stated in the constitution.

With reference to the aforementioned points, I do not see it necessary to issue a ruling on Jumhooree Party's claims.

### **Declaration of Principles for International Election Observation**

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.