



The Forthcoming Presidential Elections in Maldives and Internal Political Situation: Future Scenario

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Introduction

The Election Commission of Maldives announced the dates of next Presidential elections in the midst of the political crisis in Maldives. The elections are scheduled for September 2018. Maldives declared state of emergency on 5th February for fifteen days and extended the state of emergency for another month (till 22 March) on 20th February. In this context, the issue brief, will describe the events which led to the emergency, the fallout, the response of political actors within Maldives and the international actors and the possible scenarios which might emerge in the future in political, economic and security spheres.

Factors which led to the declaration of emergency

The Maldives Government declared a state of emergency on 5th February 2018 for fifteen days under article 253 of the Constitution of the Republic of Maldives. The government statement mentioned that, “emergency was enforced in order to protect the peace and welfare of all citizens and the country, following the events that unfolded in relation to the Supreme Court Order No. 2018/SC-SJ/01, issued on 1 February 2018”ⁱ.

This is the second declaration of state of emergency by the government led by Mr. Yameen that came to power in 2014. In November 2015 citing security reasons the Government of Maldives imposed emergency and lifted the emergency within a week after the international outcry and its possible impact on tourism.

The state of emergency declared on 5th February is a fall out of the Supreme Court (SC) ruling of 1st February that asked the government of Maldives to release opposition political prisoners including the former President Mr. Nasheed, former Defence Minister Mr. Mohamed

Nazim, ex-vice President Mr. Ahmed Adeed, Jumhoori Party (JP) leader Mr. Qasim Ibrahim and Adhaalath Party (AP) leader, Mr. Sheik Abudulla Iman, Member of Parliament (MP) Faris Maumoom, Magistrate Ahmed Nihan and Hamid Ismail along with 12 MPs, who were disqualified by 'anti-defection' ruling of July 2017. In this regard the SC also annulled the anti-defection ruling.

The "ruling said all political prisoners must be released as the trials against them violated the Maldives' Constitution and international law. The ruling also stated that political pressure was applied on the prosecutors and the courts during these trials"ⁱⁱ. The SC ruling was significant and a positive move which tried to end the political stalemate the country has been witnessing since the arrest of former President Mr. Nasheed in 2015 on terrorism charges.

The SC ruling came after the Maldives opposition filed a petition in the Supreme Court on 28th January 2018, to impeach the President of Maldives. The motion was filed by Mr. Nasheed, Mr. Qasim Ibrahim and AP leader Mr. Ali Zahir. The "petition asked the SC to establish a Special Ad-hoc Committee in order to investigate, formulate and submit an investigation report to the SC regarding the allegations of corruption against President Yameen and enactment of legislation and ratification of laws in violation of the letter and the spirit of the Constitution thereby encroaching the sovereignty and territorial integrity of Maldives"ⁱⁱⁱ.

Response of the Government to the SC Ruling

The opposition move in the past to impeach the President was not fruitful as the Parliament ceased to function after the President of Maldives asked the military to seize the legislature on a number of occasions. The ruling PPM brushed aside the motion filed by the opposition on grounds that 'fugitives of the law cannot file a case and also called the opposition as enemies of people.'^{iv}

The government did not expect the ruling of SC and took various measures and tried to take control over the various institutions under the State. In the first instance the President removed the Commissioner of Police Mr. Ahmed Areef. After the SC ruling the President of Maldives sent three letters to the SC regarding the challenges in implementing the court ruling.

According to the President, the ruling has resulted in an encroachment on the regulatory powers of the State, the disruption of the functions mandated to State institutions under the Constitution, and the infringement of national security and public interest, and if implemented, would potentially lead to an undermining of the supremacy of the Constitution of the Republic of Maldives.

Apart from the President, the Attorney General of the Maldives tried to undermine the ruling of the Supreme Court on the basis that 'the SC does not have any legal or constitutional authority to initiate the removal of a President from Office'.^v AG also advised the law enforcement agencies such as Maldives Police Service and Maldives National Defence Force not to follow the ruling of the SC.

The delay in implementing the court ruling had promoted the opposition Maldives Democratic Party (MDP) to appeal to the international community to do everything in their

power^{vi}. The opposition coalition the Maldives United Opposition (MUO) also signed a resolution that asked the international community to,

- impress upon the Government of Maldives, security services and institutions to respect the Supreme Court ruling, and
- consider and implement all necessary measures, including diplomatic, economic, and legal, to defend democracy and to hold government officials accountable for violations of national and international law^{vii}.

The ruling of the SC promoted India to ask the Government of Maldives to release all political prisoners. The press release issued by India stated that “in the spirit of democracy and rule of law, it is imperative for all organs of the Government of Maldives to respect and abide by the order of the apex court and as a close and friendly neighbour, India wishes to see a stable, peaceful and prosperous Maldives^{viii}”.

The EU also welcomed the SC ruling of 1st February as a positive step towards restoring the democratic principles in the country and the statement mentioned that, it ‘expect the authorities of the Maldives to abide by the ruling and for the government to engage in an inclusive dialogue with the leaders of all political parties which should pave the way for credible, transparent and inclusive elections^{ix}’.

While responding to the concerns of the EU, the Government of Maldives before the imposition of emergency stated that ‘since the enactment of the 2008 Constitution, the Maldives has held several parliamentary and local elections including two presidential elections, all of which were declared free, fair and credible by the international community, even as recently as in 2017. Therefore, there is no justifiable reason to believe that the presidential elections scheduled for later this year can be any different^x’.

The declaration of emergency and its extension

There are three aspects to the SC ruling which the government is wary of if implemented in letter and spirit. Firstly, the SC ruling had put the Government of Maldives in a fix as it amounted to providing space to opposition voices in the next presidential elections, which the government in the last few years successfully restricted in the political sphere by imposing terrorism and other charges. Secondly, the SC ruling also meant in the present political scenario, a change of government/executive, since the implementation will eventually lead to, functioning of Parliament in a transparent manner which might lead to impeachment of the executive head. The third aspect is that the SC ruling was in accordance with concerns expressed by international actors for long that is, freeing of political prisoners.

Therefore, to control the situation emerging out of SC ruling, the Government of Maldives declared a state of emergency on 5th February and extended it till March 22nd on 20th February citing threat to national security. The emergency declared provided space for the government to crackdown on the opposition and by 13th February 2018, the government arrested opposition leaders as well as SC judges who passed the ruling. Those arrested include;

-Former President Maumoon Abdul Gayoom;
-Chief Justice Abdulla Saeed;
-Judicial Administrator at the Department of Judicial Administration Hassan Saeed Hussain;
-Supreme Court Justice Ali Hameed Mohamed; Ibrahim Siyad Qasim; Fathimath Nasira;
-Member of Parliament Ahmed Faris Maumoon;
-Member of Parliament Abdulla Sinan;
-Member of Parliament Ilhaam Ahmed; Najma Ibrahim; Mohamed Azmi; Mohamed Nadheem and Bonia Sudhagar.

The Government arrested the former President Mr. Abdul Gayoom on 5th February and charged him with bribing Members of Parliament and attempting to overthrow a legitimate government and influencing Judges by offering them money as bribes. Chief Justice Abdulla Saeed was arrested on 6th February as well as Supreme Court Justice Ali Hameed Mohamed. They were charged with 'accepting bribes and delivering verdicts in special interest; using the influence of the office to attempt the overthrow of a legal, constitutional, administration and attempting to influence the administration and wilful, and unlawful, interference of the criminal justice system'.^{xi}

On 20th February in amending the Decree, the Parliamentary Standing Committee on National Security voted to extend the State of Emergency by thirty days easing constitutional restrictions on certain articles and the legality of the extension and easing of restrictions was referred to the SC. These articles of the constitution are,

1. Article 100 (Removal of the President or Vice President)
2. Article 101 (Vote of no confidence for a Member of the Cabinet)
3. Article 113 (Jurisdiction of the Supreme Court on the Impeachment of the President)
4. Article 228 (Removal of the Prosecutor General from office)^{xii}

Even though the Parliament lifted restrictions on these articles, there is only a remote possibility that, given the arrests of all political opponents by the Government of Maldives due to emergency, Parliament will be in a position to function in transparent manner. The restrictions lifted by the government on 20th February were an eye wash to address the international criticism and an attempt to mislead the international actors in pressuring the government.

International response after the declaration of emergency

The deepening political crisis in Maldives due to the declaration of emergency and its extension led to lot of concern from international actors including India. The UN, EU/UK, US, China, UAE, Saudi Arabia, Sri Lanka expressed concern over the developments and asked the government and the opposition to find an amicable solution to end the crisis. Below are the responses by international actors to the emergency declared by the Government of Maldives;

India

The Ministry of External Affairs, Government of India's press release clearly spelt out India's dismay over the extension of emergency and the "manner in which the extension of the state of emergency was approved by the Majlis (Parliament) in contravention of the Constitution of Maldives". It also stated that, the consequent delay in the resumption of the political process and the continuing suspension of the functioning of democratic institutions including the judiciary is likely to further delay restoration of normalcy in Maldives and it is important to ensure that all democratic institutions are allowed to function in a fair and transparent manner in accordance with the Constitution^{xiii}.

The continuation of emergency has resulted in India's refusal to meet the special envoy of President Yameen, the foreign Minister of Maldives Mr. Mohamed Asim, to update on the situation much to the disappointment of the Government of Maldives. The Government of Maldives meanwhile, sent emissaries to update on the situation to countries such as China, Pakistan and Saudi Arabia.

Sri Lanka

Sri Lanka also expressed concern and asked the Government to solve the crisis in a peaceful manner. On 19th February the Speaker of the Sri Lankan Parliament Mr. Karu Jayasuriya wrote a letter to the Speaker of Maldives Majlis Mr. Abdulla Maseeh Mohamed regarding the evolving situation in the country. He wrote the letter as a chair of the Association of the SAARC Speakers and Parliamentarians. In his letter he mentioned that 'declaration of emergency, disrespect to SC ruling, threaten constitutional principles, undermine the rule of law and impendence of the judiciary. And the developments in Maldives will impact negatively on credible and inclusive election processes and full participation of all political parties in the processes'^{xiv}.

UAE and Saudi Arabia

The statement of UAE and Saudi Arabia noted that the developments are an internal matter of Maldives and 'hope for peaceful solutions to the current situation, through internal political dialogue between the parties concerned, without any external interference and within the Maldivian Constitution'^{xv}.

The US

The United States expressed its disappointment over the extension of the state of emergency and called on President Yameen to 'end the state of emergency, uphold the rule of law, permit the full and proper functioning of the Parliament and the judiciary, restore constitutionally guaranteed rights of the people of Maldives, and respect Maldives' international human rights obligations and commitments'.^{xvi} The US also 'asked the Government of Maldives to abide by the SC ruling and release all political prisoners'.^{xvii}

European Union (EU)

On 26th February the Council on Foreign Affairs of the EU called on the Government of Maldives and in particular the law enforcement agencies to act with restraint, to lift the emergency and to implement the SC ruling of 1st February 2018. It also condemned the politically motivated arrests and calls for the immediate release of all political prisoners. The statement mentioned that if the situation does not improve in accordance with principles of democratic rule “the Council may therefore consider targeted measures”.^{xviii} The EU also stated that it will support the UN facilitation in political dialogue between the government and the opposition.

China

Maldives had sent Special Envoy of President of Maldives and Minister of Economic Development Mohamed Saeed to China to brief it on the political situation.

The Foreign Minister of China, Wang Yi during the meeting noted that China pays attention to the evolution of domestic situation in Maldives and expects that the Maldivian government and people have the wisdom and capabilities to properly handle the problems confronting them and restore normal order of the country according to law. China does not interfere in Maldives's internal affairs, which is also an important principle of the Charter of the United Nations. The international community should, on the basis of respecting the willingness of Maldives, play a constructive role in promoting stability and development in Maldives’.^{xix}

China unlike India and Sri Lanka did not ask specifically, to implement the ruling of the SC by the Government of Maldives and stressed that, ‘the developments in Maldives are internal to the country and asked all relevant parties in the Maldives to resolve differences through dialogue and negotiation and safeguard national and social stability’^{xx}.

The UN

The UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein said that, “the declaration of the State of Emergency in the Maldives by President Abdulla Yameen and the resulting suspension of constitutional guarantees have swept away the checks and balances and separation of powers necessary in any functioning democracy, potentially leading to a greater number of violations of the rights of people in the Maldives”. He also said that, the ‘suspension of several functions of the judiciary and Parliament, and the restrictions on a series of constitutional rights, create a dangerous concentration of power in the hands of the president,” said Zeid.^{xxi}

Government’s Defence of Emergency

The government of Maldives strongly responded to India’s concern over the internal developments. The statement from the Ministry of Foreign Affairs Maldives said that, “the Government of Maldives takes note of the public statements issued by the Government of India that ignore the facts and ground realities with regard to the ongoing political developments in the Maldives. The assertion by the Government of India that the extension of the State of Emergency by the People’s Majlis was unconstitutional is a clear distortion of facts, which ignore the Constitution and Laws of the Maldives”^{xxii}.

In support of Maldives Government claim, the remaining judges of the SC of Maldives issued an advisory opinion on 26th February that the extension of declaration of emergency was valid. The government as well as the SC are trying to base their arguments on Constitutional provisions that can provide legitimacy to the actions of the government. For example, the government referred the matter to the SC for its advice after extending the emergency on 20th February for a month i.e till March 22 as the required quorum was not fulfilled in Parliament. The emergency extended with the approval of 38 MPs as against the required quorum of 44-45 in Parliament. In this context, the SC issued an advisory opinion on the continuation of emergency by the Parliament which stated that it was valid. The ‘Supreme Court decided that the Parliamentary quorum needed at the sitting in question was 25 percent of the total membership of Parliament, as per Article 86 of the Constitution. Though Article 87(b) creates an exception to this rule for matters requiring compliance by citizens, the Supreme Court decided that Article 87(b) did not apply’^{xxiii}.

In various speeches given by the President of Maldives after the declaration of emergency “he defended his actions saying that the Constitution bestows an absolute authority upon the Head of State, to steer the country on a safe passage”^{xxiv}.

The President’s address to the Majlis at the opening session of the people’s Majlis for 2018 on 21st February after extending the emergency only stressed upon the measures the government has taken for improving socio and economic development in the country. The speech is an indication that the forthcoming election campaign of Mr. Yameen will focus on developmental issues. According to the President, the crime rate in the country has reduced by thirty five percent over the past four years. He mentioned that, the ‘HIYA’ (‘Shelter’), the biggest housing project launched by the government in 2018 will be completed next year and is expected to provide housing to more than 160,000 people residing in the Maldives. He also said in his address that the 25-storey ‘Dharumavantha Hospital’ will open in 2018, inclusive of a diagnostic center and 76,000 new jobs have been created for youth^{xxv}.

The Maldives President also said that, ‘economic growth rate has increased from 6.2 percent in 2016 to 6.9 percent in 2017 as well as the tourists arrivals which have increased by 8 percent, with more than 1.3 million tourists visiting. The government has planned to inaugurate twenty-four islands given on lease for tourism purposes. As of the end of 2017, the GDP per capita stands at 9,671 USD’^{xxvi}.

The address by the President in the Parliament is an indication that he will seek his re election based on the facts mentioned above in economic and social development.

Response of Opposition

The above mentioned developments and facts suggest a bleak future for democratic transition in Maldives. The tactics used by the Government of Maldives led by Yameen to stay on to the power by any means whenever a threat is posed to his government constitutional or otherwise, has disrupted the political process in the country. Amidst the continuation of emergency the call for political party dialogue by the government was a calculated move, despite the fact that all the

opposition leaders are jailed or in exile. Unsurprisingly, the MUO did not respond positively to the call and said that ‘the government failed to provide the environment for talks’^{xxvii}. The government on the other hand stated that ‘despite issuing invitations a total of eight times since 15 February 2016 (in the last two years), for talks no response has been received from political parties’. The Government ‘urged political parties to participate in the All-Party Talks, to support the conduct of free, fair and credible Presidential elections in September of this year’^{xxviii}.

On 28th February, the MUO appointed Mr Ben Emmerson QC as its legal advisor on UN mediated talks. Mr Emmerson ‘will advise the opposition in discussions with UN officials on the proposed terms of opposition for talks with the Maldivian government’. Mr. Emmerson ‘was formerly the United Nations Special Rapporteur on Human Rights and Counter-Terrorism, and is the British Judge on the UN Mechanism for the International Criminal Tribunals’^{xxix}.

The MUO has been active in mobilising public against the emergency but not enough to topple the government in a situation where the police and the army are colliding with the government to suppress dissent. For the opposition leader Mr. Nasheed, ‘the real crisis in the Maldives springs from two developments such as the development of a state within the Maldives by the IS and attempts by emerging powers to drive land grab. He made the remarks in particular reference to Saudi Arabia and China. According to Nasheed, in the last 40 years, Saudi Arabia has propagated a very narrow version of Islam that has created a breeding ground for jihadi movements which led to a situation where, the Maldives has sent the most number of people per capita than any country to fight for the IS’^{xxx}. Regarding the land grab by China he said that without firing a single shot, China has grabbed more land than what the East India Company had at the height of the colonial era by weaponising foreign direct investments. China strongly denied the allegations by Nasheed saying that the ‘land grabbing’ allegation is meant to serve certain political purposes of Mr. Nasheed’^{xxxi}.

According to the MDP the ‘politicisation of police is also leading to attacks on families of opposition members and a total of 110 individuals have been arrested since the declaration of state of emergency and 31 of these are currently being held without a trial under “state of emergency” rules’^{xxxii}. Protests are taking place across Maldives against the emergency, albeit with little influence over the government’s actions and inactions.

Implications and Future Scenario

The announcement of elections in Maldives amidst the emergency in place cannot provide space for all the political parties to contest elections in a fair manner. The SC ruling of February 1st is interpreted in various ways to scuttle the implementation of the ruling. Some argue that, while the SC annulled all proceedings against opposition leaders, it has not ordered the dismissal of charges. It has ordered their release until a fair retrial’^{xxxiii}. Thus it might provide ample space for the Government of Maldives to continue to press charges against the opponents.

The way out of the political crisis in Maldives seems to be unclear as the Government of Maldives is not relenting on its stand to free opposition leaders. The opposition is demanding the UN involvement in political talks. In the past UN facilitated talks did not materialise as both the

opposition and the government did not show flexibility in their positions. Several rounds of negotiations took place with the assistance of the UN Secretary General's Envoy in 2015 and 2016. The opposition set pre conditions such as release of political prisoners was not acceptable for the Government of Maldives. The stand taken by the opposition continues and it remains to be seen how the legal advisor Mr Emmerson appointed by the opposition will help in future UN facilitated talks. The government has already given calls for political dialogue after the declaration of emergency.

Various statements by the opposition leader Mr. Nasheed as well as the government indicate that they are not in favour of international military intervention in Maldives but in favour of UN mediated talks. This presents a positive picture as there is scope for the UN to convince parties to find an amicable solution.

The opposition is confident about the majority in parliament if there is transparency. But the trends in Maldives political transition process since 2014 only indicate that the State is moving towards a one man rule. The Parliament is functioning only to implement policies that can help in concentration of power with the help of state institutions. The three decades of one man rule in Maldives before the first democratic elections in 2008 entrenched the concentration of power in the executive. The cycle of concentration of power may be difficult to break in the preset scenario.

The government of Maldives has asked international actors 'to observe the elections and invited all international stakeholders to observe the electoral process; to provide support and assistance in bringing back normalcy in the Maldives and requested the international community to refrain from any actions that could hinder resolving the situation the country is facing'^{xxxiv}. In a scenario where there is uncertainty over participation of opposition leaders in elections, the holding of elections in transparent manner in September is not possible. Therefore, how many international observers will give consent to government's invitation is a question. In 2014, presidential elections in which the government led by Yameen came to power were declared fair and transparent by the Commonwealth amidst opposition MDP's plea against the verdict.

The role of international actors and expectations also came in to the picture after the declaration of emergency. Countries such as India and Sri Lanka and the UN and EU have supported the SC ruling and believe that the implementation will address the political crisis to some extent. The statements by these actors have clearly mentioned about the need for separation of powers to establish democracy in the country and to avert concentration of power. At the same time, there is recognition by India and Sri Lanka that amicable solution should be found within Maldives among political parties to end the crisis. The EU on the other hand is contemplating targeted sanctions to pressurise the government.

Countries such as China, UAE and Saudi Arabia did not mention the SC ruling and expressed concern over the internal developments of Maldives. They have asked the parties to engage in political dialogue to resolve differences. Bilaterally, the Government of Maldives led by Mr. Yameen has engaged actively with these countries. For instance, the President of Maldives visited China in December 2017. The sixth round of consultations between Ministry of Foreign Affairs of Maldives and Ministry of Foreign Affairs of China were held in February 2017 focused on

cooperation in areas of mutual interests such as trade and investment, development cooperation and tourism promotion. And the Foreign Minister of Maldives Dr. Asim undertook a bilateral visit to China on 8th January 2017. Maldives President participated in Arab Islamic American Summit held in Riyadh on 21st May 2017. In October 2016, Mr. Yameen met the Saudi King Salman bin Abdulaziz Al Saud to discuss bilateral relations. On 17th October 2017, Maldives President visited UAE and the former Foreign Minister of Maldives Ms. Dunya visited UAE on an official visit on 25th February 2016.

Even after the declaration of emergency ‘the Saudi Fund for Development and the Abu Dhabi Fund for Development has pledged \$160 Million in support of the Maldives and its brotherly people for the development projects including the airport development and fisheries sector of the Maldives’. The assistance provided helped to recognise the State which is facing legitimacy issues. China asked the government to secure its ongoing projects in Maldives. Government of Maldives active engagement with countries outside the region is of concern for India due to possible impact on Indian Ocean security as well as rising extremism in the country. According to Nasheed, ‘India must be on the ground in Male with an envoy and try to ensure that President Yameen relents.’^{xxxxv} India has not responded to the statement.

Regarding the recent news about Maldives declining India’s invitation to participate in the biennial naval exercise “Milan”, the Embassy of Maldives in New Delhi clarified that “Maldives is unable to participate in the naval exercise during this time due to the current circumstances of a State of Emergency being in effect for those under investigation for serious crimes’.^{xxxxvi} However, Maldives unwillingness to participate in the naval exercise is interpreted as growing distance between India and Maldives on matters of mutual concern such as IOR security.

Conclusion

Democratic transition in Maldives is uncertain so too is the role that can be played by political parties and the international community to reverse the situation. The forthcoming elections will not be transparent and legitimate if the government continues to deny participation of opposition leaders in elections. The role of international actors for the time being is restricted to statements and offer of mediation or facilitation of political talks and targeted sanctions. The government presently is in favour of talks which might prolong the political stalemate in its favour or break the stalemate. There is no certainty about the role of international actors as it is the internal problem of Maldives and the State is expected to resolve the problem amicably. Direct intervention in Maldives by third country or the UN is not an option in a scenario where both the opposition and the ruling PPM are not in favour of the option. Intervention cannot provide a sustainable solution which is needed in democratic transition. Under present circumstances, only fair and transparent elections can bring the required change, which the international community and the people of Maldives will have to ensure.

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Disclaimer: The views expressed are that of the Researcher and not of the Council.*

Endnotes

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