

# **The Maldives: Resolution of Constitutional Conundrum? Not Just Yet!**

Iftekhar Ahmed Chowdhury

## **Summary**

*For a tiny, picturesque and homogenous country, the Maldives has experienced volatile politics in modern times. It has had more constitutions than any other South Asian state, most of which have been tried and proven failed. All organs of governance – the executive, the parliament, the bureaucracy as well as the courts – have contributed to its tumultuous politics. Its strategic location in the Indian Ocean has attracted the attention of the main regional protagonists, India and China, which impacts on its domestic politics as its external shell of protection is weak. It is also susceptible to the vagaries of climate change, which calls for concerted and coherent policies that embattled governments are unable to provide.*

*The presidential elections ushered change in 2018, and now parliamentary elections are due on 6 April 2019. A way out of political imbroglio is sought, but the possibility of success in this regard is small.*

## **Introduction**

The Maldives offer a picturesque study of oceanic tranquillity. It is small and beautiful. Its total area is around 298 square kilometres, and a population of 400,000 is spread across 26 atolls and 1192 islets, not all inhabited. Its scenic assets are bountiful. One would expect the Maldivians to lead a peaceful life of languor, leisure and luxury like the ‘lotus eaters’ of Greek mythology in the Aegean Sea. However, the reality is very different. The passion for politics of this idyllic nation borders on the bewildering. This has led to a behavioural volatility that has oftentimes rendered the country to be perceived as a paradise in peril. One evidence of it lies in the near-tumultuous evolution of its Constitution through years, through numerous phases, with complexities that have often baffled many an observer. In the history of the Maldives, there has always been much chaos beneath the seeming calm.

## **Monarchy to Republic: Turbulent Transition**

The vicissitudes of political fortune and turmoil were amply attested by what transpired through the course of its first Constitution beginning in the early 1930s.<sup>1</sup> The Maldives was then a monarchy, with Sultan Mohammad Shamsuddin Iskander 111, having been reigning for three decades. In March 1931, a 13-member committee commenced work on the draft, with technical supervision from Governor Bernard H Bourdill of Ceylon. The draft was approved in

---

<sup>1</sup> For more detailed information on Maldivian constitutional development, see (1) Robinson, Francis(Ed) *The Cambridge Encyclopaedia of India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and the Maldives* (Cambridge University Press, 1990); and (2) Gayoom, Maumoon Abdul, *The Maldives: A Nation in Peril*, Ministry of Planning, Human Resources and Environment, 1998.

December 1931, and a constitutional monarchy was put in place. It called for the King to be sane, a Sunni Muslim and from the royal family, not insurmountable requirements in the context, to be aided by a cabal of Ministers and a Majlis or Parliament of 47 members. The Constitution had 92 articles. Unsurprisingly the document was intensely English, and idealistically Lockean. It had a bill of rights, and with such guarantees as equality before the law, freedom from arbitrary arrest and torture, protection of private property, freedom of expression, association and of the press, with some British Labour ideas thrown in as pensions.

The entire effort turned out to be bit of a damp squib. Oddly enough, its failure, because the Constitution was short-lived surviving only nine months, can be largely attributed to its success in making a plethora of legislative contributions. It adopted as many as 40 laws, mainly regulating trade and prescribing penalties for infringements. As a result, it drew the ire of foreign traders, who, among other things, controlled the critical food supply, leading to shortages and consequent anger among the general public. As a result this experiment came to a sorry pass. The Sultan, in April 1942, took upon himself to present a smaller and perhaps tidier document, reducing it to 17 articles and creating a Majlis of 33 members – 27 elected and six nominated. In 1950, amendments restored some civil rights. However, by then, the whole of South Asia was caught up in post-colonial euphoria. A referendum voted to abolish the monarchy altogether and on New Year's Day in 1953, a Presidential system was set up in a new Constitution, and the first Republic was born.

It was brief. An upheaval overthrew the First Republic and the monarchy was restored in January 1954, albeit a constitutional and 'elected' one, in accordance with the fourth Constitution, one of several to follow. The electorate, restricted to males, was to elect a Majlis of 54 members, six representing the King, 46 the people and two for businesses. In the years that ensued, the Maldives won full independence from the British and became an "independent and free state". To reflect this new status, in 1968, the existing Constitution was repealed, a fifth Constitution was instituted, and the Second Republic was established, with a president, Ibrahim Nasir, and the second President Abdul Gayoom, setting up a constituent Assembly of Ministers and Majlis members. The eventual outcome was a new Constitution of August 2008, with a raft of democratic rights, separation of powers, and introduction of mechanisms of good governance. The so-called 'modern, multiparty, and democratic system' followed a massive unrest in 2003. The new Constitution, under which the first multi-party elections in the country were held in 2008, sought to reduce executive powers in favour of the Parliament.<sup>2</sup> As shall be seen, it turned out to be a 'consummation devoutly to be wished'.

## **Tumultuous Politics in the Polity**

Gayoom's three-decade rule in the Maldives was conducted with an iron hand. There was no toleration of any opposition. There were several attempts at *coup d'état* but these were put down largely with Indian support. The slice of democracy that came to the Maldives in 2008 was in large part due to mounting international and domestic pressures. Gayoom finally yielded to political realities and power was transferred to the rival candidate Mohammad

---

<sup>2</sup> *Maldives Constitution of 2008*, Constituteproject.org, PDF generated 17 July 2014.

Nasheed following two rounds of elections. A spirit of joyous euphoria ensued in the country under, what later proved to be misplaced.

True progress was achieved in areas such as tourism, fisheries, and garments manufacturing. While under Nasheed's stewardship, the Maldives did graduate out of the list of least developed countries, some saw this seemingly laudatory achievement as not a blessing but instead as a curse in disguise as it constrained market access through preferential treatment of Maldivian products. In foreign policy, Nasheed initially navigated carefully between China and India. Eventually, he turned towards the latter.<sup>3</sup> He gave in to India's request to deploy 26 coastal radars. He also famously declared that "Indian Ocean is India Ocean", a claim not even made by New Delhi. Unsurprisingly, many began to see him as "*plus royaliste que le roi* (more royal than the King), his delivery having exceeded India's expectations.

It also soon transpired that, with regard to democratic virtues, Nasheed was no Caesar's wife. Before long, he became embroiled in a dispute with the Civil Service Commission for its supposed failure to handle the friction between political nominees and civil service appointees. In what is a predominantly Islamic ethos, his taste for the tippie was also held against him. The Chief Justice proved disobliging when Nasheed went after his predecessor Gayoom in consonance with a sad tradition of hostility among rivals in that nation. This triggered an action by Nasheed which was the order to place the Chief Justice under arrest. Eventually, in February 2012, the police mutinied. That appeared to be the last straw that broke the camel's back. Nasheed was, at first, forced to resign, then electorally edged out of office the following year by a half-brother of Gayoom, Abdullah Yameen. Arrested and jailed, Nasheed was eventually allowed to travel to the United Kingdom in 2016 where he was granted political asylum. Thereafter, he relocated to Colombo, seeking the proximity needed to influence politics at home.

True to a somewhat politically unsavoury tradition, Yameen displayed quickly enough that he was not to be confused with Florence Nightingale. In a short time, he also proved himself to be an authoritarian ruler. Domestic political accommodation riled him. In the area of foreign policy, in a move that was Bismarckian in action but not necessarily in intellectual content, he veered towards Beijing. In the meantime, in 2011, China had established an embassy in Male. The 'special relationship' with India, which had been often touted in the past, was treated with scant respect. A contract to develop the Ibrahim Nasir International Airport awarded earlier to an Indian company was cancelled and given instead to the Chinese. Under Yameen, the Maldives joined the Chinese Belt and Road Initiative, offered Beijing mega-projects for construction in infrastructure and signed a bilateral free trade agreement that had to be 'fast-tracked' through the Parliament.<sup>4</sup> Also, he hosted Pakistan's then-Prime Minister Nawaz Sharif, with whom Yameen signed a raft of bilateral agreements.<sup>5</sup> In short, in moves that bordered on foolhardiness, he lost no opportunity to poke New Delhi in the eye. India was not amused.

---

<sup>3</sup> For a more detailed understanding of Nasheed's position vis-à-vis-India, see. Suhasini Haider, "India remains in the best position to help us: Mohammed Naseed". <https://www.thehindu.com/opinion/interview/indiaremains-in-the-best-position-to-help>. Retrieved on 4 March 2019.

<sup>4</sup> See Robert A. Manning, Bharat Gopalaswamy, 'Is Abdullah Yameen Handing over the Maldives to China?', *Foreign Policy*, 21 March 2018.

<sup>5</sup> 'Pak PM Arrives in Maldives for Independence Day', *Maldives Times*, 26 July 2017.

Then history repeated itself in a strange and eerie fashion when Yameen too fell out with the Supreme Court. This served to spark another national crisis. The Supreme Court decided to stand up to Yameen's authoritarian ways and ordered the release of a group of incarcerated parliamentarians who had earlier incurred the wrath of the President. To add insult to Yameen's injury, the Court declared Nasheed's trial of 2015 unconstitutional. This was more than Yameen could bear. Declaring that the Court was bent on impeaching him illegally, he had the Chief Justice arrested in a move that was reminiscent of his predecessor's action. He also declared a state of Emergency. When the Police Commissioner pledged to abide by the Court's wishes, Yameen sacked him. He turned now to the army which appeared to support him. Unable to show progress on democracy, the Maldives withdrew from the Commonwealth of Nations in 2016.<sup>6</sup> Once again, political turmoil gripped the nation. In what was an unprecedented move, even by Maldivian standards, the Court appealed to India and other countries to help. That was a move that had no parallels, and none was surprised when it did not work. Eventually, the Court caved in. Under immense pressure from the executive, it revoked its earlier orders for the release of the held opposition politicians.

Prior to the last Presidential elections of September 2018, Yameen did everything possible to tighten his control over the governmental and electoral system to ensure his return to office. He courted religious sentiments in a society where these were easily aroused by alleging that he was opposed by Christian priests, who supported his rival in the polls. He claimed credit for all economic development, whether due to him or not. More specific to the conduct of the polls, he appointed a close supporter as the head of the Election Commission. He had opposition offices raided by police on charges that the latter were organising to purchase votes. He appointed 107 members of the ruling party as election returning officers to count to administer the hustings and count the votes.

However, in the end, none of these measures worked and the election was won, in what was seen as a surprise result in such a controlled and manipulated ambience, by his rival Ibrahim Mohamed Solih.<sup>7</sup> He was a joint candidate of a coalition of opposition parties, and became the sole challenger to Yameen after Nasheed stood down in his bid to re-secure the position. Yameen went to the Courts to appeal against poll results but to no effect.<sup>8</sup> The results were applauded by India, the European Union and the United States, all of whom, from time to time, had shown themselves to be wary of Yameen's undemocratic and perceived unconstitutional moves, though China could not have been overly pleased. Eventually, though a *modus vivendi* between Male and Beijing cannot be ruled out. However, one major take-away from this election result was that, despite the repeated efforts of the political elites in the Maldives to manipulate the system to their political benefits, the people of the Maldives could be counted upon to favour pluralism, democracy and Constitutional politics. Their strong predilections in favour of the 'rule of law' were fairly established. In fact, this has been a pattern through the different political turmoil that the political polity in the Maldives have undergone before and since independence. This has led to the serious resurfacing of the political debate in the Maldives as to the next steps in the nation's constitutional evolution.

---

<sup>6</sup> *The Straits Times*, 8 February 2018.

<sup>7</sup> Simon Mundy in Mumbai and Edward White in Taipeh, 'Opposition Leader Solih Wins Maldives Presidential Elections', *Financial Times*, 24 September 2018.

<sup>8</sup> 'Maldives strongman's defeat upheld by Supreme Court', *The Straits Times*, 22 October 2018.

## Constitutional Solution to end Chaos?

The next steps would require endorsement of the Parliament, for which 6 April 2019 is the date announced for its 87 seats (the number has recently been increased from 85 to 87). The elections have, once again, brought to the fore old players like former Presidents – Gayoom, Nasheed and Yameen. The role of Nasheed would be key though currently a parliamentary bill could debar him from contesting the elections. Court activism in politics seemed still prevalent when Yameen was ordered to be arrested by a criminal court for alleged money laundering in February.<sup>9</sup>

The Maldives needs a coherent policy to fight man-made volatility and extremism, exacerbated by the susceptibility to climate change challenges. However, the current divisive politics of the polity remains an impediment to this goal. The Parliamentary elections next month will be keenly watched in the region. If there is to be any constitutional solution to end the political chaos in that country, it now appears to be well beyond the rim of the saucer.

. . . . .

Dr Iftekhar Ahmed Chowdhury is Principal Research Fellow at the Institute of South Asian Studies (ISAS), an autonomous research institute at the National University of Singapore (NUS). He is a former Foreign Advisor (Foreign Minister) of Bangladesh. He can be contacted at [isasiac@nus.edu.sg](mailto:isasiac@nus.edu.sg). The author bears full responsibility for the facts cited and opinions expressed in this paper.

---

<sup>9</sup> 'Maldives Court orders arrest of ex-leader Abdullah Yameen, ', Times of India, 18 February 2019. <https://timesofindia.indiatimes.com/world/south-asia/maldives-court-orders-arrest-of-ex-> Retrieved on 4 March 2019.