

# **Report of the Sri Lankan Observer Mission to the Maldivian Presidential Election of 23 Sept. 2018, to the Election Commission of The Maldives**

S. Ratnajeevan H. Hoole  
Member  
Election Commission of Sri Lanka

Rasika Peiris  
Additional Commissioner  
Election Commission of Sri Lanka

## **1. Preamble/Background**

### **1.1 Undertaking the Mission**

We are here in the Maldives as delegates of the Election Commission of Sri Lanka at the invitation of the Maldivian Election Commission. We have undertaken this Mission with goodwill and, as a member of The Forum of the Election Management Bodies of South Asia (FEMBoSA) together with the Maldives where we share experiences with and advice to each other, to enhance that brotherhood.

On a positive note, we observe some encouraging aspects of Maldivian electoral law that enhance democracy. There is an election finance law that requires contributions to go into a bank account in the relevant candidate's name, and all election-related disbursements (with a limit of course) being mandated to come from that account. Many mature democracies are struggling to enact limits on election finance but the Maldives has achieved it.

Further, unlike in Pakistan which shares features with the Maldives and where polls had to be cancelled for lack of women participating in the voting exercise, women voters in the Maldives seem typically to outnumber men. One cannot but be gladdened by these features of Maldivian democracy.

Yet another advance is the generosity with which overseas voters are accommodated through expensive voting facilities set up outside the country.

However, not everything is well with Maldivian democracy. Although advised by many not to undertake this Mission so as to avoid being seen to endorse alleged deficiencies in Maldivian democracy, the Sri Lankan Commission was steadfast in its view that in the spirit of FEMBoSA we must stand together and strengthen each other as democracies giving our advice as necessary. We weighed issues carefully and decided to proceed, not least because we had accepted the invitation before objections were raised with us.

We travelled to the Maldives on 20 September and will return home on the 26<sup>th</sup> after finishing our observations and submitting this final report.

## 1.2 The Contestants

The contest was a two-man affair between Candidate No. 1, the incumbent Abdulla Yameen A. Gayoom of the Progressive Party of Maldives, and his rival and Candidate No. 2, Ibrahim M. Solih of the Maldivian Democratic Party

## 2. Objections to the Mission

The world, it seems to us, had concluded that the election is flawed in favor of the government and our mission would endorse that flaw. Not so! We had to see for ourselves rather than listen merely to opposition reports and what could be the maneuverings of big-power rivalry, allegedly between India and China.

Yet another concern was that an adverse report would cause a diplomatic incident that would be embarrassing to our Foreign Ministry. We could not act on these persistent objections at every level because those objecting would not object in writing and expected the Commission to take a decision to boycott upon its own head and authority. We were not willing to be such a pawn, letting someone else decide and then saying it was our decision.

A further argument why we should not be Observers centred around who the other observers are. As stated at the initial briefing on the 21<sup>st</sup> by the Maldivian EC Secretary General, Abdul Rahman Salah Rasheed, the Maldivian EC had invited 45 Commissions and only 5 had accepted. These were Sri Lanka, Thailand, Malaysia, The Philippines and Romania, besides the Central Election Commission of Palestine. Of the 35 election observers who had come, there were people from the Organization of Islamic Cooperation, ten persons listed as from an organization called ACRE, and parliamentarians from Hungary and the UK's All Party Maldives Group. Regarding the latter, the opposition's highlighting that these people had accepted free holidays in the Maldives (like Enoch Powell Junior taking money to holiday in Sri Lanka and being sanctioned for that by the UK Parliament), raised a cloud over all of us as to whether we too were being paid. This image was strengthened when out of our 7 days in the Maldives only the 23<sup>rd</sup> involved work and that too limited, controlled work, with the other days being for eating and holidaying. It is something that the Maldivian State must take pains to avoid by not inviting anyone over whom similar allegations may be easily made.

## 3. What is a Democratic Process?

There are two aspects to a democratic electoral process. One is the voter aspect: proper registration respecting each citizen's franchise, free voting and then accurate counting. This Mission is qualified to observe only vote-casting and vote-counting. Observer Missions certifying these two aspects is really misleading because doing well in these two areas says little of what precedes these – the Pre-poll aspects concerning the freedom to be candidates and to campaign as candidates. A positive certification by an Observer Mission of polling

and voting can often be misused to give the impression that Pre-poll aspects are also excellent and met best-practice standards.

The conclusion by international players and democracy advocacy groups that the playing field had been tilted to favour President Gayoom was based on the description of the following section which the Maldivian State needs to take careful note of, and accordingly measures to ameliorate.

#### **4. The Charges against the Incumbent President Gayoom**

The South Asia Democratic Forum (SADF), a Brussels-based think tank committed to democracy, states that Yameen Abdulla Gayoom imposed a state of emergency in Feb. 2018 arrested the Chief Justice and former political leaders while others fled the country. Fortunately, says SADF, there is evidence that the opposition would win if the elections are free and fair, and that according to opinion polls support for Yameen Gayoom is at most 30%. The opposition claims to have been denied permission to hold rallies. What is clear is that the governing party has held several rallies, whereas the opposition obtained permission to hold only one.

Opposition members who were potential rivals to Gayoom have been made ineligible to be candidates: Mohamad Nasheed, Gasim Ibrahim, Imran Abdulla and Maumoon Gayoom. While that process may be defended saying it was according to Maldivian law, the UN Working Group on Arbitrary Detention has ruled that two of the convictions, those of Mohamad Nasheed and Imran Abdulla, are contrary to law.

Charges on misusing state resources, vote buying and state media giving biased coverage also exist. The most serious, however, was the appointment as Election Commission Chairman of Ahmed Shareef who was openly campaigning as Campaign Manager for the re-election of Yameen Gayoom (Candidate No. 1) up to the time of his appointment and who had been Secretary General of Yameen Gayoom's party.

The Secretary General of the EC openly admits to having been an elected official involved in politics and expressed no difficulties in being neutral. For example, when one of these Observers asked him for the Maldivian GDP, he was quick to say that it is US\$10,000 but did not hide his enthusiasm for Candidate No. 1 by predicting confidently that he would double the GDP quickly after election.

A Member of the Commission, when asked for us Observers to be allowed to observe the elections more freely and be taken to polling stations that we choose and for meetings with candidates instead of being given a guided tour of tourist sites, said in a friendly way "Do not get into those things. Just enjoy yourself and go." So we soon came to expect little of what we could accomplish in one-day of a guided tour.

We heard many allegations through briefs from the Maldivian Democratic Party of “11<sup>th</sup> hour Secret Changes to Vote Counting” (17 Sept. 2018) and “Election Commission Secretly Planning to use Tablet Computer to tally Vote” (16 Sept. 2018). We are not in a position to judge if these allegations are true.

However, we judge that the allegation “Government Using Visa System to Prevent Foreign Journalists from Covering Presidential Elections” to be true. We have spoken to a journalist who was told her visa application was approved but she was never given the visa. The Thailand-based respected organization of Election Monitoring Bodies, ANFREL, put out a statement on how it was denied observer status. That kind of spinning of words seems standard. For example we both accepted the written invitation from the Maldivian government for the Sri Lankan Election Commission to send two Observers. When we were nominated by the Commission, the response from Ahmed Shareef, dated 9 sept. 2018, was titled “Acceptance Letter to observe” as if we offered to observe and were being given permission. To what end this word play?

## **5. Observations on the Ground**

### **5.1 Broad Comments**

The day before the election, on the 22<sup>nd</sup>, we were taken to observe the elections on the next day. We found 5 selected polling booths at Feydhoo via GAN Airport that we would visit – these were Observation Points S02.1.1, S02.1.2, S02.1.3, S02.1.4, and S02.1.5. On the 22<sup>nd</sup> itself we were given a city tour during which we happened to see illegal election rallies and posters. We observed the election on the 23<sup>rd</sup> and returned to Male on the 24<sup>th</sup>.

Our hosts were gracious and most friendly in keeping with the Maldives’s reputation as a friendly nation. That, however, is besides the point. We came to observe but were given a very friendly liaison officer and a security guard who had a packaged program for us. The Liaison Officer organized sight-seeing trips. However, every time we asked to speak to the opposition to hear of their difficulties or visit other areas, the request was declined with a curt “Not allowed.”

Any conversations that were not guided, were with locals in restaurants and such like. For example there was a report that the opposition offices in Male were raided. When questioned, as to the veracity of the report, officials said “There is nothing like that in the news.” An Election Monitor for the press at the polling booth confirmed it happened and said it concerned a report from the Malaysian Election Commission to the Maldivian Commission that the opposition had made a deposit of US\$50 million in Kuala Lumpur, and that no evidence of that had been unearthed by the raid. We cannot vouch for the report about the Malaysian EC, but to be sure, the incident of the raid really happened as confirmed by many, and it must have instilled some fear in opposition voters.

Our observation was officially limited to the day of voting, the 23<sup>rd</sup>. It was boring with very little to say.

## 5.2 Technical Notes

Of special note among the things we noticed was the excellent training given to Poll Officials by the Commission. They were competent and knew their job. The polling stations were well organized. The seating arrangements for the voters inside and outside the polling station were neatly and professionally done. The elderly and disabled persons were treated with great courtesy, and taken to the top of the line, holding them with a steady hand for support as necessary.

During voting there were some technical matters that are worth noting and of use to the Election Commission and whoever is elected:

- i. A serious breach of Article 52(b) of the booklet “Presidential Election Acts and Regulations” (Law No. 11/2008) by the Maldivian Election Commission occurred when voting, set to close at 4:00 pm, was extended to 7:00 pm. The said article allows the EC to set the voting period (which was set for 8:00 am to 4:00 pm) and at the end of that period if there are people in line, the closing time may be extended for “these people.” In the five polling stations we observed only one had 2 persons in line at 4:00 pm; the other 4 had no one in line. But now it had been extended to 7:00 pm for others to come who were not in line by 4:00 pm. At 7:00 pm we found that 3 to 6 persons had come to each of these in the extended time. When the EC exercises its powers in ways not authorized by Parliament, normal people would presume that such arbitrariness was for a nefarious purpose. It is something never to be repeated if Maldivians value the rule of law. We told our liaison that it was improper. She communicated it to the Commission and responded that there is provision in the Act. We are eager to learn where. With a Supreme Court judge removed after ruling that opposition members were wrongly convicted, who will challenge such an act by government? No one, we fear.
- ii. Under Section 44(a) of the Elections (General) Act, after 6:00 pm on the day preceding polling to 6:00 am after the day of the election, those things allowed under Section 28(b) of the same Act shall not be permitted. However, there were posters by both parties everywhere and supporters of the incumbent had brought special pink chairs to the polling station to sit on. Police and Polling Staff were mere onlookers without interfering. We went to the Complaints Centre where there were only two staffers and they said no complaint had been given in writing. They mentioned some telephone calls regarding registration issues which they did not act on.

- iii. Under Section 51(d) of the above-cited act, only voters are not allowed to take photographs and videos in the voting area. However, Monitors were allowed to do these things and this we believe vitiates the secrecy of the ballot. All Monitors as we gathered were selected by the Election Commission and were there as journalists communicating with the outside, but we judged them to be politically active for the election of specific parties. In contrast, we as Observers were allowed only a pen and paper inside. This was under Section 44 of the General Elections Act which is for voters but had been applied to us Observers.
- iv. We Observers on a tour by the Maldivian Commission were witness to a parade of over 100, perhaps 150, vehicles (including motorbikes) going with emblems such as stickers and flags, in pink, promoting the incumbent candidate. This occurred at about 6:30 pm on the 22<sup>nd</sup>. This is in clear violation of Section 44(a)(2) of the Elections (General) Act. We were with Election Commission staff who took no action. The use of loudspeakers by those in the parade was also in violation of Section 44(a)(3).
- v. The officials in the polling stations spoke in Dhivehi and the rule given to us said we were not to speak to anyone. We therefore learned very little. If not for our liaison officer speaking to others on our behalf, our observation would have been totally useless.
- vi. Some overseas polling stations had been withdrawn. The Commission defended it saying the registered voters were too few to justify the cost, and mentioned only 3 voters in New Delhi who were asked to go to South India. Similarly voters in Singapore were asked to go to Kuala Lumpur. Such things should be done well in advance, respecting the voters' franchise and giving them more than the few days they were given to re-register.
- vii. The voting booth table was not firm and subject to depression in some places when the ballot paper is placed and pressure applied to write on it. This may make the ballot mark move out of the specified area, invalidating the ballot. (Fortunately invalid ballots were only about 1 out of 100 where we were).
- viii. The voting booths with walls in front, left and right, were placed with the voter facing the wall away from officials. It was possible to see how the ballot is marked if one tried hard. When officials realized this and turned it around for the voter to face the officials, some Monitors complained that now if the voter got some extra ballot sheets in his pocket and stuffed the boxes no one would know.
- ix. The ballot boxes were transparent and unnecessarily had a cover over the slit and a person standing by to open the slit to facilitate placing the ballot paper inside. That is, if it is not folded in four but in two, and it opened out inside the box, the vote would not have been secret. This locking of the insertion point perhaps was to ensure no stuffing after the close of polls. However, that could have been accomplished with a signed sticker closing the slit. The person standing next to the ballot box can be daunting to some voters and was redundant.

- x. Two of the five polling stations were very small. Although rules required others to be away at least 10 feet from the voter, it was not possible to be away more than 5 feet, perhaps even four feet.

## **6. Results**

It is the 23<sup>rd</sup> night. This report was drafted earlier and this section left blank to be completed after the vote is counted.

At 10 PM the vote had been partially counted with the opposition garnering an impressive irreversible lead. It is a victory for the Maldivian people; a defeat for authoritarianism.

The EU and the US have promised unspecified sanctions if the election is stolen. We hope that the Maldivian government will never subject its people to such a calamity at this stage and cede the election. Instead, the US and the EU must reward the Maldivians for standing up bravely to vote as they did.

## **7. Conclusions and Recommendations**

We saw no manipulation of the count. However, that does not mean that there were no manipulations nor that the elections were free and fair because we were allowed to see very little. To be sure, the violations were in the Pre-poll phase over several months. If not for the fear instilled in the people and especially the opposition, there would have been a stronger candidate (such as former President Nasheed who has obtained shelter in Colombo after suffering punishment after punishment in the Maldives) and President Gayoom's share of the vote would have been lower than it already is. A better opposition candidate would have had a higher share of the vote.

President-Elect Ibrahim Solih, if we may call him that, deserves our congratulations for rallying his people behind the forces of democracy as he has done.

Our recommendations are:

- 1) All those whose rights were abused should be restored and given the freedom to engage in politics. Judicial meddling which affects the integrity of elections must not happen again.
- 2) The Election Commission should be made free of those who are politically committed, or who abused their office, ceasing to be independent commission members.
- 3) Parliament should review recently enacted laws and ensure that changes to the law are never made close to an election, and that old laws have sunset provisions before being overtaken by new enactments. Such an approach to electoral legislation is listed among the best practices advocated by the Commonwealth.

- 4) Enforce all election laws through a truly impartial Election Commission committed to neutrality.

We encourage the return of the Maldives to the Commonwealth and election related groupings to derive strength from the experience and advice of friends. We would very much welcome that return.

---

S.R.H. Hoole  
24 Sept. 2018

---

Rasika Peiris  
24 Sept. 2018

CC: The Election Commission, Sri Lanka.