

# EASY ACCESS TO JUSTICE FOR ALL INCLUDING VULNERABLE PERSONS IN MALDIVES

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## I. INTRODUCTION

Access to justice is vital when it comes to human rights. Every person, be it child or adult, both men and women, has the right to have their voices heard and acknowledged. In a perfect justice system, everyone should be impartial and non-discriminatory against others and practice integrity and hold people who are wrong accountable. They should have a system implemented, where everyone can easily have access to legal awareness, legal aid, legal protection etc. While the developed countries have these kinds of highly functioning systems in place, they still face major obstacles when it comes to providing justice. Therefore, it is no surprise that Maldives, a country which is scattered in its geographical form, finds it difficult to provide a perfect justice system to all.

### A. Current Situation

The legal and justice sector of the Maldives has undergone a number of changes over the last decades; however, it is still in its transitional stage with a bright future. Several UN conventions such as the Convention on the Rights of the Child (CRC), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Beijing Rules etc. have been injected into the legal system and embraced by all. This was the stepping stone for the start of introducing other laws and regulations which helped the general public, especially vulnerable groups to gain easy access to justice.

The general public of the Maldives had a low level of trust and respect for law enforcement, the government and the judiciary in the past. But due to the introduction of the laws and regulations which came from signing the above-mentioned conventions, people started becoming more aware of their rights and how to get the justice needed.

### B. Access to Justice for Children and Women

#### 1. Laws and Regulations

With the ratification of the CRC in 1990, Maldives implemented law 9/91 "Law on the protection of the rights of the child", which gave children several rights that protected them from abuse and negligence. Regulation 6.1, "Regulation on conducting trials, investigations and sentencing fairly for offences committed by minors", was brought into existence in 2006 in adherence to law 9/91, in order to maintain the fairness in investigations and trials against minors. This law prevented any kind of discrimination or injustice that may face the minor during investigation or trial. In 2009, Act 12/2009, "Special Provisions Act to deal with Child Sex Abuse Offenders", was instigated, making it much easier for law enforcement and the judiciary to attain justice for children.

When CEDAW was signed, it freed most women from the discriminations of the society. Most of the time, the main reasons that women are denied justice is due to discrimination based on Maldivian culture and social beliefs. In the past women did not have the right to vote nor did they have the right to work or hold equal positions and pay as men. For example, before CEDAW, women faced a lot of sexual harassment and discrimination within the workplace, which was not taken seriously, and they did not have a support system or a way of legally getting justice for these kinds of crimes. With the ratification of CEDAW by Maldives, these matters were addressed and women now have a good legal system to fight for their rights.

A lot of domestic violence cases did not get reported in the past due to the lack of confidence in the

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governmental and judicial systems' ability to provide them justice by seeing them as victims and also due to the fact it is often a hidden issue, where the victim silently lives in humiliation and indignity. Introducing the ruling of the "Domestic Violence Act" (Act No. 3/2012) gave a lot of women hope especially for those who were trapped in domestic violence situations. As the Act clearly and categorically identified domestic violence as a criminal offence<sup>1</sup>, the implementation of this act changed the social perspective towards this sensitive issue. As a result, statistics show an increasing number of domestic violence cases lodged by women<sup>2</sup>.

## 2. Legal Bodies and Referral Systems

Maldives consists of 1,190 islands, segmented into 20 atolls<sup>3</sup> and each of these atolls consists of more than one Police Station and a Family and Child Service Centre (FCSE) which deals with child protection. The presence of these agencies in the islands provides easy access to justice to all and brings about a swift triumph, eradicating the mentality that people living in rural areas of Maldives do not have access to justice.

NGOs such as Hope for Women, the Society for Health Education (SHE), Advocating the Rights of the Child (ARC), the Maldives Association of Physical Disabilities (MAPD) make it easier for vulnerable groups to attain justice within the society.

The current child referral system set in place by the Maldives Police Service, the Ministry of Law and Gender and the Ministry of Education, ensures that every child who suffers any kind of abuse and neglect does not seep through unnoticed. A reporting application "AHAN" and call center "1412" (established in May 2017)<sup>4</sup> are a few of the measures which were introduced in order to make it easier for the general public to report violence against children anonymously, thus making sure that even abuse from a family member, teacher, neighbour or a person in a position of trust does not go unreported.

Up to 2016, the referral system of domestic violence cases was maintained manually. And due to this there were delays in attending the cases and completing the investigation. However, in early 2016, a database named the "Geveshi Portal" was launched which eliminated the manual paperwork, and ensured that swift reporting was done throughout the chain. This portal is mostly useful for reporting domestic violence cases from the islands. The portal can be accessed through the Police Information Management System (PIMS) of the Maldives Police Service and is linked to the Ministry of Law and Gender and Family Protection Authority's system.

In order to properly manage the records of children as victims, the Maldives Child Protection Database was implemented on 20 June 2010 and the use of it was started by the Maldives Police Service, the Juvenile Justice Unit and the Ministry of Law and Gender. This database was later integrated with PIMS, where when the data is entered into the PIMS system, all the information are automatically transferred into the MCPD, making the process convenient for investigation officers who deal with cases relating to child abuse, juvenile offending and domestic violence. The main aim of implementing this database is to provide a platform for all stakeholders to work together to collect data for future use.

## **C. Legal Aid**

**Criminal Cases:** The government is required to provide legal aid to defendants who cannot afford a lawyer. However, there are only a few lawyers on the roster of availability, and the government provides them only minimal compensation per case.

**Victim Support:** There are currently limited services for survivors of domestic violence, sexual and other abuse. The Victim Support Unit of the Maldives Police Service, the Family Legal Clinic by Hope for Women and SHE are among the few.

**Public Outreach, Education and Legal Information:** Even though Internet access is widely available, it is not used by people to access information about laws and procedures. Legal information initiatives are needed to reach the public.

<sup>1</sup> (The Domestic Violence Act, 2012)

<sup>2</sup> Family and Child Protection Department, *Domestic Violence Statistics 2012, 2013, 2014, 2015, 2016*

<sup>3</sup> (Country meters, 2016)

<sup>4</sup> (UNICEF, 2017)

#### **D. Effective Measures to Provide Legal Information to the General Public**

Awareness sessions are conducted every year by different agencies regarding laws and regulations that relate to them. Over the past two years, the Maldives Police Service, in collaboration with relevant stakeholders, has conducted awareness sessions throughout Maldives, reaching out to approximately 13,221<sup>5</sup> individuals of different ages. The sessions conducted consisted of legal information on different types of cases.

Even with all the measures to ensure a smooth system, Maldives still faces many challenges such as:

- Lack of cooperation between stakeholders. Due to this, the MCPD and “Geveshi Portal” are not used to their full potential;
- There are no safe houses provided for vulnerable victims above the age of 18. FPA is mandated with providing a safe house to the victim, but due to lack of resources and funding, this has not yet been possible. Currently, the victim remains under police protection until another family member or a person that the victim trusts comes to collect her;
- Social, cultural and religious beliefs;
- Lack of awareness of legal rights and options, especially among vulnerable groups;
- Close-minded people mostly in the islands;
- Lack of resources and funding.

### **II. UNDERLYING PROBLEMS**

- A sobering reality is that cases such as domestic violence rarely reach the prosecution stage following investigation. One of the biggest challenges for prosecution is that victims of abuse often retract their statements after lodging complaints. This normally happens due to lack of family support, family pressure, sensitivity to associated social stigma, economic dependency on the predator, fear of reprisal as well as lack of confidence in the available protection services;
- When cases are reported to the justice system, victims are not always treated with gender-sensitivity, including access to legal advice and health care;
- Few perpetrators of gender-based violence are convicted for their offences;
- Domestic violence and sexual abuse against children are significantly underreported to the justice system;
- Shortage of recourse to experienced workers to deal with emerging issues such as commercial sexual exploitation, online exploitation etc. As a result, this leads to issues getting out of hand and not being able to deliver justice to the victims;
- Geographical inaccessibility of needed legal support and services. Given that all the lawyers reside in the capital Male', it poses problems for those living in the islands to access the services of legal counsel. This raises the problem of the lack of standards for lawyers;
- Sometimes too many referrals are made, such that an individual loses interest or feels defeated.

### **III. RECOMMENDATIONS**

The current situation indicates that there is room for change and the following recommendations can be taken into consideration in order to improve the current system.

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<sup>5</sup> Family and Child Protection Department, *Public Awareness Statistics 2015, 2016*.

- To establish policing and the processes and procedures of the criminal justice system that are gender sensitive and take into account social and cultural difficulties in bringing such cases to the attention of the authorities;
- Ongoing professional development of police, investigators, prosecutors and judges and related professionals such as hospital staff and staff in key administrative centres in the atolls;
- Ensuring that the penal code adequately addresses issues of concern to women and children;
- Encouraging support for adequate public and private funding for legal aid and other legal services programmes that serve low-income and vulnerable clients, ensuring a strong and effective legal aid delivery system, giving all Maldivians meaningful access to justice;
- Conducting collaborative inter-agency awareness sessions that involve the general public;
- Conducting support programmes for different targeted groups of victims (low, medium, high risk);
- A mandate for lawyers to provide pro bono services is needed, and a regulated system to monitor the timeline between detention, request for a lawyer, and legal representation. Awareness raising and follow-up training regarding rights to legal aid would benefit both the public and the police.
- Roster of Lawyers: establish a system of compulsory pro bono legal services.