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JOINT WORKING PAPER SERIES**

**FUNDING OF POLITICAL PARTIES AND ELECTION CAMPAIGNS IN THE  
MALDIVES**

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## Abstract

This working paper examines the Maldives's electoral system in regards to the funding of political parties and election campaigns. It argues that there needs to be a more effective regulatory framework for campaign financing, including extending coverage to expenditure by political parties during elections and ensuring campaign financing restrictions for political parties, candidates and third parties to minimize loopholes with the regulatory framework.

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## Introduction

The Republic of Maldives (“the Maldives”) has undertaken considerable constitutional, political and judicial reform with the 2008 introduction of a multiparty presidential democracy system with 21 administrative divisions.<sup>1</sup> There are 6 political parties in the country.<sup>2</sup> An independent body to govern elections and manage political parties was established under the *Constitution of the Republic of Maldives* (the “Constitution of Maldives”).<sup>3</sup>

The Maldives has elections at 3 levels; local council elections, the People’s Majlis (Parliament) elections and presidential elections which are governed under their respective laws and regulations. Political parties have to be registered under the Elections Commission of the Maldives. Political parties were first established in 2005 and they have played an integral role in the road map to democracy as well as the political scene of the country.

Despite having relevant laws to regulate political parties, it is widely believed that political parties are not very transparent or accountable for their actions, indicating potential forms of corruption. The multi-party political system is new to the Maldives and as such it has yet to address governance issues involved in political finance. Given the early stage of the governance structure, there are various deficiencies associated with political finance both in practice and in law.

The relevant legal framework contains provisions regulating campaign finance activities during the official campaign period. There is a limitation on campaign expenditure by candidates and also with regard to individual contributions to a candidate for election expenses. Again these are not thoroughly investigated. The legislative framework does not contain provisions for political parties, resulting in an absence of a robust regulatory framework on campaign financing and spending by political parties.

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<sup>1</sup> *Dhivehi Raajeyge Jumhooriyaage Gaanoon Assaasee 2008* [Constitution of the Republic of Maldives 2008] art 71(b) and schd 2. [Dheena Hussain trans].

\*All translations of the Maldivian laws and cases are by the author, except where otherwise indicated.

<sup>2</sup> Elections Commission of Maldives, *Registered Political Parties* < <http://www.elections.gov.mv/registered-political-parties.html>>.

<sup>3</sup> *Dhivehi Raajeyge Jumhooriyaage Gaanoon Assaasee 2008* [Constitution of the Republic of Maldives 2008] art 167(b). [Dheena Hussain trans].

However, there is concern regarding the reaction from the judiciary if there were to be more limitations on freedom of expression. There needs to be a more effective regulatory framework for campaign financing, including extending coverage to expenditure by political parties during elections and ensuring campaign financing restrictions for political parties and candidates to minimize loopholes within the regulatory framework.

This paper provides a basic understanding of the current legislative framework of the Maldives. It discusses the international regulatory framework together with an argument about the changes or reforms that need to be implemented in the current legislative framework of the Maldives highlighting some of the challenges faced.

## **The current legislative framework of the Maldives**

The Elections Commission (the “Commission”) of the Maldives was established under the Constitution of Maldives as an independent and impartial institution.<sup>4</sup> The Commission is regulated under the *Election Commission Act*<sup>5</sup> and *Election Commission Regulation*<sup>6</sup> where the regulatory framework highlights the appointment of members, the mandate of the Commission, the removal of the members and the administrative and employment structure.

### *Political Parties*

Political parties in the Maldives are governed under the *Law on Political Parties* (Law No. 4/2013)(the “*Political Parties Act*”), under which all the political parties have to be registered with the Commission.<sup>7</sup> Parties are permitted to procure finance through members, monies and assets from donations, government subsidies, commercialisation of party assets, money received from fund raising activities and by loan financing.<sup>8</sup> The details of the monies and assets received from donations are required to be included in the party’s records, including details of the person or the entity in which the party received monies or assets, the person or entities address and the details of the donation.<sup>9</sup>

Procurement of monies or assets through foreign citizens, foreign governments, foreign organisations and associations, international organisations and anonymous sources should only be accepted by parties after written approval from the Commission.<sup>10</sup> Furthermore, the *Political Parties Act* prohibits any use of force or intimidation, or the use of undue influence including special privileges or immunities to certain persons, in the procurement of finance for the party.<sup>11</sup>

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<sup>4</sup> *Dhivehi Raajeyge Jumhooriyaage Gaanoon Assaasee 2008* [Constitution of the Republic of Maldives 2008] art 167 (b) [Dheena Hussain trans].

<sup>5</sup> *Gaanoon numbaru 8/2008, Elections Commissionge Gaanoon* [Law No. 8/2008, Elections Commission Act] (Maldives).

<sup>6</sup> *Elections Commissionge Gavaaidhu* [Elections Commission Regulation] (Maldives).

<sup>7</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 8.

<sup>8</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 33(a).

<sup>9</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 33(b).

<sup>10</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 37.

<sup>11</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 38.

As for the government subsidy, a total of 0.1 to 0.2 percent of the state budget for each year should be allocated to political parties.<sup>12</sup> The Commission is mandated to distribute this amount among all the political parties registered with a membership of 10,000 or more only at the time of distribution,<sup>13</sup> and the amount has to be distributed pro rata according to the size of membership of the parties.<sup>14</sup> The Commission should also consider before the distribution of the subsidy whether the parties have submitted both the annual report and the audit report, where the reports should clearly indicate that the parties have worked to achieve its objectives.<sup>15</sup> Apart from these limitations on the subsidy, there is no legal limitation approved for financing by political parties.

All the political parties are required to appoint a treasurer to maintain records of all income and expenditure.<sup>16</sup> The treasurer is required to prepare and maintain detailed income and expenditure reports, including details of income and assets, prepare and maintain an inventory of all the assets, maintain the bank account of the party where all the monies have to be deposited to the registered account, audit the parties monies and assets once a year through a person or entity approved by the Auditor General and submit the audit report as required to the Commission.<sup>17</sup> The reports of income and expenditure are subject to inspection by the Commission at any time.<sup>18</sup>

All political parties are required to submit an audit report to the Commission and to the Auditor General within 90 days at the end of each year, specifying the source of income, the manner in which the income was received, the amount spent, the manner and purpose of such expenses.<sup>19</sup> Apart from disclosing the report to the Commission and the Auditor General, the parties are required to disclose the report to its members.<sup>20</sup> The Auditor General upon receiving the financial reports of the political parties has to submit his/her recommendations regarding those reports to the Commission and to the Parliament.<sup>21</sup> There are no provisions that require submission of reports on parties' finances in relation to election campaigns.

All political parties are required to publish their previous year's audit reports on their official websites and have to publish the current year's income and expenditure report on their websites and update the report every 3 months.<sup>22</sup>

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<sup>12</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 34.

<sup>13</sup> *Gaanoon numbaru 24/2015, Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon ah 1 vana islaahu genaumuge Gaanoon* [Law No. 24/2015, 1<sup>st</sup> Amendment to the Act No. 4/2013, Law on Political Parties] (Maldives) art 8.

<sup>14</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 35(a).

<sup>15</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 35 (c).

<sup>16</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 39.

<sup>17</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 40 (a).

<sup>18</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 40 (b).

<sup>19</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 41.

<sup>20</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 42.

<sup>21</sup> *Siyaasee Partyge Gavaaidhu 2013* [Political Parties Regulation 2013] (Maldives) art 29 (a).

<sup>22</sup> *Siyaasee Partyge Gavaaidhu 2013* [Political Parties Regulation 2013] (Maldives) art 30.

The *Political Parties Act* provides sanctions for both failure of submission of audit reports, as well as for receiving money from prohibited sources. Where a party is found to have received finance through prohibited sources, the Commission can fine the party twice the value of monies or assets procured.<sup>23</sup> A fine ranging from MVR 20,000 to MVR 50,000 is applied to any party that fails to submit its audit report in due time and the treasurer is also held responsible for such breaches, where the Commission can fine such person ranging from MVR 5000 to MVR 10,000.<sup>24</sup> The Political Parties Regulation also stipulates penalties if any party fails to submit its audit report within the time frame specified.<sup>25</sup>

### *Elections*

The Commission is required to conduct, manage, supervise, facilitate and monitor presidential elections, parliamentary elections, local council elections and public referendums.<sup>26</sup> The *General Elections Act*<sup>27</sup> governs the general rules and procedures of all elections. As for campaigning through media, all broadcasting stations in the country have to provide time to political parties and individual candidates who are standing for election on an equal basis to campaign through advertising or other programs and should announce the allotment of time highlighting whether a charge is to be levied for the service.<sup>28</sup>

The *General Elections Act* prohibits procurement of contributions through certain sources for election expenses. These include monies or assets or contributions from foreign citizens, foreign associations, foreign governments, foreign organisations, international organisations, anonymous sources, state institutions or companies with state shareholding and contributions given by a government authority other than the contributions made available to political parties through the government.<sup>29</sup>

In relation to all elections, a candidate should only spend an amount not more than the equivalent of a total amount of money calculated on the basis of MVR 1500 per each eligible elector from the electoral constituency for which the candidate is standing for elections.<sup>30</sup> Candidates may receive both monetary and in kind assistance and also procure loans through individuals and legal entities, as long as they do not come from any prohibited sources.<sup>31</sup> The contributions given by an individual to a candidate for election expenses should not exceed more than 0.5 percent of the campaign spending limit and the contributions given by a legal entity to the candidate for election expenses should not exceed more than 2 percent of the

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<sup>23</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 43(a).

<sup>24</sup> *Gaanoon numbaru 4/2013, Siyaasee Partyge Gaanoon* [Law No. 4/2013, Law on Political Parties] (Maldives) art 43(b) and 43 (c).

<sup>25</sup> *Siyaasee Partyge Gavaaidhu 2013* [Political Parties Regulation 2013] (Maldives) art 29 (b).

<sup>26</sup> *Elections Commissionge Gavaaidhu* [Elections Commission Regulation] (Maldives) art 23.

<sup>27</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives).

<sup>28</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 30 (a) and art 30 (b).

<sup>29</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 70.

<sup>30</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 69.

<sup>31</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 72 (a).

campaign spending limit.<sup>32</sup> Use of any form of authority or influence or intimidation or proposing immunities or benefits are prohibited in order to procure contributions for election expenses.<sup>33</sup> The *General Elections Act* does not have any provisions to impose a campaign spending limit to political parties.

Candidates competing in elections are required to appoint an official election agent, who is required to maintain books of account of all income and expenditure of that candidate specifying the details of the contributor, the amount and form in which it was received.<sup>34</sup> All candidates are required to submit to the Commission within 30 days of the election, a financial report, detailing all expenditure and income or contributions, along with bank statements, receipts, invoices, bills and other documents related to transactions.<sup>35</sup> The Commission should make arrangements to ensure candidates financial reports to be made available to the public.<sup>36</sup> Again no such requirements are mandatory for the political parties.

The *General Elections Act* provides for fines ranging from MVR 12,000 to MVR 48,000 and imprisonment for up to 1 to 4 years where a candidate is found to be in breach of limits of procurement of finance as well as limits on campaign spending.<sup>37</sup> The same penalties apply to individual contributors who contribute in excess of the limits.<sup>38</sup> There are no provisions specifically detailing the penalties for failure to submit financial reports. However, any candidate or individual who carries out an act in a manner other than as specified in the law are subject to imprisonment and fines.<sup>39</sup>

Excluding the matters specified below, matters relating to campaigning, finances and financial matters, election offences and penalties related to all the elections are to be governed by the provisions pertaining to that in the *General Elections Act*. The *Presidential Elections Act* provides government broadcasting authorities to give free airtime, without discrimination, to all candidates contesting in the presidential election.<sup>40</sup> The *Presidential Elections Act* also provides a time limit of 60 days from the election, for the submission of audit report detailing all the financial transactions carried in relation to the election and this financial report should be made available by the Commission for public inspection.<sup>41</sup> The *Parliamentary Elections Regulation* provides that the audit or financial reports must be verified and deemed valid by the Auditor General or a person authorized by the Auditor

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<sup>32</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 72 (b).

<sup>33</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 71.

<sup>34</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 72 (c).

<sup>35</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 73 (a) and art 73 (b).

<sup>36</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 73 (d).

<sup>37</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 74 (a) and art 74 (b).

<sup>38</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 74 (a) 20.

<sup>39</sup> *Gaanoon numbaru 11/2008, Inthihaabuthakaai behey Aamu Gaanoon* [Law No. 11/2008, General Elections Act] (Maldives) art 75.

<sup>40</sup> *Gaanoon numbaru 12/2008, Riyaasee Inthaabuge Gaanoon* [Law No. 12/2008, Presidential Elections Act] (Maldives) art 13.

<sup>41</sup> *Gaanoon numbaru 12/2008, Riyaasee Inthaabuge Gaanoon* [Law No. 12/2008, Presidential Elections Act] (Maldives) art 16.

General.<sup>42</sup> It is prohibited to force or threaten any eligible voter to vote or not to vote and money and gifts shall not be given to any eligible voter or any person as bribery to vote or not to vote for a particular candidate.<sup>43</sup>

### Limitations in the framework of party financing

To ensure free and fair elections there should be a legal framework that regulates adequate oversight of political and campaign finances and allows transparency, implementation and enforcement of such laws.<sup>44</sup> The *United Nations Convention against Corruption* specifies the importance of legislative and administrative measures for transparency in the funding of political parties and campaigns and implementation of such legislative framework.<sup>45</sup>

The Council of Europe in 2003 adopted common rules against corruption in the funding of political parties and electoral campaigns.<sup>46</sup> The recommendation contains the following principles: a reasonable balance between public and private funding, principles of donations, fair criteria for the public fund distribution to the political parties, rules concerning private donations, political parties and candidates' expenditure in election campaigns, transparency of accounts, supervision from independent authorities and proper sanctions for political parties and candidates.<sup>47</sup>

Following the 2013 presidential elections, the Commonwealth Observer Group in its report recommended to strengthen the legislation governing finance and expenditure to ensure transparency and accountability.<sup>48</sup> In the 2014 parliament election, the Commonwealth Observer Group in its report highlighted the urgency of effective regulation of campaign financing.<sup>49</sup>

Maldives is a party to the *United Nations Convention against Corruption*.<sup>50</sup> The *Constitution of the Maldives* has established an independent institute, the Anti-Corruption Commission to investigate all claims of corruption.<sup>51</sup> Despite having both an international and domestic framework the country's rank in the corruption perceptions index was 134 out of 182

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<sup>42</sup> *Raiyithunge Majileehuge Inthihaabuge Gavaaidhu 2014* [Parliamentary Elections Regulation 2014] (Maldives) art 41(b).

<sup>43</sup> *Gavaaidhu numbaru 2013/R-40, Riyaasee Inthihaabuge Gavaaidhu 2013* [Regulation No. 2013/R-40, Presidential Elections Regulation 2013] (Maldives) art 28 (a) and *Raiyithunge Majileehuge Inthihaabuge Gavaaidhu 2014* [Parliamentary Elections Regulation 2014] (Maldives) art 23(a) and *Local Council thakuge Inthihaabuge Gavaaidhu 2013* [Local Council Elections Regulation 2013] (Maldives) art 27 (a).

<sup>44</sup> *Bangkok Declaration on Free and Fair Elections* (11 December 2012) art 7.

<sup>45</sup> *United Nations Convention against Corruption*, opened for signature 9 December 2003, 2349 UNTS 41 (entered into force 14 December 2005) art7(3).

<sup>46</sup> *Recommendation Rec (2003) 4 of the Committee of Ministers to Member States on Common Rules against Corruption in the Funding of Political Parties and Election Campaigns* (adopted by the Committee of Ministers on 8 April 2003).

<sup>47</sup> *Recommendation Rec (2003) 4 of the Committee of Ministers to Member States on Common Rules against Corruption in the Funding of Political Parties and Election Campaigns* (adopted by the Committee of Ministers on 8 April 2003) arts 1-16.

<sup>48</sup> The Commonwealth, *Report of the Commonwealth Observer Group: Maldives Presidential Election, Re-run of Maldives Presidential Election and Maldives Presidential Run-Off Election 2013*, p30.

<sup>49</sup> The Commonwealth, *Report of the Commonwealth Observer Group: Maldives People's Majlis Election 2014*, p38.

<sup>50</sup> United Nations Treaty Collection, United Nations, *United Nations Convention against Corruption* <[https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-14&chapter=18&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18&lang=en)>.

<sup>51</sup> *Dhivehi Raajjeyge Jumhooriyaage Gaanoon Assaasee 2008* [Constitution of the Republic of Maldives 2008] art 199 (b) and art 202(a) [Dheena Hussain trans].

countries with a score of 2.5.<sup>52</sup> Due to the high corruption rate and lack of transparency there needs to be more effective regulatory reform in the current political and campaign finance framework.

The legal framework for the political parties is highly conducive to allowing parties to procure financing for their activities. Political parties are free to procure financing in several forms except for the restrictions specified in the legislation. Political parties also receive public funds for party finances from the national budget. There is a considerable variation in the amount of money they receive which is based on membership numbers. Accurate data on political party finances especially private funding is generally not available to the public despite the requirement specified in the legislation. Neither the Commission nor the Auditor General undertakes and publishes the political parties' financial reports and these are not available in the relevant authorities or the political parties' websites. There is no requirement in the legislation for political parties to submit financial reports for election campaigns, even if candidates nominated by the parties contest in elections.

In order to maintain transparency in the private funding of the parties the Commission should establish a mechanism to monitor donations to the political parties. There should be a cap on the amount of donations from individuals and entities. There should be an effective mechanism to file declarations and reports regarding the donations from both the parties and from the donors if it reaches the cap amount or if there is no cap amount to make a declaration if the donation is a specific amount. The *Political Donations Act* of Singapore<sup>53</sup> is a rigorous framework that the Maldives can adopt.

The *Political Parties Act* should be amended to enforce political parties to submit financial reports to the Commission for the election period. It should provide sanctions if the political party fails to submit such reports and also should provide sanctions if the political parties fails to publish its financial reports on their official website in accordance to the current requirement. The Commission and the Auditor General should also be accountable for failure of publishing the required documents for public scrutiny in accordance with the current legislative requirements. The law should also extend to procurement of contribution through certain sources during the election period with capped limits for such contributions and capped limits to expenditure. Furthermore, it should be amended to provide receipts or vouchers or invoices or bills or any documents related to income and expenditure of the political party to be submitted with the relevant financial reports.

As for the elections, the current legislation requires all the candidates to maintain books of account specifying the details of the donation that the candidate has received. The candidate can receive donations of in kind assistance but the regulatory framework is silent on disclosure of such assistance. The regulation should be amended to require disclosure of the details of the donor and the in kind assistance that the candidate have received and should also specify the market value or the monetary value of such assistance.

The *General Elections Act* provides an expenditure limit of MVR1,500 per each eligible voter in relation to all the candidates and elections. The expenditure limit should reflect the entire duration of the election (before and during) and the expenditure by the candidate's party, on which the current legislation is silent. And also in my opinion the expenditure limit

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<sup>52</sup> Transparency International, *Corruption Perceptions Index 2011*.

<sup>53</sup> *Political Donations Act* (Singapore, cap 236, 2001 rev ed).

should be different for each election as it would depend on the number of eligible voters in each election (especially for parliamentary elections as the country is divided into 21 constituencies and accordingly a specific amount of electors instead of the total number of eligible voters will vote for their district candidate and the same applies to the local council elections) and as such the legislation should be amended to specify the cap amount for each election and should consider the overall economy of the country in determining the amount.

There is a great concern regarding the reaction from the judiciary if there were to be limitations on freedom of expression or any suggested limitation or amendments to the current legislation. The Supreme Court of the Maldives has already annulled the first-round of the 2013 presidential election<sup>54</sup> and also established a guideline and ordered the Commission and all the other relevant authorities to make arrangements for the first-round of presidential elections in accordance with the guidelines and declared that these guidelines are applicable to all elections.<sup>55</sup> Some of the guidelines contradict the current legislative laws creating uncertainty around the legislative framework. To date the parliament has not reviewed the guidelines with respect to its practicality, consistency with the legislative framework and compatibility with electoral best practice.

On 6 February 2014, the Supreme Court of the Maldives issued a new *suo moto* regulation.<sup>56</sup> 5 days after the publication of the regulation, the Supreme Court of the Maldives on 12 February 2014 had its first case against the independent members of the Commission.<sup>57</sup> In the proceedings of the case the Court stated that the Commission members have in various forums made comments regarding the Court's decisions and thus were contemptuous of the Court and also the Commission had failed to follow and have challenged the decision of the Court publicly with regard to the political parties of the country.<sup>58</sup>

The Supreme Court of the Maldives decided that the actions of the Commission members were in contempt of court, had obstructed justice and diminished the dignity of the court.<sup>59</sup> The Court also declared that the chairman and the vice chairman of the Election Commission be dismissed and removed from their posts.<sup>60</sup> According to the *Constitution of the Maldives* any member from the Commission can be removed from the office on grounds of incompetence, misconduct and incapacity by a finding to that conclusion by a committee of the parliament and by the approval of such finding by the majority of the parliament members present and voted.<sup>61</sup>

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<sup>54</sup> *Jumhooree Party v Elections Commission* 2013/SC-C/42 (7 October 2013) (Supreme Court of Maldives).

<sup>55</sup> *Jumhooree Party v Elections Commission* 2013/SC-C/42 (7 October 2013) (Supreme Court of Maldives) p41-46.

<sup>56</sup> *Supreme Courtge Ammilla Isnegumakah hingaa Suo moto Gazziaathah hingu mugai Amalukuraane Ijraae Usooluthah Bayaankuraa Gavaidhu [Regulation on the Procedural Guidelines with regard to Suo Moto cases initiated by the Supreme Court] 06 February 2014 (Supreme Court of the Maldives).*

<sup>57</sup> *Elections Commission Suo Moto* 2014/SC-SM/15 (12 February 2014) (Supreme Court of the Maldives).

<sup>58</sup> *Elections Commission Suo Moto* 2014/SC-SM/15 (12 February 2014) (Supreme Court of the Maldives) p2-4.

<sup>59</sup> *Elections Commission Suo Moto* 2014/SC-SM/15 (12 February 2014) (Supreme Court of the Maldives) p16-20.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Dhivehi Raajeyge Jumhooriyaage Gaanoon Assaasee 2008* [Constitution of the Republic of Maldives 2008] art 177 [Dheena Hussain trans].

## Conclusion

The legal framework of elections should be unambiguous, understandable and transparent addressing all components of the system of party and campaign financing necessary to ensure democratic participation and competition between political parties and independent candidates.<sup>62</sup> The Maldives legal framework of elections covers fundamental issues regarding political party and campaign finances.

However, the *Political Parties Act* does not have disclosure provisions for privately raised campaign funds by political parties. There should be amendments to require political parties to maintain records identifying donations (exceeding a certain value or limiting the amount of donation per donor) and the details of the donors and a mechanism to submit financial reports on such details regarding election and non-election periods to maintain transparency and avoid corruption issues. There should also be a ceiling on campaign expenditure for the political parties as well as acceptable sources that can donate to political parties.

In order to promote a level playing field between the parties, consideration should be given to the establishment of regulations governing equal treatment and opportunity for all political parties. Furthermore, there should be a requirement for all political parties to conduct their financial transactions through a bank account and prohibiting acceptance of cash donations on which the current legislative framework for political parties is silent.

Provisions of disclosure, reporting, monitoring and enforcement should be enhanced to improve accountability. Political parties should submit and publish their accounts, giving detailed information on their income and expenditure including relevant transaction documents and the details of donations received. The Commission should inspect such reports for any discrepancies to ensure the political parties have not evaded any limitations or any other requirements in order to impose penalties if there is any breach in the report or failure to submit the required reports or provide false or misleading information on such reports. The Commission and the Auditor General should disclose the annual political party finances, political party campaign finances (after giving effect to the current legislation) and other election campaign finances for public scrutiny as such finance reports are not available on their websites nor are they published despite the requirement to do so in the current legal framework.

The expenditure limit should be reviewed and amended to alter different amounts in respect of different elections. The parliament should amend the current legislative framework in order to give full independence to the Commission from the unpredictable judiciary. There should be awareness among society on its right to know about political party and campaign finances so that there can be effective oversight to support and put pressure to the political parties and candidates.

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<sup>62</sup> International Institute for Democracy and Electoral Assistance, *International Electoral Standards: Guidelines for reviewing the legal framework of elections 2002*, chpt 2.

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