

DRUG REHABILITATION IN MALDIVES

*Abdul Sattar Abdul Hameed**

I. OVERVIEW OF LEGAL FRAMEWORK ON DRUG OFFENCES IN MALDIVES

In recent years drug trafficking and drug abuse have escalated in the Maldives mainly due to increased exposure to the outside world. Official recognition of the problem arose when the first ever incidence on drug use was reported back in 1977 when a person was arrested with 350 grams of hashish.¹ As a result, the first principal legislative Act of the Maldives dealing with narcotic drugs and psychotropic substances, (Law No 17/77 - The Drugs Act) was passed the same year in order to help the legal system deal with it, and to act as a deterrent.

The law (Drugs Act) was amended in 1995 (Section 2 of the law) to award life imprisonment, and 25 years is given for offences of trafficking of prohibited drugs by either, cultivation, manufacture, exportation, importation, selling, buying, giving or possession for sale of one gram or more. For the offence of consumption of prohibited drugs under section 4 of the law, using or possession for personal use of less than one gram, the penalty is imprisonment, banishment or house arrest for a period between 5 and 12 years, or referral to rehabilitation with the possibility of a suspended legal sentence. Further amendments to the law on drugs were made in 2001, facilitating confidential interviewing with drug users for the purpose of research for government. Alcohol is not included in the law on drugs. It is controlled under the law of Islamic Shari'ah.

Drug use and drug abuse became an increasing concern, even after enacting a rigid law for its prohibition. Commonly abused substances since then have been hashish oil / cannabis and heroin / diamorphine. In 1996, a total of 241 cases of substance abuse were reported to the police. In 1998, over 450 arrests were made for drug abuse and related offences. The first major seizure of cocaine was made in September 1993 at Malé International Airport when 8 kilograms of cocaine was found concealed in the false bottom of a suitcase in the possession of a foreign national. The Statistical Yearbook of Maldives 2011 reported that a total of 783 persons in 2006 and 1187 persons in 2007 have been detained by the Maldives Police Service in relation to drug use offences.

According to a 2012 UN report², there are 7,500 drug addicts in the Maldives. However, critics say the real figure is much higher. One thing that is certain is that drug abuse and related offences are more compared to any other crime in Maldives and drug addiction touches nearly every family of the country.

A. The New Legal Response to the Drug Use Issue

After 27 years from the enactment of the Act 17/77 a survey done in 2004³ showed that drug offenders and people charged with drug offences constitute at least 80% of the prison population and often face very long periods of imprisonment, even for the possession of small amounts of narcotics.

In summary, it was agreed that the law present at that time (17/77) was harsh, costly and counterproductive. They are harsh in the sense that mere users face very long periods of imprisonment without access to treatment for their addiction, and with no prison-based incentives or a properly structured parole system. They are costly because of the long periods of imprisonment. They are counterproductive in that they appear to consolidate or even to create criminal careers; and, given the levels of drug use, they do not seem to be acting as a deterrent. Young people thus become a burden on the country's development

* Chief Judge, Drug Court, Republic of Maldives.

¹ Mariyam Shazly and Hassan Zilaal, 'Drug offender Treatment in Maldives',

² UNODC, 'National Drug use survey Maldives-2011/2012', 2003.

³ Profesor Richard Harding and Dr.Neil Morgan, 'Strengthening custodial services in Maldives', 2004.

process rather than making a positive contribution to it.

As a result, a bill was submitted to Parliament in 2009 that reduces jail terms for drug use, and devotes more funds to rehabilitation efforts. This bill was passed and came into force on 31st December 2011 as the new Drug Act (Law number 17/2011). Under this Act, the National Drug Agency (NDA) a government agency responsible for the implementation of policies relating to the legislation was established, while its work is overseen by the National Drug Control Council established under the new Drug Law, NDA is managed by a Chief Executive Officer (CEO) who reports to a ten-member Advisory Board appointed by the President. One of the special features of the new legislation is that it establishes a specialist court—a court having the jurisdiction in matters related to drugs accorded to it.

B. New Features of the Drug Act 2011

The main focus of the new Drug Act is to move away from taking a punitive approach against “small scale” drug offences. The law recognizes three main categories of drug offences, that is, the use, peddling and trafficking of drugs, and provides measures to motivate drug dependent persons to enroll in treatment and rehabilitation programmes with a view to facilitate their reintegration into the community as responsible citizens and at the same time stipulating offences and punishments relating to the misuse of drugs and matters relating thereto. Among many objectives, the Act attempts to reduce the level of drug dependency, to identify those who are in the early stages of drug dependency and to assist them in obtaining measures which will enable them to overcome their dependency on drugs, to establish a mechanism for the rehabilitation of drug dependent persons, believing that drug dependent persons are not just criminals but those in need of rehabilitation as they have, through the use of drugs, developed a psychological or physical dependence upon the effect of those drugs, and to invest law enforcement agencies with special powers to reduce the number of drug dependent persons and to prevent trafficking of drugs in the Maldives.

1. Drug Court

The Drug Court, established in 31st March 2012 under Drug Act 2011, was aimed to grant legal and judicial recognition to the treatment mechanism, while interlinking the treatment mechanism with the general justice system.

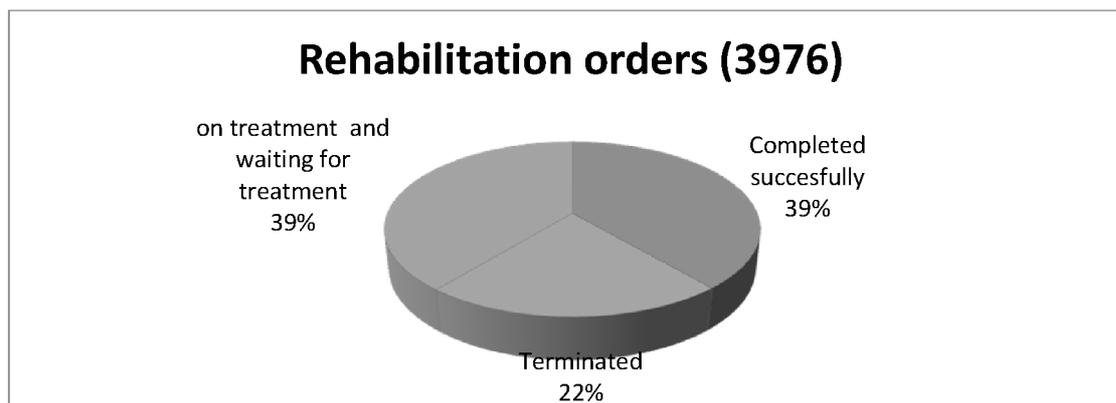
Mainly four categories of offenders are eligible for drug court treatment programmes. Those categories are, (i) drug users, (ii) peddlers, (iii) drug dependent people whose drug dependency contributed to the commission of a criminal offence, (such as theft and robbery) and (iv) people who were serving a jail term for drug abuse.

The specialty of drug court is that, all eligible cases will proceed only if certain conditions are met, mainly (i) the person pleaded guilty to the offence, (ii) the person is willing to be subjected to an indicative assessment, (iii) if the person has agreed to participate and complete a prescribed treatment programme and to obey other conditions set by the court. Moreover, in all prescribed treatment programmes the offender will be called to appear before the court for status hearings to check on how he has cooperated.

The court suspends jail sentences subject to the completion of a rehabilitation programme. However, the sentence should be served if the person does not act according to the rehabilitation rules and orders of the Drug Court and the treatment centre.

Six years into force, a total number of 6,368 cases has been submitted to the Drug Court by the end of the year 2017. Out of these, in 3,976 cases rehabilitation orders were made. So far 1,542 people have completed their rehabilitation programmes who spend an average of 7-10 months in the rehabilitation treatment programmes and have been released to the community by suspending their jail sentences. At the same time 878 drug offenders have been terminated from the rehabilitation programme and sent to jail to complete the jail term sentence⁴. The other 1,556 are either on rehabilitation treatment or waiting for the programme to start. The figure below shows the percentages of people who have completed and been terminated from the rehabilitation programme.

⁴ Statistics collected from annual Reports of Drug court 2013, 2014, 2015, 2016 and 2017



2. Drug Treatment Centres

The National Drug Agency has the responsibility under the Drug Act 2011 to implement effective and efficient drug prevention, treatment and rehabilitation programmes for the drug users and to effectively re-integrate them back to the society. Currently there are 5 drug treatment centres established in Maldives that all function under the National Drug Agency, namely:

Name of the facility	Capacity	On treatment
1. Drug Treatment and Rehabilitation Center	172	172
2. Drug Treatment and Detoxification Center -1	19	16
3. Drug Treatment and Detoxification Center -2	40	13
4. Community Service Center	270	301
5. Halfway House	15	15
total	516	517

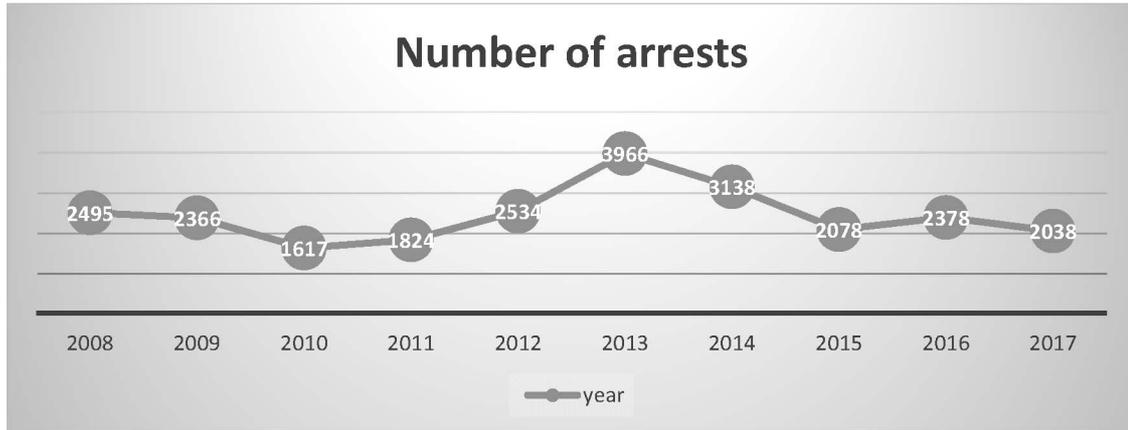
DTRC was the first drug treatment centre established in Maldives, which was in 1997. It was also the only drug treatment centre in Maldives before the enactment of the Drug Act 2011, with a capacity of 70 people at that time.

The rehabilitation centres conduct rehabilitation programmes which include information classes, counselling sessions for the offenders (as well as to their parents), religious information sessions, regular drug testing and mandatory attendance checking on selected dates (the offenders has to just appear in the rehabilitation centres and sign an attendance register). During the time of the rehabilitation process it is also mandatory to appear at the drug court before the Judge for hearings called status hearings. The main purpose of these hearings is to check the status of the ongoing treatment for the respective person and to warn him or her for any disobedience and also to applaud them for continuing the programme in a successful manner.

C. Has There Been Any Change in Drug Abuse and Related Offences?

Here I include a number arrest records⁵ from the Maldives Police Service in cases of drug use and related offences; the purpose is to see whether there is any difference or any trend observed after the enactment of the 2011 Act.

⁵ Statistics for past years, (website), <https://www.police.gov.mv>.



The statistics show that there is a gradual decrease in the number after 2013. This does not conclude that it's the effect of the 2011 Act. There are other measures to calculate the effectiveness of the rehabilitation system.

For the purpose of this paper, a sample of 100 clients was taken who have successfully completed rehabilitation programmes and were released to the community by the end of September 2014. Criminal activity/arrests of these 100 people have been checked by using a portal (software / website) created between the Maldives Police Service and drug court which shows the records of any arrest at any time.

Findings: Out of the 100 people, 13 have been arrested for different criminal offences after the completion of rehabilitation and graduation from the drug court. 9 of them were arrested for an offence related with drugs. 87 percent had no record of arrest after the graduation. It is a success that 87 out of 100 can be cleansed from drug addiction and brought back to the community who are deemed to contribute to the success of the whole country.

II. THE CHALLENGES IN THE SYSTEM

A. Inadequate Treatment Facilities

Availability of adequate treatment facilities has been a concern since the start. Inadequacy in respect of lack of capacity in the rehabilitation centres is one challenge to be notified under this heading. As noted earlier in this paper there are 1,556 people even now ordered to conduct a rehabilitation programme by the drug court; however, it has to be noted that the total number of people that can be accommodated by all the above treatment centres is only 516 at a given time. And according to the National Drug Agency, including the 2 treatment centres, the total number of people currently undergoing the treatment programmes is 517. This shows about 1,000 offenders ordered to undergo rehabilitation treatment programmes are waiting for their turn to start the programme.

Inadequacy in respect to capacity is not the only challenge: availability of qualified professional staff specialized in the area of drug rehabilitation is another important problem. It has to be noted that except two, all other treatment centres are located in the capital city area. Even if the offenders wanted, it is a challenge for the them to get the rehabilitation treatment, because they have to move to Male (Capital City) for 7-10 months leaving behind their families and their respective islands. Some people opt to go to jail for 3 years.

B. Slow Prosecution Procedures

The annual report of the drug court for 2015 shows that it takes an average time of 14 months from the time of the execution of the offence to prosecute the case. Isn't this too long a period for an intervention like rehabilitation? During this time the offender, without any rehabilitation or treatment, might have repeatedly committed crimes just because he is a drug addict. It has to be noted that this delay in prosecution has started to take a good turn after the new Criminal Procedure Rules which came in to effect in July 2017.

C. Labelling

Labelling the offenders as criminals even after completion and getting over the drug addiction is another

challenge. Even after a successful rehabilitation process the society still does not accept the person as sober. Even the families of the respective people feel reluctant to accept him. This is discouraging to the ones to the ones who undergo rehabilitation. They know this is the view of the society; therefore, the only motive for them to undergo the rehabilitation is just to get rid of the jail sentence.

D. Clearing Other Criminal Records

Their concern is, if they successfully complete the rehabilitation process, will that clear their past criminal records. The current Act stipulates that it does not. One might have another criminal conviction for which he has to undergo a jail sentence. In such a case, even if that person completes the rehabilitation process successfully, he has to go immediately to jail to serve the jail sentence for the other conviction. This again blurs the original purpose for the whole rehabilitation process.

III. CONCLUSION

Drug addiction touches nearly every family and is a big worry to the whole country. In response to the problem of drug use, Maldives introduced severe penalties for drug use and related crime in 1977. However, the problem of drug use and drug-related offences did not minimize to any extent. Thus, as encouraged by the international drug control conventions, treatment as an alternative to criminal justice sanctions was believed to be more effective than imprisonment in encouraging recovery from drug dependence and reducing drug-related crime. As a result, in the year 2011 a new drug act was enacted engraving this view.

Though researchers have found that rehabilitation is the best and most effective intervention compared to the traditional adjudication of drug-related offences, what is observed is 37 percent of the drug users sent to rehabilitation programmes are sent back to jail for their inability to complete the programmes, and 13 percent of the people who complete the programmes continue the criminal behaviour they had previously adopted. Still we find 87 percent of the people do not go back to criminal activities. In my view it is quite a good result. And the ones who fail do not fail because rehabilitation is a bad intervention; it may be because of the inadequate facilities and due to other challenges of the rehabilitation process in Maldives.