

**MALDIVES
PRESIDENTIAL ELECTION
1ST ROUND OF VOTING**

8 October 2008

&

RUN-OFF ELECTION

28 October 2008

Reports of the Commonwealth Observer Group



COMMONWEALTH SECRETARIAT

Reports of the Commonwealth Observer Group

MALDIVES PRESIDENTIAL ELECTION

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Chapter One

INTRODUCTION

Following an invitation from the Minister for Foreign Affairs of Maldives and following the ratification of the Constitution in August 2008, the Commonwealth Secretary-General, Mr. Kamallesh Sharma, announced his intention to constitute an Observer Group for the Presidential Election.

The Commonwealth Secretary-General, appointed an Observer Group of eight eminent persons, to be led by the Rt. Hon Owen Arthur, former Prime Minister of Barbados. A full list of the Group is at Annex I. The Group was supported by a five-person staff team from the Commonwealth Secretariat.

Terms of Reference

The following were the terms of reference of the Group:

“The Group is established by the Commonwealth Secretary-General at the invitation of the Minister of Foreign Affairs 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 judgement whether the elections have been conducted according to the standards for democratic elections to which the country 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. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgement accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.

The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Maldives, the Electoral Commission, candidates and the leadership of the political parties taking part in the elections and thereafter to all Commonwealth Governments.”

Activities

The Observer Group arrived in Maldives on 1 October. During the initial four-day briefing period the Group met with the Elections Commission; the Minister of Legal Reform and Commissioner of Legal Reform; Representatives of political parties and candidates; Human Rights Commission of Maldives; media, representatives of civil society groups, including Transparency Maldives; Commonwealth High Commissioners; EU Technical Advisers for the election; EU Assessors; UNDP and a UN Assessment Team for the election.

The Commonwealth Observer Group was deployed on 6 October. Teams were deployed to cover eleven Atolls: Haa Alifu, Haa Dhaalu, Kaafu/Malé, Seenu/Addu, Gnaviyani, Gaafu Alifu, Gaafu Dhaalu, Raa, Baa, Noonu, and Goidhoo. On election day, the teams covered a total of 60 islands across the Atolls.

Over the election period the team also met with Atoll Election Co-ordinating Committees, Complaints Bureaus at national and Atoll levels, national observers, Atoll and island officials, police officials and other international observers.

On the basis of the group's findings and observations the Chairperson issued an Interim Statement on 10 October (see Annex IV). The Final Report on the Conduct of the First Round was completed in Male prior to the Group's departure and transmitted to the Secretary-General.

Chapter 2

HISTORICAL AND POLITICAL CONTEXT

Structure of Government

Maldives became a Republic after a 1952 referendum abolished the Sultanate that had ruled hitherto, and became independent from the United Kingdom in 1965. The Constitutions adopted in 1968 and 1998 provided for an Executive Presidential form of Government. The President simultaneously held office as Head of State, Head of Government and Commander-in-Chief. To be elected President, the person nominated by the People's Majlis had to secure a minimum of a 51% vote of approval in a public referendum. The President could serve an unlimited number of five-year terms.

These Constitutions provided for a unicameral legislative branch known as the People's Majlis, often referred to as the Majlis. The Majlis comprised 50 members each of whom could serve five-year terms. Membership included:

- two representatives of each administrative division (Atoll - administrative boundaries do not always concur with geographical or physical boundaries, irrespective of Atoll population size which differs dramatically) elected by direct popular vote, amounting to a total of 42 members; and
- eight members appointed directly by the President.

Judicial authority in Maldives was exercised by a High Court, Civil Court, a Criminal Court, a Family and Juvenile Court, and 204 general courts. The legal code under the 1998 Constitution was based on Islamic law with mixtures of English common law primarily in commercial matters. The President held the authority to appoint and dismiss judges.

The numerous Islands are grouped into twenty administrative divisions (Atolls) plus Malé, with executive responsibility for Government business vested in Island Chiefs at the Island level, and Atoll Chiefs at the Atoll level. Historically, responsibilities of the Chiefs have also included a role in the organisation and administration of elections at the Island and Atoll levels.

Universal suffrage under the 1998 Constitution was from 21 years of age.

Ibrahim Nasir (1926-), a member of the royal family, had been Prime Minister since independence in 1965 until ratification of a new Constitution in 1968. With the formation of the Presidency under the 1968 Constitution, Nasir assumed Presidential office until political disquiet prompted him in 1978 not to stand for a third term. The People's Majlis then selected Minister of Transport, Maumoon Abdul Gayoom as the country's second President.

An economic expansion in the 1980's was accompanied by growing political volatility demonstrated by three coup attempts against the President. An attempt by him to introduce some decentralisation of power was reportedly resisted by vested interests within the ruling elite, leading to further consolidation of Presidential powers. Several new political magazines seen as critical of the Government were banned and a number of writers and publishers arrested, underlining the lack of basic political and civil human rights. President Gayoom was last elected on 17 October 2003 through public approval of his nomination by the People's Majlis, securing 90.3% of the referendum vote.

Economic Development and Challenges

Tourism has replaced the regional export of 'maldivian fish' as the country's main industry, accounting for one-third of GDP and national development indicators are generally positive. High youth unemployment is recorded, however, and has been a source of contention – a heavy reliance on expatriate workers (45% of the workforce according to the 2006 census) is also a source of some contention in some Islands.

Although tourism has enabled Maldives to strengthen its economy and reduce its reliance on the fishing industry, it has also presented challenges to a traditional society. The influx of tourists has been restricted largely to specific Islands, but the influence of other cultures has been channelled through various avenues. The presence of tourists, a significant number of expatriate workers, and the education of Maldivians in universities abroad have each brought different influences, ideas and expectations into Maldivian society.

Another challenge has been the equitable distribution of wealth. Maldives has reached middle-income status, with a per capita income estimated at the end of 2007 at \$3,400, but people in remote Islands have not benefited equally from this growth.

The Maldives' death toll from the Indian Ocean tsunami of 2004 was very small but some islands were rendered permanently uninhabitable and uncultivable. Four years after the tsunami, many internally displaced persons (IDPs) have yet to be re-housed permanently. This has resulted in tension between these and host communities, and the source of continued protest by some against the Government.

Pressure for Reform

Until 2003, attempts at political pluralism had been suppressed relatively successfully. The main issues of concern cited by the growing number of critics of the government centred on the lack of freedom of association and expression, alleged corruption related to the lucrative tourism trade, lack of an independent judiciary and legislature – both of which were alleged to be under the control or influence by the President - police brutality, and a lack of media freedoms.

Public anger at the death in prison of a young detainee at the hands of prison guards in September 2003, and the lack of a government response at the time, escalated into violent civil unrest and the burning of several government buildings. These events led to calls for reform and democratisation that could no longer be ignored.

President Gayoom announced in early 2004 an ambitious programme of legislative reform which provided for formulation of a new Constitution, plans to broaden democratic freedoms including provision for a directly elected president, and the separation of powers between the three branches of government.

A 108 member People's Special Majlis comprising members of the People's Majlis, and an equal number elected from amongst the population, was convened to prepare the new Constitution within a two-year timeline. The deliberations of the body were beset from the start by procedural delays and political disagreement stemming from mutual suspicion between Government loyalists and opposition voices.

When the Government arrested a number of pro-reform members of the Special Majlis, and others, in response to peaceful protests and deployed police and paramilitaries to disperse crowds,

emergency rule was imposed. The more prominent political figures among the detainees were all charged with the most serious offences, some of which carried a minimum of 10 year sentences.

The Reform Process

International attention focused on the Maldives in response to these events. The next two years were characterised by slow progress on the Constitution, a gradual opening up of political space, and the rise of a reformist group within the Government. In June 2005 the People's Majlis unanimously approved the registration of political parties. The Dhivehi Rayyithunge Party (DRP), representing the Government, and the opposition Maldivian Democratic Party (MDP) were the first to obtain registration.

The Government's 2006 *Roadmap for Reform Agenda* set out a timetable of measures aimed at strengthening governance and key institutions, promoting the protection of human rights, enhancing the independence of the judiciary, developing a multi-party political system, modernising the electoral system and enhancing the role of the media. However, the progress report prepared a year later by the Government demonstrated that movement on the Reform Agenda had been patchy at best.

Opposition groups consistently expressed scepticism over the genuineness of President Gayoom's desire for reform, but some progress was made in some areas. For example, the Maldives Government signed and ratified the International Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights in 2006.

Referendum

The question of what form of Government the Maldives would adopt under the Constitution being developed, and a Majlis decision that the question should be put to a public referendum, dominated debate in the Special Majlis for the first half of 2007. Progress on the Constitution all but halted. Finance Minister Gasim Ibrahim was elected as Speaker of the Special Majlis and imposed greater discipline on the assembly which then agreed to hold a public referendum on the form of government in August 2007.

On the eve of the Referendum two key reformists, the Attorney-General and Justice Minister, resigned. They accused the President of delaying the reform process, an accusation strongly rejected by President Gayoom. Foreign Minister Shaheed resigned immediately after the Referendum, citing similar reasons. The three former Ministers formed a political movement, but not party, bearing the New Maldives name.

A small Commonwealth Expert Team was present at the Referendum at the invitation of the Government. It found that the Referendum "was conducted largely in accordance with accepted international standards. There were no major security issues. [The Team] witnessed no obvious or widespread fraud." The Team recommended that: an independent Election Commission be set up without delay; that fundamental freedoms relating to freedom of expression and assembly should be enshrined within the Constitution; a legal and regulatory framework for elections should be established; votes should be counted and announced at polling stations; the registration and conduct of political parties should be legislated for; the role of Island and Atoll chiefs should be reviewed; all parties should have equal access to state media during the campaign; and a national electors register should be created and made publicly available.

The referendum result did not speed matters up in the Special Majlis as some had hoped. Instead, a revised November 2007 deadline for finalisation of the Constitution was missed as political disagreements and the use of procedural delays within the Special Majlis continued.

Mounting Pressure

In February 2008, the newly restructured Ministry for Legal Reform, Information and the Arts announced a *Legislative Agenda 2008* encompassing 87 bills that would need to be passed by the end of the year. These included seven bills and three regulations for an Election Package, which was essential for the holding of presidential elections by late 2008. The announcement of this list of proposed legislation reflected the limited progress on the *Roadmap for Reform* since its launch in 2006, and the enormity of what was still required to give life to the Constitution and reform package.

Much of the electoral and other legislation was contingent on the finalisation of the Constitution. Consequently, little progress on the overall reform and legislative agenda could be made in the first half of the year as disagreements on the specific transitional arrangements from the current to the new Constitution delayed the finalisation of the 2008 Constitution. Eventually, at the end of June, the Special Majlis finalised the document and sent it to the President for ratification. A month or so of uncertainty ensued as the President requested clarification from the Special Majlis on aspects of the proposed Constitution.

Opposition parties/groups banded together under an informal National Unity Alliance (which would prove short-lived) and condemned the delay in ratifying the Constitution, though the President was entitled to 90 days for ratification. The Alliance stated that if the proposed Constitution was not passed into law by 31 July it would not be possible to hold a free and fair election by the constitutional deadline of 10 October. The proposed Constitution was eventually ratified by the President on 7 August 2008.

THE CONSTITUTION

Key aspects of the new Constitution include:

Executive and Legislative Powers

These are vested in the President and People's Majlis respectively. In a departure from the 1998 Constitution, the People's Majlis would now comprise:

- two members elected by direct public vote for the first 5,000 residents registered in each administrative division or two members for administrative divisions with less than 5,000 residents; and
- one additional member elected by direct public vote for each group of 5,000 residents in excess of the first 5,000 residents in each administrative division (Article 71).

The President can no longer appoint any members to the People's Majlis, thereby removing one of the main sources of opposition concern under the previous Constitution.

Citizenship

Only Sunni Muslims can be citizens of the Maldives and, therefore, only Sunni Muslims can be eligible as voters or candidates in any election. No political parties appeared willing to take this matter up as a human rights issue.

The Franchise

The Constitution of Maldives (Article 26) provides that every citizen of the Maldives above the age of eighteen years has the right to vote in elections and in public referendums.

Fundamental Rights and Freedoms

With the exception of religious pluralism and non-discrimination on the grounds of religion, a number of fundamental rights and freedoms are enshrined and protected under the new Constitution. The restrictions on religious freedoms contravene international common law as reflected in key international human rights instruments including the International Covenant on Civil and Political Rights (ICCPR) which Maldives signed and ratified in 2006. The Group is aware that the Government entered a reservation to article 18 of the ICCPR on freedom of religion or belief.

In recognition of the environmental challenges faced by small Island states like Maldives, the Constitution places upon the State the obligation to “undertake and promote desirable economic and social goals through ecologically balanced sustainable development.” The State is also required to “take measures necessary to foster conservation, prevent pollution, the extinction of any species and ecological degradation from any such goals. The gender bar in the 1998 Constitution preventing women from standing for Presidential office was removed, though the Group is aware that the issue proved contentious during the drafting process.

Transitional Arrangements

The new Constitution outlined a set of transitional arrangements that will apply until the election and assumption of office by the next President and People’s Majlis (Article 275). Notably, key institutions such as the Elections Commission, Supreme Court, Judicial Service Commission and Anti-Corruption Commission are to be established in an interim capacity by the existing People’s Majlis. The members of the Commissions will serve until the appointment of new Commissions by the new People’s Majlis which is to be elected by 15 February 2009.

Electoral Timeframes

The delays in promulgating the 2008 Constitution and proceeding with the associated electoral legislation would not have been of such significance if there had been some leeway to postpone the Presidential election.

The Special Majlis had specified in the draft Constitution that the election had to be held by 10 October 2008, and that the new President would assume office on 11 November 2008. Attempts to extend the electoral deadline to 31 October were resisted by many, including the ruling and main opposition parties. This would later have a profound impact on the election as the 10 October deadline remained in the final Constitution ratified on 7 August, and necessitated the contraction of time periods provided for in various electoral processes. In addition, the Constitution specified that only the new People’s Majlis to be elected by 15 February 2009 could amend the Constitution (Article 292). As a result, neither the Elections Commission, political parties nor candidates could seek movement of the 10 October deadline through the existing Majlis, even when it posed serious electoral and administrative challenges.

A number of persons expected to be Presidential candidates expressed concern from the time of the Constitution’s adoption, that the short period of time available before the October deadline would not allow for effective campaigning, or necessary administrative and electoral preparations to take

place. The general political consensus, however, was that with the passage of the Constitution it was essential to move ahead quickly with the Presidential and then People's Majlis elections.

Electoral Timeframes

According to Article 109 of the Constitution, a person eligible to be elected as President 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 a follower of a Sunni school of Islamic Law;
- be at least 35 years of age;
- be of sound mind;
- not have an un-discharged debt;
- 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 release or pardon; and
- not have been convicted of an offence for which a *hadd* is prescribed in Islam or of fraud, deception or criminal breach of trust.

There are presently twelve registered political parties in Maldives, but only five parties fielded candidates for the 2008 Presidential election. In addition, one independent candidate contested the poll.

The Candidates contesting the election were:

- Gasim Ibrahim, nominated by the Jumhooree Party (JP), with Ahmed Ali Sawaad as Vice-presidential candidate;
- Maumoon Abdul Gayoom, nominated by the Dhivehi Rayyithunge Party (DRP), with Atolls Minister Thasmeen Ali as Vice-Presidential candidate;
- Hassan Saeed, an independent, with Ahmed Shaheed as Vice-Presidential candidate;
- Mohammed Nasheed, nominated by the Maldivian Democratic Party (MDP), with Dr Mohamed Waheed Hasan Manik as Vice-Presidential candidate;
- Ibrahim Ismail, nominated by the Social Liberal Party (SLP), with Fathimth Nahid Shakir (the only woman contesting the poll) as Vice-Presidential candidate; and
- Umar Naseer, nominated by the Islamic Democratic Party (IDP), with Ahmed Rizvee as Vice-Presidential candidate.

Though they were accepted by the Elections Commission, the eligibility of two of the candidates was subject to challenges lodged with the new Supreme Court. The candidacy of the incumbent, Maumoon Abdul Gayoom, was challenged in two separate cases.

The first challenge alleged that the two term limitation for the Presidency contained in the 2008 Constitution, whether those terms were consecutive or not, meant that Gayoom could not contest the October poll as he had already served six terms. The Group is aware that this issue has been hotly debated throughout the constitutional development process, and had been a key source of concern and protest by most of the main opposition parties until the eve of the election. The Supreme Court ruled that the term limitation specified in the 2008 Constitution only applied to terms in office secured since the adoption of that Constitution – i.e. only elections held since 7 August. The second case alleged that he was disqualified on the basis of not being a Sunni Muslim. The Supreme Court did not uphold this challenge.

The candidacy of Mohamed Nasheed of the MDP was also challenged on the basis that his previous conviction for theft was an offence for which a *hadd* is prescribed in Islam. The Court did not uphold this challenge.

The Campaign

The formal campaign period was officially announced by the Elections Commission on the evening of 28 September 2008. This provided for a formal campaign period of nine days which was inadequate for such a major electoral event. The Group is aware, however, that Candidates had in fact been campaigning well before the official start of the campaign period.

The Presidential Elections Regulations set out a Code of Conduct for candidates for the campaign period in accordance with the Code of Ethics outlined in Section 29, clause (a) of the Elections (General) Act. This was a positive innovation which sought to guide the nature and tenor of campaign materials and public statements, but came too late to regulate the majority of the campaigning that had already taken place.

The Group witnessed extensive use of campaign materials by all candidates across all areas of deployment (over sixty islands across eleven Atolls), and saw some of the campaign tours and events scheduled since 1 October 2008. All candidate representatives with whom the Group met stated that candidates and their representatives had been able to campaign freely and widely. A small number of alleged incidents in which property was damaged, and some party activists harassed, and even one attack on a Candidate, were reported to us.

Chapter 3

THE LEGAL FRAMEWORK AND ELECTION ADMINISTRATION

The Maldives is a sovereign, independent, democratic Republic based on the principles of Islam and is a unitary state. The relevant legal framework for the Presidential election generally provides the basic conditions for democratic elections and comprises of the following:

1. The Constitution, 2008
2. Elections Commission Act, 2008
3. Elections (General) Act – Act No: 11/2008
4. Presidential Elections Act, 2008
5. Presidential Election Rules and Regulations, 2008

The Constitution

The Constitution, which was ratified only on August 7th 2008, provides for Transitional Matters in Chapter XIV, which shall apply from the commencement of the Constitution until the election of and assumption of office by the President and the People's Majlis.

It provides for the Presidential Election to be held before 10th October 2008. This chapter also provides for the appointment of the five-member Elections Commission through nominations by each of the political parties and by resolution of the People's Majlis passed by a two-thirds majority. The term of this Elections Commission would be until the appointment of a new Elections Commission under the Constitution after the 2009 *Majlis* elections. Under this Chapter, the elected President would take office on the 11th November 2008.

Elections Commission Act

The Elections Commission is responsible, inter alia, for the conduct and supervision of the Presidential Election. This Act also prescribes a code of conduct for the members of the Commission. Voting in all public elections shall be by secret ballot. Decisions of the Elections Commission may be challenged by means of an election petition presented to the High Court.

Elections (General) Act

Eligibility to vote in the election is provided to all Maldivian citizens above 18 years of age. In the week before the election, the Supreme Court lifted the prohibition on voting by prisoners, to provide for the right to vote for all prisoners.

This Act provides for the general policies and all the general matters in relation to conduct of all elections unless a specific law on a particular election has been enacted (such as the Presidential Elections Act). It also provides for voting outside Maldives. For this election this was provided to eligible persons residing in India, Singapore, Sri Lanka and Malaysia.

The Act provides for equitable allocation of broadcasting time for candidates and political parties and makes provision for observers and monitors.

According to the Act, the Elections Commission shall prepare and maintain a register of electors, which shall be made public forty five days before an election. However for the first round of this election, the Presidential Elections Act amended the timeframe to 10 days, as set out below.

It also provides for redress of complaints about information in the register of electors.

The Act makes provisions for the establishment of mechanisms to deal with complaints through the promulgation of regulations. Any person dissatisfied with a decision of the Elections Commission is entitled to file a petition with the High Court.

It prescribes limitations on election expenses and full disclosure of all financial matters relating to a candidate's participation in an election. Election-related offences and penalties are also prescribed.

Presidential Elections Act

This Act provides for all matters pertaining to the election of a President of Maldives in terms of the Constitution.

This Act also makes provisions for the amendment of Elections (General) Act in relation to shortened time periods for the first multi-party Presidential Election.

Section 22 of the Presidential Elections Act provided a revised timeframe for the process in order for the election to be held before 10 October 2008. Some of the key aspects of this Section are:

- Not more than ten days instead of 45 days before an election for the Elections Commission to publish the Register of Electors in the Government Gazette
- Not more than five days instead of a ten day period for a complaint against the published register
- Not more than one day instead of five days for the Elections Commission to investigate such complaints and give a decision
- Not more than two days instead of five days for a person dissatisfied with the decision of the Elections Commission to apply to the High Court for a determination on the matter
- Not more than two days instead of fifteen days for the High Court to give a decision.

Section 19(a) of the Presidential Elections Act states that if a run-off election is necessary, it must be held within 21 days after the election. In the same Act, Section 22(m) amends this time period from "within 21 days" to "not more than 10 days". However, after the first round the Election Commission reverted to the 21 day period for the run-off, relying on Section 19(a) of the Presidential Elections Act and Article 111 of the Constitution. At the time of writing at the conclusion of the first round and prior to the run-off election, no legal challenge to this had been made against the decision of the Elections Commission.

Presidential Election Rules and Regulations

The Presidential Election Rules and Regulations provide for the creation of several bodies. The National Coordinating Committee for Elections (NCC) consisting of 15 members will do all things necessary to facilitate the Presidential Election. The NCC is composed of the five Election Commission members and ten others.

In every Atoll, an Atoll Elections Coordinating Committee (ACC) will perform the administrative duties with regard to voting. The ACC is composed of an appointee of the Elections Commission

from the Civil Service, an appointee of the Elections Commission itself and a representative of each candidate.

The National Advisory Committee (NAC) will advise the Election Commission and consists of one member of the Human Rights Commission, one member from a voluntary organization and one nominee of each candidate.

A Code of Conduct for candidates, their representatives, observers & monitors is prescribed.

Complaints Mechanisms consisting of Elections Complaints Bureaus at the National, Atoll and Island level were also established.

Electoral System

The Presidential election was the first multi-party election in the Maldives. The President was to be directly elected by the people by universal adult suffrage and a secret ballot.

If no candidate secured a majority of valid votes cast in the first round a run-off election would have to be held.

Election Administration

The Elections Commission is responsible for the conduct and supervision of *inter alia* presidential elections and consists of nominees of political parties and is voted for by the People's Majlis. Members of the Elections Commission were nominated by political parties, though whilst on the Commission and they are to function in a non-partisan, neutral and transparent manner.

The National Coordinating Committee (NCC) consisting of 15 members facilitated the Presidential elections and was composed of the Elections Commission members and ten others.

The National Advisory Committee (NAC) which looked after the interests of the candidates and their parties was appointed to advise the Elections Commission. It consisted of one member of the Human Rights Commission, one member from a voluntary organization and one nominee of each candidate.

In every atoll, an Atoll Election Coordinating Committee (ACC) performed the administrative duties with regard to voting and was composed of an appointee from the Civil Service, an appointee of the Elections Commission and a representative of each candidate.

Complaints and Appeals

Any election related matter may be raised by election petition with the High Court in terms of the Constitution. (Article 172 (a)).

To look into complaints regarding the Presidential election, the Elections Commission established an "Island Election Complaints Bureau", an "Atoll Election Complaints Bureau" and a "National Election Complaints Bureau". This mechanism was established under the Presidential Elections Rules and Regulations and in accordance with Section 62 of the Elections (General) Act.

Island Election Complaints Bureaus consist of 3 members; a male and female member from the Island Development Committee and a senior staff person from the Civil Service. The Atoll Election Complaints Bureaus consists of 3 members; one member appointed by the Atoll Election Co-

ordinating Committee, a female member appointed by the Atoll Committee and a senior staff person from the Civil Service. The National Election Complaints Bureau consists of 5 members; 3 members having 'extensive knowledge about the Constitution', and 2 senior staff from the Civil Service or 2 persons from the public not affiliated with any political party.

Persons eligible to lodge complaints are voters, candidates, political parties, observers, monitors and election officials. The initial complaint would be lodged with the Island Complaints Bureau. If it was not resolved, it could be referred to the Atoll Complaints Bureau. If still not resolved, it could be referred to the National Complaints Bureau.

Complaints could also be lodged directly with the Elections Commission. Complaints had to be lodged within seven days of voting.

Complaints against the Elections Commission could be made to the High Court. It was also assumed that appeals against decisions of the National Complaints Bureau could also be made to the High Court.

The Supreme Court shall have sole and final jurisdiction to determine all disputes concerning the qualification or disqualification, election or status of a presidential candidate or his running mate (Article 113 of the Constitution).

Voter Registration

The Elections Commission's responsibilities and powers in terms of Article 170(b) of the Constitution included preparation, maintenance and updating of electoral roles as well as all necessary arrangements for holding elections. The previous Election Commissioner, using the national ID card system prepared by the Department of National Registration, had a list of just over 208,000 voters.

In terms of the Elections (General) Act, voters had to cast their vote where they were registered. This was a new provision and meant that persons living away from their ordinary place of residence had to register where they wished to vote. According to the Elections Commission there were between 35-40,000 such persons. Just prior to the election the Commission reported it had registered some 25,000 in Male and 5,000 elsewhere.

Most of these 'transfer voters' were in Male, having moved to the capital from the Atolls. Many others were workers on resort islands.

The problems relating to registration of voters and finalization of the voter lists became a problem during the election and are discussed below.

Voter Education

The Elections Commission was mandated to educate and create awareness among the general public on the electoral process and its purpose, under Article 170 of the Constitution and Section 21(g) of the Elections Commission Act.

Whilst there is a high level of literacy in the Maldives, coupled with a large proportion of the population that is IT literate, it was felt that there was an inadequate voter education programme by the Elections Commission, reflecting the overall shortage of time for the preparation of the election. This concern was based, among other things, on the fact that this was the first ever multi-party,

multi-candidate Presidential Election and that there was a new requirement for persons to register if they intended to vote away from their usual place of residence.

There were programmes on state media under the auspices of the Ministry of Legal Reform, Information and Arts. A coalition of NGO's led by Transparency Maldives conducted a civic education campaign for the election under the slogan "GO VOTE". The Human Rights Commission also conducted civic and voter education using the slogan "MY VOTE, MY RIGHT, MY RESPONSIBILITY".

The previous Election Commissioner reportedly carried out very little work in the area of voter education. The new Election Commissioners, who came into office on the 4th September 2008, focused on 3 areas of voter education. Firstly, "Motivation" as to why people should vote; secondly, "Information" on how to vote and to register at specific polling stations; and, thirdly, restoring the "Credibility" of the voting process and that of the Elections Commission.

KEY ISSUES

Compressed Timelines

The revised timelines for the election created major challenges for the Elections Commission in terms of effectively implementing the election procedures and in respecting such tight legal deadlines.

The compacting of the timelines, as provided for in Section 22 of the Presidential Elections Act, was challenged by the Social Liberal Party in the High Court. The Court ruled against the complaint.

As mentioned, the Constitution was finally ratified on 7 August, and it was stipulated that the election had to be held before 10 October, i.e. within 64 days. However, it was only after the Constitution was ratified that election-related legislation could be finalized and institutions created. In the event, the Elections Commission Act was enacted on 25 August; the Elections Commission appointed on 4 September; the Elections (General) Act enacted on 15 September; the Presidential Elections Act on 16 September; and the Supreme Court assumed office on 18 September. The Freedom of Expression and Freedom of Assembly Bills are yet to be enacted.

The Elections Commission set the 8 October date for the election on 16 September, just 22 days notice for the poll.

The Elections Commission adopted the Regulations specific to the 8 October election on 21 September. The 'Polling Manual' for use by election officials on election day were produced very close to the day of the election, and after the training of trainers (September 26-29) at the Atoll level had taken place.

These timelines meant the key institutions responsible for the conduct of the election had very little time to prepare themselves for their respective duties, little time to establish confidence, familiarity with procedures and very little time to ensure public awareness. Given that these were the first ever multi-party elections with a number of new features – notably the need for persons outside of their normal place of residence to register to vote – this undoubtedly had an impact on the quality of the process.

Indeed, the registration of persons living away from the normal place of residence and the overall verification of the voter lists particularly suffered from the lack of adequate time for preparation

The timelines meant training was extremely rushed, with training-of-trainers at the Atoll level taking place from 26-29 September – election officials for instance only receiving some four or five hours of training, and a lack of familiarity with the new administrative structure, including the role of Atoll and Island Election Co-ordinating Committees and particularly the Complaints Bureaus at the Island, Atoll and National levels.

The official campaign period was shortened to just nine days to fit the shortened timeframe. Whilst it was reported to the Observer group that many candidates had in fact been ‘campaigning’ unofficially prior to this, such a time period is clearly inadequate for an important national election, particularly as it was the country’s first ever multi-party poll.

The shortened timeframe had a particular impact on voter registration and this is discussed below.

The Quality of the Voter List

Prior to the expiry of its mandate the former Elections Commissioner compiled a voter list based on data held by Island and Atoll Offices. This process did not require any involvement by prospective voters. This data was checked against the database of the Department of National Registration and a national list of just over 208,000 persons was compiled.

As mentioned, the new law required that for the first time people had to vote at the polling place at which they were registered. Therefore if they were currently living elsewhere they were required to register in order to have their name transferred to the correct list. For instance, the Elections Commission estimated that some 30,000 persons were living in Male but registered elsewhere. This ‘re-registration’ began on 18 September and was due to be completed by 25 September but was eventually extended to 27 September. The Elections Commission informed the Observer Group it had registered some 25,000 ‘transfer’ persons in Male.

The final preparation and verification of this list continued virtually up to the eve of the election, and voters in reality had very little time to verify the accuracy of the list. This was compounded by many being unaware of the new requirement. This also had an implication on election day as many voters complained of being unaware of the location of the polling place. Final voter lists were distributed across the country on the eve of the election, with some only arriving on the day itself.

The lack of an adequate verification period meant that the original ‘source’ list was also not properly verified. In the event the list suffered a series of anomalies, such as:

- Some persons transferring their registration did not appear on the final list;
- Some persons were indicated as having transferred but had never applied;
- Some persons claimed to have been on earlier versions of the list but not on the final version; and
- The list contained some double entries, dead persons and under-aged persons.

In addition, there were problems with the provision of ID cards, which were the main source of identification for voters. Some persons had not received their ID card, whilst some others were in process of renewing it and had not yet received the replacement. This procedure was the responsibility of the Department of National Registration. Estimates given to the Observer Group were that initially some 17,000 persons did not possess their ID. Cards were being issued up to the day of the election. After the election the Department of National Registration announced that there

were some 3,050 ID cards remaining to be distributed, though it was not clear how many of these were for persons aged 18-years or over.

There was a particular problem for prisoners with regard to ID cards. As mentioned, the Supreme Court decided in the week before the election that all prisoners should be allowed to vote. However, in reality many did not have a valid ID card on the day of the election.

Many of these issues could have been addressed given more time and a full and proper involvement of the citizenry and with a comprehensive voter education programme.

The Complaints and Appeals Mechanism

The Complaints and Appeals mechanism lacked coherence and did not correspond to electoral timelines. Key problems in this regard are:

- A lack of clarity as to how complaints are to be dealt with by the various levels of Complaints Bureaus
- What the respective jurisdiction of the Bureaus are, in terms of appeals
- To what extent a decision of a Complaints Bureau is binding upon the Elections Commission
- The overlapping authority of the Election Commission and Complaints Bureaus
- The slow response time of Complaints Bureaus

In addition, there appeared to be a lack of consistent awareness among stakeholders and the public as to the existence of the Complaints Bureaus and how they would function.

There were particular problems also on the day of the election as the complaints process did not function well. This issue is covered in the Chapter on Voting, Counting and the Results Process.

Chapter 4

MEDIA

The media landscape had been largely dominated by state-owned broadcasters – *Voice of Maldives (VOM)* radio and *TV Maldives (TVM)*, which have an extensive reach across the Maldives archipelago. As a consequence of this, they have been the most influential media outlets in the country.

Until March 2007, when rules were relaxed to allow the entry of private broadcasters (9 radio and 3 TV stations), *VOM* and *TVM* were the main media channels for news and information in a tightly controlled environment. Until that time, broadcast coverage was largely focused on the DRP ruling party.

In the past year, a small number of privately-owned TV and radio channels were established following the issuing of licences by the government through a bidding process. However, their reach remains limited due to the lack of capital, infrastructure, and technical and human resources. It has been claimed to the Observer Group that political bias is evident in some media due to a connection between its ownership and various political forces.

The range of Dhivehi language and Dhivehi-English bilingual newspapers and their online versions adopt partisan lines, with overseas-based Maldives online news sources taking on a much bolder editorial approach.

Election Coverage

Due to the compressed timeline for the presidential election, voter education through the media was limited. It was particularly challenging for the newly established private broadcasters, many of which were only set up a few months before the presidential election, to produce quality public information programmes on voter education.

VOM and *TVM* were in a better position to provide voter education programmes. *VOM* officials informed us they had broadcast a daily one-hour voter education programme from mid-August to the eve of election day on 8 October. The radio station also aired an hour-long nightly election coverage programme profiling political parties, their presidential candidates and their platforms.

A senior *TVM* official said the network allocated three half-hour slots a week for voter education in the month before the election, as well as a daily half-hour slot to the Elections Commission for their announcements. On the eve of election, the Elections Commission was given a 45-minute slot. In addition to this, 16 daily 30-second spots for public service announcements were offered free to the Elections Commission; six free 30-second spots for the Human Rights Commission; while civil society organisations were given two free 30-second spots each day. A one-hour special programme on the election was broadcast from 4 to 6 October.

Both *VOM* and *TVM* reported on the political campaigns in their news broadcasts. They appeared to have adhered to the rules on fair play for election coverage as prescribed under Section 30 (a) of the Elections (General) Act, which stipulates that from the time of the official announcement of the presidential candidates until 6 pm on the eve of polling day, “all the broadcasters in the Maldives should provide broadcasting time to political parties and individual candidates who are standing for election to campaign through advertising or other programs.”

The broadcasters are also required to announce the allocated time to the presidential candidates and to list any charges that are to be levied for the service. The Elections (General) Act also stipulates under Section 30 (b) that: “The broadcasters shall give broadcasting time or sell thereof to candidates on an equitable basis.” Pursuant to that, under Article 30 (c), “no broadcasters shall under any circumstances give or sell more than 10% of the time allotted to one candidate, to one individual candidate or a political party or a candidate representing a political party.”

For the first time in an election in Maldives all Presidential candidates participated in a Q & A session, which was broadcast live on *TVM* in September. This was followed by a similar one for their vice-presidential running mates. This was the first such activity of its kind in Maldives.

Political parties were given access to *VOM* and *TVM* for their political party broadcasts. Media coverage of opposition party campaigns were featured on *VOM* and *TVM* news broadcasts.

The political parties and their candidates were offered the opportunity to buy evening air time slots for their campaign broadcasts at a discounted rate. *VOM* allocated four 15-minute slots a week to each presidential candidate in the lead-up to the election.

TVM provided a one-hour daily programme focusing on four political parties on a rotational basis throughout the week. Following the announcement of the presidential candidates, each was given 11 fifteen-minute slots during various times of the day right until the eve of polling, based on an agreed rota. In addition to this, the candidates were offered the opportunity to buy airtime at a discounted rate for the announcement of their candidacy which was limited to one 30-minute slot; another 30-minute slot for the announcement of their manifesto; and a final 30-minute slot to announce the conclusion of their election campaign on the eve of polling day. Ten 30-second paid commercial spots were offered daily to all the candidates for their advertising campaign, with a limit of five spots to be bought by each candidate.

However, it was represented to us by some opposition parties that the ruling party’s presidential candidate enjoyed the benefit of incumbency by virtue of his media profile while officiating at events in the lead up to the election.

Following the close of the polls, *VOM* and *TVM* carried unofficial tallies of the polling results from their reporters on location in different islands and atolls. *TVM* also provided an SMS service to viewers for their unofficial tallies. At the same time, the TV station also aired updates on the official tallies from the Election Commission.

Key Issues

- *VOM* and *TVM*, being state-run media, are, according to the draft Broadcasting Bill, under the authority of the Information Minister, who is empowered to oversee editorial content, broadcast regulations, and staff recruitment and retention. The draft Broadcasting Bill does not address the powers vested in the Information Minister in his oversight of state-owned media, as well as his authority over content, licensing and regulation.
- Section 31 of the Elections (General) Act stipulates that: “In campaigning to get support, use of broadcasting stations operating outside the Maldives is prohibited.” This forbids any candidate from using external sources of independent broadcast channels that can be received via satellite in the Maldives, which, through its vague phrasing, can include interviews with foreign broadcast news channels, which can be interpreted as a campaign tactic.

Chapter 5

VOTING, COUNTING AND THE RESULTS PROCESS

The Elections (General) Act provided the framework for the first multi party election in the Maldives. The Act prescribes the rules for eligibility of voters, and the framework for the conduct of the election and counting procedures and complaints mechanism.

Preparation of Voting

Election officials assigned to Voting Centres could only be employees of the Elections Commission or appointed by it. In a departure from previous elections, the Atoll and Island Chiefs no longer held any formal responsibility for election processes. The main responsibilities of Election Officials were:

- To look after the ballot boxes;
- Overseeing voting and counting processes within the Voting Centres;
- Declare the provisional results of the votes cast;
- Overseeing the observers and monitors; and
- Stopping any unlawful activity that takes place in the area designated for the Voting Centre.

The Act also stipulates that the Elections Commission send to each candidate a list of polling officials, three days prior to the poll. Candidates would then have an opportunity to challenge or object to any of the individuals, and the Commission would have to investigate the matter. The Act states that the Commission must also provide adequate training, information and guidance to election officials to enable to discharge their duties.

The Act states further that transparent ballot boxes be provided, and that only ballot papers provided by the Commission having a counterfoil bearing a serial number, be used. The Act also directs that the total number of ballots sent to each Voting Centre should comprise the total number of individuals registered to vote at that Centre, plus 1%.

The names of candidates in the order announced by the Elections Commission should be displayed at voting stations, and provision made to enable accredited observers from political parties, NGO's, international organisations and media monitors to observe/monitor the election process.

Organisation of Voting Centres

Voting Centres should be operational from 09:00 hrs to 20:00 hrs, and all campaign material should be removed from the Voting Centre and the Voting Area (a radius of 100 feet) by 18:00 hrs the night prior to polling day.

The secrecy of the vote should be assured within the Voting Centre, but transparency in the location of the ballot box and Voting Centre activities should also be provided. Election officials must also ensure that all essential materials required for the electoral process be present prior to the opening of the poll, including the voter list, ballot papers, marking ink, ballot boxes and seals.

Voting Centre Procedures

A Presiding officer was responsible for the overall management of the Voting Centre, to be assisted by five Election Officials, each responsible for checking voter ID's, placing an indelible mark on the voter's left thumb, issuing the ballot paper, and supervising the ballot box and the voting areas.

Once ready to open the poll, election officials must display the empty ballot box, seal the box and open secure materials such as the ballot papers in the presence of the first 2 voters and any observers and monitors present.

Voting Procedures

The procedure to be used for the voting process itself was as follows:

- Presentation of the voter's identification (national ID card, passport or driver's licence) to confirm their eligibility to vote as a Maldivian citizen
- Verification that the voter is on the voter list and insertion of the ID number in the corresponding box on the register
- Marking of the voter's left hand thumb with an indelible ink
- Issuance of valid ballot paper to the voter
- Voter proceeds to the voting booth and places a tick on the ballot paper according to individual choice
- Voter then places the ballot paper in the sealed ballot box
- A physically challenged person could be assisted by an individual registered at the same Voting Centre to mark their ballot paper. That person was only permitted to assist one person.
- It was prohibited for voters to photograph, record audios or video in the voting area
- If a person is still waiting in line at the Voting Centre at the designated time of the closing of the Voting Centre, then he/she would be allowed to vote.

Ballot boxes were to be sealed in the presence of observers at 20:00hrs, or when the last voter present in the queue at 20:00hrs had cast their ballot.

Counting Procedures

In a significant departure from past practice, counting of ballots would now take place in the Voting Centre from 21:00hrs on polling day, in the presence of the political parties and accredited persons.

The sealed ballot box would be opened in the presence of candidate representatives and other accredited persons, and two members of the voting public who voted at that Voting Centre.

Once the ballot box was opened, votes were to be sorted into candidate groupings, then counted and collated into bundles of 50.

Once such bundles were checked and verified, the results were to be tallied and results were to be announced publicly within the Voting Centre and displayed outside the Centre. The result sheet would then be faxed to the Elections Commission in Malé.

Cancelled or invalid ballots would include:

- Ballot papers other than those supplied by the Elections Commission;
- Ballot papers marked with any symbol other than a tick;
- Ballot papers with more than 1 tick;

- Ballot papers not clearly indicating the voters choice; and
- Ballot papers not eligible or acceptable under the constitution.

The presiding officer held the authority to decide the validity of the ballot should any disagreement among observers and accredited persons occur.

Issuing Complaints

Information provided on the structure and mandate of the complaints mechanism was vague on the specific jurisdictions, and on the decision making authority of the various tiers of the complaints mechanism.

It has been assumed that Island level complaints would be initially submitted to the Island Election Complaints Bureau, and that matters unresolved at that level or affecting more than one Island would be submitted to the Atoll Election Complaints Bureau. It was further assumed that matters unresolved at that level would be submitted to the National Election Complaints Bureau. The complaints mechanism, however, provided for any complaint at any level to be submitted to any of the three tiers – even simultaneously - as well as to the High Court and the Elections Commission.

Complaints issued from a resort or an industrial island should be submitted to the Atoll Election Complaints Bureau. For Malé, nearby resorts and industrial islands plus voters in the diaspora resident in Sri Lanka, India, Malaysia and Singapore, all complaints should be submitted to the National Election Complaints Bureau.

The Tabulation and Announcement of Results

Upon completion of the count in the Voting Centres, results were transmitted directly to the Elections Commission's national counting centre in Malé.

All incoming results information was received and collated in one room at the Centre. Once the results had been checked, they were inputted immediately into a central database, and the Elections Commission provided constant updates as results were entered. This provided regularly updated information to the public and political stakeholders, as national TV broadcast the unfolding results.

In addition, members of the public could text a special number and receive an automated text response with updated results. This was an extremely effective and transparent process, which enhanced confidence in the process.

The Elections Commission gave a press conference at around 17:00 hrs on polling day, announcing the results up to that point. It also gave a press conference at 23:30 hrs, announcing the full result as follows:

Maumoon Abdul Gayoom:	71,731 votes (40.63%)
Mohamed Nasheed (Anni):	44,293 votes (25.09%)
Dr Hassan Saeed:	29,633 votes (16.78%)
Gasim Ibrahim:	27,056 votes (15.32%)
Umar Naseer:	2,472 votes (1.4 %)
Ibrahim Ismail (Ibra):	1,382 votes (0.78%)

Total valid votes, numbering 176,567 in the verified total, came in around 160 votes less than the total issued as a preliminary figure earlier in the afternoon. 1,235 votes were deemed invalid in the final, verified count. Turnout totalled 85.38% per cent of eligible voters.

The Commission went on to announce its intention to hold the second round within 21 days in accordance with the 2008 Constitution, rather than ten days provided for by the Presidential Elections Act, as provided for by the compressed timelines in the Presidential Elections Act. No individual or group had challenged the legality of this decision at the time or writing.

It was noted that some results, such as from Singapore and some individual Voting Centres, were issued and reported before voting had been completed at all voting stations. This was mostly due to the delayed closure of some Voting Centres as a result of a slow processing of voters and long queues.

Overview of the Conduct of 8th October Presidential Election

Commonwealth Observers covered over sixty Islands across eleven Atolls (Haa Alifu, Haa Dhaalu, Kaafu/Malé, Seenu/Addu, Gnaviyani, Gaafu Alifu, Gaafu Dhaalu, Raa, Baa, Noonu, and Goidhoo) over the election period. The coverage ensured that election preparations, voting and counting was observed in a cross section of both large and small islands, and both resort and industrial and non-resort islands, in an impartial and independent manner.

Prior to the poll, Commonwealth Observers met with Elections Commission officials, NGO's, members of the Human Rights Commission, and representatives of the media, political parties, international agencies and the diplomatic community. Additionally, at the Island and Atoll level, the group met with Election Co-ordinating Committees, Complaints Bureau, Island and Atoll Chiefs, police officers, political party representatives, local citizens and civil society representatives.

Commonwealth Observers had concerns in regard to the compressed time frame in which all stakeholders had to operate. The major concerns related to the issuing of ID cards, the compilation and quality of the voter list and the voter registration process, and the structural inefficiency of the complaints mechanism. Detailed concerns of the Group regarding the legal and administrative electoral framework are presented in Chapter Three of this Report.

Much enthusiasm for the poll was displayed by voters on the day as reflected in the high turn out and the willingness of many voters to wait patiently in long queues, some in the rain, to vote. Many voters with whom Observers spoke still indicated a high level of mistrust of the electoral process as a whole, and the Elections Commission. This obtained despite the introduction of progressive and transparent measures such as the ability of candidate/party representatives to observe the poll and count at Voting Centres. The biggest source of suspicion and lack of confidence in the process, related to the enduring negative perception of past electoral practices. The compressed timeframes for this poll and their impact in curtailing opportunities for campaigning, voter education, registration of voters, and application and processing of national identity cards were regarded by many as evidence of deliberate manipulation of the new electoral procedures, and fed into existing suspicions and mistrust.

The Commonwealth Observer Group found that many aspects of the election were reasonably credible, largely due to the high level of inclusiveness, transparency, participation and the competitive nature of the poll.

The Group was pleased to note that many recommendations made by the Commonwealth and other observer missions for previous elections and the referendum had been implemented.

These included:

- the establishment of an independent Elections Commission;
- introduction of a legal and regulatory framework for elections that meets international standards (excepting the structure and performance of the complaints mechanism which fell well short of such standards);
- enacting legislation to enable persons above the age of 18 to vote;
- the count and announcement of result being made public at the Voting Centres;
- allowing representatives of political parties and candidates to observe the voting and counting processes;
- the exclusion of the Island and Atoll Chiefs from the election process;
- elector lists being made publicly available; and
- the register of electors being marked during the poll to indicate that the elector has voted.

Key Issues

Compressed Timeframe

Article 301 of the constitution stipulated that the election had to be held before 10th October. This was just 2 months after the ratification of the constitution, just over 1 month after the formation of the Elections Commission and some 3 weeks after the passing of the Presidential Elections Act. The time remaining before the October deadline therefore necessitated a drastically compressed timeframe for the election. Whilst election related legislation does provide the basic conditions for democratic elections, the requirement to meet unrealistic deadlines took precedence over good electoral practice. This affected the overall quality of the process, with particular consequences for the preparation of an accurate voter list and the late display of the voter list – some Voting Centres only received and displayed the list mid-way through polling day itself - a lack of formal campaign time and a rushed period for training and preparation of election and complaints officials, and voter education.

On polling day, this contributed to confusion among voters as to whether or not they could vote and where they should vote. In turn, this tapped into existing high levels of suspicion and mistrust in the electoral process and of authorities. In some instances, this spilled over into aggressive behaviour both within and outside some voting centres.

The severely limited timeframe resulted in a limited period for voter education. This manifested in many ways, most notably in the understanding and ability of voters to register if they were to be present at voting stations other than in their permanent residence, as well as for the application, processing and issuance of national identity cards ahead of the poll. Again, delays in the receipt of new identity cards gave rise to suspicion and uncertainty, and directly resulted in a number of citizens being unable to vote.

Election Procedures and Weaknesses of the Voter List

While all Commonwealth Observers noted that election officials at the voting stations were efficient and diligent, inadequate training may have contributed to variations in the interpretation of procedures. Additional training would increase the understanding of, and therefore referral of complaints as appropriate, to the various tiers of the complaints mechanism. The varying degree of understanding among some Election Officials of the complaints mechanism in particular became problematic as the number of complaints grew over the course of the day. Response time to these complaints was slow and the credibility of the Bureaus weak. Conflicting information about the

delivery of national identity cards also fed into the larger concerns and uncertainty, when promises for delivery of the cards raised expectations that were unmet.

This problem was also reflected in the various versions of identification documents. For example, though a driving license was specified by the Elections Commission as a valid form of identity as they included the bearer's national identity number, licenses issued on many Islands did not include this unique number and holders of the same were not allowed to vote on the strength of the license. In addition, some internally displaced persons complained that their 'IDP' registration card, which also did not include a national identity number, was not allowed as a form of identification – again, giving rise to suspicion and uncertainty among voters during polling day.

On the afternoon of the election, due to the increased volume of complaints in regard specifically to the voter register complaints, the Elections Commission issued an instruction for an ad hoc procedure. This procedure enabled persons in possession of an identity card but not on a voter list or mistakenly identified as having transferred. These persons were added to a supplementary list for later verification. Whilst it is not recommended to change the rules of an election on the day, this decision by the Elections Commission was a pragmatic one and helped to defuse tension.

Observers noted, however, that when the Elections Commission issued the public notice of the new procedure during polling day, Election Officials within Voting Centres were often unaware of these changes as they did not have access to televisions and radios. As the Commission had not informed the Election Officials of the notices prior to the public announcement, some officials found themselves confronted with angry voters demanding implementation of the Commission's new procedure of which the Officials were uninformed and who, therefore, resisted implementing it at first.

The announcement gave rise to some uncertainty among voters and election officials. Voting in some Voting Centres was suspended as polling officials sought clarification from Atoll or National Election Officials. In practice, there appeared to be some inconsistency across Voting Centres as to who could now vote and what forms of identity were now acceptable.

This 'new' provision for voters to be allowed to vote at any Voting Centre resulted in a sudden influx of numbers at some Centres immediately prior to the close of poll. This necessitated the extension of polling hours, and ballot papers at some voting stations ran out. Difficulties and confusion as to when and how additional ballot papers could be accessed, also led to an inconsistency in the implementation of the Elections Commission's decision.

The National Election Complaints Bureau reported after the poll that most filed complaints related to the voter list. While some of these complaints were resolved, many remained outstanding.

The Group is concerned that as the earlier draft voter list displayed at voting stations prior to the poll presented voter information only in English and not in the official Divehi language, many voters were not able to check their names were present, posing particular problems for elderly voters. In addition, when revised lists were distributed to each Voting Centre, this did not happen until late on the day before the poll or on polling day itself. Consequently, those who had not been included on the list previously, still did not know if they could vote until well into polling day. Identifying names on the voter registration list was also difficult and time consuming due to the method of indexation.

Some estimates by domestic observers indicate an inflation of voter numbers at specific Voting Centres by as much as 10%. As the indelible ink was shown to be easily removable, the opportunity for multiple voting increased. Commonwealth Observers had not received complaints directly of double voting, though rumours began to emerge in the days following the poll that multiple voting

had indeed occurred. The verification process undertaken by the Elections Commission, and publication of its findings, is vital to check the expected voter numbers and vote tally so as to ensure confidence in the final turnout figure.

Domestic observer groups played a positive role, with a presence in about one-third of the country's Voting Centres. Observers were drawn from a number of NGOs under the co-ordination of Transparency Maldives and included many young persons.

Observers noted some difficulties of access for physically disabled voters. Although the secrecy of the vote itself was largely provided for, some teams observed that elderly women voters were seen being "assisted" in a manner that compromised the secrecy of their vote.

Some concerns about possible vote buying and use of mobile camera telephones within the Voting Centres to prove the way in which persons voted, had been shared with the Group prior to polling day. Observers noted varying practice across Voting Centres on the ability of voters to take mobile camera telephones into the Centres. Election Officials in only some stations insisted that voters handed such equipment to the officials while they voted in accordance with the procedures.

Contrary to the regulations governing the Presidential election, some observers noted the presence of campaign material inside the 100 feet boundary of the voting area, including painted campaign signage inside actual Voting Centres.

Observers welcomed the presence of candidate agents in all places visited, which is important for the transparency and accountability of the process, though it appears that not all parties availed themselves of this opportunity.

Observers reported that in the Voting Centres in which they were present, votes were counted properly in a transparent manner and results were announced and displayed publicly. This enabled scrutiny by party agents and accredited observers and this was respected and accepted by the stakeholders. This was different to previous elections at which the Group understands large crowds had often gathered at counting centres and complained aggressively to relevant election officials.

The announcement of the results at the national level was transparent with the Elections Commission providing regular updates as results were processed, and was a good innovation which ensured the public was kept fully informed of results and the unfolding electoral picture.

Chapter 6

CONCLUSIONS AND RECOMMENDATIONS

The 8 October Presidential Election was the first ever multi-party election in the Maldives. As such, it represented an important element in the country's on-going democratisation and reform process.

The Group found many aspects of the first round of the election to have been reasonably credible, largely due to a high level of inclusiveness, transparency, participation and the competitive nature of the poll. The Group was pleased to note that many recommendations made by Commonwealth and other Observer missions for previous elections, and the referendum, had been implemented, and that this contributed to a general improvement in the electoral process.

The Group also found, however, that problems emanating from the compressed timelines and voter registration process did compromise some aspects of the election.

The legal framework for the election generally provided the basic conditions for democratic elections, though the right to participate was limited to Sunni Muslims.

Article 301 of the Constitution stipulates that the election be held before 10 October. This was just two months after the ratification of the Constitution, just over one month after the formation of the Election Commission and some three weeks after the passing of the Presidential Election Act. The time remaining before the October deadline therefore necessitated a drastically compressed timeframe for the election, and the requirement to meet unrealistic deadlines took precedence over good electoral practice.

The Elections Commission struggled valiantly and impartially to meet this challenge. However, the overall quality of the process was affected, with particular consequences for the preparation of an accurate voter list, a lack of formal campaign time and a rushed period for training and preparation of election and complaints officials, and voter education.

The shortened timeframe had a particularly negative impact on the voter list at individual Voting Centres. Many outstanding problems were unable to be fully addressed in such a short period, and a satisfactory verification process for voters was not possible.

For the voter list, some persons transferring their registration did not appear on the list, others appeared more than once, some persons were indicated as having transferred despite not applying for it, and others claimed to have been on the earlier posted version of the list but missing from the final one. Others claimed that the new requirement to register was not fully understood by the electorate and thus some missed the opportunity to apply for a transfer altogether. There were also problems with the quality of the original database, the provision of ID cards to all those persons requiring one, and in the failure to return ID cards in time for those in the process of renewing it.

Our Observers reported that there were problems in most areas in this regard, though the overall number of persons affected remained a minority. However, the principle of universal suffrage is vital and the issue sensitive. Observers reported that in some instances problems with the list did cause tension within and immediately outside the Voting Centre, and anxiety for individual voters concerned.

On the day of the election the Elections Commission became aware of numerous problems with the voter list as it received complaints in Male and from around the country. In response, on the afternoon of the election it issued an instruction for the implementation of an *ad hoc* procedure, whereby persons in possession of an ID card but not on the list and persons mistakenly identified as having transferred, should be allowed to vote. Such persons were added to a supplementary list for later verification. This decision was a pragmatic one and did help diffuse tension and uncertainty. Whilst it is not recommended to change the rules of an election on the actual day, it is clear the Elections Commission felt compelled to act.

It is important that a verification of the number of persons voting courtesy of this ad hoc procedure is undertaken, to check whether the number is reasonable and reflects the expected shortfall in registration, and also that shortcomings in the list and with ID cards are now resolved.

Despite being the country's first multi-party election, it was inclusive and competitive, as major political forces fielded candidates, alongside one Independent. Whilst the playing field may not have been entirely level, with new political formations clearly lacking time to establish a national organisation and profile, parties were closely involved in the process. They participated and cooperated well in various electoral bodies such as the Atoll Election Co-ordinating Committees. This involvement of parties helped to increase confidence and transparency in the process, which is vital.

The formal election campaign was just nine days. This was very short and inadequate for such a major electoral event. Having said this, the Group is aware that some candidates and parties were active well before the formal campaign commenced.

A number of campaign incidents were reported to us. However, overall the campaign passed off without major problems and the basic freedoms of association, movement, assembly and expression were largely enjoyed.

On election day, Observers reported that the main problem was the issue of the voter lists and ID cards, which impacted on public confidence in the organisation of the poll. In administering the voting, polling officials worked diligently, though their capacity could have been further enhanced if they had received more training. Voters were extremely patient, with many waiting in long queues for hours. Voter turnout was extremely high and it was noted that young voters also participated in large numbers.

The secrecy of the vote was largely provided for, though some teams observed that elderly women voters were seen being helped in a manner which compromised the secrecy of their vote. Observers noted that Candidate agents were in all places visited, which is important for the transparency and accountability of the process, though it appears that not all parties availed themselves of this opportunity.

The Group was concerned that the indelible ink was easily removable. This needs to be rectified for the run-off.

Observers reported that in the Voting Centres in which they were present, votes were counted properly and were well scrutinised by party agents.

Indeed there was a high degree of transparency in the process, by virtue of the provision for observers, candidate agents and media to be present at Voting Centres for the voting, counting and posting of results. These innovations had been recommended by previous Commonwealth Observer teams, and were a positive feature of the process. Furthermore, the announcement of the results at

the national level was extremely transparent, with the Elections Commission providing regular updates as results were processed.

The complaints and appeals process lacked coherence and was not able to provide a quick-enough response. Crucially, on the day of the election the complaints system could not meet the demands placed upon it, contributing to the confusion and tension over voter registration. Voters felt their grievances were not being addressed and confidence in this aspect of the system ebbed away.

The National Election Complaints Bureau reported after the poll that they had received 1,168 complaints, largely relating to the voter list but also allegations of the inappropriate distribution of ID cards vote buying. It also reported that 1,062 of these had been resolved or closed. While some of these complaints were resolved, many remained outstanding. Many voters did not have confidence in or were unaware of the process. As a consequence the number of official complaints received would not have reflected the real number of grievances. Overall, the system for complaints and appeals did not adequately provide for an effective administrative or legal remedy.

As no candidate secured an absolute majority of votes cast in the first round a run-off round was required. This report is focused on the first round, and a separate second report will cover the conduct of the run-off. In our Interim Statement, issued after the first round we urged all parties to continue their positive and peaceful engagement in the process. A level playing field needs to be provided for the competing candidates, with no improper use of state resources or undue influence of state and local officials. We also took note of the Elections Commission's intention to address shortcomings in the voter registration and problems with ID cards and recommend that these should be rectified.

In compiling this report, and in accordance with our mandate, we have also developed a series of recommendations which we believe will help strengthen the process for future elections.

RECOMMENDATIONS

The Commonwealth has issued reports on the conduct of the 2005 Majlis Elections and the 2007 Referendum. A number of these have been adopted and resulted in positive innovations in the process. We draw reference to them here as elements may still be applicable and useful.

In addition, we offer the following recommendations on the basis of the findings of this Observer Group:

LEGAL FRAMEWORK AND ELECTION ADMINISTRATION

1. It must be ensured that the electoral timelines adopted for an election are realistic and feasible. The original timelines contained in the respective laws appear reasonable, but the amended timelines for this election were not. Given that parliamentary elections are relatively soon after the Presidential Election it must be ensured that adequate preparation time is provided and the country does not again end up faced with a rushed process.
2. There is clearly a need to update and clean the voter lists. A thorough verification of the list must be undertaken to clean it of double and erroneous entries. A flawed voter list has the capacity to undermine confidence in the process and this must not be allowed to happen. To effectively clean the list and ensure completeness the Voter List for individual Voting Centres needs to be publicised for complaints and finalisation.

3. The mechanism for complaints and appeals needs to be made more coherent. If the Complaints Offices are to be utilised it must be made more explicit exactly what their role is, how they are to undertake it and what the authority of their decisions is vis-à-vis the Elections Commission. Further, the timelines for decisions, must be in accordance with electoral timelines.
4. Provision needs to be made for a quicker and more accessible, hands-on approach to dealing with complaints on behalf of Island and Atoll Complaints Bureaus. Key to this is increased awareness and understanding of their role and an adequate and responsive communication system for the day of the election.

MEDIA

5. In accordance with international good practice:
 - a. *VOM* and *TVM* – as state-owned media - should be transformed into public service broadcasters that are independent of the government;
 - b. *VOM* and *TVM* should be regulated by an independent broadcast commission that is accountable to the People's Majlis to ensure that the broadcasters serve in the public interest.
 - c. Licensing of the media should be undertaken in a transparent manner through an independent Media Licensing Board constituted through public recruitment of experienced professionals in various related fields.
6. The local media will benefit from training to enhance their professionalism, particularly in areas such as media law and ethics that include issues such as independent reporting, election coverage, privacy, freedom of information and defamation.
7. To promote press freedom, it is vital that the Freedom of Expression law be enacted.

VOTING, COUNTING AND THE RESULTS PROCESS

8. Given the negative impact of the drastically compressed timeframes, it is imperative that sufficient time be allocated for all election preparations and processes.
9. Better communication between the National Elections Commission and Island and Atoll Election Coordinating Bureaus would greatly facilitate the speedy and satisfactory resolution of issues and complaints arising during polling day. In particular, dedicated and staffed lines for election officials only would ensure that decision making authorities at the various levels could communicate more easily and reliably with each other.
10. Given the many concerns expressed about the complaints mechanism, the mechanism itself should be examined further and revised to ensure greater clarity of process, clear decision making lines and authority, and be explained to the public as part of a widespread voter education programme.
11. A re-examination and more accurate process for capturing information and ensuring timely issuance of national identity cards is imperative to ensuring those eligible to vote are included in the voter list.
12. Dedicated procedures should be adopted that ensure that elderly voters are not disenfranchised and the secrecy of their ballot is not compromised.

13. To enable the collation of information of incidents and follow-up investigation of administrative and other complaints, an Occurrence Book to document any irregularities should be used by election officials to log all such matters.
14. Long queues of voters were often processed slowly at many voting stations; the provision of additional processing points would help to ensure waiting time is kept to a minimum. A more equitable distribution of voters between neighbouring Voting Centres would also help in this regard.
15. Noting the high levels of suspicion in Maldives, the Elections Commission may wish to ensure consistent enforcement of existing regulations guiding polling procedures (set out in the Handbook for Elections Commission Staff and Representatives) on the banning of the use of mobile phones by voters in Voting Centres. This may help to bolster confidence among the parties and public by limiting the opportunities for vote-buying or exchange of classified information. Placement of the voting booth should also ensure transparency of the process, while ensuring secrecy of the casting of the ballot.
16. Existing regulations stipulating Election Officials should enable party and Candidate representatives and other observers to witness the counting process, should be enforced consistently in a way that ensures observers do not disturb that process.
17. Consideration should be given to providing an express lane or other measures to expedite voting by pregnant women, as well as those less able.
18. It is of critical importance that the ink and the method of application used to mark the finger of a voter be indelible and not possible to be removed easily.
19. Cognisant of the regulations pursuant to the Presidential Election Act banning campaigning from 18:00 hrs on the day before polling to 09:00 hrs on the day following polling, the display of immovable campaign material within the 100 feet of the voting area and near environs should be effectively policed.
20. The Elections Commission may wish to ensure that an additional 5 - 10% of the total number of ballot papers issued for each Atoll be held securely by the Atoll Elections Coordinating Committee for distribution to Voting Centres should unforeseen circumstances require it.

SUPPLEMENTARY REPORT ON MALDIVES
PRESIDENTIAL RUN-OFF ELECTION

28 OCTOBER 2008

Section 1

INTRODUCTION

The Commonwealth Observer Group continued to follow developments between the two rounds of the election and was re-formed for the run-off election. The Group of seven persons was led by the Rt. Hon. Owen Arthur. The Observers were:

- Chair - Hon. Owen Arthur (Barbados)
- Mr. M.I. Abdool Rahman (Mauritius)
- Mr. Hendrick Gappy (Seychelles)
- Mr. Hanif Vally (South Africa)

The Observer Group was supported by a Secretariat Staff team of 3-persons.

The Observer Group undertook a series of meetings on Saturday 25 and Sunday 26 October. The team met with the Elections Commission, representatives of the parties supporting the two candidates contesting the run-off election, the National Election Complaints Bureau, the Department of National registration, the Human Rights Commission of Maldives, and a cross section of civil society organisations. The team also met with representatives of the EU and UN assessment teams for the election, and the diplomatic community.

Interlocutors provided additional information on post-election developments in the wake of the first round, the political environment and electoral preparations for the run-off election. There was a particular follow-up on some of the key issues from the first round, such as the verification of the voter list and electoral processes.

The team was deployed on Monday 27 October, meeting in the field with Atoll and Island-level election and complaints officials. Teams were deployed to cover Male', Addu/Seenu, Gnaviyani, Haa Dhaalu and Haa Alifu Atolls.

On election day, teams reported from 20 islands and 85 Voting Centres.

This supplementary report covers the period between the rounds and the conduct of the voting, counting and results processes for the run-off election.

Section 2

POLITICAL ENVIRONMENT AND ELECTORAL CAMPAIGN

The Elections Commission announced at a press conference on 9 October 2008 that no candidate achieved over 50% of votes cast in the first round of the 2008 Presidential Election. According to the Constitution, in the absence of such a majority for any one candidate the leading two candidates contest a run-off election. The Commission announced that the two candidates with the highest number of votes were Maumoon Abdul Gayoom of the DRP with 71,731 votes (40.63%), and Mohamed Nasheed (Anni) of the MDP with 44,293 votes (25.09%).

A major development that occurred between the two rounds of the election was the formation of an alliance of three out of the four opposition parties that fielded a candidate in the first round plus the Independent candidate. The Republican Party, Social Liberal Party and the independent candidate Hassan Saeed endorsed the MDP's candidate in the run-off election. The Alliance was further supported by the Adaalath Parthy and the Maldivian National Congress. This new alliance formed a Steering Committee to guide the Alliance's campaign strategy and launched its new slogan "As The Nation Wishes," on 14 October. Party leaders in the Alliance campaigned together at various campaign events.

Nasheed publicly declared on 15 October that, if elected, he would seek a mid-term Presidential election after 18 months. Subsequent reports indicated that this strategy had been suggested by Hassan Saeed as a way to retain support among those that had voted for the different opposition candidates. It was suggested that voters would be more likely to vote for Nasheed if they believed 'their candidate' might have a chance to take the Presidency soon after. President Gayoom publicly denounced the possibility of a mid-term Presidential election as a 'crime', suggesting it would be unconstitutional, and stated that he would complete the full term if elected.

A major issue that emerged between the two rounds was the use of religion by both parties as a means to denigrate each other. As outlined in Chapters 2 and 6 of the Report of the first round, the Group noted that citizens and candidates may only be Sunni Muslims. DRP figures made public allegations linking the opposition alliance to proselytizing for other faiths, challenging the opposition to demonstrate that they were not aiming to spread Christianity. The MDP in turn claimed that DRP was opening Christian chapels in the Maldives (these were wedding chapels for the wedding tourism market). This is a worrying trend and is contrary to Commonwealth principles of cultural and religious diversity, respect and understanding.

Other key issues that emerged in the campaign period centred upon allegations of undue state influence on civil servants, vote buying, and intimidation and harassment of opposing political party activists. Though many reports focused on isolated incidents, such reports received much attention in an already highly politically sensitive environment following the first poll.

While some incidents reported were minor, a few more serious violent scuffles also occurred. These included an attack on a member of the Alliance who was a Presidential candidate in the first round, and clashes between opposing party supporters in a Southern Atoll and Malé, with one incident resulting in the death of a party activist. Both the ruling party and opposition alliance expressed a fear of intimidation and potential violence from opposing supporters, suggesting that such harassment would deter voters from participation in the election. The high voter turnout on polling day, however, proved such fears to be unfounded.

The Group also heard many reports of alleged intimidation or manipulation of public employees, which also received much attention in the media. Reports alleged civil servants were being put under pressure by the state to participate in campaign events of the ruling party, and that the incumbent had met with senior officials of major Government services and parastatals. In addition, opposition figures claimed that they had been denied a level of access to civil servants which had been enjoyed by the ruling party. Both the ruling party and opposition alliance claimed that civil servants that had attended their campaign events had been reprimanded.

Accusations of abuse of incumbency by the Government were also made. One high profile case involved the sacking of the Head of a major parastatal company, the Maldives Industries Fisheries Company (MIFCO) after he and other senior members of the Board had openly endorsed the opposition candidate. While the Government alleged his dismissal had been for malpractice and misconduct, opposition figures claimed that his summary dismissal was because of his support for

the opposition candidate. Senior members of the ruling party stated to the Group that he had been removed for using his position and company time and resources for political activities.

The tabling by the ruling party of a motion of no confidence in the Auditor General in the Majlis after he published critical audit reports on several State institutions received much media attention. The Report published about the President's Office claimed high levels of corruption and undue political influence. The timing of the report's release (thirty-six hours prior to the first poll) was alleged to be politically motivated.

The Civil Service Commission (CSC) reported to the Group that it had received many verbal complaints on alleged political campaigning by civil servants, which is contrary to the Civil Service Act. It went on to state that very few cases had been lodged in writing and the CSC had not been able to pursue many of the allegations made. It reported that forty-one election related cases had been reported, and that definitive action had been taken in four cases.

The CSC highlighted that it had embarked on an extensive programme of education throughout the civil service since its formal establishment in May 2008. The programme aimed to raise awareness of the new roles and responsibilities of civil servants, especially that of neutrality within the electoral context. The Group welcomes the efforts made by the CSC, but notes that such a programme would require time to overhaul a general mindset that had been developed over past decades in which the separation of state and party institutions and activity had been absent. This remains an important issue, even with a new Government in place, to ensure a professional and apolitical civil service is properly entrenched.

Representations were made to the Group of further allegations made in which Government was accused of seeking to exploit the benefits of incumbency to win votes. These included alleged disbursement of Tsunami aid to specific Islands and persons just prior to the first round of the poll, public events in which the President initiated construction of Tsunami relief housing, and various announcements of major infrastructural development. Allegations were also made by all sides of extensive vote buying, though the National Election Complaints Bureau confirmed that few of these allegations could be pursued due to lack of evidence.

Prior to the introduction of various independent institutions, and checks and balances under the 2008 Constitution, the ruling party was able to exercise influence over State institutions, state employees and their activities. The continuing legacy of the pre-reform era inevitably impacted on the process and people's perceptions of it. Perceptions of past malpractice and undue influence by the State set the scene for the high level of suspicion and tension that coloured the electoral environment. The independence of public institutions, including the new interim Commissions and bodies created under the 2008 Constitution, must be ensured if greater democratisation and accountability is to be entrenched in Maldives.

Section 3

ELECTION ADMINISTRATION AND PREPARATION FOR THE RUN-OFF

- **Setting the Date for the Run-Off**

Article 111 of the Constitution and Section 19(a) of the Presidential Election Act provide for the holding of a run-off "within 21 days after the day of the election". However, in Section 22(m) of the Act, which provides for the compressed timeframes for the election, this is reduced to a 10-day period.

In announcing the results of the first round of the election on the evening of 9 October, the Chairperson of the Elections Commission announced that the run-off would be held on 29 October, on the basis of the original stipulations of the Constitution and Presidential Election Law. The Chairperson asserted that the Commission's primary responsibility was to conduct a credible process and they required more time in order to rectify the shortcomings – notably the Voters List – from the first round.

A case challenging this decision was brought by group of eight lawyers to the High Court. The Court started hearing the case on Tuesday 21 October, but no final judgement had yet been made at the time of writing.

On 13 October the date was brought forward to 28 October, due to the prior scheduling of school 'O' level exams for 29 October.

- **The Voter List and Provision of ID Cards**

The Voter List

In analysing the problems with the voter list from the first round of the election, the Elections Commission acknowledged that there were significant shortcomings with the list. It informed the COG that some 16,000 persons had not been on the voter list but had voted on polling day and had been added to the ad hoc supplementary lists. This represents some 7.5% of the registered electorate.

These persons primarily fell into the following categories:

- Persons on the Elections Commission database but not appearing on the printed list, due to a system or printing error;
- Persons appearing on the list but not at the polling station at which they voted, due to their non-application for transfer or the failure to process such an application; and
- Persons not appearing, or not identified, on the Elections Commission database.

In order to try to rectify some of the problems encountered with the voter list the Commission undertook two key tasks after the first round. Firstly, the supplementary lists were verified and the names added to the main voter list.

Secondly the main voter list was published at the island level from 13-19 October, for a period of claims and objections. These were then processed and a revised list was printed on 22 October, reportedly incorporating 3,000 amendments received as a result of the public verification process. Three public information kiosks were also established on Malé, as well as an interactive SMS service, for persons on Malé to find out if they were on the voter list and where they should vote. The Elections Commission did not anticipate any further amendments after this point.

The original database was not re-checked or cleaned, but in light of the printing or system errors for the first round there was an increased awareness of the need to check the final printed version where possible. Some problems still occurred with the list, however, with rolling revisions to the list posted from 22 October to polling day on the Elections Commission website not in the end reflecting all changes requested. The Commission reported on 24 October that it planned to distribute a revised list at the Island level by 26 October for further scrutiny.

The expectation did not seem to be that the list would be fault-less but that it would be much improved, thereby hopefully not disenfranchising too many eligible voters. The test of this would be on the day of the election (see below). The effort expended to secure a more reliable form of indelible ink (see below) was planned to be a ‘failsafe’ option as a deterrent to double voting.

Identity Cards

In a meeting with the COG, the Department of National Registration (DNR) acknowledged that they still had some 3,500 uncompleted Identity Card applications on the day of the first round. These included some which had not yet been distributed, some which could not be processed at all due to incomplete information and others, being the majority, for which the Department simply ran out of time to process.

The DNR claimed that the electoral timelines for the 8 October poll were too short, and it had not been formally consulted on the matter. On the eve of the election it was still attempting to deliver some Identity Cards by sea and air, and had between 16 and 21 terminals running for 10 hours per day to try to deal with the backlog.

For the run-off election, many cases had been processed and dealt with, but there would inevitably be some persons still not in possession of a valid Identity Card as applications in some cases were still not processed, or applications were still being received. As of 22 October, some 177 had been received but were yet to be processed, most of which were new applications after the first round.

DNR was confident that the problem would be reduced compared to the first round, including in the prison of Malé, but that the poor quality of applications from Maafushi Prison would require that applications had to be re-submitted.

- **Complaints and Appeals**

As of 25 October, the Elections Commission and National Election Complaints Bureau (NECB) reported that they had received 1,153 complaints during the electoral process, of which 1,117 had been resolved and/or closed. It confirmed that at that time, only five cases of suspected double-voting in the first round had been identified and investigations were underway. For the run-off election there were 36 complaints at that point, of which 14 had been resolved and eight were outstanding, pending further investigation.

The NECB indicated that some 50% of all complaints related to the voter list. In many instances the role of the NECB had been to provide information to voters. During the first round the NECB did not have access to physical or electronic copies of the voter list, which was a significant problem given the volume of enquiries and complaints on the list. For the second round the NECB had access to the Elections Commission’s voter database.

A series of complaints had also been made against the alleged political bias/affiliation of Atoll and Island Chiefs and electoral officials at various levels.

A further problem reported by the NECB during the first round was that many complaints were submitted in the wrong format, in an incomplete manner or were not verifiable. As a response the NECB told the COG they were reiterating procedures to Complaints Bureau officials.

On 24 October it was reported that the Elections Commission sent two cases of violations of the Presidential Elections Act to the Prosecutor General. The first was against the *Haveeru* newspaper for allegedly breaking the campaign silence by distributing the paper, including campaign

advertising, after 18.00 on 7 October. This case was subsequently dropped for lack of evidence. The second case was against the opposition candidate Mohamed Nasheed for allegedly campaigning around polling stations on the first election day. He claimed he was merely looking into the voter list problems. On 27 October, the day before the run-off election, the High Court agreed to hear the case, though a date for the hearing had not been set at the time of writing.

- **Preparations for the Run-Off Election**

For the conduct of the run-off election, the Elections Commission undertook a number of initiatives agreed in consultation with the political parties, designed to improve the quality of the overall process.

- A re-training of polling officials was conducted. During the training the Commission stated that it intended to improve communication channels to polling, Island and Atoll-level electoral officials. This had been a point of confusion during the first round as noted by the COG.
- The Elections Commission told the COG that some 8 polling stations had failed to return the paper work at all after the day of the election, and 82 others had not properly or adequately completed the paper work. The Commission acknowledged it was hard to replace such staff at this time, but stated that it had removed three presiding officers. In addition, direct instructions had been issued to all Presiding Officers on how to properly complete their duties and revised regulations had been developed.
- The Elections Commission secured new indelible ink for the run-off election, after the ink for the first round proved unreliable. The new ink was secured from the same Indian public sector supplier as used for the Indian elections. The Elections Commission specifically ordered the type of vial whereby the entire finger tip – to the knuckle – can be immersed. It was hoped that this ink would prove more reliable and would not be removable.
- Three trainers from the Elections Commission would be deployed to each Atoll Election Coordinating Committee to supplement its staff for the election period.
- List verifiers would be present at each Voting Centre. Their task would be to expedite the queue of voters by verifying if people are at the correct Voting Centre, and identifying and informing them of their nominal number on the list so they can inform the polling officials in the Voting Centre.
- List verifiers would also facilitate the express processing of pregnant women and ‘less able’ voters.
- The number of ballot boxes would be increased from 395 to 403, and voter processing queues would be increased, to expedite voting at some of the more populous Voting Centres.
- For the run-off election, the provision for overseas voting was extended to Maldivians in the United Kingdom, making a total of five overseas locations. The Elections Commission estimated there would be just over 100 persons voting at the Maldives High Commission in London.
- The Elections Commission added a new security feature to the ballot paper - a ‘metal strip’ running through it - which would help if the authenticity of the ballot required checking. The same number of ballot papers were to be printed for the run-off election, with the Commission printing only a 1% surplus as a back-up measure as for the first round.
- The NECB acknowledged that a lack of capacity, poor communication and access to information had detrimentally affected its performance during the first round. For the run-off election the NECB’s mandate was expanded to enable Complaints Bureaus to respond to information queries before and during polling day, including confirming whether persons were on the voter list. Direct access for the NECB to the Election Commission’s database of voters would facilitate this process. Complaints Bureau staff had received additional

training, and a list of 'Frequently Asked Questions' had been developed as a guide to staff when responding to common enquiries.

- Dedicated lines and liaison officers were also to be provided from 27 to 30 October to separately handle queries and complaints from Malé and for the Atolls/Islands.
- The design of voting booths had been modified in agreement with political parties as a confidence building measure.

The Election Commission confirmed on 25 October that the revised voter list comprised 209,320 eligible voters. This increase of 1,068 persons represented 595 persons who had been identified as previously missing from the database and 473 persons who had turned 18 years of age since the first round.

Section 4

CONDUCTING OF VOTING, COUNTING AND RESULTS PROCESSES

The Elections Commission maintained the same structure for the run-off election, with 395 voting centres, supported by Island and Atoll Election Co-ordinating Committees. There was a small increase in the overall number of ballot boxes, with 403 provided. The increase was to provide extra capacity in some voting centres with a large number of registered voters.

Commonwealth Observers covered a total of 20 islands, with one team in the north (Haa Alifu and Haa Dhaal), one team in the south (Seenu/Addu, Gnaviyani) and two in the capital, Malé.

Conduct of the Voting and Counting

Observers reported that once again the turnout of voters was extremely high, and the final reported figure was 86.08%. The main differences in the process compared to the first round of voting were the presence of list verifiers and the use of a different form of indelible ink.

Each voting centre was provided with extra copies of the list and one or two list verifiers. The intention was that voters were able to check their name on the list prior to joining a queue to vote. In cases where their name was missing they could be re-directed. This was particularly useful at multi-centre locations in more populated areas.

Overall this process worked very well, and Observers reported that the processing of voters was quicker compared to the first round. It was also noted in some cases however, that the placement of some verifiers at the door of the polling station merely created a different or extra bottleneck. The system worked best when verifiers were mobile and moved along the queue or were placed in an open area away from the voting centre entrance.

The new form of indelible ink proved extremely reliable and there were no reports of it being easily removable.

In response to some people's concern during the first round the Elections Commission had modified voting booths. The height of the booth had been decreased and a hole was cut in the lower half. The aim of this was to prevent any person from taking a photograph of their ballot paper, whilst at the same time maintaining secrecy of the vote.

For the run-off many people arrived earlier in the day to vote than during the first round. As the processing of voters was quicker than for the first round it meant that overall the queues at the end of the day were more modest in size.

Observers reported that security forces maintained a low profile during the day, maintaining a presence as required but in an unobtrusive manner.

The vote count was conducted in an orderly and transparent manner, and upon completion the results were transmitted direct to the Elections Commission in Malé. Upon receipt in Malé individual Voting Centre results were regularly updated by the Elections Commission and displayed on a screen at the results centre in the presence of media and observers. In addition, TVM was announcing results as they collected them as was VOM. The overall effect was an extremely transparent process that contributed to confidence in the system

The provisional result of the run-off election as announced by the Elections Commission on 29 October was:

Mohamed Nasheed (MDP Alliance)	97,222 (54.21%)
President Maumoon Abdul Gayoom (DRP)	82,121 (45.79%)
Invalid Votes	1,861
Total Valid Votes	179,343

Issues

- *The Voter List*

The main problem on the day of the election concerned the accuracy of the voter list. Earlier the Elections Commission had clearly stated it would not make any further changes to the list once the final version had been printed. However, it had to reverse this decision once it became apparent before and during polling day that problems with the list endured.

As mentioned in section 3, it was apparent in the days before the election that there were problems with the voter list. To try to address these the island offices were supposed to scrutinise the “final” version of the list upon receipt, identify mistakes such as omissions and then inform the Elections Commission. The Commission would then issue a certified ‘supplementary’ list for the island to attach to the list for the respective Voting Centres.

One problem though was that many islands did not receive their copy of the list until very late on the eve of election day. As a consequence, even though the overall quality of the list was significantly improved compared to the first round, errors were still evident in many places and could only be resolved on polling day itself. Observers reported that generally the number of errors regarding the voters list at any one voting centre was between 1-5, though in some instances it was larger and in some exceptional instances as high as 20-30.

A number of isolated incidents were reported, mostly linked to shortcomings in the voter list. In Fuvahmulah, for example, voters aggrieved at their exclusion from the voter list at one stage temporarily took over an election office. In a number of areas designated polling places had to be kept open late into the night to enable votes to be cast by persons resolving their registration issues.

In Malé, voters unable to find their names on the list were able to visit one of the three new information points in the city. Those persons unable to find their name on the list were sent to the National Elections Complaints Bureau. At the Bureau a search was undertaken on the database of electors, and if the name was found a ‘certificate’ was issued. The voter could present the certificate at their Voting Centre and it was attached to the list and they were allowed to vote.

However, the volume of complainants meant that towards the end of the voting period a large number (possibly in the low hundreds) were still to be processed. As a consequence the Elections Commission provided for a designated Voting Centre in Malé to remain open for as long as it took these persons to be processed, thus guaranteeing eligible persons the right to vote.

On the day of the election complaints from the islands were being sent to Malé, and the eligibility of complainants was checked and verified. A ‘certificate’ was then faxed back to the Island office which in turn had to send the certified names to the respective Voting Centres to be attached to the original list. Only then would those concerned be able to vote. However, as for Malé, this was still on-going in the evening and so affected Voting Centres had to remain open, awaiting the fax from Malé.

As mentioned, the overall numbers affected was significantly reduced compared to the first round. The fact that it happened again, however, and that some persons on the list for the first round had disappeared from the list for the run-off election, was understandably a great source of frustration for those concerned. The Elections Commission expended a great deal of energy in trying to respond to each and every individual case, and managed to salvage the overall process despite the challenges it faced.

Candidate Agents

Observers reported that candidate agents were again present at all Voting Centres visited. However, on this occasion it was felt that this right was somewhat abused in some instances. Persons were observed in and around Voting Centres with ‘media’ accreditation but were identified by others present – probably justifiably – as party activists.

In some places Observers felt that this could have been abused as an attempt to unduly influence voters.

Section 5

CONCLUSIONS AND RECOMMENDATIONS

This first ever multi-party and multi-candidate presidential election represented a vital element in the country’s on-going democratization and reform process. In building on many of the positives from the first round, and addressing some of the negatives, this run-off election represented a pivotal moment in the country’s continuing drive for democratic reform.

The process was credible overall and met many of the benchmarks for democratic elections to which Maldives has committed itself. The high level of transparency, inclusiveness, and the determination and interest of the electorate to participate in such large numbers stood out as positive features. Issues relating to the process of voter registration and compilation of the voter list, however, urgently need to be addressed.

The decision by the Elections Commission to provide for 20 days rather than 10 days between the rounds was understandable. The problems with the voter list during the first round were substantial and there was a clear need to address some of the organisational aspects. The Group was very encouraged by the new initiatives undertaken by the Commission for the run-off election to address some of the shortcomings of the first round. This included using a new form of indelible ink and the provision of additional electoral staff, including voter list verifiers at the Voting Centres to speed up the voting process. All of these proved positive and effective initiatives.

It became clear prior to the run-off election that the voter list would again be a problem and a source of frustration for officials and the public. Whilst the Elections Commission struggled to address the problems with the list, the unavoidable conclusion is that a serious problem remains. Whether this weakness related to the process of voter registration, the database of electors, management of voter data or the printing of the lists is yet to be determined.

The problem with the voter list was significantly reduced compared to the first round. The fact that it happened again, however, and that some persons on the list for the first round had disappeared from the list for the run-off election, was understandably a great source of frustration for those concerned. The Elections Commission expended a great deal of energy in trying to respond to each and every individual case, and managed to salvage the process overall despite the challenges it faced. For the future it is imperative to adequately provide not only for universal suffrage and the right to vote, but also the proper means for the exercise of that right. The ability of the Elections Commission to be flexible proved effective in this instance, but the effective management of elections requires more formal and predictable framework and procedures.

The compressed timelines compromised some aspects of the election. The negative impact of these timelines continued and affected the voter list used for the run-off election. Ultimately there was inadequate time to get it right. Short-cuts will result in shortcomings, and this lesson above all others must be taken on board by those responsible for providing the legal and administrative frameworks for future elections.

The overall conduct of the campaign was generally orderly, but it is a concern that a number of incidents were reported in the lead up to the run-off between party supporters, including a small number of violent clashes. It was also noted that both parties used religion as a means to denigrate each other. This is a worrying trend and is contrary to Commonwealth principles of cultural and religious diversity, respect and understanding.

During the campaign for the run-off election the Commonwealth Observer Group heard many concerns regarding the alleged use of money and patronage to induce support. There were also allegations of pressure by the incumbent against public employees. These are worrying allegations as such practices are unlawful and can have a harmful effect on the environment in which an election is conducted.

On the day of the run-off election, Commonwealth teams reported a much improved process. Observers noted that polling officials were diligent in their duties and the speed of processing voters was much improved. The turnout of voters was again very high and people were patient and peaceful once more. The new indelible ink proved to be extremely reliable, providing greater confidence in the integrity of the process. The counting and tabulation of the votes were again conducted in a highly transparent manner.

A number of isolated incidents were reported, mostly linked to shortcomings in the voter list. In Fuvahmulah, for example, voters aggrieved at their exclusion from the voter list at one stage

temporarily took over an election office. In a number of areas designated polling places had to be kept open late into the night to enable votes to be cast by persons resolving their registration issues.

The results were accepted graciously and with dignity by the out-going President and the President-elect. The country has an opportunity to build on this experience towards an improved process for the scheduled 2009 Peoples Majlis election, taking a further step in creating a culture of democracy, and further consolidating democratic institutions and procedures in the Maldives.

RECOMMENDATIONS

The following recommendations are offered on the basis of the issues identified during the run-off election. They should be viewed as additions to those offered after the first round. Many aspects of the process worked very well as we have indicated, but we offer these recommendations as a means of further strengthening and improving the overall process for the elections, particularly in light of the pending Majlis elections.

1. The Voter List and Database of Electors

There needs to be a thorough audit of the voter list and the database of electors to identify what went wrong with the voter list for this election. The problem could lie in the process for voter registration, the database of electors, management of voter data or the printing of the lists or a combination of these.

Once the audit has been completed a brand new process for voter registration and compilation of the voter list needs to be undertaken, to ensure a clean and accurate database of electors. This needs to be undertaken under the direct authority and control of the Elections Commission. This could well take the form of a door-to-door registration exercise.

If it is decided that it is not feasible or advisable to undertake a completely new process prior to the Majlis elections, then it should be ensured that at the very least there is a thorough cleaning of the database of electors and a more reliable process for the updating of the voter list for the Majlis elections, at the same time as a long term strategy is developed for a more appropriate time. For instance, given that some 86% of the eligible electorate turned out to vote on 28 October, the Elections Commission could use this information as the basis for checking and 're-building' a more reliable list for the Majlis elections.

2. The Elections Commission

There needs to be a programme of capacity building for the Elections Commission, particularly with regard to technical aspects such as IT systems and administrative procedures.

More time needs to be dedicated to the training of election officials. It is understood that on this occasion the compressed timelines made this impossible, but for future elections it must be recognised that the quality of election officials has a great bearing on the quality of the electoral process, and training is vital in this regard.

3. Legal Framework

There is a requirement for enabling legislation to provide the Elections Commission with a legal basis for administrative flexibility, so it is able to provide new instructions where necessary – whilst ensuring compliance with the law.

The overall legal framework for the elections needs to be more coherent, ensuring there is not overlap between the various laws and regulations, or contradictions. At present the process is governed by a series of legislation, which is not consistent.

4. Civic Education

There is a need for a sustained and comprehensive programme of civic education, targeting areas such as voter registration and acquirement of ID cards. At present the Elections Commission has some responsibility for this, whilst other initiatives were undertaken by civil society. It should be ensured that both time and money are made available for this, with potential support coming from the state and donors.

5. Political Parties

Political parties need to maintain their constructive engagement in the electoral process as reflected in their participation in Atoll Election Co-ordinating Committees and the National Advisory Committee. In addition, it is imperative that the conciliatory tone expressed in the acceptance by all sides at the time of the result is continued throughout the transition period and beyond.

6. Civil Society

Civil society played a very important role during these elections, conducting voter education campaigns and undertaking election observation. It is important that they continue to be provided with such a role and that support is forthcoming to enable them to do so.

Annex I

BIOGRAPHIES OF MEMBERS OF THE COMMONWEALTH OBSERVER GROUP

Rt. Hon Owen Arthur MP (Chairperson – Barbados)

The Rt. Hon Arthur is former Prime Minister of Barbados. He served in Jamaica as Assistant Economic Planner and then Chief Economic Planner with the National Planning Agency. During the early 1980s he worked with the Barbados Ministry of Planning. In 1984 he was elected to Barbados House of Assembly. In the late 1980s he taught at the University of the West Indies. He was elected leader of Opposition Barbados Labor Party in 1993 and became Prime Minister in 1994 when the party came to power. He is a serving Member of Parliament of Barbados, and also attached to the University of West Indies at the Cave Hill.

Mr M Irfan Abdool-Rahman (Mauritius)

Mr 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 a Barrister at Law Crown Counsel in the Attorney-General's Office, a Senior District Magistrate and an Intermediate Court Magistrate. Mr Abdool-Rahman was a member of the Commonwealth Observer Group which was present in Nigeria for the National Assembly and Presidential Elections in 1999, Chairperson of the Francophonie Observer Group for the Seychelles Presidential Election in 2001 and a member of the Francophonie Observer Group in the Comoros in April 2002, an Observer for the African Union for the Zimbabwe Presidential Election in 2008, and Head of the SADC Observer Group for the Swaziland Parliamentary Election in 2008.

Hon Fran Bailey MP (Australia)

Ms Fran Bailey is a serving member of the Australian National Parliament. She served as Minister for Employment Services, Minister for Small Business and Tourism, and Junior Minister for Defence. She has also served as Chair of Standing Committee for Primary Industry and Regional Services. Prior to entering Parliament, she was a Secondary School Teacher, Academic and self-employed businesswoman.

Ebonie Fifita

Ms Ebonie Fifita currently serves as Vice-Chairperson the Commonwealth Youth Programme's (CYP) Pan-Commonwealth Youth Caucus Vice-Chairperson, and Regional Youth Caucus representative for Tonga. Within this role her responsibilities include working with other Caucus members, CYP, Government bodies and NGO's to engage and empower young people to participate effectively in their communities as a positive force for democracy and development. She is also an OXFAM International Youth Action Partner (OIYP) for 2007-2010, co-founder and coordinator of the youth NGO 'ON THE SPOT', an artist and an active member and moderator of the regional youth network, Pacifika Youth.

Hendrick Gappy (Seychelles)

Mr 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. At present he is also the Boundaries Commissioner and Registrar of Political Parties. 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, etc. In 2007, he was part of the Commonwealth Expert Team to the Maldives Referendum.

Hon James Victor Gbeho)

Hon James Victor Gbeho served as a Member of Parliament in Ghana until recently. Before this, he served as Ghana's Minister of Foreign Affairs from 1997 to 2011. Hon Gbeho was a career diplomat in Ghana's Diplomatic service, and rose to become Ghana's Ambassador and Permanent Representative to the United Nations. He has also served as the United Nations Secretary-General's Special Representative in Somalia. He is currently involved in domestic politics in Ghana.

B B Tandon (India)

Mr B.B. Tandon held the Constitutional posts of Election Commissioner and Chief Election Commissioner of India during 2001-06. During this period, he successfully conducted the General Elections to the Parliament in 2004 and several elections to the State Assemblies. Concurrently, Mr Tandon also served as a Member of the Delimitation Commission of India from 2002-05. He retired as Chief Election Commissioner in June 2006. Previously, Mr Tandon served in the Indian Administrative Service (IAS) for more than three and half decades. Mr Tandon also served as a member of the Commission on 'Constitutional and Electoral Reforms' of Mauritius during 2001-02, and as International Election Observer for 2003 Second Cambodian General Elections. From July 2006 to April 2007, he served as a member of the UNDP's International Technical Advisory Committee to the Independent National Elections Commission, on the 2007 Nigerian General Elections. Mr Tandon was the main resource person for the Workshop organized by the World Bank in Dhaka in January 2008 for the ensuing General Elections in Bangladesh in December 2008.

Hanif Vally

Mr Hanif Vally currently serves as Strategy Advisor of the Foundation for Human Rights (FHR) in South Africa. FHR is one of the largest indigenous grant makers to human rights groups. Prior to this, he was the Head of the Human Rights Unit of the Commonwealth Secretariat in London. He has also served as the National Legal Officer of the South African Truth and Reconciliation Commission. He has been a human rights lawyer and activist for over 30 years. He has been an elections observer in eleven countries.

Annex II

DEPLOYMENT PLAN FOR COMMONWEALTH OBSERVER GROUP

First Round

TEAM MEMBERS	LOCATION
Hon Owen Arthur Mark Stevens	Kaafu (Male)
Irfan Abdool Rahman Geraldine Goh	Kaafu (Male)
Fran Bailey MP Hendrick Gappy	Gaafu Alifu / Gaafu Dhaalu
Hanif Vally Ebonie Fifita	Seenu (Addu) / Gnaviyani (Formulah)
Sabitha Raju Victor Gbeho	Raa / Baa / Noonu / Goidhoo
BB Tandon Zippy Ojago	Haa Alifu / Haa Dhaalu
Gloria Collins	Office

Run-Off Election

TEAM MEMBERS	LOCATION
Hon Owen Arthur Mark Stevens	Kaafu (Male)
Sabitha Raju	Kaafu (Male)
Hendrick Gappy Zippy Ojago	Haa Alifu / Haa Dhaalu
Hanif Vally Irfan Abdool Rahman	Seenu (Addu) / Gnaviyani (Formulah)

ANNEX III



Commonwealth Observer Group

Maldives Presidential Election

8 October 2008

NEWS RELEASE

2 October 2008

**ARRIVAL STATEMENT BY THE RT. HON. OWEN ARTHUR
CHAIRPERSON OF THE COMMONWEALTH OBSERVER GROUP**

Commonwealth Secretary-General, H.E. Kamalesh Sharma, has constituted an Observer Group for the 2008 Maldives Presidential Election following an invitation from the Minister for Foreign Affairs of Maldives.

It is my honour and privilege to have been asked to lead this Commonwealth Observer Group and to be here in Maldives at this important time for the country. This election is the first to be held under the recently ratified Constitution and it is also the country's first multi-party election. It heralds the beginning of a series of elections, with later polls anticipated for the People's Majlis and Atoll authorities.

This election is an opportunity to build on the experiences of the 2005 Majlis elections and the 2007 referendum on the preferred form of Government - both of which were assessed by the Commonwealth. It provides an opportunity to take a significant step forward in strengthening the country's democracy.

The task of the Commonwealth Observer Group is to observe and report on relevant aspects of the organisation and conduct of the Presidential election. The group will consider all the factors impinging on the credibility of the electoral process as a whole, and assess whether the election has been conducted according to the standards for democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant regional, Commonwealth and other international commitments.

In this regard we will consider, among other things: the constitutional and electoral framework governing the electoral process and the general environment in which it takes place; the transparency of that electoral process; whether state apparatus and state media have been impartial; the ability of candidates to campaign freely, and whether voters have been able to express their will free of intimidation, and if that will is respected.

In conducting our duties and undertaking our assessment, we will be impartial, objective and independent. If we offer any criticisms, they will be constructive with the intent to help strengthen the democratic process in the country for the future.

Commonwealth Observers are invited in their individual capacities as eminent Commonwealth citizens. The assessment by the Group will be its own and not that of respective member governments or of the Commonwealth Secretariat.

Before we deploy to various areas around the country, we will meet with the Election Commission, candidates or their representatives, relevant Government officials, civil society, media, Commonwealth diplomats and representatives of the international community.

We will issue a Preliminary Statement after the poll and a Final Report upon completion of our duties. If a second round of voting proves necessary, then the Commonwealth will also have a presence in the country to assess that process.

The Commonwealth has a long and rich tradition of supporting and promoting democratic development in member countries and our Group will conduct itself in this spirit.

ANNEX IV



Commonwealth Observer Group

Maldives Presidential Election

8 October 2008

INTERIM STATEMENT

by

The Rt. Hon. Owen Arthur

Chair of the Commonwealth Observer Group

10 October 2008

The 8 October Presidential Election was the country's first ever multi-party elections. As such, it represents an important element in the country's on-going democratisation and reform process. A Commonwealth Observer Group constituted by Commonwealth Secretary-General, Mr Kamalesh Sharma, observed the first round of the election at the invitation of the Minister of Foreign Affairs of Maldives.

As no candidate secured a majority of valid votes cast in the first round of the election, a second round will be held in accordance with Article 111 of the Constitution of the Republic of Maldives. As the electoral process still continues, this Interim Statement outlines a series of preliminary findings assessing the conduct of the election thus far. The conduct of the second round is of paramount importance and final conclusions can only be reached once the entire process is completed.

The Group found that many aspects of the election have been reasonably credible, largely due to a high level of inclusiveness, transparency, participation and the competitive nature of the poll. The Group was pleased to note that many recommendations made by Commonwealth and other Observer missions for previous elections, and the referendum, had been implemented, and that this contributed to a general improvement in the electoral process. The Group also found, however, that problems emanating from the compressed timelines and voter registration process did compromise some aspects of the election.

Article 301 of the Constitution stipulates that the election be held before 10 October. This was just two months after the ratification of the Constitution, just over one month after the formation of the Election Commission and some three weeks after the passing of the Presidential Election Act. The time remaining before the October deadline therefore necessitated a drastically compressed timeframe for the election. Whilst election-related legislation does provide the basic conditions for democratic elections, the requirement to meet unrealistic deadlines took precedence over good electoral practice.

The Election Commission struggled valiantly and impartially to meet this challenge. However, the overall quality of the process was affected, with particular consequences for the preparation of accurate voter list, a lack of formal campaign time and a rushed period for training and preparation of election and complaints officials, and voter education.

The shortened timeframe had a particularly negative impact on the voter list. Many outstanding problems were unable to be fully addressed in such a short period, and a satisfactory verification process for voters was not possible.

For the voter list, some persons transferring their registration did not appear on the list, others appeared more than once, some persons were indicated as having transferred despite not applying for it, and others claimed to have been on the earlier posted version of the list but missing from the final one. Others claimed that the new requirement to register was not fully understood by people and thus some missed the opportunity to apply for a transfer altogether. There were also problems with the quality of the original database, the provision of ID cards to all those persons requiring one, and in the failure to return ID cards in time for those in the process of renewing it.

Our Observers reported that there were problems in most areas in this regard, though the overall number of persons affected remained a minority. However, the principle is vital and the issue sensitive. Observers reported that in some instances it did cause tension within and immediately outside the polling station, and anxiety for individual voters concerned.

On the day of the election the Election Commission became aware of numerous problems with the voter list as it received complaints in Male' and from around the country. In response, on the afternoon of the election it issued an instruction for an ad hoc procedure, whereby persons in possession of an ID card but not on the list and persons mistakenly identified as having transferred, should be allowed to vote. Such persons were added to a supplementary list for later verification. This decision was a pragmatic one and did help diffuse tension and uncertainty. Whilst it is not recommended to change the rules of an election on the actual day, it is clear the Election Commission felt compelled to act.

It is important that a verification of the number of persons voting courtesy of this ad hoc procedure is undertaken, to check whether the number is reasonable and reflects the expected shortfall in registration, and also that shortcomings in the list and with ID cards are now resolved.

Despite being the country's first multi-party election, it was inclusive and competitive, as all major political forces fielded a candidate, alongside one Independent. Whilst the playing field may not have been entirely level, with new political formations clearly lacking time to establish a national organisation and profile, parties were closely involved in the process. They participated and co-operated well in various electoral bodies such as the Atoll Co-ordinating Committees. This involvement of parties helped to increase confidence and transparency in the process, which is vital.

At just nine days, the formal election campaign was very short and wholly inadequate for such a major electoral event. Having said this, the Group is aware that some candidates and parties were active well before the formal campaign commenced.

A number of serious campaign incidents were reported to us. However, overall the campaign passed off without major incident and the basic freedoms of association, movement, assembly and expression were largely enjoyed.

On election day, Observers reported that the main problem was the issue of voter registration, which somewhat tarnished public confidence in the organisation of the poll. In administering the voting, polling officials worked diligently, though their capacity could have been further enhanced if they had received more extensive training. Voters were extremely patient, with many waiting in long queues for hours.

The secrecy of the vote was largely provided for, though some teams observed that elderly women voters were seen being helped in a manner which compromised the secrecy of their vote. The Group was concerned that the indelible ink was removable. This needs to be rectified for the second round. Observers noted that Candidate agents were in all places visited, which is important for the transparency and accountability of the process, though it appears that not all parties availed themselves of this opportunity.

Observers reported that in the polling stations in which they were present, votes were counted properly and were well scrutinised by party agents.

Indeed there was a high degree of transparency in the process, by virtue of the provision for observers and candidate agents to be present at polling stations and the counting, announcement and posting of results at the polling stations and the subsequent publication of the polling station results by the Election Commission. These innovations had been recommended by previous Commonwealth Observer teams, and were a positive feature of the process. Furthermore, the announcement of the results at the national level was extremely transparent, with the Election Commission providing regular updates as results were processed.

The complaints and appeals process lacked coherence and did not seem to reflect electoral timelines. Crucially, on the day of the election the complaints system could not meet the demands placed upon it, contributing to the confusion and

tension over voter registration. Voters felt their grievances were not being addressed and confidence in this aspect of the system ebbed away.

The National Election Complaints Bureau reported after the poll that most filed complaints related to the voter list. While some of these complaints were resolved, many remained outstanding. Many voters felt frustrated with or unaware of the process. The compacted timeframe meant decisions were not always taken in a timely manner. As such, the system did not adequately provide for an effective administrative or legal remedy.

As the country prepares for the second round we urge all parties to continue their positive and peaceful engagement in the process. A level playing field should be provided for the competing candidates, with no improper use of state resources or undue influence of state and local officials. We take note of the Election Commission's intention to address shortcomings in the voter registration and hope this issue and problems with ID cards can be rectified for the next round. Improvements in the relevant systems and processes should be made in preparation for the forthcoming parliamentary and Atoll authority elections.

The Commonwealth Observer Group will continue to follow the on-going process. We will issue a Final Report of detailed findings and conclusions within two weeks of the end of our duties. This will be distributed to the Government of Maldives, political parties and candidates in the election, the Election Commission, civil society groups and media. It will also be posted on the website of the Commonwealth Secretariat (www.thecommonwealth.org).

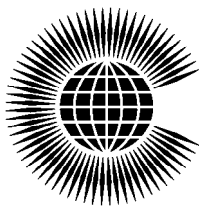
- The Commonwealth Observer Group comprises 8 persons, with a support staff of five from the Commonwealth Secretariat. The team is led by the Rt. Hon. Owen Arthur, former Prime Minister of Barbados.
- Commonwealth Observers have been present in the country since 1 October 2008. They have met with the Election Commission and electoral authorities at Atoll and island levels, the National Complaints Office, relevant government figures, political parties and candidates, the Human Rights Commission, national observer groups, civil society, media and representatives of the international community. On the day of the election they covered 11 Atolls, observing on some 60 islands.

For Media enquiries

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ANNEX V



Commonwealth Observer Group

Maldives Presidential Election

Interim Statement on the Run-Off Election

By The Rt. Hon. Owen Arthur
Chair of the Commonwealth Observer Group
30 October 2008

The Commonwealth Observer Group continued to follow developments between the two rounds of the election and was re-formed for the run-off election. The Group of seven persons was led by the Rt. Hon. Owen Arthur.

As recognized in our first round Interim Statement, this first ever multi-party and multi-candidate presidential election represented a vital element in the country's on-going democratization and reform process. In building on many of the positives from the first round, and addressing some of the negatives, this run-off election represented a pivotal moment in the country's continuing drive for democratic reform.

The process was credible overall and met many of the benchmarks for democratic elections to which Maldives has committed itself. The high level of transparency, inclusiveness, and the determination and interest of the electorate to participate in such large numbers stood out as positive features. Issues relating to the process of voter registration and compilation of the voter list, however, urgently need to be addressed.

It is vital that lessons are learned and that this experience is built upon, particularly with regard to the imminent Majlis elections. We are sure the Commonwealth will continue to support Maldives in this regard.

The decision by the Elections Commission to provide for 20 days rather than 10 days between the rounds was understandable. The problems with the voter list during the first round were substantial and there was a clear need to address some of the organisational aspects. The Group was very encouraged by the new initiatives undertaken by the Commission for the run-off election to address some of the shortcomings of the first round. This included using a new form of indelible ink and the provision of additional electoral staff, including voter list verifiers at the voting centres to speed up the voting process. All of these proved positive and effective initiatives.

It became clear prior to the run-off election that the voter list would again be a problem and a source of frustration for officials and the public. Whilst the Elections Commission struggled to address the problems with the list, the unavoidable conclusion is that a serious problem remains. Whether this weakness related to the process of voter registration, the database of electors, management of voter data or the printing of the lists is yet to be determined.

The Group notes that the problem with the voter list was significantly reduced compared to the first round. The fact that it happened again, however, and that some persons on the list for the first round had disappeared from the list for the run-off election, was understandably a great source of frustration for those concerned. The Elections Commission expended great energy in trying to respond to each and every individual case, and managed to salvage the process overall despite the challenges it faced. For the future it is imperative to adequately provide not only for universal suffrage and the right to vote, but also the proper means for the exercise of that right. The ability of the Elections Commission to be flexible proved effective in this instance, but the effective management of elections requires more formal and predictable framework and procedures.

In our first round Statement we stressed that problems due to compressed timelines compromised some aspects of the election. The negative impact of these timelines continued and affected the voter list used for the run-off election. Ultimately there was inadequate time to get it right. Short-cuts will result in shortcomings, and this lesson above all others must be taken on board by those responsible for providing the legal and administrative frameworks for future elections.

The overall conduct of the campaign was generally orderly, but it is a concern that a number of incidents were reported in the lead up to the run-off between party supporters, including a small number of violent clashes. It was also noted that both parties used religion as a means to denigrate each other. This is a worrying trend and is contrary to Commonwealth principles of cultural and religious diversity, respect and understanding.

During the campaign for the run-off election the Commonwealth Observer Group heard many concerns regarding the alleged use of money and patronage to induce support. There were also allegations of pressure by the incumbent against public employees. These are worrying allegations as such practices are unlawful and can have a harmful effect on the environment in which an election is conducted.

On the day of the run-off election, Commonwealth teams reported a much improved process. Observers noted that polling officials were diligent in their duties and the speed of processing voters was much improved. The turnout of voters was again very high and people were patient and peaceful once more. The new indelible ink proved to be extremely reliable, providing greater confidence in the integrity of the process. The counting and tabulation of the votes were again conducted in a highly transparent manner.

A number of isolated incidents were reported, mostly linked to shortcomings in the voter list. In Fuvahmulah, for example, voters aggrieved at their exclusion from the voter list at one stage took over an election office. In a number of areas designated polling places had to be kept open late into the night to enable votes to be cast by persons resolving their registration issues.

The immediate post-election environment is calm and the results have been accepted graciously and with dignity by the out-going President and the President-elect. The country now has an opportunity to build on this experience towards an improved process for the scheduled 2009 Peoples Majlis election, taking a further step in creating a culture of democracy, and further consolidating democratic institutions and procedures in the Maldives.

We wish the people and the new administration well in their endeavour.

Information

The Commonwealth Observers for the run-off election were:

- Chair - The Rt. Hon Owen Arthur, Former Prime Minister (Barbados)
- Mr. Mohammed Irfan Abdool Rahman, Electoral Commissioner (Mauritius)
- Mr. Hendrick Gappy, Electoral Commissioner (Seychelles)
- Mr. Hanif Vally, Human Rights Expert (South Africa)

There was also a three-person staff team.

For the run-off election Commonwealth teams covered Malé, Addu/Seenu, Gnaviyani, Haa Dhaal and Haa Alifu Atolls. The teams covered 20 islands in total.

The Commonwealth Observer Group co-operated closely with the European Union, United Nations and Transparency Maldives, which also observed and assessed the election.

The Final Report by the Commonwealth Observer Group on the entire electoral process will be issued shortly and made available to stakeholders, Commonwealth Governments and on the website of the Secretariat: www.thecommonwealth.org

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.