

RESEARCH PAPERS ON

THE SITUATION OF WOMEN IN MALDIVES



British
High Commission
Sri Lanka



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CONTENTS

- 07 WOMEN'S ECONOMIC EMPOWERMENT AND
UNPAID CARE WORK IN THE MALDIVES
- 107 DO ADOLESCENT GIRLS HAVE ADEQUATE KNOWLEDGE
TO MAKE HEALTHY AND INFORMED LIFE CHOICES?
- 147 WHY DOES MUSAWAH SAY EQUALITY IN THE MUSLIM
FAMILY IS "NECESSARY AND POSSIBLE", AND HOW
APPLICABLE ARE THESE CLAIMS TO THE MALDIVES'
MUSLIM CONTEXT?
- 185 WHAT CONSTITUTES A WOMAN AND FAMILY FRIENDLY
FRAMEWORK ON CHILD CUSTODY, PRE-NUPTIAL
AGREEMENTS, MARRIAGE AND DIVORCE?

WOMEN'S ECONOMIC EMPOWERMENT AND UNPAID CARE WORK IN THE MALDIVES

AISHATH AZFA
10 AUGUST 2018



“Empowering women economically is not only the “right thing” to do to honor the world’s commitments to human rights. It is also the “smart thing” to do for development, economic growth and business”

UN SECRETARY-GENERAL’S HIGH-LEVEL PANEL ON
WOMEN’S ECONOMIC EMPOWERMENT 2017

CONTENTS

Abstract	14
1.0 Preamble	15
2.0 Research Objectives	18
2.1 Methodology	19
2.2 Constraints and Limitations	21
2.3 Outline	22
SECTION I	
The Maldivian context	23
3.0 Maldives Cultural, Demographic and Economic Background	24
3.1 Culture	25
3.2 Demography	26
3.3 Economy	28
3.4 The Maldivian Employment Context	29
3.4.1 The Labour Force	29
3.4.2 Labour Force Participation Rate	30
3.4.3 Employment Rate	31
3.4.4 Unemployment Rate	32
4.0 Gender Frameworks	33
4.1 National Gender Frameworks	34
4.1.1 Constitution	34
4.1.2 Laws	35
4.2 International Commitments to Gender Equality	36
4.3 The Sustainable Development Goals	37

SECTION II

Case Studies & Interpretation	38
5.0 Introduction	39
5.1 Case study one	41
5.2 Case study two	43
5.3 Case study three	45
5.4 Time Use Surveys of Respondents	47
5.4.1 Calculating the hours	49
5.4.2 Calculating the wage	49
5.4.3 The Generalist Approach	50
5.4.4 The Specialist Approach	52
6.0 Barriers faced by women in seeking employment	55
6.1 Education and Skills	57
6.2 Perceptions	61
6.3 Reproductive/Domestic Role	66
6.4 Availability of jobs	69
6.5 Types of opportunities	72
6.6 Enabling environment	76
7.0 Conclusions	79
Main Findings	81
Recommended interventions	82
Areas for further research	82

Annex 1	83
Annex 1.1	86
Annex 2	88
Annex 3	93
Annex 4	95
References	99
Acronyms	102
Definitions and Terminologies	104

Figures

Figure 1: Age structure of the population (NBS 2015)	26
Figure 2: Composition of the Labour Force (NBS 2014)	29
Figure 3: Labour Force Participation Rate and percentage change in LFPR, 2006-2014 (NBS 2014)	30
Figure 4: Reasons for unemployment by sex, 2014 (NBS 2015)	32
Figure 5: Barriers faced by women in seeking employment	56
Figure 6: Representation of Locals and Foreigners in the Tourism Sector (MoT 2011)	64
Figure 7: Locals and Foreigners in managerial positions vs functional positions (MoT 2011)	64
Figure 8: Occupation classified by sex (NBS 2016)	75
Figure 9: Map of countries that has completed time use surveys (UNDS 2016)	91

Tables

Table 1: Time Use Survey of Respondents	48
Table 2: Calculations of Time Use of Respondents Using the Generalist Cost Method	50
Table 3: Annual Generalist Cost for the three case studies	51
Table 4: Average Hourly Wage of Specialists	52
Table 5: Calculations of Time Use of Respondents Using the Generalist Cost Method	53
Table 6: Annual Specialist Cost for the three case studies	54
Table 7: Percentage of males and females enrolled in various educational levels (NBS 2014b, pg. 20)	58
Table 8: Highest Educational Certificate achieved by employment status for females (NBS 2014)	59
Table 9: Comparison between men and women by industry of employment	73
Table 10: Status of Employment classified by sex (in percentages) (NBS 2016)	74
Table 11: Minimum List of Activity Categories (UNECE 2013, pg. 54)	84
Table 12: Approaches to value labor input in unpaid care work (UNDESA 1999, SSA 2002, Webber 2017)	92
Table 13: Targets and Indicators relating to WEE from the SDGs (UNDESA 2017)	96

ABSTRACT

Women make significant contributions to the economy all over the world. However, while men tend to dominate the formal sectors of employment, women are more likely to be engaged in informal sectors with limited job security, benefits, recognition and support. One of the greatest barriers to women's equal representation and participation in the economic sector is the disproportionate burden of unpaid care work on females arising from social, cultural and religious norms.

This paper aims to explore women's economic empowerment in the Maldivian context through a mixed methodology of qualitative and quantitative review. The paper analyses existing studies, data and case studies on lived experiences of women. A time use survey was conducted among the case studies to put a monetary value on the unpaid work done by these women for their families. The findings were then used to identify barriers influencing and reinforcing women to remain in unpaid care work in the Maldives. The main barriers were identified as education and skills, availability of jobs, type of jobs, domestic and reproductive roles, public perception and lack of enabling environment. The report concludes that transformational change is required to change the perception of women's role in family and society. Additionally, there is a need for targeted and conscious policy interventions to change public perception, establish social services and create an enabling environment to relieve women from their domestic burdens and ensure meaningful engagement in the economic sector.

Keywords: women, economic empowerment, domestic duties, reproductive roles, unpaid care work

1.0 PREAMBLE

“Women’s Economic Empowerment (WEE) refers to the capacity of women to contribute to and benefit from growth processes in ways which recognize the value of their contributions, respect their dignity and make it possible to negotiate a fairer distribution of the benefits of growth”.¹ Generally speaking, economic empowerment would increase a woman’s access to economic resources, employment and growth opportunities (e.g., skills development and training) and facilitate easier access to financial resources, assets and capital.²

Women all over the world make significant contributions to the economy, both in the formal and informal sector. Equal engagement of men and women in the labour force results in faster economic growth and ensures more widespread benefits to communities and nations. The increased participation of women in economic activities has been identified as a pre-requisite for the achievement of gender equality and the Sustainable Development Goals (SDGs).³

However, women’s contributions to the economy is not received equally to that of men, and they continue to be disproportionately affected by poverty, discrimination and exploitation.⁴ Women still continue to face discrimination with access to equal rights to decent employment, equal pay, access to assets and credit schemes etc.⁵ Global trends show that women are most often engaged in lower paying

jobs that are informal in nature, leading to greater economic vulnerability.⁶ Women in most countries earn on average only 60 – 75 percent of men’s wages.⁷ The comparatively lower job securities, recognition, access to assets and capital and relatively lower economic leverage resulting from this reduces their influence in public policy and hinders full enjoyment of growth and development.⁸

Similar gender gaps are observed in the Maldives from the Population and Household Census (2014) and the Household Income and Expenditure Survey (HIES 2016). Men make up 61 percent of the total labour force in the country, while women account for only 39 percent.⁹ The Labour Force Participation Rate (LFPR) for men and women stood at 78 percent and 42 percent respectively, showing that more women still fall outside the labour force category.¹⁰ Comparisons between the average earnings by male and female workers also shows consistency with the global trends. An employed male earns an average monthly salary of MVR 11,977 while an employed female earns an average monthly salary of MVR 7,510.¹¹ These statistics reaffirms the economic inequalities faced by Maldivian women but does not answer the social constraints behind these disparities.

One of the greatest barriers to women’s equal

¹ OECD (2014). *Women’s Economic Empowerment Issues Paper*. April 2011. Page 6

² Ibid.

³ UN WOMEN (2017). *Facts and Figures: Economic Empowerment. Benefits of Economic Empowerment*. <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>, accessed 2 June 2018, Last updated, July 2017

⁴ UN WOMEN (2013). *Economic Empowerment of Women – Thematic Brief*, http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/un%20women_ee-thematic-brief_us-web%20pdf.pdf?la=en, accessed 2 June 2018, last updated 2013

⁵ UNDP (2018). *Women’s Economic Empowerment*. Available at <http://www.undp.org/content/undp/en/home/gender-equality/women-s-economic-empowerment.html>, accessed 2 June 2018.

⁶ UN WOMEN (2013). *Economic Empowerment of Women – Thematic Brief*, http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/un%20women_ee-thematic-brief_us-web%20pdf.pdf?la=en 2013

⁷ UN WOMEN (2017). *Facts and Figures: Economic Empowerment. Benefits of Economic Empowerment*. <http://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures> Last updated, July 2017

⁸ UN WOMEN (2013). *Economic Empowerment of Women – Thematic Brief*, http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/un%20women_ee-thematic-brief_us-web%20pdf.pdf?la=en 2013

⁹ NBS (2018). *Household Income and Expenditure Survey*. Available at <http://statisticsmaldives.gov.mv/household-income-expenditure-survey-2016/> Accessed on 7 July 2018. Last updated July 2018.

¹⁰ Ibid

¹¹ Ibid

representation and participation in the economic sector is the disproportionate burden of unpaid care work for family members, which restricts their time to engage in formal and higher paying economic activities, enhance their education and training and participate in the public sphere.¹² This, often referred to as “women’s time poverty”, undermines the well-being of women and girls, forces them to take up jobs that are informal in nature (and thereby low status and low income), leading to financial dependence on male family members.¹³ According to the HIES 2016, women spend an average of 6 hours per day on household chores including unpaid care work for their family members, while men spend half that amount per day.¹⁴ Domestic responsibilities were also quoted as the main reason for women choosing to stay outside the labour force.¹⁵

This research was commissioned by UN WOMEN in the Maldives, to identify and understand women’s economic empowerment in the Maldives. The aim of this research is to provide an overview of the current employment situation through a gender lens and identify the barriers which influence women’s decision for meaningful economic participation and the social factors which reinforces women’s engagement in unpaid care work.

¹² UNDP (2018). *Women’s Economic Empowerment*. Available at <http://www.undp.org/content/undp/en/home/gender-equality/women-s-economic-empowerment.html>, accessed 2 June 2018.

UN WOMEN (2013). *Economic Empowerment of Women – Thematic Brief*, http://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2013/12/un%20women_ee-thematic-brief_us-web%20pdf.pdf?la=en 2013

¹³ Antonopoulos, R (2009). *The unpaid care work - paid work connection / Rania Antonopoulos ; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper ; no.86)*

¹⁴ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.*

¹⁵ *ibid*

2.0 RESEARCH OBJECTIVES

2.1 METHODOLOGY

UN WOMEN together with UNFPA in the Maldives commissioned this research for presentation and discussion for the “Knowledge Exchange Forum (KEF) on the Situation of Women’s Rights and Equality” planned jointly with the Ministry of Gender and Family.

The paper was commissioned to an Independent National Consultant in May 2018. A Technical Committee was formed including the Ministry of Gender and Family, UN WOMEN, UNFPA and five independent technical experts.

The research activities that was conducted is given below:

Initial Consultation

To initiate the process, a discussion meeting was held with UN WOMEN and UNFPA to identify the expectations from the participating United Nations Agencies and the Government with regard to the research. The meeting concluded with two key agreements; (i) the limited time for the research inhibits original research, therefore, the research is to draw from existing sources of information and data available and (ii) as the topic economic empowerment is very broad, the focus of the paper is to be limited to unpaid care work.

Data compilation

The key documents and data which needs to be analyzed was identified as the second step of the process. Majority of the employment related data were derived from the 2014 Population and Housing Census (2014) and the Household Income and Expenditure Survey (HIES 2016). Information was also obtained from reports on economic and employment related topics by International Organizations. Additional academic articles, surveys and reports from international development organizations were also collected and studied. The purpose of including these documents was to provide insights into the theories, global trends, data and discussions on the area of study.

Case studies

Due to the significant limitations in available data on unpaid care work in the Maldives, three independent case studies were developed. The case studies were not intended to serve as true representation of the Maldives, but as a guidance tool to understand the statistical trends through lived experiences of women.

To develop the case studies, a local questionnaire was prepared using the guidelines set forth by the United Nations Economic Commission for Europe (2013) (Refer to Annex 1). These guidelines provided a minimum list of broad level categories that would enable effective data collection using time use surveys.¹⁶

The case studies were selected randomly through existing networks. While selecting the case studies importance was given to select case studies from different localities (North, South and Central Maldives) and from different employment statuses (Employed, Unemployed and Outside the Labor Force). All respondents selected were female.

Phone interviews were conducted with respondents from the North and South, while face-to-face interview was held with the respondent in Male' City. Respondents were initially briefed about the intentions of the research and guided on how the survey will proceed. After the introduction, the questionnaire was visited and the responses given were inputted into a sheet. Each interview took precisely 30-40 minutes. The participants were asked to recall the time spent on each activity on the previous day. Where the respondent was unable to provide a definitive answer, they were guided into a discussion on their daily activities and the time spent was estimated. For example, some respondents couldn't accurately recall the number of times they take their

children to school within a 24-hour period. In this case, the respondents were asked to explain their daily schedule and estimate the number of minutes from their home to the school. The number of trips were then multiplied with the total time spent to estimate the time use for this activity. Simultaneous activities were also recorded in full minutes. Personal information of respondents such as name, age and island have been withheld to protect the identity of the respondents

Social Media Survey

To gather some insights into the perception of women on economic empowerment and understand the current dynamics of the society, a simple online survey was created, including 10 questions relating to the topic. The survey was shared within a highly active social media group Moms.MV. A total of 426 responses were received and analyzed. The questions included in the survey is provided under Annex 3.

Validation Meeting

For various reasons, the KEF was reprogrammed as a validation meeting attended by relevant Government and Civil Society representatives. The findings of this research was presented on 1 August 2018 at this validation meeting held jointly by the Ministry of Gender and Family, UN WOMEN and UNFPA. Feedback collected from the participants through the group discussion following the presentation was used to make revisions and validate the findings.

¹⁶ Refer to Annex 2 on detailed information regarding time use surveys

2.2 CONSTRAINTS AND LIMITATIONS

The main constraints faced in carrying out this research is listed below.

Limited time: The time assigned for this research was significantly limited, with a little over one month to carry out the research, analysis and prepare the report. The time limitations inhibited original research and carry out more in-depth analysis of the topics.

Difficulties in obtaining data: The required data for the research was identified early on and requested to the Ministry of Gender and Family for easier facilitation. However, none of the requested data was received at the time of writing this report. Additional data requests were sent out to key government organizations and only some were received.

Unable to set meetings with Government counterparts: The research took place over the Ramazan period which challenged arranging formal meetings with government counterparts. The short working hours for the government during the Ramazan period could be the reason for this.

Significant data gaps: There is no available quantitative data on unpaid care work in the Maldives which posed a great challenge for this research. As mentioned in the earlier sections, unpaid care work is valued in the national accounting systems through time use surveys where quantitative data on how an individual spends their time is recorded against

international guidelines. The Maldives has not conducted a similar exercise, but, comparable information were captured in the 2016 Household Income and Expenditure Survey and an ILO Labour Force Pilot Survey. Unfortunately, the findings of the ILO survey were not available at the time of writing this report, while only partial data relating to household income and expenditure was released from the 2016 HIES.

Non-representation: Due to the abovementioned data limitations, the research employed case studies to determine time use among women belonging to three different localities and employment status. This does not ensure a true representation of the general population, and therefore the results of this study will not reveal the true situation of Maldivian women engaged in unpaid care work. The case studies were intended to guide the discussion and find linkages between the statistics and lived experiences. Due to time limitations, time use for men was not collected.

Political participation not considered: Participation of women in the public sphere including politics is an important area identified in the discussions on economic empowerment of women. Women's representation in politics have been linked with decision making power and access to finance, assets and opportunities, however, due to the low number of females engaged in politics, particularly at the upper echelons of political parties, this area was not included in the discussion.

2.3 OUTLINE

The report is divided into two main sections. The first section will provide the cultural and demographic context of the Maldives which shapes the economy and employment status of women. The section will also look at the Gender Frameworks in the Maldives, including both national and international commitments towards gender equality.

The second section of the report will look at the lived experiences of the three women represented in the case studies. The time use of these women will be calculated and examined. This section will then attempt to gain practical understanding into the economic and social aspects influencing and enforcing Maldivian women to engage in unpaid care work using the available data and analysis from the case studies.

The report will close with concluding statements and recommended interventions for each finding. Areas for further research will also be included at the conclusion.

SECTION I
THE MALDIVIAN
CONTEXT

3.0 MALDIVES CULTURAL, DEMOGRAPHIC AND ECONOMIC BACKGROUND

The Republic of Maldives is made up of roughly 1190 coral islands, scattered over an area of 115,300 sq. km across the central part of the Laccadive-Maldives-Chagos submarine ridge in the Indian Ocean.¹⁷ With 99 percent of its territory being water, the Exclusive Economic Zone of the Maldives stretches 859,000 sq. km.¹⁸ The islands are naturally clustered into 26 geographical atolls, but for administrative purposes, only 20 atolls are recognized.¹⁹ There are 187 inhabited islands, including the capital city Male'.²⁰ An additional 101 islands are used as resorts and 14 islands are used for industrial purposes.²¹

The unique geographic setting of the country has shaped the social and economic conditions of the country. Viable land comprises less than 1 percent of the total area, which significantly limits terrestrial natural resources and economic activity.²² However, the country's rich marine biodiversity has supported the growth and sustenance of its two key economic sectors – tourism and fisheries.²³

¹⁷ MEE (2016). *Second National Communication of Maldives to the United Nations Framework Convention on Climate Change*. Ministry of Environment and Energy.

¹⁸ DNP (2014). *ICPD Beyond 2014, Maldives Operational Review 2014: Progress, Challenges and Way Forward*, Department of National Planning.

¹⁹ Ibid

²⁰ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census*. National Bureau of Statistics.

²¹ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

²² UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

²³ MEE (2016). *Second National Communication of Maldives to the United Nations Framework Convention on Climate Change*. Ministry of Environment and Energy.

²⁴ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

²⁵ DNP (2014). *ICPD Beyond 2014, Maldives Operational Review 2014: Progress, Challenges and Way Forward*, Department of National Planning.

3.1 CULTURE

The Maldives strategic location on major trade routes between the east and west has culminated in the islanders developing a unique culture over the centuries. The Maldivian culture draws from African, Persian, Arabic, and far eastern influences, but is dominantly characterized by Islamic faith and its South Eastern Heritage.²⁴ The Maldives has been an Islamic country for more than 800 years, but more recently, increasing conservatism has been observed to impact the life and livelihoods of people, particularly women. All Maldivians speak the same language 'Dhivehi', an Indo-Aryan language with influences from Singhalese, Arabic, French, Persian and Portuguese.²⁵

Gender roles and responsibilities within the community are clearly defined and separated; with men taking up masculine and dominant roles, while women are expected to be submissive and engaged in domestic care work.²⁶ These roles are enforced early in life, where parents and society encourage boys to be out-going and confident, while girls are taught to be nurturing and subservient.²⁷ As a patriarchal society, there is great emphasis on the protection of women, particularly about their safety and security in public spaces, including the place of work.²⁸ This protectiveness, combined with the general expectation that women and girls' primary responsibility lies at the domestic front, has hindered their true participation in the public sphere.²⁹

²⁶ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis*. United Nations Development Fund

²⁷ Ibid

²⁸ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

²⁹ Ibid

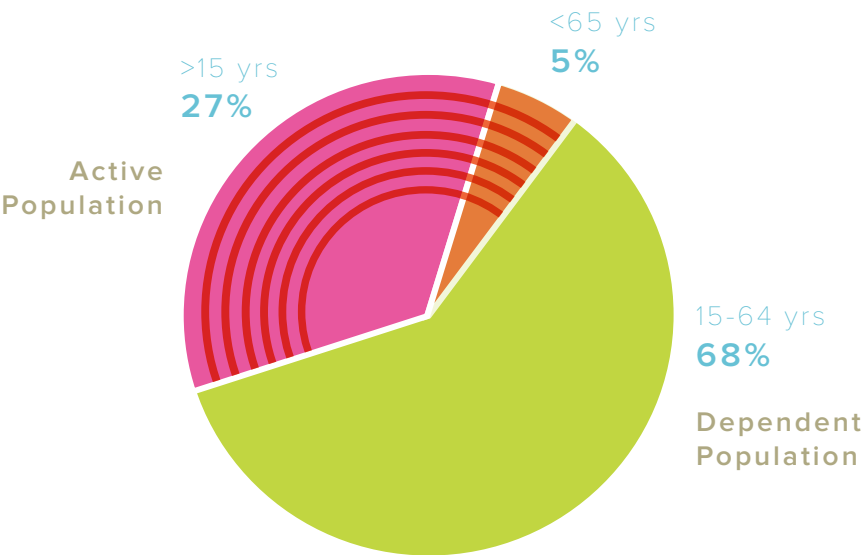
3.2 DEMOGRAPHY

The 2014 census enumerated a total population of 338,434 resident Maldivians and 5,589 non-resident Maldivians.³⁰ An additional resident expatriate population of 63,637 workers was also recorded.³¹ The population growth rate is 1.69 percent per year.³²

At present, the Maldives appears to be at the end of its demographic transition process, resulting from the continued

low crude birth rates and crude death rate over the past decades.³³ The population is no longer considered very young even though almost 50 percent of the population is still less than 25 years of age.³⁴ Currently, the active population is much larger than the dependent population, offering a unique ‘window of opportunity’ – or demographic dividend - for accelerated economic growth provided the correct mix of policies and enabling environments are created.³⁵

Figure 1: Age structure of the population (NBS 2015)



³⁰ NBS (2014). Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.

³¹ Ibid

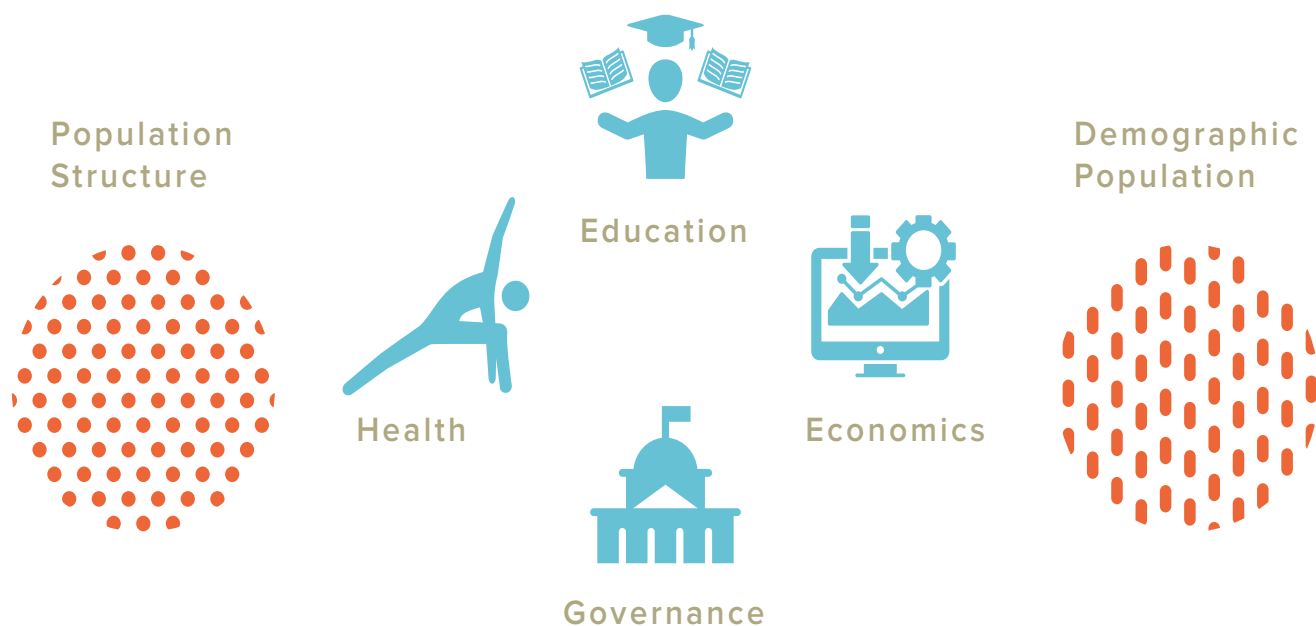
³² NBS (2016a). Maldives’ Population Dynamics: Policy Prospects for Human Growth and Opportunity. National Bureau of Statistics.

³³ Ibid

³⁴ NBS (2014). Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.

³⁵ NBS (2016a). Maldives’ Population Dynamics: Policy Prospects for Human Growth and Opportunity. National Bureau of Statistics.

Box 1: How the Demographic Dividend Works: An Illustration



A demographic dividend, or bonus, is the accelerated economic growth that can result from a rapid decline in a country's fertility and the subsequent change in its population's age structure. With fewer births each year, a country's working-age population grows larger in relation to the young dependent population. With more people in the labour force and fewer young people to support, a country can exploit this window of opportunity for rapid economic growth – if the right social and economic investments and policies are made in health, education, governance and the economy. While the benefits of a dividend can be great, the gains are neither automatic nor guaranteed.

3.3 ECONOMY

Maldives has experienced rapid economic growth over the past 40 years. The Gross Domestic Product (GDP) per capita increased from USD 275 in 1980 to USD 6,666 in 2013 ranking it the highest in South Asia.³⁶ The Maldives graduated from a least developed country to a middle-income country in January 2011.³⁷

GDP growth rate averaged at 7 percent between 2002 and 2013, mainly driven by the country's high end tourism industry.³⁸ In 2017, the nominal GDP per capita for the country was USD 9,671.3.³⁹ Tourism accounted for 25.4 percent of the nominal GDP in 2016 and contributed for 74.83 percent of the total Government revenue in 2017.⁴⁰

The economic growth which followed tourism inception in the Maldives shifted the Maldivian economy to a more tertiary, industrial and service oriented path that required new skills. As expected, women were among the most affected due to their limited skills and inability to shift to occupations that demanded migration and/or longer hours of work.⁴¹ Women's participation in the tourism sector has remained significantly lower than males over the forty years since the tourism sector had emerged. Women's representation in the industry was only 6 percent in 1977 with a handful of resorts in operation near Male' region.⁴² In 2014, with over 100 resorts in operation and at least one resort in each atoll, female participation in the tourism sector stood at 10.56 percent, while men accounted for 89.44 percent.⁴³ The reasons behind this will be discussed further in Section II of this report.

In addition to tourism, the fisheries, agriculture, manufacturing, and construction sectors are recognized as key contributors to the national economy. The fisheries sector in particular, is closely linked with the country's traditions, livelihood and food security, and is one of the main economic sectors of the Maldives.⁴⁴ Women's involvement in the fisheries sector

has concentrated on the post-harvest work such as smoking, drying and cooking the fish, which are usually undertaken in their living quarters, and therefore less visible.⁴⁵

³⁶ DNP (2014). *ICPD Beyond 2014, Maldives Operational Review 2014: Progress, Challenges and Way Forward*, Department of National Planning.

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity*. World Bank Group.

³⁷ UNICEF (2015). *Situation of Women and Children in the Republic of Maldives*. United Nations Children's Fund in the Maldives.

³⁸ DB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity*. World Bank Group.

³⁹ MMA (2018). *Monthly Statistics June 2018. Volume 19*. Available at <<http://www.mma.gov.mv/#/research/statisticalPublications/mstat/Monthly%20Statistics>>, accessed 15 July 2018.

⁴⁰ Cumulative figure of the tourism related streams; GST (Tourism Related), Green Tax, Tourism Administration Fee, Tourism Land Rent and Tourism Tax

MMA (2018). *Monthly Statistics June 2018. Volume 19*. Available at <<http://www.mma.gov.mv/#/research/statisticalPublications/mstat/Monthly%20Statistics>>, accessed 15 July 2018.

MIRA (2018). *Monthly Revenue Series*. Available at <<https://www.mira.gov.mv/reports/TOTAL%20REVENUE%20SERIES%20-%20MONTHLY.xlsx>>, accessed 15 July 2018

⁴¹ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

⁴² *ibid*.

⁴³ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census*. National Bureau of Statistics.

⁴⁴ WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity*. World Bank Group.

⁴⁵ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

3.4 THE MALDIVIAN EMPLOYMENT CONTEXT

As mentioned earlier, the demographic structure of the Maldives is changing rapidly mainly owing to the reductions in crude birth rates and crude death rates over the past sixty years.⁴⁶ This demographic transition has resulted in an unprecedented growth of the working age population (i.e., population aged between 15-64 years) while reducing the dependent age population (i.e., less than 15 years' age group and the above 65 age group). The demographic dividend which results from this, as described earlier, presents a unique window of opportunity for accelerated economic growth, provided the right mix of social and economic policies are put in place.⁴⁷ It is therefore necessary to identify the areas where policy interventions are required to minimize the economic gender gap and ensure that equal, if not adequate, economic contributions are made by the female working population.

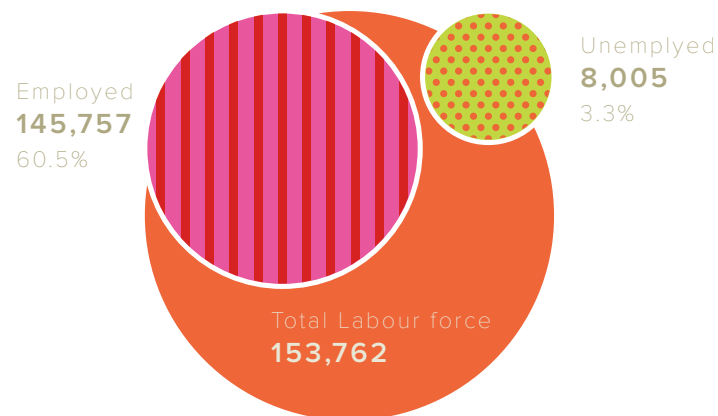
3.4.1 THE LABOUR FORCE

The working age population increased from 55 percent to 65 percent between 2000 to 2006 and grew a further 4.4 percent by the 2014 census.⁴⁸ The most significant growth was observed in Male' (63.2 percent) while in the Atolls it grew by

33.8 percent.⁴⁹ Employment, along with education, has been one of the main pull factors for migration towards Male'.⁵⁰

The census enumerated a total of 244,956 people in the labour force category (i.e. both employed and unemployed) where 49 percent were females. Within the working age population, only 153,762 resident Maldivians were recorded as belonging to the labour force, while 87,182 people were recorded as belonging outside the labour force. An additional 60,030 (28 percent) resident foreign nationals were also enumerated within the census. The resident labour force therefore comprises of a total 213,792 workers (71.92 percent resident Maldivians and 28.07 percent resident foreign nationals).

Figure 2: Composition of the Labour Force (NBS 2014)



⁴⁶ NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

⁴⁷ Ibid

⁴⁸ Ibid

MPND (2007). *Maldives Population and Household Census Analytical Report*. Ministry of Planning and National Development.

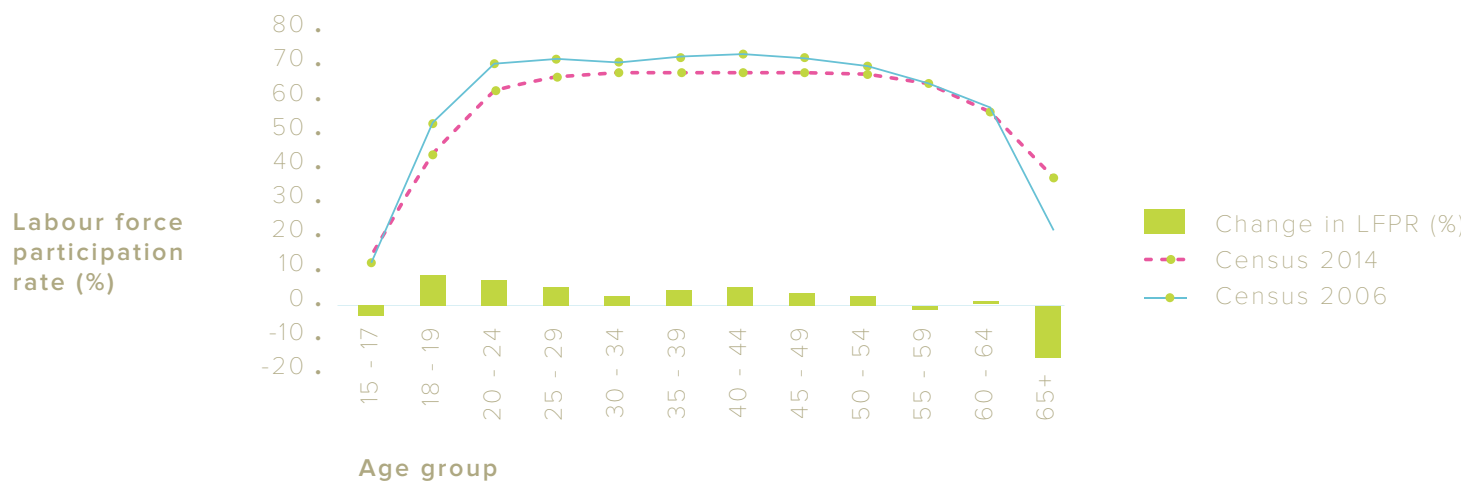
⁵⁰ MPND (2007). *Maldives Population and Household Census Analytical Report*. Ministry of Planning and National Development. NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

3.4.2 LABOUR FORCE PARTICIPATION RATE

The growth of the working age population concomitantly increased the Labour Force Participation Rate (LFPR) in the country. LFPR increased from 57.7 percent in 2006 to 63.8 percent in 2014.⁵¹ Closer look at the gender differences within the labour force participation rate shows that the LFPR for men increased from 73.5 percent to 79.7 percent between

the period 2006 and 2014. For females, it grew from 41.4 percent to 47.6 percent within the same period, showing slight improvement. The improvements can be owed to the conscious efforts made by the authorities to capture diverse economic activities through engendering the questionnaire and training of enumerators to collect the information.⁵²

Figure 3: Labour Force Participation Rate and percentage change in LFPR, 2006-2014 (NBS 2014)



⁵¹ MPND (2007). *Maldives Population and Household Census Analytical Report*. Ministry of Planning and National Development.

NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

⁵² NBS (2016a). *Maldives’ Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

3.4.3 EMPLOYMENT RATE

The employment rate for the country improved slightly between 2006 and 2014, increasing from 94.5 percent to 94.8 percent.⁵³

In the previous censuses, the manufacturing sector was identified as the main employer for both men and women. This included the men and women engaged in small scale manufacturing work such as fish processing, wood work (e.g. producing souvenirs), thatch weaving, cake making and tailoring, usually working in self-organized groups or on their own from their homes.⁵⁴

In the 2014 census, however, the Public Administration and Defense sector was recorded as the main employer with 15 percent of the employed population serving this sector. This was closely followed by the tourism sector (14 percent) and the manufacturing sector (13 percent).⁵⁵ Men are observed

to dominate tourism, public administration/defense and the agriculture and fishing sectors, while women are more concentrated in manufacturing and education related fields.⁵⁶

From the data available through the HIES, an employed male earns an average monthly salary of MVR 11,977 while an employed female earns an average monthly salary of MVR 7,510.⁵⁷

⁵³ *Ibid.*

⁵⁴ MPND (2007). *Maldives Population and Household Census Analytical Report*. Ministry of Planning and National Development.

⁵⁵ When expatriate work force is included in the representation, the main employment sector is tourism (35 percent), construction (24 percent) and wholesale/retail (8 percent).

NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

⁵⁶ NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

⁵⁷ NBS (2018). *Household Income and Expenditure Survey Report*. <http://statisticsmaldives.gov.mv/household-income-expenditure-survey-2016/> Last updated July 2018.

3.4.4 UNEMPLOYMENT RATE

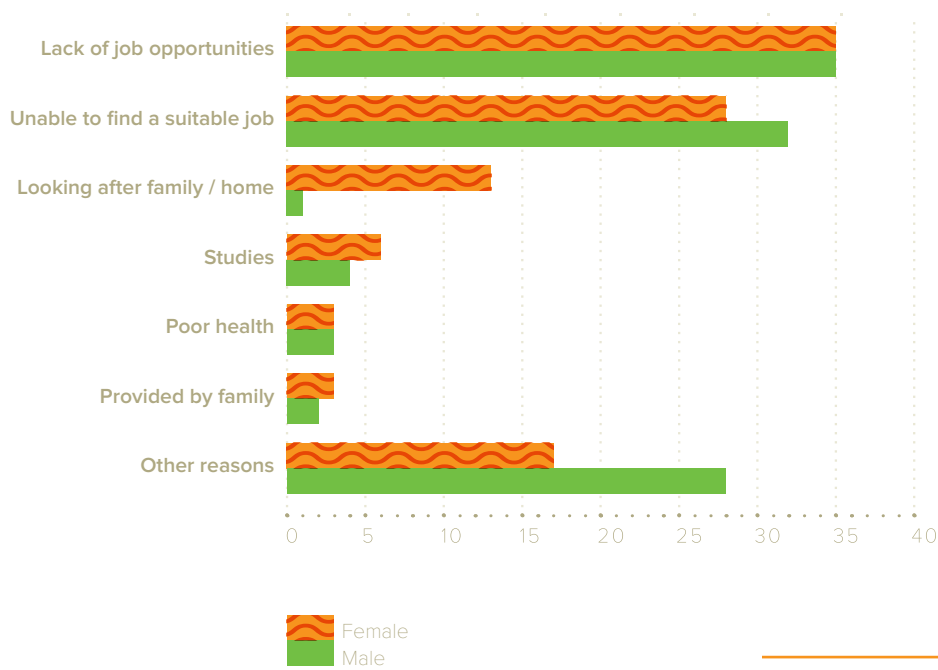
The geographical dispersion of the population to remote pockets imposes multiple challenges for the population to seek work that matches their education level, skill set and interests. The locality of the individual plays a great role in his/ her ability to seek employment.

The unemployment rate of the Maldives decreased from 5.5 percent to 5.2 percent between 2006 and 2014. Unemployment rate in the atolls decreased from 6.0 percent to 5.2 percent, while in Male’, it increased from 5.9 to 6.3

percent.⁵⁸ The female unemployment rate was recorded at 5.9 percent while male unemployment rate was 4.8 percent.⁵⁹

Unemployment among women was higher than men in all groups except the 15 – 19 age category and the 65 and above age category. It was also higher across all levels of education. The main reason for unemployment was reported as lack of job opportunities in resident island by both sexes. However, household work and care work was cited by more females than males as a reason for their unemployment.

Figure 4: Reasons for unemployment by sex, 2014 (NBS 2015)



⁵⁸ NBS (2016a). *Maldives’ Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

⁵⁹ NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

4.0 GENDER FRAMEWORKS

The Maldives has taken systematic efforts to increase gender equality in the country and alleviate the constraints faced by women in their daily life. These include national laws, policies, architecture and international commitments.

4.1 NATIONAL GENDER FRAMEWORKS

4.1.1 CONSTITUTION

The country's first constitution in 1932, marked an era of modernization which provided opportunities for women to enhance their education and economic participation.⁶⁰ Issues relating to women's well-being, growth and participation in the public sphere was highlighted through this constitution, thus guiding the people of the Maldives to a new social norm conditioned by democracy, rights and fundamental freedom.⁶¹

The current constitution of the Maldives, adopted in 2008, guarantees equal freedom and rights to all its citizens without any discrimination.⁶² It also removed the previous restrictions on women to run for President.⁶³

Article 17(a) stipulates non-discrimination of any kind, "including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island;" and Article 17 (b) legitimizes Temporary Special Measures or Affirmative Action to redress inequalities.

Article 18 explicitly stipulates the duty of the State to follow the constitutional provisions of fundamental rights and promote the rights and freedoms of the people.

⁶⁰ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

⁶¹ *Ibid*

⁶² IFES (2014). *Women's Empowerment in Political Processes in the Maldives*. International Foundation for Electoral Systems.

UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis*. United Nations Development Fund

⁶³ *Ibid*

4.1.2 LAWS

The Maldivian legal system is built on a unique fusion between Islamic Shariah and English Common Law. Under the legal system, both men and women are seen as equals, and are treated uniformly.⁶⁴ However, issues such as inheritance are dealt with under the Shariah, where women receive less than their male relatives.⁶⁵ This is derived from the Islamic values of male guardianship and responsibility of their female siblings and relatives, reinforcing the domestic role of women and the need for maintenance and protection.

The Employment Law enacted in 2008 ensures equal access to employment for both men and women and prohibits employers to dismiss anyone based on sex, marital status and family responsibilities.⁶⁶ The Law also provides 60 days of paid maternity leave along with two 30 minute breaks for breastfeeding per day. Both parents are eligible for an additional year of unpaid leave of one year. However, the law only recognized 3 days of paid paternity leave for fathers which reinforces their limitations in full engagement of child care work.⁶⁷

In August 2016, the Parliament passed the Gender Equality Act with the main objective of ensuring all men and women receive equal protection and benefits of the law while ensuring their right to enjoy the fundamental rights and freedoms guaranteed by the Constitution of the Maldives without any discrimination based on sex or gender.⁶⁸ The Act seeks to facilitate measures taken towards prevention of discrimination based on gender and address all ideas and practices that promote gender discrimination while ensuring that women are guaranteed equal rights and opportunities in economic, social, cultural, civil and political life. The Act also reaffirm the commitments made towards CEDAW and promotes the instilling of gender equality principles within public and private institutions and policies.

⁶⁴ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

⁶⁵ *Ibid*

⁶⁶ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development*. World Bank Group.

⁶⁷ *Ibid*

⁶⁸ UNFPA (2016). *Gender Equality Act. Unofficial Translation*. <https://maldives.unfpa.org/sites/default/files/pub-pdf/Gender%20Equality%20Act_0.pdf> accessed 18 July 2018. Last updated 23 August 2016

4.2 INTERNATIONAL COMMITMENTS TO GENDER EQUALITY

The country is also a signatory to major international laws and regulations on gender equality.⁶⁹ The Maldives signed the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993 with reservations to Article 7 (a) and Article 16 (See Box 3).⁷⁰ With the removal of the constitutional barrier preventing women to become Head of State, the Maldives withdrew its reservation of Article 7(a) in 2010.⁷¹

Box 2: Reservations on the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)

Article 7 (a) “States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies.”

Article 16: “The Government of the Republic of Maldives reserves its right to apply article 16 of the Convention concerning the equality of men and women in all matters relating to marriage and family relations without prejudice to the provisions of the Islamic Sharia, which govern all marital and family relations of the 100 percent Muslim population of the Maldives.”

Apart from the CEDAW, the Maldives is also a signatory to all major human right treaties and agreements, including;

- Beijing Platform for Action for Women’s Rights
- Cairo Plan of Action for reproductive and sexual rights
- International Covenant on Civil and Political Rights (ICCPR) 1966
- ICCPR Optional Protocol 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR 1966)
- Convention on the Rights of the Child (CRC)
- Convention on the Rights of Persons with Disabilities (CRPD)

The Maldives has also ratified all eight International Labour Organization fundamental conventions, which require agreeing states to undertake measures to end all forms of discrimination with respect to employment.⁷²

⁶⁹ WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development.* World Bank Group.

⁷⁰ Ibid

⁷¹ IFES (2014). *Women’s Empowerment in Political Processes in the Maldives.* International Foundation for Electoral Systems.

⁷² IFES (2014). *Women’s Empowerment in Political Processes in the Maldives.* International Foundation for Electoral Systems.

4.3 THE SUSTAINABLE DEVELOPMENT GOALS

The Sustainable Development Goals (SDGs) sets out the global agenda for progress and prosperity among all spheres of development. Building on the progress of the Millennium Development Goals (MDGs),⁷³ the 17 SDGs with its 169 targets, calls to ‘leave no one behind’, as the world gears up on its most ambitious plan of action to date, to achieve human rights, gender equality and empowerment of women and girls.

While the role of women and girls in achieving this global plan of action is recognized across all 17 goals, Goals 5, 8 and 9 have more direct links with WEE. Particularly, SDG 5 on Gender Equality is highlighted. This goal highlights the need to value unpaid care and domestic work through the provision of public services, infrastructure, and social protection policies. It also calls for shared responsibility within the household to ensure women’s full participation at all levels of decision making political, economic and public life. The goal also calls to provide equitable access to ownership and control over land and other forms of property and financial credit to facilitate WEE.

SDG 8, focusing on decent work and economic growth, also recognizes the economic contribution of women. The targets under this SDG looks at creating decent jobs and economic opportunities, foster the growth of micro-small-medium enterprises, facilitate access to financial resources to achieve full and productive employment and decent work for all men and women by 2030.

A detailed tabulation of relevant SDGs to WEE can be found under Annex 4.

⁷³ *The Maldives achieved five out of the eight MDGs but faced challenges in meeting the goal on gender equality and environmental sustainability (UNICEF 2015, ADB 2014, DNP 2014).*

SECTION II

CASE STUDIES & INTERPRETATION

5.0 INTRODUCTION

The objective of using case studies is to gain a practical understanding into the economic and social aspects influencing and enforcing more women to engage in unpaid care work in the Maldives. The lived experiences of the women represented in the case studies would be used to understand these factors and decipher the available data and statistics relating to women's economic empowerment.

As mentioned earlier, three case studies across three different localities were selected for this research. The time use of the women in the case studies would first be computed using the generalist and specialist replacement cost methods. This would be followed by an analysis of the barriers challenging Maldivian women to participate in economic activities that would contribute towards their economic empowerment.

5.1 CASE STUDY ONE

SUMMARY

PSEUDONYM	SHAREEFA
LOCATION	SOUTHERN MALDIVES
AGE GROUP	35 - 40
SOCIAL STATUS	MARRIED
EDUCATIONAL QUALIFICATION	O' LEVEL
EMPLOYMENT STATUS	OUTSIDE THE LABOUR FORCE

Shareefa is a mother of three school-aged children aged between 15 years and 5 years living in a rural island in Southern Maldives. For Shareefa, life has never been easy. As an only child born out of rape to a disabled mother,⁷⁴ her earliest childhood memories include confusion about her mother's disability and the absence of a father figure. She was raised by her aunt in an extended household with several cousins. However, living in a small community Shareefa was constantly faced with discrimination and verbal abuse. Isolation was an integral part of her life, as she struggled through school and her community. She dreamed of becoming a teacher one day and hoped that through her service, her community would accept her for who she is.

Twelve years ago, she met Abdulla, whom she fell in love with and got married. Her aunt disapproved of Abdulla leaving Shareefa to choose between the love of her life and the only family she ever knew. She chose love. Shareefa's aunt cut all ties with her and till this day the two have not spoken, despite many efforts from Shareefa over the years for reconciliation. Shareefa had access to a small plot of land belonging to her mother, but it was not built to house the newlyweds and her disabled mother. She has been living at a friend's place (who migrated to Male') for free the past ten years. Slowly, the couple is building their home but with the little income they get, it is taking much longer than Shareefa hoped for.

Shareefa got the opportunity to do teacher training in Male' when she was pregnant with her first child. However, she had to let go of her dream in consideration of her mother and her unborn child.

Today, she spends her entire day administrating the household and taking care of the children and her mother. Her husband Abdulla is very supportive and helps her whenever he is in the island, but as a fisherman, he is away most of the time, leaving Shareefa to care for her family alone without any support. Her eldest is autistic and has severe temperament issues, which is very challenging for Shareefa, especially when her husband is not there. Without adequate services in the island there is no treatment or intervention that can be made to improve the condition of her child. Abdulla is the sole breadwinner in the family and Shareefa's mother receives disability allowance from the Government. She believes that the family's income is sufficient and therefore chose to be outside the labour force.

Like anyone else, Shareefa dreams of a better future. She hopes to get proper medical treatment for her child and mother and move to her own house. Once the children are old enough Shareefa hopes to resume her studies in an education related field and serve her community.

⁷⁴ Shareefa's mother is half paralyzed.

5.2 CASE STUDY TWO

SUMMARY

PSEUDONYM	MATHU
LOCATION	MALE' CITY
AGE GROUP	30 – 35
SOCIAL STATUS	MARRIED
EDUCATIONAL QUALIFICATION	FIRST DEGREE
EMPLOYMENT STATUS	UNEMPLOYED

Mathu is a young mother living in Male' City. She and her small family of four lives with Mathu's immediate family in their privately-owned residence in Male'. Being born into an upper middle-class family, Mathu has had access to many privileges such as frequent international travel and access to world class education. Mathu has always been exceptionally bright in her studies, securing first place from both her class and grade throughout her schooling years. She served in numerous capacities and took part in literary activities while at school.

Mathu is married to Mohamed who is a hard-working self-made businessman. The income earned by Mohamed is more than enough to meet the family's needs and so Mathu does not see any added benefit of going to work while the children are young. Mohamed is a very hands-on husband who takes equal share of child care work supporting Mathu in feeding, bed time, school transportation and grocery shopping. This gives Mathu sufficient leisure time to socialize, do regular exercise and read.

As an educated woman, she served the civil service up to the birth of her first child and resigned afterwards to take care of her baby. Seven years after becoming a mother, Mathu is now considering returning to work, but is not actively seeking a job. She is concerned about returning to the work force as it would involve getting additional support to take care of her child. Mathu hopes to resume her studies and enhance her technical skills before re-joining the work force soon.

5.3 CASE STUDY THREE

SUMMARY

PSEUDONYM	MARIYAM
LOCATION	NORTHERN MALDIVES
AGE GROUP	35 - 40
SOCIAL STATUS	MARRIED
EDUCATIONAL QUALIFICATION	DIPLOMA IN TEACHING (CURRENTLY ENROLLED IN DEGREE PROGRAM)
EMPLOYMENT STATUS	EMPLOYED (PRIMARY SCHOOL TEACHER)

Mariyam is a primary school teacher working in her resident island in the Northern Maldives. She is the mother of three children, aged 8 years, 5 years and 6 months. Mariyam has five brothers, all of whom live in other islands. As the only girl in the family, Mariyam has stayed back to look after her elderly parents. Her Father has been diagnosed with Stage four cancer requiring him to travel abroad often for medical treatment. Although all her brothers provide financial assistance for the medical treatment of their father, it creates an additional financial burden on Mariyam's family and forces Mariyam to continue her work despite the overwhelming burden of being a school teacher and care taker of four dependents. Due to old age, her mother is not able to provide much support, but helps Mariyam look after her children when she is at work.

Until recently, Mariyam's husband worked in Male', but he has now found employment in their island. Mariyam's husband is a very hands-on father and husband, who supports Mariyam in undertaking her domestic and childcare work. However, he is often required to travel outside their island as part of his employment.

With the changes in Government policies requiring all serving teachers to complete their First Degrees in order to remain in employment, Mariyam is now enrolled in a Bachelor of Education course offered by the Maldives National University. Luckily for Mariyam, she lives close by to a larger island with an MNU branch. The course is offered in block mode with classes held once a month, but for Mariyam, her monthly classes, self-study schedule and assignments combined with care work for three young children and elderly parents creates an overwhelming burden. Once her degree is completed, she aims to migrate to Male' for better education for her children and easier access to medical treatment for her parents. She hopes to continue working as a teacher in Male'.

5.4 TIME USE SURVEYS OF RESPONDENTS

As mentioned, there are different approaches used worldwide to calculate the hours recorded in time use surveys. Table 1 below shows the amount of time spent by each responded with respect each of the category provided over a period of 24 hours.

Table 1: Time Use Survey of Respondents

BROAD LEVEL CATEGORY	HOURS SPENT DURING A 24-HOUR PERIOD		
	SHAREEFA	MATHU	MARIYAM
Sleeping	6.5	8.5	4
Personal Care	0.67	1	0.16
Childcare	0.33	10	14
Caring for adults and people with disabilities	1.5	0	1
Housework	5	2	0.5
Meal Preparations	6	3.5	1
Volunteering – organization based (formal or informal organizations)	1	0	1.5
Direct volunteering – for other households or other people generally	1	0	0
Employment	0	0	8
Education	3	0	2
Travel	1.8	1.75	0.5
Sports participation	0	1	0
Culture and leisure participation	0.5	1	0
Crafts and hobbies	2	2.5	0
Reading	0.25	2	0
TOTAL TIME	29.58	33.25	32.66

5.4.1 CALCULATING THE HOURS

Broadly, two approaches are used to determine the minutes spent on each activity. As seen from Table 2, the cumulative hours exceed 24 hours, and therefore indicate that several activities were carried out simultaneously. For example, if a respondent reported doing housework two hours per day during which time they also listen to the radio, it can be determined that they spend one hour doing each activity. However, this method can be complicated as it would appear that they spent less than the actual time spent on each activity. Similarly, if a respondent reported eight hours of paid work while simultaneously taking some break for social media, the method of subdivision would imply that the respondent did not actually spend the full eight hours doing work. The advantage of assigning the full eight hours to both activities would show the 'truer' duration of a particular activity. For the purpose of this report, the time spent on each primary activity that could have otherwise been subcontracted to a third party was used in the calculations.

5.4.2 CALCULATING THE WAGE

The wage that would have otherwise be earned by each respondent with respect to each activity, or the monetary value in economic terms was calculated using current market values in the Maldives, using both the generalist and specialist replacement cost methods.

For the generalist replacement cost, the average of domestic workers' wage in the Maldives were taken and calculations were made on the replacement cost to determine the economic value of the activity if it had been contracted to a third party.

For the specialist replacement cost, the average wage of specialist workers in that particular field was computed to determine the cost of the activity. For example, the monetary value of child care was calculated using the current average market value for child care services extended by specialist service providers in the country. Similarly, elderly care was determined using the wage of trained nurses. Due to the complexities arising from determining the true social value of these activities, the calculations would only focus on the specialist replacement cost and ignore the social cost.

Finally, due to the reservations highlighted in the available international studies on the opportunity cost method, it was not considered in this exercise.

5.4.3 THE GENERALIST APPROACH

Under this approach, the mean average wage of a domestic worker was taken for the calculations. The average domestic worker or housemaid in the Maldives costs USD 250 per month which is equivalent to MVR 3,855. An additional MVR 500 is paid towards personal expenses and MVR 250 for work visa on a monthly basis. This brings the total cost of employing a domestic worker up to MVR 4,605 or USD 298.64. The hourly wage of a domestic worker is calculated below.

DOMESTIC WORKER MONTHLY WAGE (MVR)

5,376.00	179.20	17.92
Monthly Wage including expenses	Daily Wage	Hourly wage (10 hrs per day)

Similarly, the mean average wage of a regular tuition teacher was also calculated under this approach. This was done under the assumption that families employing domestic workers would not rely on them for helping their children with school work. It is quite common for individuals who are not trained teachers to provide tutoring services for school children in their academic subjects and the Holy Quran. For this calculation, the monthly tutoring fee for a single child is considered.

TUTOR MONTHLY WAGE (MVR)

1,500.00	50.00	50.00
Monthly Wage including expenses	Daily Wage	Hourly wage (1 hr per day)

Table 2: Calculations of Time Use of Respondents Using the Generalist Cost Method

BROAD LEVEL CATEGORY	HOURS SPENT DURING A 24-HOUR PERIOD					
	CS-1	GENERALIST COST (MVR)	CS-2	GENERALIST COST (MVR)	CS-3	GENERALIST COST (MVR)
Childcare	0.33	5.91	10	179.2	14	250.88
Caring for adults and people with disabilities	1.5	26.88	0	0	1	17.92
Housework	5	89.6	2	35.84	0.5	8.96
Meal Preparations	6	107.52	3.5	62.72	1	17.92
Education	3	150	0	0	2	100
Travel	1.8	32.256	1.75	31.36	0.5	8.96
TOTAL	17.63	412.17	17.25	309.12	19	404.64

Table 3: Annual Generalist Cost for the three case studies

GENERALIST COST	CS-1	CS-2	CS-3
Daily Cost	412.17	309.12	404.64
Monthly Cost	12,365.09	9,273.60	12,139.20
Annual Cost (MVR)	148,381.06	111,283.20	145,670.40
Annual Cost (USD)	9,622.64	7,216.74	9,446.84

Table 3 shows the daily cost of the activities carried out by each respondent assuming that the families hire a generalist (in this case an untrained teacher for tutoring activities and a domestic maid for all remaining work) to replace the work carried out by each.

As expected, the respondent in case study one contributes the highest amount of work in terms of monetary value to her family. The value of unpaid care work provided by this responded is MVR 412.17 per day. The respondent in case study two also contributes nearly equal amounts of time for care work for her family, however, the monetary value of her contributions is less than the first responded. This may be due to the fact that the second responder’s children are much younger than the first and needs more direct care. The third responder puts in the highest number of hours for care work to her family (19 hours per day). Interestingly, she puts comparatively less hours for all categories (except child care) probably due to her time poverty resulting from a demanding job. She is also the only responded with an infant and she reported that the majority of her childcare time is devoted to breastfeeding.

The annual value of all three case studies is presented below (Table 4). The highest cost is observed for case study one with a total annual value of MVR 148,381.06 (USD 9,622.64) and the lowest is for case study two with MVR 111,283.20 (USD 7,216.74). The respondent in case study one has an

absent husband and looks after three children and an elderly mother with a disability. Due to the family’s limited income, the respondent reported doing several subsistence activities such as growing her own vegetables and making food items (e.g. fried moringa leaves) for her family’s consumption. A lot of these additional activities contributed towards her total time spent on care work for her family which is believed to have increased the monetary value of her contribution. For the second respondent, whose contribution in monetary time is the lowest among the three is due to the support she receives from her husband in taking care of household duties. As a lot of the work done was reported to be shared between the couple, the individual contribution was low. She was also the only respondent who did not have to look after an elderly/ disabled family member. The respondent in case study three also reported sharing household work with her husband, which is reflected in the relatively low figures under the categories such as cooking and household work. However, as a breastfeeding mother, majority of her time was spent on taking care of her infant and her other young children which resulted in the higher figure reflected in the calculations.

As seen from Table 4, the monthly value for each respondent is higher than the average national monthly income for females. The average monthly earning for a female in the Maldives is MVR 7,510.00. For all three cases the monetary value of their invisible work is higher than the national average even when the generalist replacement cost approach is used.

5.4.4 THE SPECIALIST APPROACH

Under this approach, the average wage of relevant professionals was selected (Table 5). A differentiated approach was used to calculate the cost of each activity in order to determine the cost of the activity if it had been outsourced to a specialist. Specialist costs were estimated using the current market value.

Table 4: Average Hourly Wage of Specialists

BROAD LEVEL CATEGORY	SPECIALIST PROFESSION	AVERAGE WAGE (MVR/HOUR)
General Domestic Work	Domestic Worker	17.92
Cooking	Executive Chef	308.4
Cleaning	Professional Cleaner	350
Child care	Childcare worker	60
Elderly care	Trained Nurse	62.5
Disability care	Trained Nurse	62.5
Teaching	Trained teacher	35
Transportation	Driver	19.27

Table 5: Calculations of Time Use of Respondents Using the Generalist Cost Method

BROAD LEVEL CATEGORY	SPECIALIST WAGE (MVR/HOUR)	HOURS SPENT DURING A 24-HOUR PERIOD					
		CS-1	SPECIALIST COST (MVR)	CS-2	SPECIALIST COST (MVR)	CS-3	SPECIALIST COST (MVR)
Childcare	60	0.33	19.80	12.5	750.00	14	840.00
Caring for adults and people with disabilities	62.5	1.5	93.75	0	-	1	62.50
Housework	350	5	1,750.00	2	700.00	0.5	175.00
Meal Preparations	308.4	6	1,850.40	3.5	1,079.40	1	308.40
Education	35	3	105.00	0	-	2	70.00
Travel	19.27	1.8	34.69	1.75	33.72	0.5	9.64
TOTAL TIME	-	17.63	3,853.64	19.75	2,563.12	19	1,465.54

As seen from the Table, the daily monetary value equivalent to the hours of care work reported by each respondent increased significantly when using the specialist replacement method. Again, the highest monetary value is seen from case study one (MVR 3,853.64) and the lowest from case study three. The annual value of these are calculated below.

Table 6: Annual Specialist Cost for the three case studies

GENERALIST COST	CS-1	CS-2	CS-3
Daily Cost	3,853.64	2,563.12	1,465.54
Monthly Cost	115,609.08	76,893.68	43,966.05
Annual Cost (MVR)	1,387,308.96	922,724.10	527,592.60
Annual Cost (USD)	89,968.16	59,839.44	34,214.82

When using the specialist replacement cost approach to put a monetary value for unpaid care work performed by each respondent, the monthly cost increases significantly. The monthly cost under this approach ranges between MVR 43,000 and 115,000. The HIES 2016 shows that there are roughly 500 people in the country who earns a monthly income above MVR 50,000 and therefore it can be argued that the figures reached using the specialist replacement cost approach is over-estimated and unrealistic in the Maldivian context.

It must be noted that all methodologies on valuation of unpaid work is challenging in its own right and draws from a range of underlying assumptions. In reality goods and services are produced in a competitive market whilst similar goods and services produced in a household is not subjected to the same market competition. Additionally, the availability and utilization of equipment or appliances, or even things as simple as ingredients used in preparing a meal, would vary between households.

The objective of this section has been to quantify or measure the contributions made by women to their households in the form of care work. Like economic activities, placing a monetary value on these contributions would assist in conceptualizing and acknowledging its value and importance for the well-being of individuals and society. It must be recognized that unpaid care work is not ‘invisible’ or ‘free’ as it requires human capital, time, thought, space, equipment and facilities. The potential ‘paid income’ forgone by individuals who opts unpaid care work over paid employment also needs recognition as this is an indication of the opportunity cost to the national economy. Such recognition will also highlight unjust inequalities subjected to women and will be useful for policy making to improve gender equality and reduce poverty.

6.0 BARRIERS FACED BY WOMEN IN SEEKING EMPLOYMENT

Figure 5: Barriers faced by women in seeking employment



6.1 EDUCATION AND SKILLS

Education is the most powerful tool for women’s economic empowerment.⁷⁵ Maldivians have placed great emphasis on education from early times.⁷⁶ The national literacy rate in 2014 was 94 percent without much difference between men and women.⁷⁷ Female participation in education is higher than males across the age group 18-29 years with an average of 58 percent.⁷⁸ Female participation is also higher in the tertiary education sectors.⁷⁹

Table 7: Percentage of males and females enrolled in various educational levels (NBS 2014b, pg. 20)

EDUCATION LEVEL	% OF MALES	% OF FEMALES
Primary	51	49
Lower Secondary	51	49
Higher Secondary	50	50
O’ level	47	53
A’ level	46	54
Diploma	37	63
First Degree	39	61
Master’s Degree	51	49
PhD	55	45

⁷⁵ OECD (2011). *Women’s Economic Empowerment. Issues Paper. April 2011. DAC Network on Gender Equality.*

⁷⁶ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999, United Nations Theme Group on Gender with the support of the Ministry of Women’s Affairs and Social Security.*

⁷⁷ NBS (2014b). *Statistical Release III – Education. Maldives Population and Housing Census. National Bureau of Statistics.*

⁷⁸ Ibid

⁷⁹ Ibid

However, the high enrolment rates do not necessarily guarantee that the individual would later on contribute to the employment sector. The 2014 census shows that female unemployment rates were higher than males at every education level.⁸⁰ The unemployment rates were highest among the population who have completed 10 years of schooling in both Male’ and the Atolls (i.e., has O’ level standard).⁸¹

Mismatch between educational qualifications and available jobs were also quoted as a top reason for people being unemployed in the Maldives (32 % males and 28 % females).⁸² Along with an educational certificate, employers also seek individuals with the relevant technical and life skills to undertake the job. The limited availability of technical and vocational training in the country, particularly in the atolls, poses a great challenge for individuals, particularly women, to enhance their skills to meet employer demands. Restrictions on their mobility arising mainly from cultural expectations attaching women to domestic care work also acts as a hindrance to access further training and skill development.⁸³

From the other side of the coin, the census data also shows that significant number of educated people chose to remain outside the labour force. There were over 5,000 women holding Diplomas who were not in the labour force. Similarly, 25 women held tertiary level qualifications and was in the outside labour force category. The main reason cited by these women as reason for not working is care work.

⁸⁰ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.*

⁸¹ Ibid

⁸² Ibid

⁸³ WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development. World Bank Group.*

Table 8: Highest Educational Certificate achieved by employment status for females (NBS 2014)

	LABOUR FORCE	EMPLOYED	UNEMPLOYED	NOT IN THE LABOUR FORCE
O' level	20,191	18,713	1,478	19,598
A' level	2,597	2,227	370	1,241
Diploma (Less than 6 months)	3,197	3,014	183	2,076
Diploma (More than 6 months)	8,734	8,344	390	3,162
First degree	72	68	4	21
Master's degree	34	33	1	2
PHD	4	4	0	2
No Certificate	19,404	18,575	829	31,746
Not Stated	1,049	1,003	46	1,337
Not Applicable	1,460	1,405	55	3,337

Linking back to the case studies, the respondent in the first case study had completed 10 years of schooling and received a scholarship for teacher training. However, she had to forgo this opportunity as this meant temporary migration to Male' for her studies, and due to the fact she was pregnant with her first child. The lack of further educational and training opportunities in her resident island coupled with restriction in her mobility both influenced and reinforced her engagement in care work for her growing family, tying her down to a lifetime of unpaid care work.

Similarly, the respondent in case study two had completed her first degree abroad and worked for a few years before becoming a mother. Her unemployment was voluntary, but was based on providing care work for her children. With time, her technical skills, understanding of the sector and self-confidence gradually diminished. She would like to return to the workforce, but is unsure whether she would be able to compete with candidates more qualified or experienced than her. She is willing to undertake a lower paying job as a first step to reintegrate back into the work force.

For case study number three, the respondent was already educated, holding a diploma in primary teaching. However, due to changes in government regulations setting minimum qualification standards to teachers, she was forced to enroll in a degree program to enhance her skills to meet her job requirements. This respondent takes on a 'triple burden' – a highly demanding job, child care for her three children and elderly care for her aged parents. Her restrictions on mobility challenges her to attend full time work and also attend monthly classes in a neighboring island, but due to her circumstances she is forced to take on these multiple responsibilities.

Concluding Statements

- Educational attainment or level does not guarantee that a woman will contribute to the economy or will undertake work for her economic empowerment.
- Domestic responsibilities can be a barrier to access higher education and skills upgrade.
- Domestic responsibilities and care work leads to diminishing of existing skills and qualifications.

6.2 PERCEPTIONS

Perceptions towards women's role in the economy are heavily influenced by the culture and traditions of a country.⁸⁴ As discussed in an earlier section, the Maldivian culture and society is heavily influenced by their South Asian heritage and Islamic values.⁸⁵ The constitution and employment laws of the country guarantees equal economic rights and freedom for both men and women. However, gender roles are very distinct and divided between men and women in the Maldivian society.⁸⁶

Maldivian women traditionally had a lot more freedom on socio-economic fronts, but this has recently been shifting towards a more conservational form, strengthening and increasing social stigma's and taboos.⁸⁷ The 2005 baseline study done by the Human Rights Commission showed that 72.9 percent men and 79.0 percent women believed in equal rights for men and women in society, including that of employment. In the follow up survey in 2011, only 57.6 percent men had the same views on equality as opposed to 80.5 percent women.⁸⁸ This shows that conservative views are held more strongly by men than women in the society. The patriarchal structure of the community enforces such views,

⁸⁴ OECD (2011). *Women's Economic Empowerment. Issues Paper. April 2011. DAC Network on Gender Equality.*

⁸⁵ UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.*

⁸⁶ Ibid

ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors. Asian Development Bank.*

UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis. United Nations Development Fund*

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity. World Bank Group.*

WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development. World Bank Group.*

⁸⁷ UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis. United Nations Development Fund*

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity. World Bank Group.*

with or without the women's consent, and this has restricted women's ability to fully participate in the economic sphere.⁸⁹

However, it must be highlighted that conservative views are also held strongly by women. A study done by UNDP quoted several women stressing domestic roles on women.⁹⁰ One female respondent in the study was quoted "I don't think that it is a good idea for more women to join the workforce", and another quoted "It is preferable for a woman to rear children and take care of the house, rather than join the work force". In contrast, many men had more liberal views on women's equality. One male respondent in this study was quoted "The community definitely benefits from having women in the work force" while another man was quoted "Women have every right to be in top level positions".

The negative perception of women's engagement in employment is most clearly observed in the tourism sector. The growth in the tourism sector has significantly increased the number of operational resorts in the Maldives. Today, with over 100 resorts, each atoll has at least one tourist resort in operation. The tourism sector has also diversified with changes in national policies in 2009 that allowed local inhabited islands to operate guest houses targeting budget travelers. The result was an exponential growth in guesthouse tourism within a short period of time. As of 2017, 393 such establishments are recorded with a combined bed capacity of 6,044.⁹¹

⁸⁸ HRCM (2011). *The "Rights" Side of Life, Second Baseline Human Rights Survey Report. Human Rights Commission of the Maldives.*

⁸⁹ IFES (2014). *Women's Empowerment in Political Processes in the Maldives. International Foundation for Electoral Systems.*

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity. World Bank Group.*

WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development. World Bank Group.*

⁹⁰ UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis. United Nations Development Fund*

⁹¹ MoT (2017). *Tourism Yearbook 2017. Ministry of Tourism.*

Despite it being one of the largest employers in the country and among the fastest growing economic sectors, women's representation in tourism remains significantly low compared with men.⁹² The growth in tourism could offer numerous avenues for women's economic empowerment; however, the sector has failed to fully take into account the unique social constraints facing women which influence their ability and skills for meaningful engagement.⁹³

Some of the main reasons for the low female representation in the tourism sector includes the notion of protectiveness displayed towards females which inhibits them from taking work which requires prolonged absence from their families and resident islands and the expectations that females would undertake the primary responsibility of care work following marriage and children.⁹⁴ Similarly, issues relating to morality, safety and privacy of females working in resorts is cited in many reports as inhibiting factors.⁹⁵

The growth in guesthouse tourism theoretically allowed a more convenient and socially acceptable form of employment for women living in the host islands. For instance, it allows females to work in their resident island close to their families and avoid staying in an isolated resort island for a prolonged duration. It would also allow women to manage their families and other domestic responsibilities more closely. However, the number of females seen employed in tourism related fields still remain low, raising questions about their skills, training and most importantly, willingness to engage in the tourism sector.

Employment data in the tourism industry is significantly limited making further in-depth analysis difficult. Tourism statistics, although collected regularly, excludes data on employment. However, a survey done by the Ministry of Tourism in 2011 showed that majority of the managerial posts are held by expatriates while most of the locals were engaged in functional roles. Out of the locals in managerial posts, only 4 percent were female, while at the supervisory level

females accounted for 14 percent and at the functional level 6 percent.⁹⁶ Lack of data specifically on guesthouse tourism inhibits further analysis and conclusions on how local tourism has favorably affected women's economic empowerment.

⁹² MoT (2011). *Strategic Human Resource Development Plan for the Tourism Industry 2011-2015*, Ministry of Tourism, Arts and Culture

NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

UN (2000). *Gender and Development in the Maldives: A Review of Twenty Years 1979-1999*, United Nations Theme Group on Gender with the support of the Ministry of Women's Affairs and Social Security.

WB (2015). *Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity*. World Bank Group.

⁹³ WB (2016). *Understanding Gender in the Maldives. Towards Inclusive Development*. World Bank Group.

⁹⁴ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

MoT (2011). *Strategic Human Resource Development Plan for the Tourism Industry 2011-2015*, Ministry of Tourism, Arts and Culture

NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

⁹⁵ Ibid

⁹⁶ MoT (2011). *Strategic Human Resource Development Plan for the Tourism Industry 2011-2015*, Ministry of Tourism, Arts and Culture

Figure 6: Representation of Locals and Foreigners in the Tourism Sector (MoT 2011)

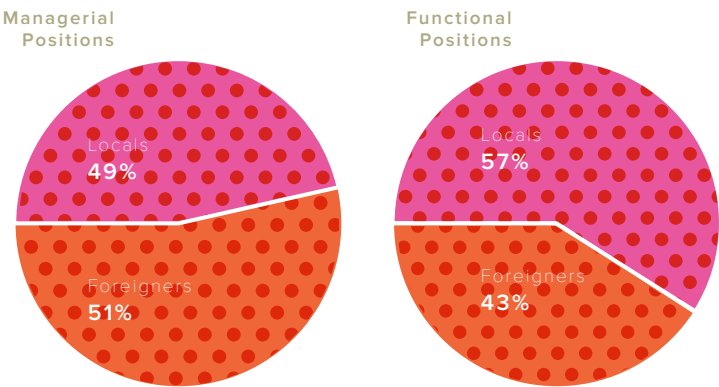
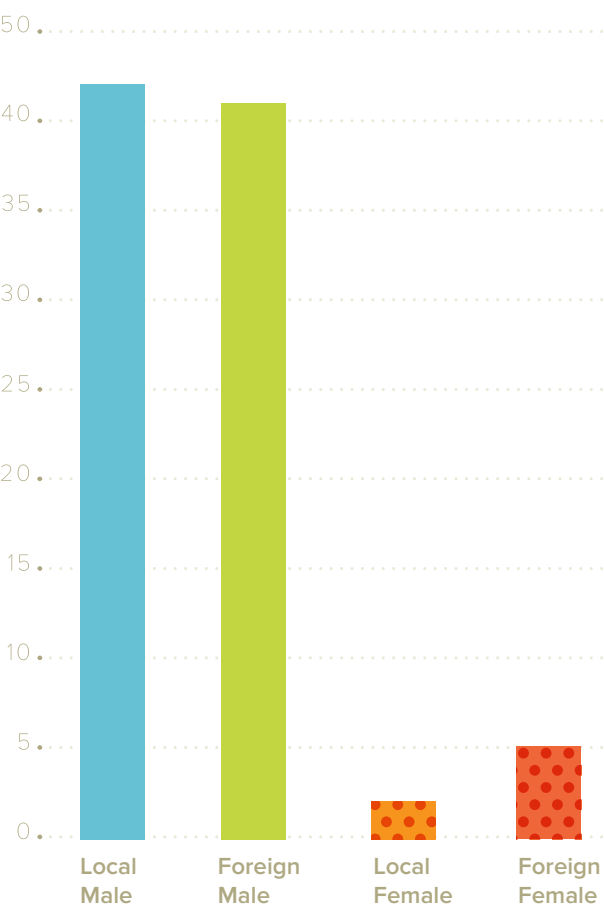


Figure 7: Locals and Foreigners in managerial positions vs functional positions (MoT 2011)

Maldivian tourism is largely controlled by an elite group of selected families and companies. On a positive note, as the main pioneers of the Maldivian tourism industry is preparing for retirement, they are slowly releasing the decision making reigns to selected female family members and senior female employees in managerial posts. This could in turn slowly change the tourism employment dynamics and bring positive changes encouraging more women to work in the tourism sector.⁹⁷ The growth of guesthouse tourism in local islands also presents an opportunity for women to engage further in the sector.

From the above discussions, it is understood that Maldivian society holds strong perceptions regarding the level and type of economic engagement of women. This may be one of the biggest contributors to the large female population falling outside the labour force (or the potential labour force)⁹⁸. Unemployment rates are also very low simply due to women

⁹⁷ Personal communication with Legal Officer of Ministry of Tourism 14 July 2018

⁹⁸ Approximately 72 percent of the population outside the labour force is women (NBS 2015).

themselves not seeking work, mostly due to domestic and reproductive roles.

Where women are economically active, they are seen to dominate stereotypical and socially acceptable sectors such as education (68 percent) and health (65 percent) and small scale manufacturing (60 percent).⁹⁹ Men on the other hand dominate industries such as mining and quarrying (99 percent), construction (98 percent) tourism (90 percent), fisheries (89 percent).¹⁰⁰

The main reason for higher female representation in the manufacturing sector is closely related with unpaid care work. Social expectations of women to continue prioritizing their family's welfare over participation in the public and economic spheres has prompted a culture of women taking up small scale manufacturing work from their living quarters where they can be close to their families.¹⁰¹ These include craft activities such as tailoring and spill over economic activities such as fish processing, food production and subsistence/ small scale agriculture.¹⁰² The informal nature of this sector exacerbates the economic vulnerability of the women working in manufacturing related work. Inconsistent remuneration, low job security, inflation, difficulties in market penetration, inability to compete with larger businesses (e.g. resort suppliers), absence of benefits such as medical insurance and accessibility to pension schemes are some areas where their economic vulnerability manifests.¹⁰³

The culturally defined perceptions as described above can be seen in the three case studies. The respondent in the first case study is a classic example of gender division in the Maldivian society. The respondent has taken up all the care work relating to her family and works 17 hours or more a day while her husband works outside the island in a profession that is mainly perceived as masculine. Cultural perceptions prescribing these roles influenced the respondent to give up her dream of becoming a teacher and commit herself fully to household and care work for her family. Similarly, the second respondent, despite being educated, has given up her career to take care of her family. The third respondent, being the only female child of a family, is expected by her brothers to look after their elderly parents, whilst also taking up the triple burden of taking care of her own growing family and a highly demanding job.

Concluding Statements

- Perceptions reinforce women's domestic role and share in unpaid work.
- Women are expected to prioritize family and domestic roles over paid employment.
- Cultural perceptions largely determine educational and career paths for women.
- Negative perceptions regarding the tourism sector is one of the main reasons for low female representation in the sector.

⁹⁹ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.*

¹⁰⁰ *Ibid*

¹⁰¹ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors. Asian Development Bank.*

¹⁰² *Ibid*

¹⁰³ *Ibid*

6.3 REPRODUCTIVE/ DOMESTIC ROLE

In the Maldives, 59 percent of the women belong to the reproductive age group 15-49 years.¹⁰⁴ Fertility rates increased from 2.20 to 2.46 births per 1000 women between the period 2006-2014.¹⁰⁵ The mean age at birth of first child is 21 years of age.¹⁰⁶ This shows that women enter marriage and start reproducing early in their life which ties them to unpaid care work before they could have any meaningful careers or engage in economic activities. As mentioned earlier, limited education and skills training and the availability of suitable jobs in the resident islands could be some of the reasons for early marriages, especially in the islands. Available data shows that women are relatively active in the workforce prior to marriage.¹⁰⁷ For example, there are more women than men in the civil service in the younger age categories.¹⁰⁸ However, the representation of women is seen to gradually decrease as the age goes higher, with ultimately more men in the age groups 45 years and above.¹⁰⁹

The population belonging outside the labour force is highest among females falling under the reproductive age group.¹¹⁰ Approximately 41.5 percent of females belonging to the outside labour force category reported domestic and reproductive burdens as the main reason for not being available or seeking work as opposed to only 1 percent men.¹¹¹

Many Maldivians still live in extended families along with their elderly parents, siblings and other relatives in some instances. The average household size is 5.2 people per household.¹¹² Child dependency ratios in 2014 was 41 percent while old dependency ratio was 7 percent. A larger household with high

dependency ratios translates into more work for the women, particularly in the absence of subsidized child care and elderly care facilities in the Republic.

The Maldives also has one of the highest proportion of female headed households in the world, mainly due to divorce and an absent husband (mainly for work purposes).¹¹³ In 2014, 38 percent of households in Male' were headed by a female while in the atolls the figure was 42 percent.¹¹⁴

Several women participating in an independent online survey conducted for the purpose of this report stated that their husband's helped with household work (64 percent). Approximately 24 percent of the women participating in the same survey reported that their husbands helped with the housework occasionally while 12 percent women reported they received no help from their partners. This ties with the HIES findings where men were reported to contribute an average 3 hours for domestic duties while women spent 6 hours.

Going back to the case studies, all the respondents belong to the reproductive age group and have undertaken varying domestic roles within their households. Two respondents have

¹⁰⁴ NBS (2018). *Household Income and Expenditure Survey Report*. <http://statistics.maldives.gov.mv/household-income-expenditure-survey-2016/> Last updated July 2018.

¹⁰⁵ NBS (2014c). *Statistical Release V – Nuptiality and Fertility*. Maldives Population and Housing Census. National Bureau of Statistics.

¹⁰⁶ Ibid

¹⁰⁷ NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

¹⁰⁸ NBS (2014b). *Statistical Release III – Education*. Maldives Population and Housing Census. National Bureau of Statistics.

¹⁰⁹ Ibid

¹¹⁰ NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

¹¹¹ Ibid

¹¹² NBS (2014d). *Statistical Release VI – Housing and Household Characteristics*. Maldives Population and Housing Census. National Bureau of Statistics.

¹¹³ MPND (2007). *Maldives Population and Household Census Analytical Report*. Ministry of Planning and National Development.

¹¹⁴ NBS (2014d). *Statistical Release VI – Housing and Household Characteristics*. Maldives Population and Housing Census. National Bureau of Statistics.

three children and looks after an elderly family member while one has two children with no elderly dependent. Two of the three respondents were economically active prior to child birth but only one continued paid employment post reproduction mainly due to necessity. Case study two was employed in the civil service before becoming a parent and discontinued work after having her first child. All respondents reported having support from their husbands in undertaking care work whenever possible, which resonates with the respondents in the online survey. All three respondents are limited in their participation in the economic sector due to their reproductive and domestic responsibilities. The only respondent who continued working is observed to have very little time for her leisure and well-being. The lack of adequate child care and elderly care services in the country have reinforced their circumstances.

Concluding Statements

- Reproductive and domestic roles are mainly undertaken by women despite educational level and employment status.
- Reproductive and domestic roles restrict women's time and ability to meaningfully engage in economic work.
- Absence of care facilities for children and elderly further reinforce women's role in unpaid care work.

6.4 AVAILABILITY OF JOBS

The availability of jobs in resident islands was noted as a major influencing factor for employment in the 2014 census. Other barriers influencing the supply side of labour includes the lack of information regarding various professions and available jobs in the market along with the lack of professional and skills development trainings in resident islands.¹¹⁵

LFPR for women increased between the census period of eight years (41.4 percent to 47.6 percent). However, the LFPR for women across the nation remains much lower than men across all age groups.¹¹⁶ Lower participation rates indicate that a significant majority of women (over 50 percent of the working age population) is unemployed. One possible explanation of this low representation may be due to the dispersed nature of the country's population into remote islands. The locality of the person, particularly women, greatly influences the availability and accessibility to employment opportunities.¹¹⁷

The structure of the economy in Male' and Atolls heavily influence the type and availability of paid employment opportunities. In Male', majority of employment stems from the civil service (public administration) and the defense sector followed by wholesale and retail industry (NBS 2014). In the Atolls, the main forms of employment are from manufacturing, agriculture and fisheries (NBS 2014). The tourism sector is among the main employers in the country, but this primarily requires workers to be located on site in secluded resort islands.

It must be recognized that job availability is not uniform across all islands in the Maldives. Islands by tradition fall under two broad categories; fishing communities and agricultural communities. Over time, civil service jobs have increased in selected islands. These islands are usually larger in population or is the administrative hub of the respective atoll. The geo-physical characteristics of the island such as land size, thickness of the freshwater lens and presence of mangroves have shaped the type of livelihood activities undertaken by that community. Larger islands have more agricultural potential and are more likely to be involved in agriculture (E.g. Laamu Gan). Communities with limited space, on the other hand, are more likely to be in the fisheries sector (E.g. Meemu Dhiggaru). Availability of land also prescribes the communities ability to undertake other forms of livelihood such as thatch weaving, making coir rope and boat building. Negative consequences of climate change are very likely to have adverse impacts on these traditional livelihood activities of communities.¹¹⁸

According to the 2014 census, the lack of job opportunities in resident island was quoted by both male and females as the main reason for not working (35 percent each).¹¹⁹ This was followed by inability to find suitable jobs matching skills and education level (32 percent males and 28 percent females).¹²⁰ The lack of attractive and suitable jobs available in the island is also a key reason for youth unemployment in the country. Youth unemployment is highlighted as a major issue in several

¹¹⁵ UNDP (2011). *Women in Public Life in the Maldives: Situation Analysis*. United Nations Development Fund ¹⁰⁹ Ibid

¹¹⁶ NBS (2016a). *Maldives' Population Dynamics: Policy Prospects for Human Growth and Opportunity*. National Bureau of Statistics.

¹¹⁷ UNDP (2014). *Maldives Human Development Report. Bridging the Divide: Addressing Vulnerability, Reducing Inequality*. United Nations Development Programme.

¹¹⁸ *The Second National Communication to UNFCCC (MEE 2017) identifies sea level rise, beach erosion, loss of coral reefs and biodiversity, prolonged dry periods, heavy rainfall during monsoons and increased intensity and frequency of natural disasters as the main threats to the Maldives.*

¹¹⁹ NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

¹²⁰ NBS (2014). *Statistical Release IV – Employment*. Maldives Population and Housing Census. National Bureau of Statistics.

reports.¹²¹ Youth unemployment rates increased from 9.2 percent to 12.4 percent between 2006 and 2014.¹²² In 2014, unemployment rates for females were higher than men across the nation.¹²³ Young females in Male' were more likely to be unemployed than young females in the Atolls.¹²⁴

The job deficit across the country significantly influences the supply side of labour. With fewer job opportunities on the resident islands, many young women opt towards marriage which would ultimately lead up to care work. Once these duties set in, seeking paid employment would become an obstacle whilst undertaking their domestic duties. This often discourages women from seeking work until their reproductive roles are lightened, or sometimes, not at all. In the atolls, where women tend to get married and have children early, labour force participation rates for women drops in the earlier age groups (early 20's onwards) and picks up again around mid-thirties.¹²⁵ The opposite is seen in Male' where labour force participation rates for females start to decline from the age group 35 and above.¹²⁶ This is a very clear indication of the strong links between reproductive age and labour force participation.

Concluding Statements

- The locality of women particularly women greatly influences the availability and accessibility to employment opportunities.
- Mobility of women for economic work is restricted by domestic care work/unpaid care work.

¹²¹ *Ibid*

ADB (2014). Maldives Gender Equality Diagnostic of Selected Sectors. Asian Development Bank.

WB (2015). Maldives Systematic Country Diagnostic. Identifying opportunities and constraints to ending poverty and promoting shared prosperity. World Bank Group.

WB (2016). Understanding Gender in the Maldives. Towards Inclusive Development. World Bank Group.

¹²² *Calculated as per the international definition of youth i.e. between 15-24 years*

¹²³ *NBS (2016b). Occasional Releases: Women's Day Leaflet - Employment 2016. National Bureau of Statistics.*

¹²⁴ *Ibid*

¹²⁵ *NBS (2014). Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.*

¹²⁶ *Ibid*

6.5 TYPES OF OPPORTUNITIES

As mentioned above, the structure of the economy influences the types of jobs available to residents in that locality. As the main urban center in the country, Male' has a wider range of employment opportunities than the islands. In the Atolls, particularly in remote islands, formal employment is limited to the schools, island council offices and health centers. Formal and organized work is therefore very limited in the Atolls apart from selected larger islands with branches of government offices, airports and so on.

The public administration and defense sector is the main employer of the country with 21,369 Maldivians being employed followed closely by the tourism sector with 20,280? local employees.¹²⁷ Both of these sectors requires workers to migrate for work, primarily to Male' for the former and to non-administrative islands or resorts for the latter. The socially constructed restrictions on the mobility of women for employment, mainly due to their reproductive and domestic

roles in society, presents a major challenge for women to seek employment outside their resident island. For instance, women are discouraged from working in resorts due to negative perceptions associated with the industry.¹²⁸ A reliable and affordable transportation system between resorts and nearby islands would perhaps lighten this perception. The safety and privacy of women's accommodating in resorts could also be an additional factor hindering women from working in resorts. The NBS reports that out of the 36,624 total residents in resorts in 2016, only 1 percent were female. All these reasons influence the willingness of females to find work in resorts despite their education and training. Table 9 shows the comparison between men and women by industry of employment.

Another factor influencing the attractiveness of a job is the amount of time that is required of the individual. If the type of employment opportunity available requires long hours of work, it is most likely to discourage females from taking it up. According to the 2014 census data, an average Maldivian spends up to 8 hours in formal employment. The proportion of women who work less than 7 hours per day is more than males.¹²⁹ Only 13 percent of females worked longer than 9 hours while 87 percent of men did.¹³⁰ This is a reflection of the women's time poverty arising from their unpaid care work.

With limited choice in employment, women are prompted to seek economic work which they can undertake from their living quarters (small scale manufacturing/crafts related work), opt for lower paying part time work, or remain unemployed or outside the labour force. The significant number of own

Table 9: Comparison between men and women by industry of employment

	MEN
Tourism	18,092
Public administration and defense	15,078
Agriculture/Forestry and Fishing	13,340
	WOMEN
Manufacturing	13,671
Education	11,089
Public administration and defense	6,291

¹²⁷ NBS (2014). *Statistical Release IV – Employment. Maldives Population and Housing Census. National Bureau of Statistics.*

¹²⁸ MoT (2011). *Strategic Human Resource Development Plan for the Tourism Industry 2011-2015, Ministry of Tourism, Arts and Culture*

¹²⁹ NBS (2016b). *Occasional Releases: Women's Day Leaflet - Employment 2016. National Bureau of Statistics.*

¹³⁰ *ibid*

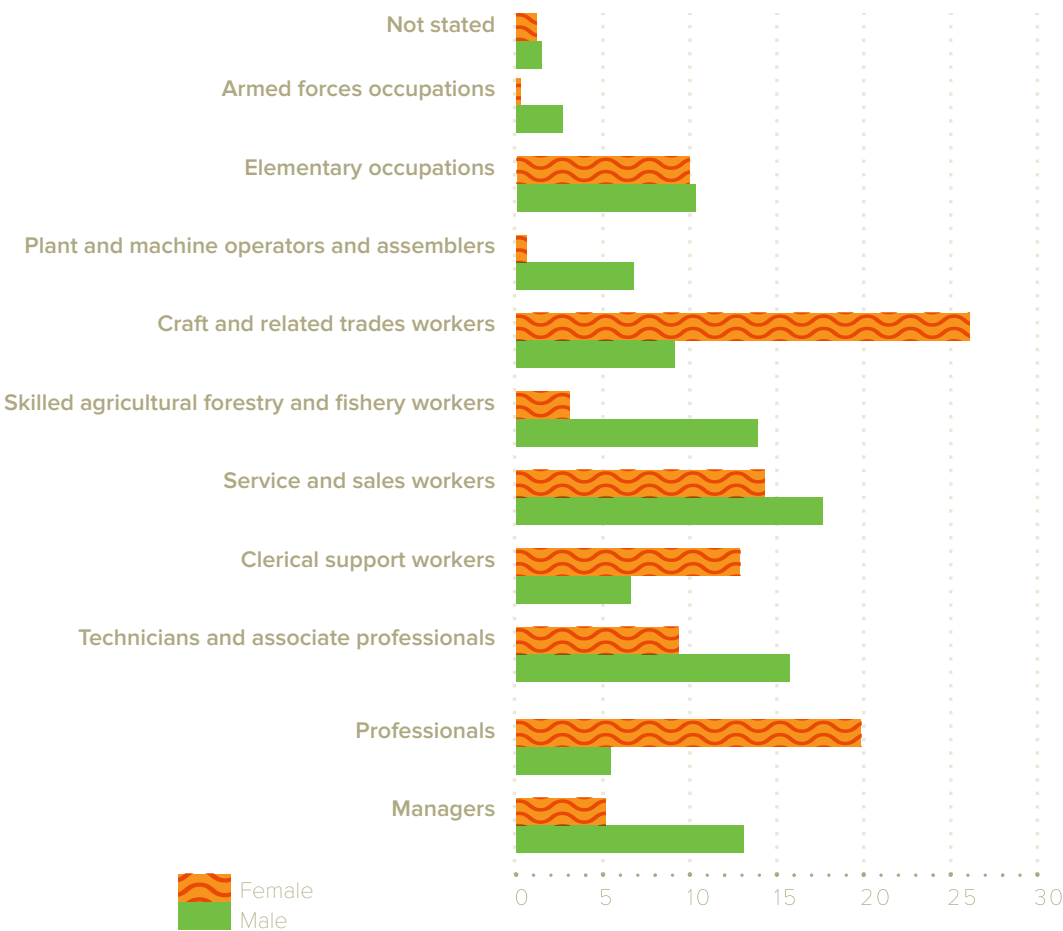
account workers in the Republic confirms this. As per the 2014 census, there are more female own account workers than men in both Male’ and in the Atolls. The economic vulnerabilities associated with self-employment are a huge barrier for economic empowerment of women. Own account workers do not enjoy the same accessibility to credit or micro-financing schemes, and would rarely have any accumulated wealth or assets which can be used as collateral to secure bank loans.

Table 10: Status of Employment classified by sex (in percentages) (NBS 2016)

GENDER	EMPLOYEE	EMPLOYER / OWNER	OWN ACCOUNT WORKER	CONTRIBUTING FAMILY WORKER	GROUP WORKER	NOT STATED
MALE	70.60	4.74	11.83	2.91	7.86	2.06
FEMALE	57.59	1.27	27.97	8.93	2.13	2.11

The table above shows that 57.59 percent of women are in formal employment. But to determine their relative power to influence decision making, and therefore assess their level of economic empowerment, it is important to look at their roles in employment. Figure8 provides the occupation level of the total employed population categorized by sex. As seen from the figure, there are significantly less females in managerial positions compared to men. In contrast, the crafts and trade related sector is heavily female dominated. Interestingly women dominate the professional categories, perhaps due to the high amount of trained teachers and health professionals in the country. These two sectors have traditionally been female dominate, and remain so till date. However, the senior decision making levels of these sectors are also controlled by men.

Figure 8: Occupation classified by sex (NBS 2016)



Concluding Statements

- The time available for women to engage in economic work is significantly limited due to domestic roles and unpaid care work.
- The time requirements of jobs strongly influence its attractiveness as potential employment for women.
- Due to women’s time constraints several women are prompted to undertake own account work from their living quarters.

6.6 ENABLING ENVIRONMENT

Another key determinant in prompting women to venture into employment or any form of economic work in spite of their domestic duties is the presence of an enabling environment which would allow them to do so. An enabling environment refers to the existence of policies and legal frameworks that remove structural barriers, challenge discriminatory norms, ensure social protection, improve access to critical infrastructure and facilitate women in active decision making.¹³¹

Existing cultural norms and traditions of a country strongly influences how the socio-economic environment of that country is shaped. Norms relating to education, preferred career paths, representation of women in the political sphere and their inclusion in the planning and decision making processes are some of the main determinants which influence the environment in which a given society operates. Creating an enabling environment that promotes WEE requires transformational change in how societies think and operate.¹³²

Women in the Maldives continue to face challenges and discrimination arising from the deep rooted cultural norms and traditions of the Maldivian society. Women still prefer nurturing professions such as teaching or nursing as opposed to ‘masculine’ fields like engineering and science. Political participation of women is still relatively low compared to men and there are still very few females in decision making levels of the country. The equal recognition and opportunities for both genders guaranteed in the constitution and legislations are not meaningfully translated or enforced in real life. The absence of supportive social protection interventions such as subsidized day care or care for the elderly and disabled are still seen to tie women to their socially prescribed domestic care roles. Similarly, absence of critical infrastructure and services such as banking facilities in peripheral islands

continue to put women at a disadvantage to seek employment or expand their livelihood work.

The growth of the Micro, Small and Medium Enterprises (MSMEs) is a key development instrument that has been put in place to promote economic empowerment in many developing countries.¹³³ In the Maldives, the development of the SME sector aims to address poverty reduction and foster economic growth through employment generation.¹³⁴ However, the sector is still challenged with inadequate capacity, high start-up costs, limited access to finance and banking facilities, high collateral requirements, lack of infrastructure and weak transport networks.¹³⁵ These challenges are more profound for females, particularly those with lower employment levels residing in remote islands. A mapping study done for the SME sector in 2010 showed that men tend to dominate the economic activities in larger commercial islands, while women are left with the more menial work such as producing short eats.¹³⁶

The main reason for this was reported as the cultural expectations that women prioritize household work and care work for their families over economic work.¹³⁷ However, other factors also influence women’s ability to engage in the MSME sector. Across the country, women have significantly less assets and financial capacity than men which can be used as collateral to obtain bank loans.¹³⁸ According to the 2006 census 22,949 households are owned by men while women own only 10,973 households.¹³⁹ Other recognized

¹³¹ UNHLP (2017). *Leave No One Behind. Taking Action for Transformational Change on Women’s Economic Empowerment. UN Secretary General’s High-Level Panel on Women’s Economic Empowerment*

¹³² *Ibid*

¹³³ OECD (2011). *Women’s Economic Empowerment. Issues Paper. April 2011. DAC Network on Gender Equality.*

¹³⁴ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors. Asian Development Bank.*

¹³⁵ *Ibid*

¹³⁶ *Ibid*

¹³⁷ *Ibid*

¹³⁸ *Ibid*

¹³⁹ MPND (2007). *Maldives Population and Household Census Analytical Report. Ministry of Planning and National Development.*

assets such as mechanized fishing vessels (dhonis) are also owned primarily by men.¹⁴⁰ The lack of assets belonging to women significantly limits their ability to access bank loans for economic work. Similar to this, the accessibility to banking facilities is also limited in the outer islands. Conservative banking protocols coupled with mobility restrictions on females excludes them from accessing these services fully.

Special efforts have been put in place to allocate a proportion of MSME funds to women. However, manipulation of these funds is common where husbands and male relatives access microcredit funds targeting women whilst women bear full responsibility of repayment.¹⁴¹

Women are also disadvantaged from their time poverty resulting from the unequal division of domestic and reproductive responsibilities between men and women in the society. The limited time available for women to take part in training activities, skills development programs, or travel outside their island obstructs their growth opportunities. As part of the SME development program, the government has established business development centers across the country. However, due to the formal nature of these establishments, and due to mobility restrictions, women are either intimidated or unable to participate in the skills development programmes conducted by these centers.¹⁴²

Challenges in the value chain also present obstacles for women to participate in the SME sector. Women are still at the very lowest end of the value chain, as their domestic roles restraints them from expanding their businesses beyond their living quarters.¹⁴³ The majority of the supply chain for tourist resorts, for example, is male dominated as female entrepreneurs are unable to keep up with the high demand from the resorts.¹⁴⁴ Where women have penetrated local markets, the challenges imposed by inadequate storage facilities and transport services create additional barriers to their economic empowerment.

Concluding Statements

- The existing culture, traditions and norms of a society strongly influences how the socio-economic structure of the country is shaped.
- Transformational change is required in how societies think and perceive gender roles.
- Despite constitutional and legal measures for gender equality in access to education, employment and services, women continue to face disadvantages due to their socially prescribed roles.
- The SME programme has good potential to improve WEE provided that the enabling environment required for female entrepreneurs are recognized and structured accordingly.

¹⁴⁰ ADB (2014). *Maldives Gender Equality Diagnostic of Selected Sectors*. Asian Development Bank.

¹⁴¹ *Ibid*

¹⁴² *Ibid*

¹⁴³ *Ibid*

¹⁴⁴ *Ibid*

7.0 CONCLUSIONS

Economic contributions of women to a society are recognized as a key driver for a country's economic growth and subsequent development. Women's Economic Empowerment is strongly linked with gender equality and there is growing evidence that increasing women's economic empowerment will reduce poverty and ensure more equitable distribution of income leading to achievement of gender equality.

However, inequitable distribution of roles between men and women in the society acts as barriers for women to actively and meaningfully participate in economic work. One of the main barriers facing women is the disproportionate allocation of domestic and reproductive care work that are invisible in economic terms. Women around the world spend considerable proportion of their day taking care of their children and family members. The time poverty of women caused by the burdens of domestic and reproductive roles inhibits women to take up formal employment, or engage in any form of economic activity that requires travel or long hours of work. Women are therefore prompted to take up small scale economic work where they can still attend to their primary roles of caretakers in the household, or take up part time or low income jobs that are more accommodating of their situation.

There is growing recognition and argument against the value of this 'invisible' work done by women. Several approaches have been put forward globally to calculate the monetary value of women's contribution to the economy. However, this is not an easy process as unpaid care work is socially constructed and defined and therefore varies between countries and regions. Moreover, even though monetary values can be estimated, the true social value of their work cannot be captured.

This paper attempted to understand women's economic empowerment from the perspective of the Maldives. The focus of this paper was unpaid care work which falls primarily on Maldivian women. Efforts were made to understand the

social, cultural, geographic and employment contexts in which the Maldivian society operates as this would in turn help facilitate a better understanding of the topic. Due to lack of data on women's economic empowerment and unpaid care work, the research sought to explore the topic using three different case studies to understand the factors which influence women in their decisions regarding labour force participation (and thus care work).

The research found that unpaid work inequalities are multi-layered and vary among women belonging to different target groups and localities. The main findings from this analysis are presented below along with recommended interventions.

MAIN FINDINGS

- Educational attainment or level does not guarantee that a woman will contribute to the economy or will undertake work for her economic empowerment.
- Domestic responsibilities can be a barrier to access higher education and skills upgrade.
- Domestic responsibilities and care work leads to diminishing of existing skills and qualifications.
- Perceptions reinforce women's domestic role and share in unpaid work.
- Women are expected to prioritize family and domestic roles over paid employment.
- Cultural perceptions largely determine educational and career paths for women.
- Negative perceptions regarding the tourism sector is one of the main reasons for low female representation in the sector.
- Reproductive and domestic roles are mainly undertaken by women despite educational level and employment status.
- Reproductive and domestic roles restrict women's time and ability to meaningfully engage in economic work.
- Absence of care facilities for children and elderly further reinforce women's role in unpaid care work.
- The locality of women particularly women greatly influences the availability and accessibility to employment opportunities.
- Mobility of women for economic work is restricted by domestic care work/unpaid care work.
- The time available for women to engage in economic work is significantly limited due to domestic roles and unpaid care work.
- The time requirements of jobs strongly influence its attractiveness as potential employment for women.
- Due to women's time constraints several women are prompted to undertake own account work from their living quarters.
- The existing culture, traditions and norms of a society strongly influences how the socio-economic structure of the country is shaped.
- Transformational change is required in how societies think and perceive gender roles.
- Despite constitutional and legal measures for gender equality in access to education, employment and services, women continue to face disadvantages due to their socially prescribed roles.
- The SME programme has good potential to improve WEE provided that the enabling environment required for female entrepreneurs are recognized and structured accordingly.

RECOMMENDED INTERVENTIONS

- Strengthen career guidance work for school leavers
- Encourage women to enroll in diverse educational programmes and trainings
- Formulate a mechanism to enroll more women in vocational and technical training courses.
- Monitor out of school youth, particularly girls.
- Address cultural barriers and stereotypes about the role of women in society, economies and public sphere.
- Introduce self-paced remote learning educational programmes for skill and technical development
- Utilize technology to link women in peripheral islands with educators and mentors in urbanized islands.
- Increase community awareness about equal share of domestic and care work within families.
- Create more employment opportunities targeting women and youth.
- Introduce subsidized childcare and elderly care services.
- Facilitate family friendly working conditions and ensure equal amount of maternity and paternity leaves for both parents.
- Promote equal responsibility for care work.
- Strengthen reproductive and sexual health programmes by improving accessibility to information and services, reduced cost of contraceptives etc.
- Strengthen transportation networks to provide affordable, accessible and reliable forms of inter-island travel.
- Ensure equal access to finance for female and male entrepreneurs.
- With a focus on women, regulate employee accommodation, safety and well-being in tourist resorts.
- Strengthen employment data in the tourism sector.
- Conduct specialized training programmes targeting women to enhance their business skills.
- Review the existing Business Development Center models to explore ways to reach out to more women.

AREAS FOR FURTHER RESEARCH

Main suggestions for further research relating to the topic of WEE and unpaid care work are listed below.

- Women's participation in the tourism sector over the past forty years with a focus on the reasons for low representation at both managerial and functional levels.
- Outlook for women's engagement in the tourism sector with the introduction of guesthouse tourism
- Analysis of outside labour force population of the Maldives to identify factors behind people's choices.
- Potential impact on women's economic empowerment, employment and livelihoods with the current development focus on centralization of the population to Greater Male' Region.
- Public perception on women's economic empowerment.
- Public perception on the division of gender roles in society focusing on unpaid care work.
- How can technology be used to empower women in peripheral islands through access to further education, skill upgrade, access to banking/finance, access to markets etc.
- Time use survey of Maldivian families.

ANNEX 1

MINIMUM LIST OF ACTIVITY CATEGORIES

Table 11: Minimum List of Activity Categories (UNECE 2013, pg. 54)

BROAD LEVEL CATEGORY	DEFINITION	DIMENSION OF TIME CATEGORY	DIMENSION OF TIME CATEGORY
Sleeping	Covers all activities related to sleep and resting	Necessary	Well-being Gender Equality
Personal Care	Covers all activities related to personal care, including grooming, medical care, personal hygiene	Necessary	Well-being Gender equality
Childcare	Covers all activities related to childcare, including for those with disabilities, but excluding educational activities	Committed	Unpaid-work and non-market production Gender Equality
Caring for adults and people with disabilities	Covers all activities related to caring of people, including those with disabilities, but excluding personal care and childcare	Committed	Unpaid work and non-market production Gender Equality
Housework	Covers all activities related to household administration, including shopping, but excluding meal preparation	Committed	Unpaid work and non-market production Gender Equality
Meal Preparations	Covers all activities related to meal preparation in the household and eating and clean-up	Committed	Unpaid work and non-market production Gender Equality
Volunteering – organization based (formal or informal organizations)	Covers all activities related to volunteer work that are unpaid and non-compulsory, performed through organizations	Committed	Unpaid work and non-market production Gender Equality
Direct volunteering – for other households or other people generally	Covers all activities related to volunteer work that are unpaid and non-compulsory, produced for others outside the volunteer’s own household	Committed	Unpaid work and non-market production Gender Equality
Employment	Covers all activities related to employment for remuneration (pay or profits)	Contracted	Work life balance Gender Equality

Education	Covers all activities related to learning and study (excluding professional training for the job)	Contracted	Unpaid work and non-market production Gender Equality
Travel	Covers all activities related to travel for any purpose using any mode of transport	Committed/Free	Work-life balance Gender Equality
Sports participation	Covers all activities related to active participation in sports, including administration	Free	Well-being Work-life balance Gender Equality
Culture and leisure participation	Covers all activities related to culture and leisure participation, including visiting museums, attending theatre, watching TV, or listening to radio, socializing with others, also includes active and passive leisure activity	Free	Well-being Work-life balance
Crafts and hobbies	Covers all activities related to handicrafts and hobbies	Free	Well-being Gender Equality
Reading	Covers all activities related to reading, including books, newspapers, magazines in either hardcopy or electronic format	Free	Well-being Gender Equality

ANNEX 1.1

TRANSLATION OF THE BROAD LEVEL CATEGORIES USED FOR THE TIME SURVEY

[illegible]

ANNEX 2

TIME USE SURVEYS AND VALUATION OF UNPAID CARE WORK

Why is it important to measure unpaid care work?

Traditional measures of the economy such as the GDP does not recognize unpaid care work as having any economic value, and thereby ignores it completely.¹⁴⁵ However, unpaid care work plays an important role in shaping and ensuring the social well-being of the population and thus contributes to the successful functioning of the economy, labour force, market and society as a whole. Valuation of unpaid work in the national accounts would realistically reflect the real growth and welfare of a nation while allowing comparisons between different countries and over different time periods.¹⁴⁶ It would also provide a more accurate measure of the effects of the business cycle, capital accumulation in private households and distribution of real income over individuals or households. Highlighting women's contribution – or making the invisible visible - would also allow governments to measure loss in earning capacity and redirect public policies on social services and capacity building and create enabling environments to foster economic prosperity.¹⁴⁷

Time devoted for unpaid care work is negatively correlated to labour force participation.¹⁴⁸ With limited time available, women who wish to seek employment are forced to accept jobs that are below their educational and skill level, take up part time work or engage in spill over economic activities from their living quarters.¹⁴⁹

Recognition of unpaid work is also important as it

demonstrates gender roles within a given society. More often than not, care work falls primarily upon women, given cultural norms.

Arguments against including unpaid care work in the national accounts¹⁵⁰

The main argument against including unpaid care work in the national accounts centers around the difficulty in determining the production boundary. Some of the work carried out by individuals as unpaid care work cannot be classified along the same lines of market goods and services, and therefore, can be argued they do not make any economic sense.

Another argument is the idea that the imputed income to care work does not have the same significant as monetary income, and the earner (unpaid care worker) cannot use this 'income' for market goods and services. Difficulties of measuring and valuing unpaid work is also raised as a common argument. The usefulness of it as an indicator for the development of the market economy also presents challenges.

Considering the above, it can be argued that while the importance of measuring unpaid work is recognized, it is best to keep them separate from, but consistent with core national accounts.

¹⁴⁵ Antonopoulos, R (2009). *The unpaid care work - paid work connection* / Rania Antonopoulos; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper ; no.86)

¹⁴⁶ UNDESA (1999). *Unpaid work and policy making: Towards broader perspective of work and employment. Discussion Paper No. 4. United Nations Department of Economic and Social Affairs.*

¹⁴⁷ *Ibid*

¹⁴⁸ OECD (2014). *Unpaid Care Work: The missing link in the analysis of gender gaps in labour outcomes. Policy Brief. Ferrant, G., Pesando, L.M., Nowacka, K., Organization for Economic Corporation and Development, December 2014*

¹⁴⁹ UNDESA (1999). *Unpaid work and policy making: Towards broader perspective of work and employment. Discussion Paper No. 4. United Nations Department of Economic and Social Affairs.*

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¹⁵⁰ This section is written based on the arguments presented in "UNDESA (1999). *Unpaid work and policy making: Towards broader perspective of work and employment. Discussion Paper No. 4. United Nations Department of Economic and Social Affairs*"

How do you measure unpaid care work?

Several methodologies to measure unpaid work has been presented in the literature and tested world-wide. While countries attempt to put a monetary value on the various unaccounted activities, it is extremely difficult to measure the true 'social value' of such work. The complexities arising from this could be the main reason it is sidelined in official statistics and GDP calculations.

One of the most common approaches is the 'time-use survey' where quantitative data on how an individual spends their time (or labour inputs) is collected over a period of 24 hours in the form of a diary.¹⁵¹ Other variations of the time-use surveys include maintaining a diary for a period of one week, where respondents enter information on two separate days (either two consecutive days or a weekday and a weekend day), face to face interviews (where respondents with lower educational levels), or inclusion of these questions in a formal survey questionnaire. In the latter case, respondents use the 'recall method' to provide information on their time use for different care work and domestic responsibilities. The UN guidelines recommends repetition of time use surveys once every ten years.¹⁵²

Time use surveys are used to tackle the quantitative side of

the equation (i.e., the value quantity multiplied by price).¹⁵³ Although there are many methodological problems associated with time use studies, they can be used to determine the division of labour among men and women, assess the quality of life and general well-being of the person, and estimate the household production and its contribution to GDP.¹⁵⁴ The United Nations Statistical Division (2016) reports that 85 countries worldwide have conducted time-use surveys between 1966 and 2015 (Figure 9). Using international guidelines¹⁵⁵ and protocols whilst utilizing harmonized methodologies for conducting time-use surveys ensures consistency and allows international comparison over time.¹⁵⁶

¹⁵³ UNDESA (1999). *Unpaid work and policy making: Towards broader perspective of work and employment. Discussion Paper No. 4. United Nations Department of Economic and Social Affairs.*

¹⁵⁴ *Ibid*

Antonopoulos, R (2009). *The unpaid care work - paid work connection / Rania Antonopoulos; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper; no.86)*

UNSD (2016). *Time use data portal* <<https://unstats.un.org/unsd/gender/timeuse/>>. Accessed 1 July 2018.

¹⁵⁵ *The United Nations recommends to use the International Classification of Activities for Time Use Statistics 2016*

¹⁵⁶ UNSD (2016). *Time use data portal*. Available at <<https://unstats.un.org/unsd/gender/timeuse/>>. Accessed 1 July 2018. Last updated 2016.

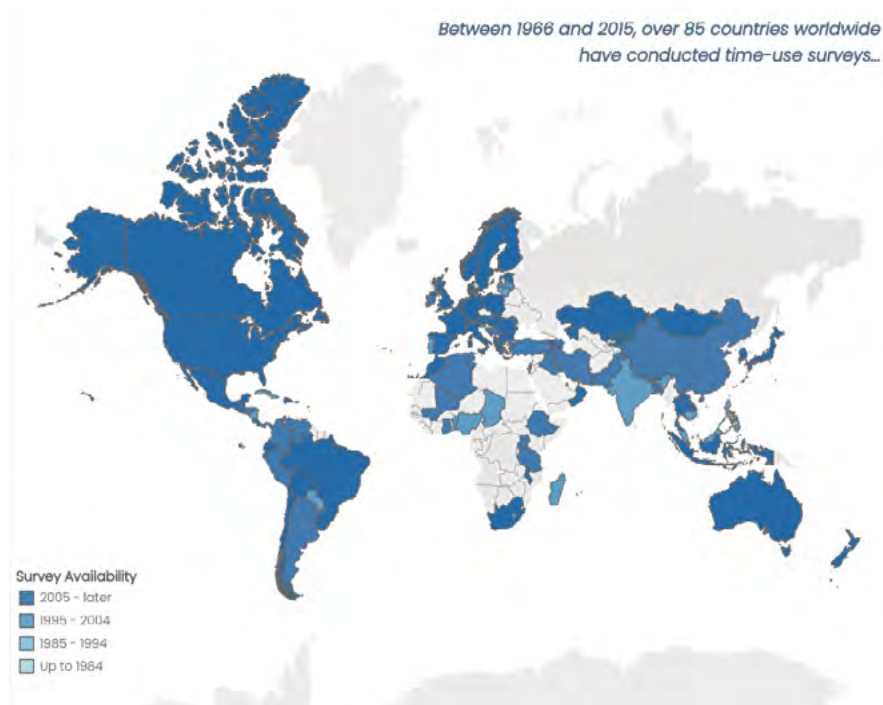
Webber, D (2017). *Measuring and Valuing Unpaid household service work. Presentation developed for the Office for National Statistics (U.K) for the Workshop on Gender Statistics (27-28 November 2017), Belgrade, Serbia*

¹⁵¹ Antonopoulos, R (2009). *The unpaid care work - paid work connection / Rania Antonopoulos; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper; no.86)*

UNSD (2016). *Time use data portal*. Available at <<https://unstats.un.org/unsd/gender/timeuse/>>. Accessed 1 July 2018. Last updated 2016.

¹⁵² UNECE (2013). *Guidelines for Harmonizing Time-Use Surveys. United Nations Economic Commission for Europe.*

Figure 9: Map of countries that has completed time use surveys (UNDS 2016)



Once the time use surveys are completed, the labour inputs need to be valued in economic terms. This is done through assigning an hourly wage on the time spent on each activity.¹⁵⁷ Placing a monetary value on domestic care work is challenging, as most of the unpaid care work produces intangible services.¹⁵⁸

Notwithstanding this, statisticians use two general approaches to estimate the economic value of care work; (i) by placing a value (comparable wage rate) on the unpaid work registered in the time diaries (input valuation) and (ii) by estimating the market equivalent value of the activity or goods and services produced (for e.g., the number of meals produced) (output valuation).¹⁵⁹ There are four standard methods to value labour input under both these approaches; (i) measuring the opportunity cost, (ii) measuring the generalist replacement cost, (iii) measuring the specialist replacement cost and (iv) measuring the hybrid cost (Webber 2017). These are detailed further under Table 12.

¹⁵⁷ SSA (2002). *Calculating the value of unpaid labour: A discussion document*. Working Paper. Statistics South Africa

¹⁵⁸ *Ibid*

¹⁵⁵ *The United Nations recommends to use the International Classification of Activities for Time Use Statistics 2016*

¹⁵⁹ Antonopoulos, R (2009). *The unpaid care work - paid work connection* / Rania Antonopoulos; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper; no.86)

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Table 12: Approaches to value labor input in unpaid care work (UNDESA 1999, SSA 2002, Webber 2017)

Opportunity Cost	Values the unpaid working time of an individual at the wage rate he or she is entitled to expect at the labour market. The opportunity cost is calculated based on the observation that while engaging in unpaid work, the individual is prevented from taking up paid work. This is the earning that has been foregone by the individual by taking up unpaid care work.
Replacement Cost (Generalist)	Values the unpaid work time either by the wage rates earned by specialist workers (cook, cleaners, drivers,) or by generalists (termed housekeepers) who might otherwise have been paid for this work. The replacement cost assigns the mean wages of workers performing similar work to the unpaid work. For example, household workers can be done by domestic workers.
Replacement Cost (Specialist)	This approach assigns different wages to different household activities regardless of who performs them. The method uses wage of different persons with different occupational qualifications or training for each household task. For example, if elderly care work is assigned to a specialized care taker or nurse, and all transportation costs assigned to a driver.
Replacement Cost (Hybrid)	This is a combination of the generalist and specialist replacement cost. The method is relatively new and needs more testing.

Several arguments against all valuation methods have been put forward by economists and researchers over the years.¹⁶⁰ All methods described above entails a multitude of assumptions which may skew the results towards under-valuation or over estimation.¹⁶¹ For instance, the consistency of quality of services provided across households is questioned. Similarly, comparisons with home production (e.g. the value of a home cooked meal) versus that of market production (e.g. a meal produced in a 5-star restaurant) have been highlighted as an issue. The economic status of the household also imposes another interesting question. Would a poor income household have the same time saving amenities such as modern appliances that an upper middle household have? Looking at child care, would the care provided by mothers with different education levels influence the ‘quality’ of care extended? Many of the domestic services do not have market prices available for valuation and such services are carried

out in non-competitive and non-market environments making it difficult to value them using the same valuation principles of market goods and services.¹⁶² Similarly, the concept of time may greatly vary between domestic and market services. For example, housework tasks may be attended to throughout the day at varying time intervals. With basically no data on how domestic workers may divide their time on performing these activities within a 24-hour period, it makes it nearly impossible to attach market values to these work.¹⁶³ Furthermore, the true ‘social value’ of domestic care work cannot be computed.

¹⁶⁰ Antonopoulos, R (2009). *The unpaid care work - paid work connection* / Rania Antonopoulos; International Labour Office, Policy, Integration and Statistics Department - Geneva: ILO, 2009, 61 p. (Working paper; no.86)

¹⁶¹ Ibid

¹⁶² Ibid

¹⁶³ Ibid

ANNEX 3

ONLINE SURVEY

1. Sex

☐ Male ☐ Female

2. Marital Status

☐ Married ☐ Single

3. Age

☐ 18 - 25 ☐ 25 - 30 ☐ 30 - 35 ☐ 35 or above

4. I live in

☐ Male'/Villimale/Hulhumale
☐ In the Atolls

5. Type of work I do

☐ Formal Employment/Job
☐ Part time job
☐ Cake making/Sewing/Crafts etc
☐ Run an online page/business
☐ Consultancy work
☐ I am a stay at home Mom
☐ Other

6. Hours per day I spend on income earning work

☐ Less than 6 hours
☐ Between 6- 10 hours
☐ 10 hours or more
☐ Not Applicable

7. I am responsible to take care of

☐ My children
☐ My household
☐ My family members (e.g. Parents)

8. My husband/Family helps me with the children and doing household work

☐ Yes
☐ No
☐ Sometimes -+

9. Monthly Income

I believe I get a good income from the work I do

☐ Strongly Agree ☐ Agree ☐ Strongly Disagree ☐ Disagree ☐ I don't know

10. Own Time

I get enough time for myself after taking care of my children/my job/household work

☐ Strongly Agree ☐ Agree ☐ Strongly Disagree ☐ Disagree ☐ I don't know

ANNEX 4

TARGETS AND INDICATORS RELATING TO ECONOMIC EMPOWERMENT OF WOMEN FROM THE SDGS

Table 13: Targets and Indicators relating to WEE from the SDGs (UNDESA 2017)

TARGETS	5GENDER EQUALITY  SDG 5 GENDER EQUALITY	INDICATORS
Target 5.4	Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate	5.4.1 Proportion of time spent on unpaid domestic and care work, by sex, age and location
Target 5.5	Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life	5.5.1 Proportion of seats held by women in national parliaments and local governments 5.5.2 Proportion of women in managerial positions
Target 5A	Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws	5.A.1 (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure 5.A.2.Proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control

TARGETS	8 DECENT WORK AND ECONOMIC GROWTH  SDG 8 DECENT WORK AND ECONOMIC GROWTH	INDICATORS
Target 8.3	Promote development-oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro-, small and medium-sized enterprises, including through access to financial services	8.3.1 Proportion of informal employment in non-agriculture employment, by sex
Target 8.5	By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value	8.5.1 Average hourly earnings of female and male employees, by occupation, age and persons with disabilities
Target 8.7	Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms	8.7.1 Proportion and number of children aged 5-17 years engaged in child labour, by sex and age
Target 8.8	Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment	8.8.1 Frequency rates of fatal and non-fatal occupational injuries, by sex and migrant status
Target 8.10	Strengthen the capacity of domestic financial institutions to encourage and expand access to banking, insurance and financial services for all	8.10.1 Number of commercial bank branches and automated teller machines (ATMs) per 100,000 adults
		8.10.2 Proportion of adults (15 years and older) with an account at a bank or other financial institution or with a mobile-money-service provider

TARGETS

Target 9.3



SDG 9 INDUSTRY, INNOVATION AND INFRASTRUCTURE

Increase the access of small-scale industrial and other enterprises, in particular in developing countries, to financial services, including affordable credit, and their integration into value chains and markets

INDICATORS

9.3.1 Proportion of small-scale industries in total industry value added

9.3.2 Proportion of small-scale industries with a loan or line of credit

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ACRONYMS

ADB	Asian Development Bank	MPND	Ministry of Planning and National Development
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	MSME	Micro, Small and Medium Enterprises
CRC	Convention on the Rights of the Child	MVR	Maldivian Rufiyaa
CRPD	Convention on the Rights of Persons with Disabilities	NBS	National Bureau of Statistics
DNP	Department for National Planning	OECD	Organization for Economic Co-operation and Development
GDP	Gross Domestic Product	SDG	Sustainable Development Goals
HIES	Household Income and Expenditure Survey	USD	United States Dollars
HRCM	Human Rights Commission of the Maldives	UN	United Nations
ICCPR	International Covenant on Civil and Political Rights	UNECE	United Nations Economic Commission for Europe
ICESCR	International Covenant on Economic, Social and Cultural Rights	UNDP	United Nations Development Program
IFES	International Foundation for Electoral Systems	UNDESA	United Nations Department of Economic and Social Affairs
ILO	International Labour Organization	UNFPA	United Nations Population Fund
LFPR	Labour Force Participation Rate	UNHLP	United Nations High Level Panel
MEE	Ministry of Environment and Energy	UN WOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
MIRA	Maldives Inland Revenue Authority	WB	World Bank
MDG	Millennium Development Goals	WEE	Women's Economic Empowerment
MMA	Maldives Monetary Authority		
MoT	Ministry of Tourism		

DEFINITIONS AND TERMINOLOGIES

TERM	DEFINITION	SOURCE
Working Age	Total population aged 15 years and above	Census 2014
Labour Force	Total population aged 15 years and above who are employed or unemployed	Census 2014
Labour Force Participation Rate	Labour Force divided by the working age population	Census 2014
Unemployment	Person who is 15 years or above, who are not working but have looked for work in the past month and is ready to start work in the next two weeks	Census 2014
Unemployed	Population who is currently available for work and seeking work	Census 2014
Potential Labour Force	Population who is currently seeking and available for work or who are available for work but not currently seeking for work	Census 2014
Outside Labour Force	Population who is currently not seeking and not available for work	Census 2014
Employment Rate	Percentage of the labour force who is currently employed	Census 2014
Unpaid Care Work	All unpaid services provided within a household for its members, including care of persons, housework and voluntary community work	OECD 2011



DO ADOLESCENT
GIRLS HAVE ADEQUATE
KNOWLEDGE TO MAKE
HEALTHY AND INFORMED
LIFE CHOICES?

FATHIMATH SHAFEEGA
AUGUST 2018

CONTENTS

Abstract	111
Introduction	112
Provision of youth friendly services	114
1.0 The new school National Curriculum and the integration of SRHR messages including HIV and STDs	117
1.1 Current SRHR situation in the school system	118
1.2 Factors related to the outcomes	120
1.3 The need for a meaningful change	122
2.0 Current status of provision of youth friendly services	123
2.1 Case study	126
2.2 Factor related to the outcomes	127
2.3 The need for a meaningful change	128
3.0 Early marriage associated with customary marriage and its situation for youth in the Maldives	129
3.1 Factor related to the outcomes	132
3.2 Case Study	134
3.3 The need for a meaningful change	135

4. Conclusion	136
4.1 The new school National Curriculum and the integration of SRHR messages including HIV and STDs	137
4.2 Current status of provision of youth friendly services, with a focus on the health aspects of pregnancies	137
4.3 Early marriage associated with customary marriage and its situation for youth	138
4.4 Policy Recommendations and ideas for further research	138
References: List of references and citations	139
Annex 1	142

ABSTRACT

The purpose of this document is to provide the most up to date information on the Sexual and Reproductive Health and Rights (SRHR) of adolescents in the Maldives, in order to highlight the situation and open up a debate among professional and the related authorities on how to go about identifying some practical solutions to the issues highlighted in this paper. This paper is structured in a way that illuminates relationships between core components stated below, related to adolescence sexual and reproductive health in the Maldivian context. (i) The new national school curriculum and the integration of SRHR messages including HIV and STDs. (ii) Provision of youth friendly services related to health aspects of teenage pregnancies. (iii) Early marriage associated with customary marriage and its situation.

Firstly, this paper will highlight the outcomes of the SRHR situation in the Maldives. Secondly, this paper will identify factors that are directly related to these outcomes. Thirdly it will identify the risks and some protective measures, through a literature review of the most current and relevant documents on this topic. These will be further corroborated through meetings with key stakeholders such as policy makers and non governmental organizations. Furthermore, documents will be collected from these institutions to analyze the procedures and protocols they have in place to deal with these youth issues.

Many of the factors that critically influence the SRHR outcomes of youth are not very obvious or measurable, however these issues must be acknowledged and discussed. For example, due to the myths and beliefs and misinformation circulating among the youth, some of the youth end up getting pregnant. A case study approach will be used to document living examples. Finally, based on the findings from this paper, implications for the relevant policies and laws relating to SRHR are discussed.

INTRODUCTION

The United Nations (1985) defines youth, as those persons between the ages of 15 and 24 years. This definition was made during preparations for the International Youth Year (1985), and is endorsed by the General Assembly (see A/36/215 and resolution 36/28, 1981). In the Maldivian context, youth include persons between the ages of 18 to 34. Youth aged 18 to 34 contribute to 35 percent of the population (MOH, 2016).

The term SRHR combines four separate but interrelated concepts: Sexual Health (SH), Reproductive Health (RH), Sexual Rights (SR), and Reproductive Rights (RR). Sexual and Reproductive Health and Rights (SRHR) encompass the right of all individuals to make decisions concerning their sexual activity and reproduction, free from discrimination, coercion, and violence.¹ SRHR is a key component of the universal human rights and is heavily stressed in the Universal Declaration of Human Rights (UDHR) and in other international human rights conventions and declarations. International commitments such as the International Conference on Population and Development Programme of Action² and the Sustainable Development Goals (SDGs)³, highlight the sexual and reproductive health aspects and their importance. Since 1948, commencing from the declaration of human rights, the emphasis on sexual and reproductive health and rights has been at the forefront and debated in the international forums

and is followed by a series of conventions, covenants and recommendations by the United Nations.⁴

As such, we need to start teaching these rights in our schools, to build such a culture that accepts SRHR among Maldivian citizens. To do so, the essential components of SRHR need to be integrated into the school curriculum and teachers need to be competent in teaching these topics on SRHR. For teachers to do so, there are several ways they can learn and practice the effective pedagogies of teaching SRHR within our new National Curriculum. Integrating life skills education and including reproductive health education are important aspects in the education policies and in the development and implementation process of the curriculum. The national frameworks such as the National Reproductive Health Strategy and the National Standards on Adolescent and Youth Friendly Health Services prioritize reproductive health information for the youth.

¹ Definition taken from the *International Conference on Population and Development, Summary of the Programme of Action* (New York: United Nations Department of Public Information, March 1995).

² *United Nations: Framework of actions for the follow-up of the programme of action of the international conference on population and development, beyond 2014: Report of the secretary general*, United Nations A/69/62, 12 February 2014. Available at: http://www.unfpa.org/sites/default/files/pub-pdf/ICPD_beyond2014_EN.pdf. Accessed June 1 2018.

³ *United Nations: Transforming our world: The 2030 agenda for sustainable development*, United Nations A/RES/70/1, New York, 21 October 2015. Available at: http://www.un.org/ga/search/view_doc.asp?symbol/A/RES/70/1&Lang=14E. Accessed June 1, 2018.

⁴ See annex 1 for more details.

PROVISION OF YOUTH FRIENDLY SERVICES

Access to sexual and reproductive health and youth friendly services, including maternal health services, is critical for the youth. The 3 Rs (Rights, Respect and Responsibility) play a very important role in the provision of youth friendly services for youth. The United Nations Population Fund (UNFPA) supports and advocates youth friendly services and the components highlighted by UNFPA include:

- universal access to accurate sexual and reproductive health information;
- a range of safe and affordable contraceptive methods;
- sensitive counselling
- quality obstetric and antenatal care for all pregnant women and girls; and
- the prevention and management of sexually transmitted infections, including HI⁵

SRHR integration with HIV/AIDS⁶ services can reduce the impact of these diseases (UNFPA n.d.). As of 2012, 35.3 million people were living with HIV/AIDS and more than half of those newly infected were aged 15-24.⁷ Most HIV infections are sexually transmitted or associated with pregnancy, childbirth and breastfeeding. Women and girls have a greater physical vulnerability to HIV infection than men or boys. This risk is compounded by gender inequality, poverty, and violence.⁸

The legal age of marriage in the Maldives is 18 years, however a small percentage of marriages occur before the age of 18. According to census 2014, 0.5% of males and 0.7% females married before the legal age of marriage. From the census table, it is evident that in the age group of 15-17 years, 3.7% of females and 4.5% of males did not state the age that they got married. As stated in Statistical Release V: Nuptiality & Fertility 2014,⁹ more than 80% of people aged below 20 and between 20-29 have married only once. A quarter of people aged 40-49 have married twice and 22% of this group have married more than two times. At the age 50 and above there is a substantial percent (i.e. 31%) who have married more than four times.

According to the Maldives Family Court data, between 2010-2015, underage marriages are more in the Atolls than in the capital city Male' and also more among females than males. In Male', underage marriages of males occurred only in 2012, which is 1.8% of underage marriages in the Maldives in 2012. From 2010 to 2016, in the Atolls, reported number of female under aged marriages have decreased significantly. In 2010, 42.6 % of the total under aged marriages, which occurred in the Maldives, were in the Atolls and among females. With regard to customary marriages, no institution has any record of such marriages and the family court, which is the authoritative body, could not provide any information regarding customary marriage or marriages that are not registered in the court.

⁵ UNFPA, n.d. accessed from <https://www.unfpa.org/resources/adolescent-sexual-and-reproductive-health>

⁶ UNICEF, 2002. *Young People and HIV/AIDS: Opportunity in Crisis*. New York: UNICEF. Retrieved from: http://www.unicef.org/publications/index_4447.html

⁷ JHPIEGO Maternal and Newborn Health Project, 2005. *Malaria During Pregnancy Resource Package: Tools to Facilitate Policy Change and Implementation*. Retrieved from: <http://www.mnh.jhpiego.org/resources/malarialrp/>

⁸ *Ibid*

⁹ *Statistical Release V: nuptiality & Fertility 2014* pp 22

The overall objective of this paper is to highlight the situation and open up a debate among professional and the related authorities on how to go about identifying some practical solutions to the below three key areas regarding SRHR of youth in the Maldivian context.

1. The new national school curriculum and the integration of SRHR messages including HIV and STDs.
2. Provision of youth friendly services with regard to health aspects of teenage pregnancies.
3. Early marriage associated with customary marriage and its situation for youth.

A desk review was undertaken to examine relevant literature and existing policies regarding sexual and reproductive rights of the youth. The international definitions of the terminologies used in this paper were sought to highlight and compare, to see if there were any discrepancies from the national level definitions. Court data was sought from the court websites. Information was sought from the different government and non government stakeholders, on the kind of programs that are being targeted at this age cohort. Like other reviews, this review draws primarily on publicly accessible data, such as the Demographic and Health Surveys (2009), National reproductive health strategy (2014 – 2018), The Health Master Plan 2016-2025, legal documents such as family law (2000), The Public Health Act (2012), Health Professionals Act (2015), The Gender Equality Act (2016), national level studies and publications from the United Nations Organization and other related agencies.

1.0 THE NEW SCHOOL NATIONAL CURRICULUM AND THE INTEGRATION OF SRHR MESSAGES INCLUDING HIV AND STDS

1.1 CURRENT SRHR SITUATION IN THE SCHOOL SYSTEM

A new National Curriculum is being implemented in the Maldives, commencing from 2015. The new National Curriculum is designed in such away that the students will be well equipped to face the challenges of the 21st century. Work has been undertaken for the last 9 years to design the new National Curriculum, which is an outcome-based curriculum. The following is a summary of the mapping exercise of the new national curriculum for SRHR integration across the curriculum.

The National Institute of Education (NIE) at the Ministry of Education (MOE) commenced rollout of the new National Curriculum in a cascading model, where the implementation of Key Stage 1 (Grades 1 to 3,) began in 2015, followed by the introduction of Key Stage 2 (Grades 4 to 6) in 2016. Key Stage 3 was introduced in 2017 and 2018 Key Stages 4 and 5 in the coming years. The resource materials such as textbooks for both students and teachers form a major part of the curriculum, which helps teachers and students to apply and relate the curriculum competencies within the subject matter. In 2015, Institute for Research and Development (IRD) undertook a mapping exercise of the resource materials of Key stages 1, 2 and 3 against the internationally recognized UNESCO standards to ensure that the highest quality life skills education is provided through the school. Figure 1 depicts the mapping across the national curriculum for the intergradation of the SRHR themes outlined by UNESCO.

Figure 1- Mapping exercise for SRHR integration across the curriculum

Source: UNFPA, 2017.

KEY THEMES		TOPICS	KS 1	KS 2	KS3
1. RELATONSHIPS	1.1	Families	YES	YES	YES
	1.2	Friendship, love and romantic relationship	YES	YES	SOME
	1.3	Tolerance and respect	NO	MOST	NO
	1.4	Long-term commitment, marriage and parenting	NO	NO	NO
2. VALUES, ATTITUDES AND SKILLS	2.1	Values, attitudes and sources of sexual learning	YES	SOME	SOME
	2.2	Norms and peer influence on sexual behaviour	YES	YES	SOME
	2.3	Decision-making	YES	YES	SOME
	2.4	Communication, refusal and negotiation skills	YES	MOST	MOST
	2.5	Finding help and support	YES	YES	SOME
3. CULTURE, SOCIETY AND HUMAN RIGHTS	3.1	Sexuality, culture and human rights	NO	SOME	SOME
	3.2	Sexuality and the media	SOME	NO	SOME
	3.3	The social construction of Gender	NO	SOME	MOST
	3.4	Gender-based violence including sexual abuse, exploitation and harmful practices	SOME	SOME	MOST
4. HUMAN DEVELOPMENT	4.1	Sexual reproductive anatomy and physiology	SOME	SOME	NO
	4.2	Reproduction	NO	NO	NO
	4.3	Puberty	NO	SOME	YES
	4.4	Body image	YES	SOME	MOST
	4.5	Privacy and bodily integrity	MOST	SOME	YES
5. SEXUAL BEHAVIOUR	5.1	Sex, sexuality and the sexual life cycle	SOME	NO	NO
	5.2	Sexual behaviour and sexual response	NO	NO	NO
6. SEXUAL AND REPRODUCTIVE HEALTH	6.1	Pregnancy prevention	NO	NO	NO
	6.2	Understanding, recognising and reducing the risk of STIs including HIV	YES	NO	NO
	6.3	HIV and AIDS stigma, care, treatment and support	NO	NO	NO

1.2 FACTORS RELATED TO THE OUTCOMES

The above mapping exercise shows that some themes in SRHR are yet to be incorporated into the National Curriculum. We have to look closely at what is working and what is not working and discontinue what is not working to support evidence based practices. Youth centers, peer education and abstinence-only education have not made much impact on sexual and reproductive health in most countries;¹⁰ Comprehensive Sexuality Education (CSE) has been defined as “rights-based and gender-focused approach to sexuality education, whether in school or out of school”¹¹. By embracing a holistic vision of sexuality and sexual behavior, UNFPA and various other sources note that CSE can enable children and young people to:

- reduce misinformation and increase accurate knowledge;
- clarify and strengthen positive values and attitudes;
- increase the skills needed to make informed decisions and act upon them;
- improve perceptions about peer groups and social norms; and
- increase communication with parents or other trusted adults.¹²

In many countries, sexuality education is still very controversial. Sexuality education was first introduced in western schools in the late 1950's as part of a biology lesson

and the objective of providing this information was to reduce unwanted pregnancies and to prevent sex outside marriage.¹³ Sexuality education can be intimidating for teachers (Ollis & Harrison 2010, 2011; Smith et al. 2011). Very little professional development (PD) in the area of CSE, particularly for primary teachers, has been conducted in the Maldives. Usually PD programs in schools are taken as a one-off block. This approach is not very effective because it does not provide continuous support to teachers and goes against a body of research that suggests that classroom teachers are the best people to deal with CSE (Schultz & Boyd 1984; Ollis & Meldrum, 2009).

In most of the developing countries, the narrative around sexuality education is changing and most countries are in agreement to incorporate knowledge of both the physical and emotional aspects of sex and reproduction for in-school and out-of-school youth (SIDA, 2016). Comprehensive sexuality education is important because the youth often lack the correct information regarding how to engage in safe and respectful sexual behavior, menstrual hygiene management, how to protect themselves from pregnancy and STDs. The youth in our society face barriers to challenge the social norms, such as going to the health post at the island level and asking for SRH services because the health care providers are biased and since we live in very small communities there is no anonymity. Some cases have been reported that the very teachers who teach sexuality education sexually harass their own pupils (Castle & Diallo, 2008).¹⁴ In some countries, girls rely on sexual favours to pay their school fees and family expenses.¹⁵

¹⁰ Petrova D, Garcia-Retamero R. Effective evidence-based programs for preventing sexually-transmitted infections: a meta-analysis. *Curr HIV Res* 2015; 13: 432–38.

¹¹ Ibid

¹² Wahba, M & Roudi Fahimi, F (2012) *The need for reproductive health education in Egypt – policy Brief*.

¹³ *The Education of Eros: A History of Education and the Problem of Adolescent Sexuality*. Carlson, D.L. 2012

¹⁴ Castle, S. and V. Diallo (2008) *A Desk Review of Evidence about Violence within Educational Settings in West and Central Africa*. Report Submitted to Plan International (WARO), Action Aid and Save the Children Sweden (West Africa Regional Office)

¹⁵ Atwood, K., Kennedy, S., Barbu, E., Nagbe, W., Seekey, W., Sirleaf, P., Perry, O., Martin, R and F. Sosu (2011). *Transactional sex among youths in post-conflict Liberia*. *Journal of Health, Population and Nutrition*. Vol 29(2) 113-122

Box 1: Sexuality and Reproductive Health Education in Schools in Selected Muslim Countries

Tunisia was the first Muslim country to introduce information on reproduction and family planning in its school curriculum in the early 1960s. By the early 1990s, reproductive health education for both girls and boys had been incorporated into the public school science curriculum

Turkey stands out for its coverage of SRH topics in the school curriculum and the willingness and openness of teachers to discuss these issues in the classroom. Its “Puberty Project” provides sexuality education during the last three years of the eight-year primary school system, including such topics as understanding ejaculation and coping with pimples. Students receive a textbook on sexual health issues, and trained health experts visit classrooms—divided by sex and grade level—to talk to students and to answer questions. In each grade, both a male and a female teacher are trained and assigned to answer students’ questions throughout the school year.

In Iran, all university students—male and female, regardless of their field of study—have been required since the mid-1990s to take a course titled “family planning” that covers broad reproductive health issues. More recently, a special course on HIV/ AIDS was developed as an appendix to biology books, and 13,000 teachers and school physicians were trained to educate students in high schools.

In Malaysia the Ministry of Education integrated SRH education into the secondary school curriculum in 1989 as a package called “Family Health Education.” In December 1994, elements of this package were also introduced into primary school’s curriculum as part of physical and health education. Muslim students are also exposed to sexual and reproductive health issues as a compulsory subject in Islamic education programs

Sources: Farzaneh Roudi-Fahimi, *Facts of Life: Youth Sexuality and Reproductive Health in the Middle East and North Africa* (Washington, DC: Population Reference Bureau, 2011); and Azriani Rahman et al., “Knowledge of Sexual and Reproductive Health Among Students

Attending School in Kelantan, Malaysia,” *Southeast Asian Journal of Tropical Medicine and Public Health* 42, no. 3 (2011): 718

Research from the developed and the developing countries has shown that effective SRH programs have improved the overall health of the young people (Kirby, 2012). The UNESCO report on International Technical Guidance on Sexuality Education stresses that the designers of SRHR programs should take into account the cultural relevance and local adaptation and make these a priority in order to get the buy-in from the local opinion leaders (UNESCO et al., 2009). In this report, (UNESCO, 2009) also addresses the connotations of sexuality education as seen by the societies. Sexuality education is not about promiscuity or promoting youth to have sexual relationships, it is about reducing the health risks related to sexuality and provides an opportunity for youth to build their skills for effective communication and exploring their attitude and values. SRH education is defined as “an age-appropriate, culturally relevant approach to teaching about sex and relationships by providing scientifically accurate, realistic, nonjudgmental information” (UNESCO, 2009). Classroom teaching requires teachers to be well equipped with the knowledge and a gender sensitive curriculum, which encompasses all the UNESCO themes in the national curriculum, by incorporating the themes to the appropriate age groups. In Egypt, where the majority of students including youth are enrolled in schools, SRH information is offered through the formal and informal curriculum and age appropriate information is disseminated before the students become sexually active.¹⁶

¹⁶ World Health Organization (WHO), “Skills-Based Health Education Including Life Skills: An Important Component of a Child-Friendly, Health-Promoting School,” *Skills for Health* (2009), accessed online at www.who.int/school_youth_health/media/en/sch_skills4health_03.pdf, on June 1 2018. Note: As part of an information series on school health, WHO collaborated with UNICEF, UNESCO, UNFPA, the World Bank, Education Development Center (EDC), Education International (EI), and Partnership for Child Development (PCD) to write this guide.

1.3 THE NEED FOR A MEANINGFUL CHANGE

The World Health Program(WHO) recommends that SRH information should be offered with in the school programs (WHO, 2008). White & and Pitts (1998) suggest that health education programs are more successful when it is intensive and is delivered on a long term basis. Cahill (2006) puts forth the idea that students when watching a drama or video, in role-based performances, give voices to hidden thoughts of the characters in the play, when the characters are struggling to make a decision, (for example: What is the character afraid of? What would assist him/her in making a decision? What would it take to apologize or not to apologize?).

In the Maldives, UNFPA (2017) has developed a self learning tool, accompanied with video spots (which are in the process of development) on the key issues for teachers who are in service in the schools, to build their capacity and confidence in delivering sexual and reproductive health information in the national curriculum, by using the proposed pedagogies in the tool. The one-minute video spots include issues which have been identified in the mapping exercise as issues which have not been incorporated into the national curriculum yet. This tool assists teachers in bringing SRHR into their classroom settings, by introducing these topics through age-appropriate discussions and helping to foster a more respectful and understanding environment in the classroom and in the school through awareness and acceptance of diverse ideas. The teacher does not need to be an expert on sexuality or gender to conduct the suggested activities. His/her main role will be to facilitate an open discussion respectful of diverse opinions. To create an environment for this to happen, the teacher will need to be able to: (i) facilitate a discussion; (ii) handle questions for which she/he do not know the answer; (iii) deal constructively with stigmatizing and discriminatory statements. The self-learning toolkit will be delivered to all the teachers through the teacher training department of NIE. This course will also be offered as a taught course in the NIE

teacher education programs which will support the teachers to teach sexuality education topics in the National Curriculum. This resource is designed to assist pre-service teacher education programs and to equip graduating teachers to with the knowledge, skills, and confidence to integrate sexuality education content, issues and activities in their teaching, in line with the National Curriculum outcomes.

2.0 CURRENT STATUS OF PROVISION OF YOUTH FRIENDLY SERVICES

According to the Health Protection Act passed in December 2012, the Ministry of Health is mandated to oversee measures for protecting and maintaining public health and to increase public awareness, including awareness on reproductive health. The Health Protection agency under the Ministry of Health functions as the technical body to undertake these functions. The services are provided through a 4 tier health system; the health posts and health centers provide the basic health services, the atoll hospitals act as the first level referral facilities and provide emergency obstetric services, the regional hospitals act as the second level referral facilities, and at the central level, tertiary care is provided by the government through Indira Gandhi Memorial Hospital and the private hospital ADK (Ministry of Health, 2014). The government's policy of providing free health services to all, through its "Unlimited Aasandha" scheme, ensures health services are provided free of charge to all citizens of the country. Some non-governmental organizations like Society for Health Education (SHE), Journey and Open Hand, at the national level and a few clinics at the atoll and island level, provide various combinations of the SRH services for free, either through their "Aasandha" scheme or through their partnerships with Health Protection Agency (HPA) and UNFPA. With the concerted effort from all these parties, Maternal Mortality Ratio (MMR) of the Maldives has been reduced significantly over the years to reach 56 per 100000 live births in 2011 from its baseline figure of 500 per 100000 live births in 1990.¹⁷ The total fertility rate (TFR) of the Maldives, according to the 2014 census, is 2.5. The TFR is higher among rural women than urban women (Ministry of Health and Family 2009).

The Programme of Action of the International Conference on Population and Development (ICPD) in 1994, recommended that all countries seek to provide universal access to a full range of safe and reliable family-planning methods by the year 2015 (United Nations, 1994, paragraph 7.16).

These commitments were reaffirmed when the United Nations general assembly adopted the 2030 Agenda for sustainable development (United Nations, 2015). This new agenda includes two targets regarding family planning. Both targets aim to ensure by 2030 "...universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes" (target 3.7) and "...universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences" (target 5.6).

United Nations (2015) states that contraceptives are used by the majority of married or in-union women in almost all regions of the world. In 2015, 64% of married or in-union women of reproductive age worldwide, were using some form of contraception. Contraceptive use was found to be much lower (40%) in developing countries. In African countries, contraceptive use was 33 %. In Oceania, contraceptive use was found to be a little bit higher (59%) and it was much higher (79%) in Northern America. According to the demographic and health survey (2009), in the Maldives, contraceptive use was found to be 35% and this accounted for one third of married women using contraceptives (36% among women with no education to 21% among women with higher education). However, their total fertility rate TFR was low (2.5). The contraceptive prevalence rate (CPR) in the Maldives follows a unique trend when compared to the rest of the world, where contraceptive prevalence has been shown to increase with factors like education, wealth and urbanization. In the Maldives, the CPR decreases with increasing education among modern methods (Ministry of Health and Family, 2009). Possible reasons as speculated in the Maldives Health Master Plan (2016-2025) was because of high divorce rates and remarriages, termination of pregnancy, infertility and use of traditional contraceptive methods. The reproductive

¹⁷ MoH, Republic of Maldives. *The Maldives Health Statistics 2012*. Male, MoH, 2013

age cohort had very little information regarding their fertile periods, however contraceptive methods information was high among men and women (Maldives Health Master Plan, 2016-2025).

There is no data available for the prevalence of abortion in the Maldives. The statistics on abortion and abortion related services are also not collected by the public sector nor the private sector health care facilities for any age cohorts. European Union (2011) on termination of pregnancies states the following:

‘The frequency of terminations of pregnancy is an important public health indicator, relating primarily to legislation and attitudes towards termination both in society and among individual citizens. Low rates are generally associated with good access to high-quality sexual and reproductive health services, and good availability and appropriate use of effective methods of contraception. The official termination of pregnancy rates also reflect the accuracy of reporting, which varies from country to country’¹⁸

Hence, according to the above information on the contraceptive prevalence rates, the total fertility rates in the Maldives and no data on abortion, it can be concluded that that the youth have challenges in accessing contraception. However, the birth rate is reported to be 2.5 in the last census.

It can be predicted that youth in the Maldives do not engage in sexual intercourse, or, if they do, they use contraception much more than studies show, or, there is quite a high rate of abortion amongst this age group. Without the data, there is no way to know. The permissive, yet restrictive abortion legislation in the Maldives, allows for abortions to take place in the following cases. The Fiqh Academy of the Maldives endorsed a Fatwa in 2013 stating the following:

“Abortion is permissible if a woman is pregnant as a result of rape, either by persons who the woman is prohibited to, or lawful to marry. In both cases, the council ruled that the fetus must be aborted within 120 days of conception. The third circumstance, is pregnancy of a minor through rape. As a fourth circumstance, the council stated, is if the fetus is determined to have a major disease that would result in a medical deformity. In this case, the parents must be legally bound by marriage. If a woman comes to conceive through legal wedlock and if a doctor can confirm for a certainty that the fetus is a thalassemia major, or a sickle cell major, or if the fetus carries a disease that might result in a major permanent deformity to its body or its brain, and if the disease cannot be cured through medical treatment or medication, it is permissible for her to abort the fetus within 120 days of conception. The fifth circumstance, is if the fetus threatens the life of the mother. The only situation where abortion is allowed after the first 120 days was if the mother’s health condition was critical and doctors were forced to save either the baby or the mother”.

¹⁸ Gissler, M., Fronteira, I., Jahn, A., Karro, H., Moreau, C., Oliveira da Silva, M., Olsen, J., Savona- Ventura, C., Temmerman, M. & Hemminki, E., (2012). Terminations of pregnancy in the European Union. *BJOG: International Journal of Obstetrics & Gynecology* 119:324–32

2.1 CASE STUDY

1: REPRODUCTIVE HEALTH SERVICES FOR YOUTH

Source: Society for Health Education 2018

Society for health education (SHE) is a non-governmental organization founded in 1988, by four women, to enhance the quality of life of Maldivian families. The main areas of focus in the organization are psychosocial counselling, Sexual Reproductive Health (SRH), Thalassaemia and Health education. The SRH Clinic of SHE has a long standing reputation for client friendly quality service provision on family planning and other various SRH services via telephone and face to face. SRH department facilitates access either directly or referral to SRH information, education, services and training, to ensure all women, men and young people have access to SRH information and services without any stigma or discrimination.

- Some of the services provided by SRH clinic are:
- HIV counselling and testing
- Gynecological consultations
- Pregnancy testing
- Family planning services including emergency contraception
- Premarital counselling
- Prenatal and post-natal care

These services are provided by the Stat Clinic at Kulunuvehi in Male' city and through outreach mobile camps. The organization promotes the services through outreach camps, television, radio and mainly by social media. Its environment, staff attitudes, privacy and policies on confidentiality are all youth-friendly. Youths are trained as peer educators, to provide SRH information and they take part in planning activities to meet the needs of young people. During the last 5 years, SHE has provided SRH services to youths, which include 3801 male condoms; served 30,968 clients in which 9179 are youths under the age of 25 years with an additional 642 counselled by telephone. The organization is funded by International Planned Parenthood Foundation (IPPF) and the work carried out by SHE in the field of health awareness promotion has contributed to an enabling environment for bringing positive attitudinal changes within Maldivian families.

- Total clients served 30, 968 in which 9179 are youths below the age of 25
- Male condoms distributed 2510 for male and 1291 for females below the age of 25

The World Health Organization identified five key dimensions of youth-friendly services.

- Equitable
- Accessible
- Acceptable
- Appropriate
- Effective

2.2 FACTOR RELATED TO THE OUTCOMES

The Ministry of Education of the Maldives has initiated a lot of new programs targeted at the vulnerable youth population in the schools. The Educational supervision and quality improvement section of the Ministry has send out guidelines (22-ESQID/22/2018/5) to all the schools, for the school counsellors to follow which was circulated to the schools in 2018. The response from the Ministry of Education is as follows when inquired about the programs that the schools follow:

“We conduct a lot of programs to ensure that school age children can continue schooling without any gaps. Irrespective of circumstances, age or gender we ensure that their schooling continues”

(MOE official response, 2018 July via email).

Youth friendly services have not been established yet, even at the national level, despite the Youth Health Strategy and the National Standards for Adolescent and Youth Friendly Health Services stating that a comprehensive strategy to address youth SRH by will be provided through multiple agencies. There have been initiatives from Dhamanaveshi in 2014, the IGMH reproductive health center from 2010 to 2013 have not provided the services on an ongoing basis, and the services initiated from the Kulhudhuffushi regional hospital have been discontinued due to change in the management. The Youth Health Café was initiated in year”....”in Male’ at the Youth Center, to identify a model for delivery of youth friendly health services to the youth living in Male’. However, this service is limited to health education and use referrals to health facilities for counselling and accessing reproductive health services from NGOs.

The re-marriage rates and divorce rates are high in the Maldives and the consequences of these are that it accounts

to a high number of sexual partners among Maldivians. 36% of men reported to have more than one sexual partner. The men had on average 2.5 sexual partners. Premarital sexual activity was reported among 11.6% of the youth aged 18 to 24. About 8% of women living in Male’ and urban areas have had sex before the age of 18 and this figure is much lesser compared to the women living in the islands. The figure also declines with the education levels of the women with 14% among woman with primary education to 5% among women with secondary education.¹⁹

¹⁹ Ministry of health and family (2009) Maldives demographic and health survey

2.3 THE NEED FOR A MEANINGFUL CHANGE

The Health Master Plan (2014) outlines the following issues regarding the services offered by service providers in the health care facilities around the country:

1. lack of adequate infrastructure which could provide the much needed privacy when providing the services to the clients;
2. lack of competent health care providers who can juggle their workload to prioritize the SRHR services; and
3. initiatives at the central level in Male' have been tried out to provide the youth with the needed services. However, the facilities have seen under-utilization and the service environment has been seen to be stigmatizing to young people.

Easy access to health services is important for the youth. Access issues may include: difficulties making appointments; not knowing where to go; not knowing the hours and days when services are available; and following up with the requirements to return for follow-up at the service delivery points in each island or Atoll. Another major issue regarding the service for the youth is confidentiality. If a special help is offered for the youth to inquire regarding the services, or making appointments and follow up services, the youth will be more attracted to use the services.

Around the world, many health care providers in the school and in health care facilities try to promote parent child communication about sexuality and other health related issues. Many studies have shown that the communication between parents and the youth can be greatly enhanced through awareness raising programs for the parents. Many studies have shown that the skills of parents have improved due to these kinds of programs to better communicate with their own children (Stanton et al., 2004; Eastman et al., 2005; Klein et al., 2005; Green et al., 2005; Alford et al., 2008; Annie, n.d.; Jackson et al., 2006).

3.0 EARLY MARRIAGE ASSOCIATED WITH CUSTOMARY MARRIAGE AND ITS SITUATION FOR YOUTH IN THE MALDIVES

Table 1 Marital status by age and sex (Source: Census 2014).

AGE GROUP	NEVER MARRIED		MARRIED		DIVORCED		WIDOWED		NOT STATED	
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE
15-17	95	95.5	0.5	0.7	0	0	0	0	4.5	3.7
18-19	93	84.7	1.6	10.5	0.1	0.7	0	0	5.3	4.1
20-24	74	40.1	20.4	52.5	1.9	5.2	0	0.1	3.1	2.2
25-29	27	10.3	64.8	80.2	6.1	8.4	0.1	0.2	2	0.9
30-34	11.8	5.1	79.2	84.3	7.3	9.7	0.1	0.2	1.6	0.6
35-39	6.3	3.8	84.7	84.9	7	10	0.2	0.6	1.8	0.7
40-44	4.5	2.8	87.7	84.3	6.3	11.3	0.1	1.2	1.3	0.4
45-49	3	2	89.1	82.1	6.4	12.6	0.3	3	1.2	0.3
50-54	2.6	1.6	89.9	78.5	5.9	13	0.8	6.5	0.8	0.4
55-59	2	1.1	89.3	70.4	6.7	13.1	1.4	14.9	0.7	0.5
60-64	1.7	0.9	89.1	61.3	5.8	12.4	2.6	24.7	0.8	0.7
65+	1.9	8	70.8	37.6	10	10.1	16	50.4	1.3	1.2

Table 1 shows that marital status by age and sex. It shows that even though the legal age at marriage in the Maldives is 18 years, a small percentage of marriages occur before the age of 18. Even though this percentage is low, it is an issue of great concern. According to census 2014, 0.5% of males and 0.7% of females married before the legal age of marriage.

Table 2 Under Age marriages in the Maldives Source: Family court website

YEAR	TOTAL MARRIAGES	MALE		FEMALE		TOTAL	MALE %		FEMALE %		TOTAL UNDER AGE MARRIAGE IN MALDIVES(%)
		MALE'	ATOLL	MALE'	ATOLL		MALE'	ATOLL	MALE'	ATOLL	
2010	5763	0	15	20	26	61	0.0	24.6	32.8	42.6	1.06
2011	5587	0	3	26	14	43	0.0	7.0	60.5	32.6	0.77
2012	5620	1	21	24	11	57	1.8	36.8	42.1	19.3	1.01
2013	5699	0	17	14	15	46	0.0	37.0	30.4	32.6	0.81
2014	6015	0	11	16	13	40	0.0	27.5	40.0	32.5	0.67
2015	5763	0	1	11	4	16	0.0	6.3	68.8	25.0	0.26
2016	5488	2	3	3	2	10	20.0	30.0	30.0	20.0	0.18

The above table on early marriages shows a decline in the percentages of under 18-year-old marriages being solemnized in the Maldives. Early or forced marriage is a phenomenon that affects both the developed and the developing world (UNICEF 2016). In some countries, prevalence is high across the whole population. UNICEF (2016) reports that the prevalence of early marriages has decreased slightly over the past three decades worldwide. Worldwide, more than 700 million women alive today were married as children. More than 1 in 3 – or some 250 million – were married before 15 (UNICEF 2016). As stated by Svanemyr et al., (2015), the

root causes and exacerbating factors that contribute to early marriage in South Asia and Africa are: traditions and gender-discriminatory norms rooted in patriarchal values and ideologies, the lack of educational and economic alternatives to child marriage, as well as exacerbating social factors such as poverty, economic instability and conflict and humanitarian crisis.²⁰

²⁰ Department of Reproductive Health and Research, Adolescent Sexual and Reproductive Health, World Health Organization (2015), 20 Avenue Appi3- University of California San Diego, Center on Gender Equity and Health, 9500 Gilman Drive #0507,

3.1 FACTOR RELATED TO THE OUTCOMES

*“Early marriage in the Maldivian context may be seen by families as a way of protecting young girls from premarital sex, pregnancy outside of marriage, relieving the economic burden from the parents, rape and even prostitution. By marrying a girl off early, the risk of uncertainty to her prospects of education and earning and income or damage to a family’s honour is significantly removed from the parent’s responsibility and passed on to the husband, although not the physical, psychological and other risks to the girl herself. This justification for child marriage only makes sense where women and girls have no greater value within the family or where girls’ potential sexuality is seen as a risk that must be monitored and contained”.*²¹

In 2014, the Universal periodic review of the human rights watchdog, had raised concerns over a growing tide of religious conservatism in its submission of the report of the Maldives. “reports of unregistered marriages encouraged by some religious scholars claiming that registering marriages with the courts are un-Islamic and unnecessary” (Human rights watchdog 2014). The family court had raised the issue of unregistered marriages as well with the author- that is marriages registered outside the Maldives and marriages of minors performed at home. In the Maldives, some religious personnel have both endorsed and performed such marriages, claiming that even private, out-of-court marriages should be treated as legal, as long as the minimum Sharia requirements for marriage are met. Children born from those unions were considered “illegitimate” and prevented from legally using the father’s name or inheriting property from the father, in accordance with the Maldivian interpretation of Sharia Law. Despite the Family Court’s announcement in

2014, that out-of-court marriages would not be registered, the practice continued. Over 4.5 years of statistics from the Family Protection Unit in Indira Gandhi Memorial Hospital show that out of the 43 cases of rape of women and girls that were attended, 22 were girls under the age of 18. Almost 50% were under the age of 18.²²

However, neither the court nor any other authoritative body has got any evidence regarding customary marriages and marriages registered outside the country. These cases have been identified when the cases voluntarily communicate with the court to register their marriages. According to key informants’ interview and focus group discussions with youth undertaken in the study by SHE on “Situation analysis of early child marriages in the Maldives” (SHE, 2017. pp17) some key reasons for early marriage are the following:²³

²¹ derived from the information from the case studies and interviews undertaken for the study done by Institute of Research and development in 2017(Unpublished) on the situation analysis of early marriage for the society for Health education.

²² UNFPA (n.d) Family protection Unit – A statistical analysis- Accessed on 20th June 2018 http://countryoffice.unfpa.org/maldives/drive/FPU_StatisticalAnalysis_2009

²³ SHE, 2017 (Unpublished) Key informants interview on the “situation analysis of early child marriages in the Maldives” pp 17

- The couple who marry early or their parents do not have awareness of the consequences of early marriage.
- Adolescent age girls are having boyfriends; it is culturally acceptable but religiously it is totally unacceptable therefore some parents force their young children to get married as soon as possible.
- Parents suspect that when their girls start dating it may go beyond limits and there may be sexual relations, which may turn out in an unwanted pregnancy.
- There are parents who firmly advocate that girls shouldn't stay without marrying, once they have reached puberty. This is due to religious beliefs some people claim that religiously it is compulsory for parents to marry off their daughters as soon as they menstruate, as menstruation is seen as a sign that the girl is now an adult.
- They get married because they are in love.
- Sometimes forced to get married because when they have boyfriends and they are sexually active, then their families force them to get married.
- Fear of getting pregnant and stigmatized.
- Forced by parents to get married to older men.
- To get freedom from the parents and change their lifestyles.

3.2 CASE STUDY

2: KHADEEJA²⁴

“My mother had 14 children. We were very poor and when I menstruated, my mother asked me to marry and I agreed. After I got 2 children I got a divorce and went home. I do understand that the legal age now is 18. Modern devices such as mobile phones may be applicable to today’s youth in encouraging or discouraging early marriage. The society believes that when a girl starts menstruating, then it is acceptable for a girl to get married. I thought that the decision of when to marry and who to marry for both boys and girls, lies with the parents but now I know that it is my right as well. My mother had so many children and with my 2 children and siblings, my workload increased when I went back home after my divorce. My husband and I, we loved each other but don’t know why our marriage broke-up-- he was interested in someone else. I was divorced and we did consult the court, the court delved into the matter and he declared that he intentionally divorced me. I got divorced when my children were very small and from that time onwards I started working to earn an income as a cleaner in the school. My first husband and his family treated me very well and I faced no problems. I was very unhappy after my first divorce and went through a lot of psychological problems. I was pregnant with my first child at the age of 15. At that time, there was no health facility, however a trained midwife visits my home and undertakes regular check-ups. I delivered my first baby at home and he was 4 kilograms. I took the baby for check-ups and vaccines regularly to the health worker. I have 4 living children but the last 2 is from another marriage. I am single now”.

Early marriage has been seen to curtail livelihood opportunities and the girls are not aware of the economic and health consequences of early marriages. For the parents, marrying their daughters early is seen as a strategy for economic survival. One reason why parents marry off their daughters is to protect the girls from becoming sexually active outside marriage. This would be considered dishonorable for the family by the community. Marrying early also deprives girls of their childhood. They are pushed into the full burden of domestic responsibility, motherhood and sexual relations rather than playing with friends.

²⁴ The case study is cited in the SHE, 2017 (Unpublished) Key informants interview on the “situation analysis of early child marriages in the Maldives” pp 34-35.

3.3 THE NEED FOR A MEANINGFUL CHANGE

There are many institutions in the Maldives which run awareness programs on the consequences of early marriage and other related issues. SHE and Human Rights Commission of the Maldives (HRCM) conduct programs in both Male' and the Atolls. At the HRCM, they have clinics and radio programs, where they focus on child rights and human right education. Ministry of Health runs adolescent health clinics in Male' and some islands. They mainly focus on diseases, counselling for adolescents, early pregnancy and indirectly discuss early marriages. The above institutions of the government and the NGO sector conduct programs and early marriage is a component which is addressed in these programs targeted at the youth. However, all these above programs are run on ad-hoc and as a result their outcomes have not been measured.²⁵

Some of the suggestions to create meaningful change as seen by the youth are as follows:²⁶

- a. providing girls with life skills such as numeracy, literacy, articulating their needs and interests to elders;
- b. raising awareness and commitment among parents, teachers, religious leaders and other stakeholders; and
- c. influential adults to eradicate forced child marriage and working with young people, including boys, to understand and build peer support on the idea of preventing forced child marriage.

²⁵ SHE, 2017 (Unpublished) Key informants interview on the "situation analysis of early child marriages in the Maldives" pp 17

²⁶ SHE, 2017 (Unpublished) FGD for the youth group on the "situation analysis of early child marriages in the Maldives"

4. CONCLUSION

4.1 THE NEW SCHOOL NATIONAL CURRICULUM AND THE INTEGRATION OF SRHR MESSAGES INCLUDING HIV AND STDS

The new National Curriculum has yet to incorporate some of the key themes under the UNESCO guidelines (which is shown in the chart on the mapping exercise of this paper). International Technical Guidance on sexuality Education stresses that the designers of SRHR programs should take into account **the cultural relevance** and **local adaptation** and make these a priority, in order to get the buy-in from the local opinion-leaders (UNESCO et al., 2009). UNESCO guidelines (2009) also addresses the connotations of sexuality education as seen by the societies. Sexuality education is not about promiscuity or promoting youth to have sexual relationships. It is about reducing the health risks related to sexuality, providing an opportunity for youth to build their skills for effective communication and exploring their attitude and values. SRH education is defined as “an age-appropriate, culturally relevant approach to teaching about sex and relationships by providing scientifically accurate, realistic, nonjudgmental information” (UNESCO, 2009). Classroom teaching requires teachers to be well equipped with the knowledge and a gender sensitive curriculum, which encompasses all the UNESCO themes in the National Curriculum, by incorporating the themes to the appropriate age groups. In light of the above statements by UNESCO and UNFPA Maldives, in collaboration with NIE and IRD, are in the process of developing a course, which will be offered to all the in-service teachers with accompanying video spots. The main aim of this course is to familiarize the teachers to the pedagogies that they can utilize to teach these topics in the text books and deliver it effectively and with confidence.

4.2 CURRENT STATUS OF PROVISION OF YOUTH FRIENDLY SERVICES, WITH A FOCUS ON THE HEALTH ASPECTS OF PREGNANCIES

The Health Master Plan (2014) outlines the following issues regarding the services offered by service providers in the health care facilities around the country:

1. lack of adequate infrastructure which could provide the much needed privacy when providing the services to the clients;
2. lack of competent health care providers who can juggle their workload to prioritize the SRHR services; and
3. initiatives at the central level in Male' have been tried out to provide the youth with the needed services. However, the facilities have seen under-utilization and the service environment has been seen to be stigmatizing to young people.
4. Given the above challenges in the service centers, it is recommended that the below aspects need to be incorporated to all the clinical settings across the country which provide SRHR services for the youth.

Researchers have found that youth-friendly services generally share the following traits:

- providers are trained to communicate with youth in a respectful and nonjudgmental manner;
- the facility has policies of confidentiality and privacy for youth;
- the facility has convenient hours and location for young people, as well as a nonthreatening environment;
- youth participate in developing policies and implementing services through an advisory board, as peer educators, and in other roles;²⁷

²⁷ Inter agency youth working group accessed on 1 June 2018 <https://www.iywg.org/topics/youth-friendly-services>

- encourage communication with parents and the youth through the health professional working in the health care system; and
- offer flexible hours for adolescents. Offer appointments in the evening and on weekends.

4.3 EARLY MARRIAGE ASSOCIATED WITH CUSTOMARY MARRIAGE AND ITS SITUATION FOR YOUTH

In the case of early marriages, it is extremely important to strengthen the existing laws. The Government of the Maldives needs to revisit the legal marital age. Strict regulations and procedures need to be designed for marriages that are taking place out of the court, in order to monitor and document these cases. In order for an under age marriage to take place, the authority have been transferred to an Apex Court (Supreme Court) on the 21st of September 2016. It requires the lower court to seek its approval in writing. The family court must also submit an assessment report from the Ministry of Gender and Family to the Apex Court. The chief justice will grant or refuse permission in such cases, after consulting with the Supreme Court bench. These procedures need not be followed if the marriage age is fixed. The clause, which says that under 18-year-old children can marry with the consent of parents, allows underage marriages to be legalized to a certain extent. This needs to be stated clearly and emphatically, removing the powers of discretion that is currently granted to the court on the minimum age of marriage.

4.4 POLICY RECOMMENDATIONS AND IDEAS FOR FURTHER RESEARCH

- The designers of SRHR programs should take into account the cultural relevance and local adaptation and make these a priority, in order to get the buy-in from the local opinion-leaders.
- Classroom teaching requires teachers to be well equipped with the knowledge and a gender sensitive curriculum, which encompasses all the UNESCO themes in the National Curriculum, by incorporating the themes to the appropriate age groups.
- Further research can be undertaken on the acceptability of the SRHR course designed by UNFPA.
- Schools to utilize the trained health personnel in each island, to teach the SRHR topics in the curriculum, which the teachers are hesitant to teach.
- Youth friendly services to utilize the social media to reach out to the youth.
- In the case of early marriages, it is extremely important to strengthen the existing laws.
- The Government of the Maldives needs to revisit the legal marital age. Strict regulations and procedures need to be designed for marriages that are taking place out of the court, in order to monitor and document these cases.
- Further research can be undertaken to understand and document the out of court marriages.

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ANNEX 1

CONTENTS OF CONVENTIONS, COVENANTS, RECOMMENDATIONS ²⁸	DATE
Universal Declaration of Human Rights	1948
Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples	1965
International Covenant on Civil and Political Rights	1966
International Covenant on Economic, Social and Cultural Rights	1966
The Convention on the Rights of the Child	1979
The Convention on the Elimination of All Forms of Discrimination Against Women	1979
United Nations Guidelines for Further Planning and Follow-Up in the Field of Youth	1985
United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)	1985
Declaration on the Right to Development	1986
United Nations Rules for the Protection of Juveniles Deprived of their Liberty	1990
United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)	1990
The Rio Declaration on the Environment and Development and Agenda 21	1992
The Vienna Declaration and Programme of Action	1993
Programme of Action of the International Conference on Population and Development	1994
Copenhagen Declaration and Programme of Action of the World Summit for Social Development	1995
World Programme of Action for Youth to the Year 2000 and Beyond	1995
Platform for Action of the Fourth World Conference on Women	1995

²⁸ UNDESA n.d. accessed from <https://www.un.org/development/desa/youth/what-we-do/faq.html>

The Habitat Agenda and The Istanbul Declaration of the Second United Nations Conference on Human Settlements (Habitat II)	1996
Rome Declaration on World Food Security and World Food Summit Plan of Action of the World Food Summit	1996
Braga Youth Action Plan	1998
Lisbon Declaration on Youth Policies and Programmes	1998
ILO Declaration on Fundamental Principles and Rights at Work	1998
Special Session on Social Development (Copenhagen+5), Geneva	2000
Dakar Youth Empowerment Strategy	2001



WOMEN'S RIGHTS AND ISLAM

WHY DOES MUSAWAH SAY EQUALITY IN THE MUSLIM FAMILY IS “NECESSARY AND POSSIBLE”, AND HOW APPLICABLE ARE THESE CLAIMS TO THE MALDIVES’ MUSLIM CONTEXT?

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‘The fundamentals of the Shari‘ah are rooted in wisdom and promotion of the welfare of human beings in this life and the Hereafter. Shari‘ah embraces Justice, Kindness, the Common Good and Wisdom. Any rule that departs from justice to injustice, from kindness to harshness, from the common good to harm, or from rationality to absurdity cannot be part of Shari‘ah, even if it is arrived at through individual interpretation.’

IBN QAYYIM AL-JAWZIYYAH,
7TH (AH) / 14TH (CE) CENTURY JURIST

CONTENTS

Abstract	152
Introduction	153
Methodology and limitations of the study	155
Findings	157
Who/what is Musawah?	158
What has Musawah done?	158
The applicability of the Musawah premise to the Maldives	164
Conclusions and recommendations	168
References and Web resources	171
Appendices	174
Appendix 1	175
Appendix 2	179
Appendix 3	180
Appendix 4	181
Glossary of terms	182

ABSTRACT

Musawah is a reform movement initiated by members of Sisters in Islam (SIS) civil society organisation in Malaysia in 2009. Musawah launched its framework for action with the premise that equality and justice in the Muslim family is “possible and necessary”. This paper is an empirical exploration of the efforts of Musawah since its establishment to understand the movement’s knowledge building activities which form the basis of their above premise. The paper attempts to answer several questions including who Musawah is and what they have done to arrive at their premise. The latter involves Musawah’s formidable critique of the classical juristic concepts of qiwamah and wilayah which justifies the discriminatory norm of male authority over women in Islamic jurisprudence. It also includes Musawah’s extensive study of the lived realities of women living under Muslim family laws around the world. The paper finds that through its activities, Musawah has developed an authoritative academic body of knowledge on the above concepts, and a comprehensive collection of stories of women’s lived realities under Muslim family laws. Based on this body of knowledge, Musawah presents a robust argument to reform such laws in line with egalitarian principles in Islam espoused in the Quran and the Sunnah of the Prophet Mohamed. Moreover, Musawah asserts that qiwamah and wilayah based laws are no longer tenable in the present time because those laws are informed by the patriarchal norms of the time and context in which they were made. Musawah argues that Quranic principles of love and compassion, justice, equality, fairness, dignity, serenity and kindness must be used to re-think and revise the prevailing unjust and discriminatory laws that cannot be considered Islamic. The paper concludes that Musawah’s premise underpinned by its knowledge base, and the proposed reforms are highly relevant and applicable to the Maldives Muslim context. The conclusions lead to two specific recommendations. Firstly, to conduct comprehensive and in-depth research on the impact of family laws on women, men and children and secondly, to review and revise the Family Act 4/2000 in line with the vision for the Muslim family proposed by Musawah consistent with egalitarian Quranic principles.

1 INTRODUCTION

The Musawah movement asserts in its framework for action (2009) and vision for the family (2016) that equality and justice in the Muslim family are “necessary and possible”. This paper seeks to understand Musawah’s premise, as well as their rationale and basis for this claim using an empirical approach and study of relevant literature. To do this, it firstly looks at who or what Musawah is and how the movement came into being. This is followed by an inquiry into what Musawah has done to get to the position to propose such a claim.

that a significant gulf exists between family laws based on Islamic legal theory and what happens in practice, which underpin Musawah’s premise of the necessity for reform. The final part of the paper focuses on the applicability of the Musawah premise to the Muslim context of the Maldives. This comparison finds that the documented lived realities of women and families living under Muslim family laws around the world resonate strongly in Maldives too.

This inquiry found that Musawah embarked on a knowledge building initiative over a period of several years, involving a variety of elements and activities, and engaging with a multitude of stakeholders from around the world. Through these activities, Musawah has established an authoritative position in its understanding of Muslim family laws at the global level. The movement has developed a powerful critique of the classical fiqh concepts of *qiwamah* and *wilayah* which sanction male authority over women, which Musawah argues is based on patriarchal influences of their context of origin. Musawah has produced important arguments that Muslim family laws based on these concepts fall short of Quranic values and principles of equality and justice in the present time, and therefore requires re-thinking and revision. Musawah draws from a host of Quranic values and principles which promote egalitarian practices in human relations including in marriage, which include justice (*adl*), equality (*musawah*), equity (*insaf*), love and compassion (*mawaddah-wa-rahmah*), serenity (*sakinah*), dignity (*karamah*), consultation and mutual consent (*tashawur wa taradi*). Musawah advocates have produced coherent clarifications of the distinctive meanings of Shari’ah and fiqh, and legal rulings of the latter, providing arguments and tools to facilitate change within Islamic jurisprudence to support their claim that change is indeed possible. The lived experiences of women living under Muslim family laws in several countries have been studied and documented by Musawah. This body of knowledge revealed

2 METHODOLOGY AND LIMITATIONS OF THE STUDY

This paper is an empirical exploration of the premise and related activism by the Musawah movement that equality and justice in the Muslim family are “necessary and possible”. To understand this claim, the origins of the Musawah movement and its subsequent knowledge building activities and literature were studied. This specifically includes the movement’s primary declaration and manifesto for action, the Musawah Framework for Action (MFA) published in 2009. In addition, the Musawah Vision for the Family (MVF) which complements the initial manifesto was scrutinised, along with other key publications the movement has produced since its establishment.¹ These include academic publications such as *Men in Charge? Rethinking Authority in Muslim Legal Tradition* (2015) and *Women’s Stories, Women’s Lives: Male Authority in Muslim Contexts* (2016).

The relevance and applicability of the insights obtained from this study to the Maldives Muslim context in relation to family law and women’s lived realities will then be considered, to find possible proposals and/or directions for revision. This is done by looking at the list of consequences from the lived realities of women under Muslim family laws around the world, which are highlighted in the MVF document. These issues are compared against the situation of women in Maldives and comparisons are drawn using relevant available data in the country context.

This inquiry is limited by its narrow scope, which involves a very focused study of Musawah’s premise using the materials that are relevant to this topic produced by the movement, to answer the question in the title. It is also limited by time and the unavailability of relevant up-to-date country data necessary to engage in a thorough application of the Musawah premise to the Maldives context. Nevertheless, an attempt is made to use available albeit dated information to present reasonable justifications to reach meaningful conclusions and feasible recommendations for change.

¹ *Key Musawah Publications and Projects, May 2018, Musawah*

3 FINDINGS

A) WHO/WHAT IS MUSAWAH?

Musawah is a global movement launched in Malaysia in 2009, at a gathering of 270 participants from 47 countries.² Musawah is the brainchild of members of the Malaysian civil society organisation, Sisters in Islam (SIS), a group of women's rights visionaries who were driven by "an intense need for building an international network to share scholarship, strategies, and best practices on work related to family laws in Muslim contexts".^{3,4}

The pre-eminent guiding document created by the movement is the MFA, developed by the movement's Muslim activists, scholars and academics. The MFA is a manifesto for reform, which seeks to achieve equality and justice in the Muslim family. It uses a broad-based approach and multiple sources to increase understanding, including Islamic jurisprudence and knowledge, international human rights laws, national constitutional guarantees of equality and national laws. The MFA responds to the lived realities of Muslim communities, which it states are increasingly being subjected to "Muslim family laws that discriminate against women".⁵ Therefore, it seeks "to resist regressive amendments demanded by conservative groups within society."⁶ The fundamental premise of the Musawah movement is that Muslim family law reform is both necessary and possible to achieve equality and justice in the family in a manner consistent with Islamic principles.

² www.musawah.org, <http://www.musawah.org/about-musawah/our-journey> (accessed: 25 June 2018)

³ *ibid*

⁴ *The Musawah Journey – Highlights (2015)*, <https://www.youtube.com/watch?v=ulhjz05zgo8> (accessed: 25 June 2018)

⁵ MFA, 2009:1

⁶ *ibid*

Musawah describes itself as a "knowledge building movement, facilitating access to existing knowledge and creating new knowledge about women's rights in Islam."⁷ This reform effort is as relevant and applicable to the Maldives Muslim context, as it does in Malaysia where the movement was initiated, and elsewhere in the world where people are governed under Muslim personal laws.

B) WHAT HAS MUSAWAH DONE?

i. knowledge building initiative and the study of concepts: qiwamah and wilayah

Musawah is a movement which consists of diverse thinkers, scholars and activists with substantive knowledge and expertise in their study and experience of Islamic history, texts, traditions and societies around the world. With its human resource base of advocates, Musawah embarked on a knowledge building initiative which began in 2010, on the two juristic concepts of qiwamah and wilayah with the key objective to "build a fresh perspective".⁸ The initiative spanned a period of five years and involved three specific elements. Advocates engaged in multiple consultations, discussions and workshops around the world to develop methodologies and strategies to conduct this major research activity. Through this engagement to foster knowledge, a set of academic papers were produced resulting in the publication of *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, in 2015. A further activity that completed this initiative is the *Global Life Stories Project*, which involved the collection of lived realities of women living under Muslim laws in nine countries around the world over a three-year period.⁹ Using insights obtained from its knowledge building work, the *Musawah Vision for the Family (MVF)* was produced and published in 2016.

⁷ *Musawah Knowledge Building Movement on Qiwamah and Wilayah*, Musawah briefing paper, January 2015

⁸ *ibid*

⁹ *Women's Stories, Women's Lives: Male Authority in Muslim Contexts*, 2016:18

In its vision for the family, Musawah declared that “family relationships in Muslim societies, in all their diversities and forms” must be “grounded in Quranic values such as love and compassion (mawaddah wa rahmah), serenity (sakinah), dignity (karamah), and consultation and mutual consent (tashawur wa taradi).”¹⁰ Musawah further asserted that “most Muslim family laws and practices are governed not by these Quranic values and principles, but by two legal concepts that place women under male authority.”¹¹ These two juristic concepts are qiwamah and wilayah, which were the focus of Musawah’s above mentioned knowledge building initiative.

The concepts of qiwamah and wilayah are extensively studied and presented in *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*.¹² In brief, the concept of qiwamah refers to male authority over women, involving “a set of reciprocal obligations for men and women in marriage” whereby the husband provides and protects in exchange for obedience by the wife.¹³ According to Mir-Hosseini [et al], qiwamah “generally denotes a husband’s authority over his wife and his financial responsibility towards her.”¹⁴ And if this concept is taken “at face value” from the classical fiqh texts, some jurists contend that “a wife had no obligation to do housework or to care for the children, even to suckle her babies” and “if she did these, she could demand ‘wages’.”¹⁵ Therefore, the meaning of qiwamah in classical fiqh is contested in its interpretive roots, and the above mentioned “face value” interpretation is not evident in practice in the lived realities of women in Muslim contexts today. In short, the qiwamah postulate is problematic both in its initial classical interpretation and in its subsequent Islamic practice.

¹⁰ Musawah Vision for the Family, 2016:1

¹¹ *ibid*

¹² Mir-Hosseini Z, Al-Sharmani M, Rumminger J, *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, Musawah, (2015)

¹³ MVF, 2016:1

¹⁴ Mir-Hosseini Z, Al-Sharmani M, Rumminger J, *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, Musawah, 2015

¹⁵ *ibid*

Moreover, the term qiwamah does not exist in the Quran, which is a term derived from the word qawwamun which appears only once in connection to marital relations in the Quran, in Surah An-Nisa’ 4:34.,^{16,17} However, according to Musawah, the latter “continues to be invoked as the main textual basis for male authority and hierarchical gender relations”.¹⁸ In contrast to the term qawwamun (from which qiwamah is derived), Musawah scholars assert that “the term ma’ruf occurs numerous times in the Quran” with the term “bi’l-ma’ruf” (meaning “that which is commonly known to be right” or the common good) occurring twenty times “in relation to marriage and how women and men should treat one another.”¹⁹ Therefore the suggestion is that in its limited occurrence in Quranic text, qiwamah leaves room for contestation, especially considering that egalitarian values are repeatedly emphasised in connection to the same subject.

According to Musawah, “wilayah refers to the right and duty of fathers or male family members to exercise guardianship over their dependent wards (female or male). This often translates into fathers having the right of guardianship over their daughters in contracting their marriages, and the privileging of fathers over mothers in guardianship of their children.”^{20,21} The concept of wilayah occurs multiple times in the Quran, according to Musawah, although “never in a sense that specifically endorses male guardianship over women” which is how the term is interpreted in classical fiqh.²² Furthermore, Musawah asserts that “none of the Quranic verses on which [classical] jurists based the juristic doctrine of male

¹⁶ *Ibid* (see also Appendix 1)

¹⁷ MVF, 2016:2

¹⁸ *ibid*

¹⁹ Mir-Hosseini Z, Al-Sharmani M, Rumminger J, *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, Musawah, 2015; MVF, 2016:9

²⁰ MVF, 2016:1

²¹ Mir-Hosseini Z, Al-Sharmani M, Rumminger J, *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, Musawah, 2015

²² *Women’s Stories, Women’s Lives: Male Authority in Muslim Contexts*, 2016:11

guardianship uses the term wilayah”.²³ Such findings provide the basis for Musawah’s conclusion that “the very notion of male authority and guardianship over women is not in line with Quranic principles.”²⁴ Moreover, these interpretations are “juristic (fiqh) constructs that belong to the time and context where patriarchy was part of the social and economic fabric of life, and where men’s superiority and authority over women was theoretically a given”.²⁵

In addition to the knowledge building initiative to study qiwamah and wilayah, Musawah has produced a number of research documents and commentaries on the practice and consequence of Muslim family laws to women around the world, through reports to the CEDAW Committee.²⁶ In 2017, Musawah submitted thematic reports to the CEDAW Committee, on the status of CEDAW Article 16 (on marriage and family) in four countries.²⁷ These research activities, knowledge and insights obtained through such study places Musawah in an undisputedly authoritative position on women’s rights and gender equality in Islam and the experiences of women living under Muslim family laws.

ii. Shari’ah and fiqh: distinctions and categories that make change possible

Musawah asserts that there are “several basic concepts in Islamic legal theory” that help to “lay the foundation” for its claim that it is both possible and necessary to change Muslim family laws to align with Islamic principles of equality and justice.²⁸ In the process of finding fresh insights through their critique of qiwamah and wilayah, Musawah highlights two important distinctions in the framework of Islamic legal tradition. Firstly, the distinction between Shari’ah and fiqh and secondly, the distinction between the two main categories of fiqh rulings, ibadat and mu’amalat.²⁹

According to Musawah, Shari’ah literally means “the path to a water source” and refers to the divine and unchangeable principles set down in the Quran constituting “the totality of religious values and principles revealed by God to the Prophet for the direction of human life”.³⁰ However, fiqh literally means “understanding” and “is the science of Islamic jurisprudence” which seek to produce legal rulings based on understandings from the Quran and Sunnah of the Prophet.³¹ Therefore, fiqh as a human construct is human-made and subject to change and modifications over time.

Fiqh rulings (ahkam) are primarily divided into two categories as noted above.³² Ibadat relates to one’s spiritual and devotional connection to God, while mu’amalat relates to social and contractual human relations and are “open to rational considerations, context and social forces”.³³ Therefore, the latter category is applicable to matters of Muslim family laws which are subject to change depending on social contexts. Musawah further asserts that Muslim family laws are the products of “centuries of interpretive activities, and they can and must change in accordance with the requirements of justice and the changing realities of time and place.”³⁴

²³ MVF, 2016:4-5

²⁴ Ibid:2

²⁵ MVF, 2016:2

²⁶ www.musawah.com, <http://www.musawah.org/search/node/CEDAW> (accessed: 01 July 2018) ; CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women)

²⁷ www.musawah.com, <http://www.musawah.org/musawah-interventions-68th-cedaw-session>, (accessed: 01 July 2018)

²⁸ MFA, 2009:5

²⁹ See also Appendix 2 for a graphical representation of these distinctions

³⁰ MVF, 2016:10

^{31, 32, 33, 34} Ibid

In order to facilitate change and bring about reform, the science of Islamic jurisprudence uses certain techniques or procedural protocols. These include the processes of *ijtihad* (independent reasoning), *darurah* (necessity), *maslahah* (public interest/common good) and *la darar* (do no harm).³⁵ Musawah asserts that these procedural techniques of *usul al-fiqh* (juristic principles) can be used and followed to re-think and re-evaluate the applicability of Muslim family laws that are currently being practiced, giving weight to the movement's assertion that it is possible to reform family laws. In fact, such changes have taken place in Islamic history according to Musawah, which cites the example of the abolition of slavery: "the injustices of slavery became increasingly recognised and the conditions emerged for its abolishment, laws and practices related to slavery were reconsidered and the classical *fiqh* rulings became obsolete."³⁶

In light of such research, Musawah further maintains that re-thinking *fiqh* understanding of *qiwamah* and *wilayah* "does not mean opposing the Quran, the Prophetic example, or Islamic legal methodologies" but rather, it is about "questioning the human understandings of the Quran" and concepts constructed by humans.³⁷ A further pertinent point that supports Musawah's argument for the feasibility and necessity to change Muslim family laws is the recognition that while *fiqh* entails the "scholarly work of jurists ... modern family laws are selectively codified by the legislatures of modern nation-states, according to the will of those in political power.",^{38,39}

³⁵ *ibid*

³⁶ MFA, 2009:8

³⁷ MVF, 2016:2

³⁸ *Justice Through Equality: Building Religious Knowledge for Reform of Muslim Family Laws*, 2013:24

³⁹ "Shari'ah, Fiqh and State Laws", Musawah, https://www.youtube.com/watch?v=xHrK2Z2K_Ik (accessed: 31 July 2018)

⁴⁰ MVF, 2016:5

iii. Lived realities that make change necessary

The life experiences and lived realities of women and families living under Muslim laws constitute the backbone of Musawah's work and fuels its efforts to seek a new vision for the Muslim family on a foundation of equality. In its vision for the family, Musawah identifies a host of issues which women, men and families are confronted with, as a result of current Muslim family laws existing across Muslim societies. Moreover, whether these are codified laws or uncoded common law practices, the inequality, "restrictions, discrimination and injustices" evident are significant.⁴⁰ A multitude of discriminatory practices embedded within social systems under such laws negatively affect the opportunities available to women to enjoy a decent, dignified and fulfilling life. Among these, Musawah observes the following.

- a. Lack of legal rights from financial contributions to the family, including the devaluation of women's care-work which receive no recognition, decision making status or legal rights
- b. Wives deemed to be in a state of *nushuz* (disobedience) being stripped of their right to maintenance and post-divorce financial settlement
- c. Polygamy leading to "significant emotional and financial harm to women and children" affecting the wellbeing of the whole family
- d. Non-prohibition of violence against women in marriage and the fact some laws "implicitly or explicitly recognise the husband's right to 'discipline' a disobedient wife"
- e. Non-criminalisation of marital rape and sexual abuse with the distinct understanding that sexual availability is a "wife's duty" and access a "husband's right"

- f. Male guardianship results in the restriction on women to travel, study, work or obtain formal documents without permission
- g. Male guardians being able to contract marriages of minors, who are vulnerable to coercion and child marriage, with significant negative impacts on children
- h. Although mothers are given the responsibility to physically care for children in custody cases, they are not given guardianship and decision-making powers on matters of health, citizenship etc, for children in their care
- i. Women being stripped of the right to manage and access their own property due to “voluntary or coerced deference to male family members” or lack of awareness of their rights
- j. Under male guardianship rules which recognise “women’s diminished legal capacity”, women are denied social mobility and equal participation in public life
- k. Women’s work is under-valued and not given equitable compensation in the workplace due to the perception of being “under the financial guardianship of their husbands or fathers”⁴¹

Musawah asserts that Muslim family laws based on the concepts of qiwamah and wilayah reinforce “unequal gendered power relations in marriage and society”, undermines women’s full and equal citizenship and “perpetuates gender stereotypes” which undermine women’s agency and freedom.⁴²

Musawah also recognises that such laws not only affect women, but in some instances men too, in the following ways.

- l. The pressures put upon men to be “sole providers and protectors of women and children” may result in tensions that lead to conflict, family instability and domestic violence
- m. The financial requirements expected from men for marriage may affect the ability of younger people without adequate employment to marry
- n. Stereotyping men as “providers” only may result in their limited participation in the care of children which undermine men’s parental bonding and connection with children
- o. Fathers may be deprived of access to children due to custodial rights favouring mothers.⁴³

In addition to the negative ways in which women and men are affected, children too are affected, according to Musawah.

- p. The unequal status of parents does not provide a good role model for children, who are exposed to inequality as a normative concept
- q. Tensions within the family due to unequal parental relations have harmful effects on children
- r. Children are subjected to trauma in custody battles, where discrimination in custodial rights limit parents’ ability to provide necessary and adequate care for children⁴⁴

⁴¹ *Ibid:7* Note: this list is largely paraphrased from the points provided in the MVF)

⁴² *Ibid*

⁴³ *Ibid:7-8*

⁴⁴ *Ibid:8*

The long list of issues arising from the consequences of inherent gender-based inequality in Muslim family laws compel Musawah to assert that the achievement of equality in the family is necessary. These realities have driven the scholars and activists of the movement to develop scholarly, empirical understandings of the historical background and patriarchal context in which classical fuqaha (jurists) developed the legal rulings which continue to inform present day practices. These insights inform the movement's premise that equality in the family is necessary.

Musawah's Global Stories Project, which documented lived realities of women living under Muslim family laws in several different countries further reinforce their argument that change is necessary. In *Women's Stories, Women's Lives*, Musawah states that the findings of their knowledge building initiative showed "a huge gulf between Muslim ideals and realities".⁴⁵ According to Musawah, the "evidence of *Women's Stories, Women's Lives* reveals other facets of the gulf between ideals and realities. It tells us how, in practice, the traditional conceptions of *qiwamah* and *wilayah* and their presumed protective and empowering aspects have been turned on their heads and used to justify male dominance and the treatment of women as perpetual minors. It shows how the *fiqh* definition of these two concepts makes women vulnerable, denying them security and dignity at different stages of their lives."⁴⁶ Therefore, the egalitarian principles emphasised in the Quran to guide family relations between women and men have historically taken both interpretive and practical routes which continue to result in injustice, which is inconsistent with the Quranic text.⁴⁷

⁴⁵ *ibid*:10

⁴⁶ *ibid*:11

⁴⁷ MVF, 2016:4 [citing *Surah An-Nisa'* 4:135 and *Surah al-Ma'idah* 5:8]

The findings from this project helped to identify certain common issues arising in Muslim contexts, despite differences in culture and socio-economic circumstances. For instance, child marriage was identified as a prevailing issue in Bangladesh, the Gambia, Indonesia, Nigeria and the United Kingdom.⁴⁸ The findings about the role of economic providers and who these were, showed from women's accounts that "the men in their lives ... did not provide for or protect them and their children. In extreme cases, women and their children were abandoned by their husbands or fathers, who married additional wives, began to favour other wives or simply disappeared."⁴⁹

The practice of polygamy was found in women's stories from all the countries studied, which reportedly demonstrated the harmful effects on women and children of such marriages.⁵⁰ According to the report, the way polygamy is being practiced today "no longer serves the original intent of permitting polygamy in the Quran" which is "to do justice to orphans and widows".⁵¹ The authors observe that in fact, "men are abusing the practice in order to justify their desires for multiple sexual partners as legitimate in the eyes of God."⁵² The study found that "stories from every country feature domestic violence – whether physical, sexual, verbal, psychological, emotional or financial".⁵³ With regards to divorce and post-divorce rights, the study found situations varied greatly in different countries and contexts. Regarding custody and guardianship of children following divorce, the study reported that in many instances, fathers were "irresponsible about providing maintenance for their children during marriage and after divorce."⁵⁴ This is despite the fact they are deemed legal providers and

⁴⁸ *ibid*:138

⁴⁹ *ibid*:144

⁵⁰ *ibid*:148

^{51, 52} *ibid*

⁵³ *ibid*:153

⁵⁴ *Ibid*:164

the Guinness Book of Records for having the world's highest divorce rate in 2002, which stood at 10.9 per 1000 population, a figure more than twice as high as the next highest country Belarus at 4.63.⁶² As such, the occurrence of multiple marriages is significant. According to recent data published by the Department of Judicial Administration (DJA), "11% of males and 11% of females had their 4th marriage or a marriage above that number registered in 2016."⁶³ Additional data on the number of times married (by both sexes), is provided in Appendix 4.

Until the enactment of the Family Act (4/2000), divorce was practiced through unilateral verbal declarations by the husband, as is common custom in many other Muslim societies. Codification and institutional procedural restrictions on verbal divorce had the impact of reducing the divorce rate, which dipped to 7.28 as per 2006 data, although data for 2014 shows that this figure now remains significantly unchanged from the 2002 figure, at 9.6%.⁶⁴ The lived realities of divorce rings true to Maldivian families on issues such as child maintenance, custody and the trauma of family breakdown which impact the lives of women, men and children in multiple ways. Many of these issues are consistent with the realities outlined in the list of consequences in the MVF outlined in section 4(b)(iii) of this paper.

Gender discriminatory practices underpin the institution of marriage in Maldives, although in general, both women and men have the freedom to choose their own spouse. However, recent developments show that child marriage and unregistered marriages occur in the Maldives, which indicate the possibility of forced marriage, especially of children.⁶⁵ While divorce is exercised as the unobstructed privilege of the husband, three consecutive marriages and divorces between the same couple is allowed. If the same couple wants to marry a fourth time, the woman is required to marry a different man, get divorced and observe iddah before the fourth remarriage is possible.⁶⁶ This is facilitated in practice by "chain-breakers" whom, it has been observed, "marries the woman and spends one night with her, as Sharia law prescribes, divorcing her the next day. This allows her initial husband to re-marry her for the fourth time."⁶⁷ Such traditional practices, which are perceived to be "Islamic", arguably do not contribute to stable families.

Polygamy is permitted where the man is legally allowed to marry up to four wives at one time. However, recent regulations require the man to prove his financial fitness to support an additional family, to the court. The extent to which this is observed in practice is not known due to an absence of such research and information. However, data available from the DJA shows that there were "165 marriages to a second wife" in 2015, while this figure declined to 157 in 2016, which is a 5% decrease.⁶⁸ Anecdotal evidence suggest that polygamy is widespread in some of the islands outside Male', although

⁶² Highest Divorce Rate, Guinness Book of Records, <http://www.guinnessworldrecords.com/world-records/highest-divorce-rate> (accessed : 16 July 2018); also see Appendix 3 for data on marriage and divorce in the Maldives from 2009-2017

⁶³ Statistics of Marriage and Divorce - 2016, Department of Judicial Administration, Maldives, <http://english.judiciary.gov.mv/statistics-of-marriage-and-divorce-2016/> (accessed : 10 August 2018)

⁶⁴ Calculated using 2014 Census data and number of divorces for that year [raw data: NBS, Maldives]

⁶⁵ Police investigating reports of illegal under-age marriage, M Omid, Minivan News, 23 September 2009, <https://minivannewsarchive.com/society/police-investigating-reports-of-illegal-under-age-marriage-108> (accessed : 07 August 2018)

⁶⁶ iddah – the post marriage waiting period for women

⁶⁷ The highest divorce rate in the world, Jochem Wijnands, blogsite, <https://trvl.com/maldives/maldives>, (accessed: 10 August 2018) [undated – circa post 2008]

⁶⁸ Statistics of Marriage and Divorce - 2016, Department of Judicial Administration, Maldives, <http://english.judiciary.gov.mv/statistics-of-marriage-and-divorce-2016/> (accessed : 10 August 2018)

there is a need to establish this through credible data which is currently unavailable. As observed by Musawah, “polygamy and unequal access to divorce and child guardianship create not harmony and happiness but only pain and suffering for women and children, and often for men too.”⁶⁹

Importantly, the Maldives Family Act 2000 achieved the historic milestone of setting the age of majority at age eighteen, consistent with the Convention on the Rights of the Child (CRC) which the Maldives ratified in 1991. Nevertheless, some of the prevailing harmful practices such as child marriage remained unchanged in the process of codification. Consequently, despite the country’s ratification of the CRC and CEDAW (in 1993), the reality is that child marriage remains a serious issue. The latest available data from the Census 2014 shows that 106 children between the ages 15-17 are married.⁷⁰ Notably, the proportion of girls (58.5%) among this number is greater than boys (41.5%).⁷¹ Recent developments have also resulted in challenges to legal marriage, as the practice of unregistered marriage emerged based on religious sectarian beliefs spread through fatwas among conservative groups.⁷² A complication of this is the alleged endorsement and practice of child marriage, citing Islamic Shari’ah as the basis of such views.

Gender-based violence and violence against children are serious issues in the Maldives. The Domestic Violence Prevention Act (DVPA) was passed in 2012, which recognised and criminalised domestic violence in the Maldives for the first time in its history. The law specified a list of seventeen different acts of domestic violence including physical, sexual,

psychological and economic violence.⁷³ The oversight body for this law, the Family Protection Authority (FPA) reported that 19 cases of domestic violence was reported in 2013, which increased exponentially to 149 cases in 2014, 438 cases in 2015 and 642 cases in 2016.⁷⁴ In 2017, the FPA recorded 539 cases of domestic violence, which showed a disproportionately higher number involving women (82%) than men (18%) which is the prevailing trend in Maldives, as elsewhere globally.⁷⁵

Although the DVPA was a key achievement, one significant gap in the legislation was that it did not recognise or criminalise marital rape. In its 2015 thematic report to the CEDAW Committee on Muslim family law status in Maldives, Musawah recommended amending the DVPA to “criminalise all forms of domestic violence, including marital rape.”⁷⁶ The Sexual Offences Act 17/2014 recognises and criminalises marital rape in certain limited circumstances although its applicability and practical benefit for victims is yet to be understood.⁷⁷ Data available from the Family Protection Unit at the Indhira Gandhi Memorial Hospital in Male’ between 2005-2009 shows that the unit attended to 43 cases of rape of women and girls, of whom 22 were minors and of the latter, almost half were cases of gang-rape.⁷⁸ While cases of rape are occasionally reported in mainstream media, rape statistics are not published by the authorities.⁷⁹ In the prevailing

⁷³ *Domestic Violence Prevention Act, 3/2012, Article 4*

⁷⁴ *Rivili, Volume 2, Family Protection Authority, 23 April 2017*

⁷⁵ *Annual Report 2017, Family Protection Authority, Maldives, pg. 47*

⁷⁶ *Musawah Thematic Report on Muslim Family Law: Maldives, 60th CEDAW Session, February 2015:6*

⁷⁷ *Sexual Offences Act 17/2014, Article 20*

⁷⁸ *Maldives NGO Shadow Report to the Committee on the Elimination of Discrimination against Women 2012*

Hope for Women NGO, Maldives, 30 September 2012:77-78

⁷⁹ *Maldives authorities silent on rape and sexual assault statistics, 25 July 2018, Maldives Independent, <https://maldivesindependent.com/crime-2/maldives-authorities-silent-on-rape-and-sexual-assault-statistics-139545> (accessed : 07 August 2018)*

⁶⁹ *Women’s Stories, Women’s Lives : Male Authority in Muslim Contexts, Musawah, 2016:12*

⁷⁰ *Children in Maldives: Analysis of Children in Maldives from Census 2014, UNICEF/National Bureau of Statistics, Maldives, 2018:18*

⁷¹ *Ibid:107*

⁷² *Fatwas against registering marriages a huge challenge : Family Court Chief Judge, Minivan News, 27 April 2014, <https://minivannewsarchive.com/politics/fatwas-against-registering-marriages-a-huge-challenge-family-court-chief-judge-83630>, (accessed : 16 July 2018)*

socio-cultural and criminal context, it is important to note that rape including marital rape would be an under-reported or largely unreported crime in the Maldives.

The Ministry of Gender and Family reported attending to 349 cases of violence against children during March to May 2018. Of these, 48% of cases related to child sexual abuse and physical violence.⁸⁰ Figures for child neglect were significant too, indicating the extent of family disharmony and dysfunction. The available data provides ample indications of the inadequacy of existing legislations and their implementation to achieve family stability and harmony in the Maldives Muslim context. The situation lends support to Musawah's arguments for the acute necessity for family law reform consistent with egalitarian principles of justice and equality in the Quran and Sunnah, as presented by Musawah in its framework for action and vision for the family.

In an overall environment of discriminatory practices and laws influencing family life, the issues identified by Musawah through its knowledge building initiatives in other Muslim contexts apply quite directly to the Maldives situation. The list of consequences resulting from the status quo identified in the MVF are closely relatable and applicable to the Maldives. Notably, this research paper provides limited insights and brief details about some of those issues. There are several other related issues which are beyond the scope of this paper, although they require note. These include the complex problems of child custody and guardianship as well as child maintenance requirements from the father as primary provider, resulting from divorce and its consequences. The issue of women's property and inheritance rights is a further area of discrimination impinging just and equitable outcomes for women in the prevailing context. Lack of available data also inhibit adequate scrutiny of many of these issues, which are gaps that require closing to begin to address these complex social issues.

On 16 August 2016, the Maldives People's Majlis passed the

country's first ever Gender Equality Law⁸¹ which came into effect on 23 August 2016. The purpose of the law is broad-based and focusses on preventing discrimination based on gender. The law intends to stop gender-based discrimination as stipulated in the Maldives Constitution 2008, facilitate compliance with CEDAW and its Optional Protocol to prevent all forms of discrimination against women and to "protect human dignity".⁸² The law further stipulates in its purpose, to take measures to address gender-based violence, to take special measures to achieve gender-equality and to establish guiding principles to develop policies to achieve gender equality socially, economically, politically and culturally.⁸³ To date, the requirements of the law are yet to be put into practice and its presence is yet to be felt in society through implementation.

Family laws in the Maldives, as elsewhere in Muslim contexts, are mired in the challenges of the *qiwamah-wilayah* based patriarchal influences of classical *fiqh* and Islamic jurisprudence. As discussed above, there are many current issues in this area which need to be seriously addressed. The information presented in this paper is only a cursory assessment of some of the lived realities and socio-cultural issues prevalent in the country. Regardless, the need for family law reform in Maldives, consistent with Musawah's vision for the Muslim family is indisputable. There is an acute need to conduct more focused research to understand the issues surrounding family dysfunction and disharmony in the Maldives context, including the yet to be studied area of child maintenance, custody and associated support systems and protection mechanisms. Such insights would be critical to properly guide any effort towards revision and reform of existing personal laws.

⁸⁰ Ministry of Gender and Family, Maldives, <https://gender.gov.mv/> (accessed: 16 July 2018)

⁸¹ Majlis passes Gender Equality Bill, Sun Online, <https://en.sun.mv/39119> (accessed: 11 August 2018)

⁸² Gender Equality Law 18/2016, 23 August 2016, Article 2

⁸³ *ibid*

4 CONCLUSIONS AND RECOMMENDATIONS

A) CONCLUSIONS

This paper set out to explore and understand Musawah's premise that equality and justice in the Muslim family is "necessary and possible". To answer the question why Musawah makes this claim, the paper adopted an empirical approach to conduct this inquiry. Following a brief introduction and explanation of the method of inquiry in sections two and three respectively, section four focusses on the main findings of this paper. In parts (a) and (b) (i) of section four, it looks at who or what the Musawah movement is and what they have done to arrive at their above-mentioned premise. The inquiry found that the Musawah movement of Muslim activists, scholars and academics engaged in a process of consultation and discussion with diverse stakeholders at a global level, to develop a body of information through a focused knowledge building initiative spanning several years. Through this process, Musawah established itself as an authoritative source of information on Muslim family laws around the world, of both theory and practice. Musawah scholars developed a formidable critique of existing concepts of classical fiqh based on *qiwamah* and *wilayah*, which underpin the long-held tradition of patriarchal and gender discriminatory juristic interpretations and practices evident in Muslim family laws.

In section four (b) (ii) of this paper, the discussion looks at fundamental distinctions Musawah identifies between *Shari'ah* and *fiqh*, which are central to the movement's argument that equality and justice in the Muslim family is possible. Unlike *Shari'ah* which is immutable, Musawah argues that *fiqh* is a human construct based on human interpretations of *Shari'ah* and as such, *fiqh* rulings which underpin existing family laws are subject to change as evident from other historical examples too. Furthermore, *fiqh* rulings or *ahkam* which constitute two categories show that family laws fall into the category of *mu'amalat*, which relate to social and contractual human relations and are open to rational considerations and change. The paper also found that Musawah provides

information about juristic techniques and processes within Islamic traditions which facilitate change within Islamic jurisprudence when the need for such change is recognised. Therefore, Musawah's premise that change is possible is built on a solid foundation of knowledge which is drawn from Islamic theology, and traditions of jurisprudence.

In section four (b) (iii), the paper looks at the MVF and its list of issues arising from prevailing family laws and the impact and consequences therein. In addition, Musawah's study of the lived realities of women and families in Muslim societies in different parts of the world provide ample in-depth evidence of the negative impact of prevailing laws. This activity revealed the immense gap between theory and practice in Muslim family laws, which provide convincing evidence from diverse Muslim societies which unequivocally support Musawah's premise that change is necessary.

Next, the paper looks at the applicability of the Musawah premise to the Maldives' Muslim context, in section four (c). A cursory assessment of the country context using available evidence relating to various indicators linked to family laws help to show the relevance and applicability of the Musawah arguments to the Maldives context. Although the Maldives has its own socio-economic and cultural dynamics, the evidence clearly shows the linkages to the findings of Musawah elsewhere in the world, in relation to the lived realities of women.

Therefore, the informed conclusion of this paper is that Musawah provides compelling and robust arguments that equality and justice in the Muslim family is possible and necessary. The applicability of that premise to the Maldives Muslim context is indisputable.

B) RECOMMENDATIONS

This paper presents two specific recommendations based on its findings and resulting conclusions.

Firstly, it is evident that there is a dearth of relevant and up to date research and data on the impact of family laws on women, men and children in the Maldives. To address the many challenges currently faced by families under existing family laws, it is essential to study these issues through in-depth research and analyses. Proposed areas of research include studying the impact of unilateral male divorce on families, barriers to access divorce for women, multiple marriage, polygamy, child marriage, gender-based violence, marital rape, child abuse and neglect, child custody, child maintenance and inheritance as well as property and inheritance rights of women.

Secondly, it is evident that the Musawah knowledge building initiative has provided important and credible insights about the serious issues that result from existing family laws in Muslim societies which are directly applicable to the Maldives context. Moreover, it is very clear that Musawah's premise that changing existing Muslim family laws is both possible and necessary. As such, it is in the best interest of Maldivian families and society to intensively review and revise the Family Act 4/2000 in line with the MVF and the egalitarian Quranic principles of justice and equality it identifies. These are reflected in the observations of classical scholars such as Ibn Qayyim al-Jawziyyah [7th (AH) / 14th (CE)] quoted below.

'The fundamentals of the Shari'ah are rooted in wisdom and promotion of the welfare of human beings in this life and the Hereafter. Shari'ah embraces Justice, Kindness, the Common Good and Wisdom. Any rule that departs from justice to injustice, from kindness to harshness, from the common good to harm, or from rationality to absurdity cannot be part of Shari'ah, even if it is arrived at through individual interpretation.'⁸⁴

The Constitution of the Maldives states that the family is the fundamental unit of society. To build a productive and peaceful society, it is imperative that the family unit achieves stability and harmony. The MVF provides valuable guidance to achieve equality and justice which are essential for the stability and wellbeing of the family unit.

⁸⁴ MFA, 2009:7

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6 APPENDICES

APPENDIX 1

qiwamah wilayah and the Quran

MUSAWAH ASSERTS :

- “The term qiwamah itself does not occur in the Quran. It is derived from the word qawwamun in Surah an-Nisa’ 4:34, which continues to be invoked as the main textual basis for male authority and hierarchical gender relations.” (MVF, p.2)
- “The term qawwamun from which the classical scholars derived the concept of qiwamah, only appears once in the Quran in reference to marital relations (4:34). In the two other verses (4:135 and 5:8) where it appears, it is used in the sense of ‘standing for justice’. In relation to marriage, two other terms appear numerous times: ma’ruf (that which is commonly known to be right) and rahmah wa mawaddah (compassion and love). The closely-related term wilayah does occur in the Quran but never in a sense that specifically endorses male guardianship over women, which is the interpretation of the term that is enshrined in classical fiqh.” (Women’s Stories, pg.11)

QIWAMAH
TRANSLATION – SAHIH INTERNATIONAL (QURAN.COM)

An-Nisa 4.34	Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand.
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MUSAWAH ASSERTS :

- “none of the Quranic verses on which the jurists based the juristic doctrine of male guardianship uses the term wilayah” (MVF, p.4-5)

WILAYAH
TRANSLATION – SAHIH INTERNATIONAL (QURAN.COM)

An-Nisa 4.34	And do not marry polytheistic women until they believe. And a believing slave woman is better than a polytheist, even though she might please you. And do not marry polytheistic men [to your women] until they believe. And a believing slave is better than a polytheist, even though he might please you. Those invite [you] to the Fire, but Allah invites to Paradise and to forgiveness, by His permission. And He makes clear His verses to the people that perhaps they may remember.
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An-Nisa
4:135

O you who have believed, be persistently standing firm in justice, witnesses for Allah, even if it be against yourselves or parents and relatives. Whether one is rich or poor, Allah is more worthy of both. So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever, with what you do, Acquainted.

Al-Maidah
5:8

O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just; that is nearer to righteousness. And fear Allah ; indeed, Allah is Acquainted with what you do.

Al-Baqarah
2:232

And when you divorce women and they have fulfilled their term, do not prevent them from remarrying their [former] husbands if they agree among themselves on an acceptable basis. That is instructed to whoever of you believes in Allah and the Last Day. That is better for you and purer, and Allah knows and you know not.

Al-Baqarah
2:234

And those who are taken in death among you and leave wives behind - they, [the wives, shall] wait four months and ten [days]. And when they have fulfilled their term, then there is no blame upon you for what they do with themselves in an acceptable manner. And Allah is [fully] Acquainted with what you do.

Al-Baqarah
2:237

And if you divorce them before you have touched them and you have already specified for them an obligation, then [give] half of what you specified - unless they forego the right or the one in whose hand is the marriage contract foregoes it. And to forego it is nearer to righteousness. And do not forget graciousness between you. Indeed Allah, of whatever you do, is Seeing.

An-Nisa
4:2

And give to the orphans their properties and do not substitute the defective [of your own] for the good [of theirs]. And do not consume their properties into your own. Indeed, that is ever a great sin.

An-Nisa
4:3

And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice].

An-Nisa
4:6

And test the orphans [in their abilities] until they reach marriageable age. Then if you perceive in them sound judgement, release their property to them. And do not consume it excessively and quickly, [anticipating] that they will grow up. And whoever, [when acting as guardian], is self-sufficient should refrain [from taking a fee]; and whoever is poor - let him take according to what is acceptable. Then when you release their property to them, bring witnesses upon them. And sufficient is Allah as Accountant.

An-Nisa
4:25

And whoever among you cannot [find] the means to marry free, believing women, then [he may marry] from those whom your right hands possess of believing slave girls. And Allah is most knowing about your faith. You [believers] are of one another. So marry them with the permission of their people and give them their due compensation according to what is acceptable. [They should be] chaste, neither [of] those who commit unlawful intercourse randomly nor those who take [secret] lovers. But once they are sheltered in marriage, if they should commit adultery, then for them is half the punishment for free [unmarried] women. This [allowance] is for him among you who fears sin, but to be patient is better for you. And Allah is Forgiving and Merciful.

An-Nur
24:32

And marry the unmarried among you and the righteous among your male slaves and female slaves. If they should be poor, Allah will enrich them from His bounty, and Allah is all-Encompassing and Knowing.

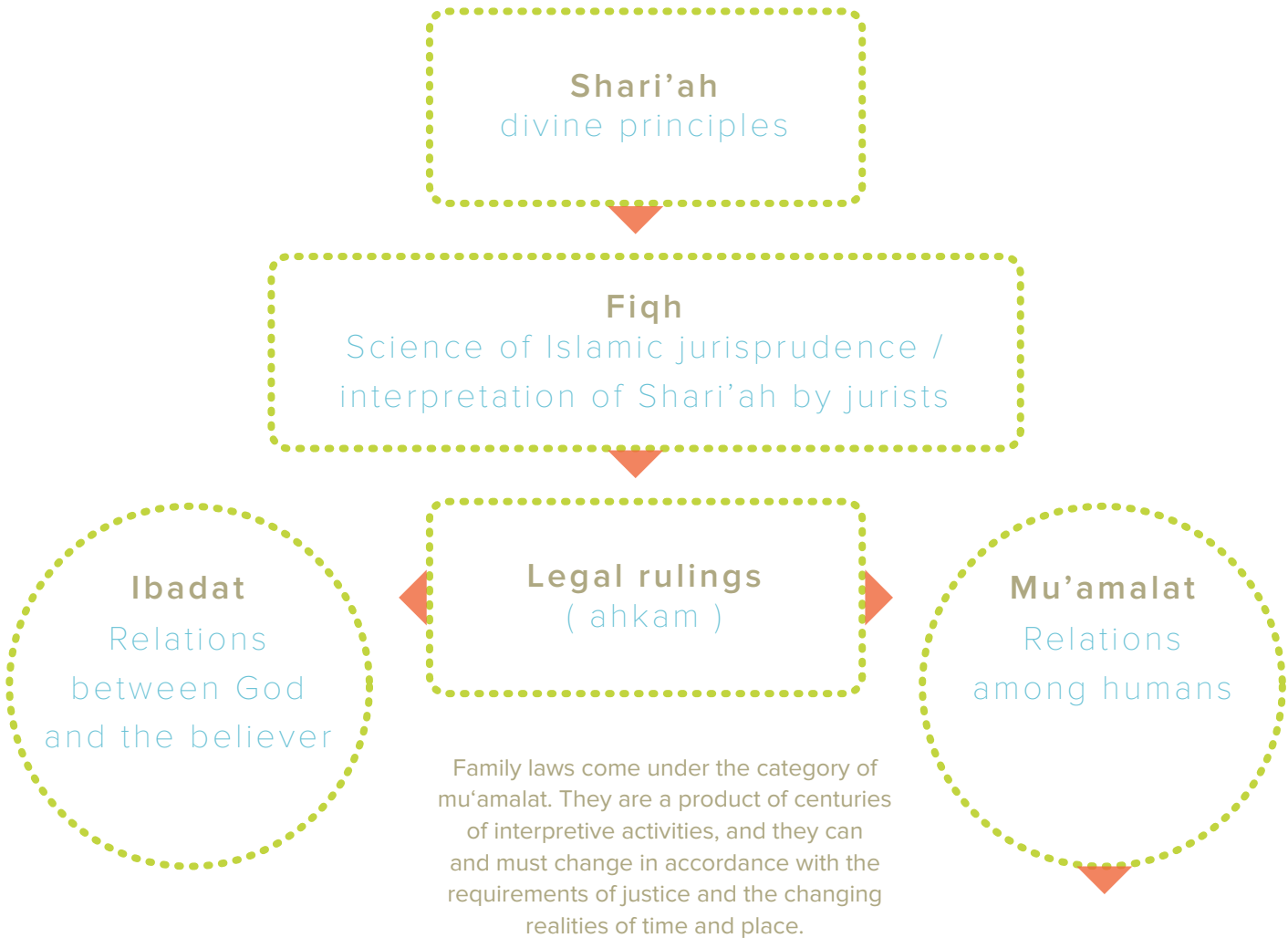
Al-Mumtahanah 60:10 O you who have believed, when the believing women come to you as emigrants, examine them. Allah is most knowing as to their faith. And if you know them to be believers, then do not return them to the disbelievers; they are not lawful [wives] for them, nor are they lawful [husbands] for them. But give the disbelievers what they have spent. And there is no blame upon you if you marry them when you have given them their due compensation. And hold not to marriage bonds with disbelieving women, but ask for what you have spent and let them ask for what they have spent. That is the judgement of Allah ; He judges between you. And Allah is Knowing and Wise.

At-Talaq 65:4 And those who no longer expect menstruation among your women - if you doubt, then their period is three months, and [also for] those who have not menstruated. And for those who are pregnant, their term is until they give birth. And whoever fears Allah - He will make for him of his matter ease.

At-Tawbah 9:71 The believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will have mercy upon them. Indeed, Allah is Exalted in Might and Wise.

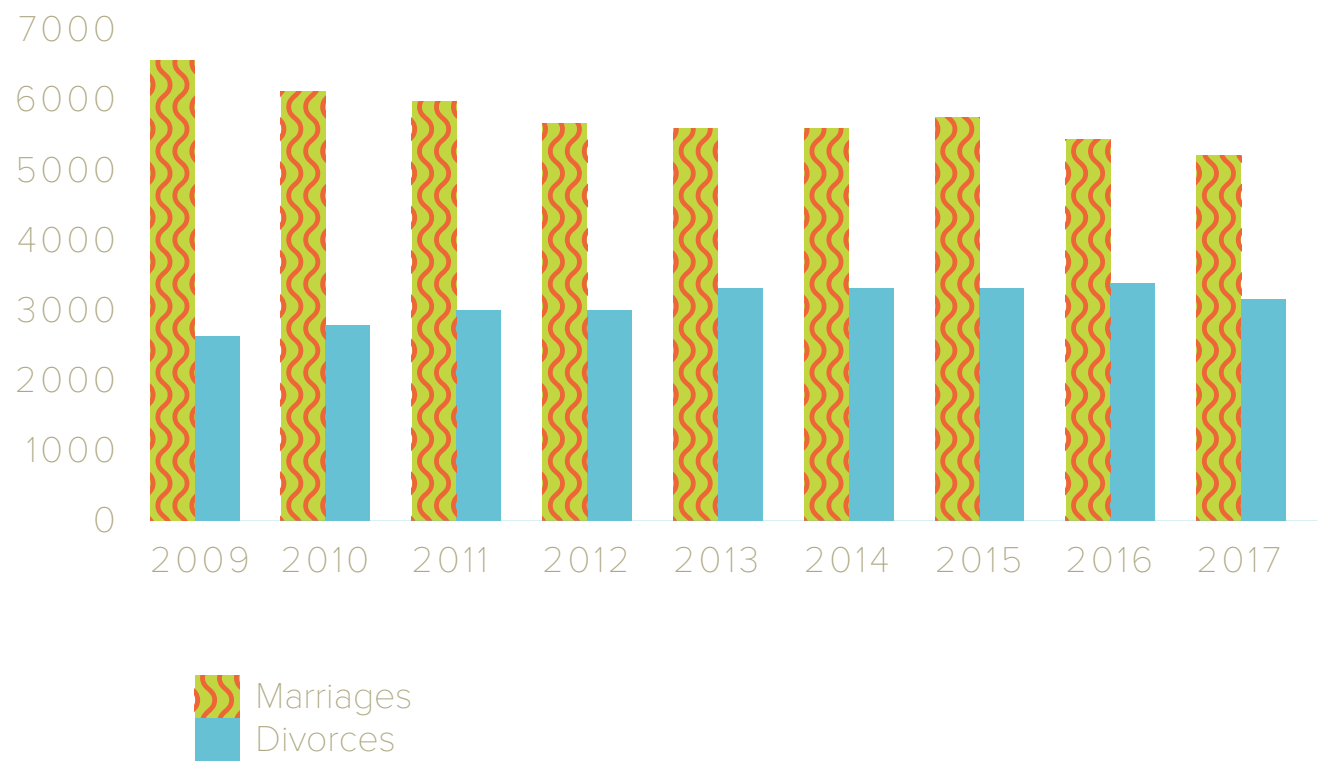
APPENDIX 2

Graphical representation of the distinctions between terms/concepts that make change possible



APPENDIX 3

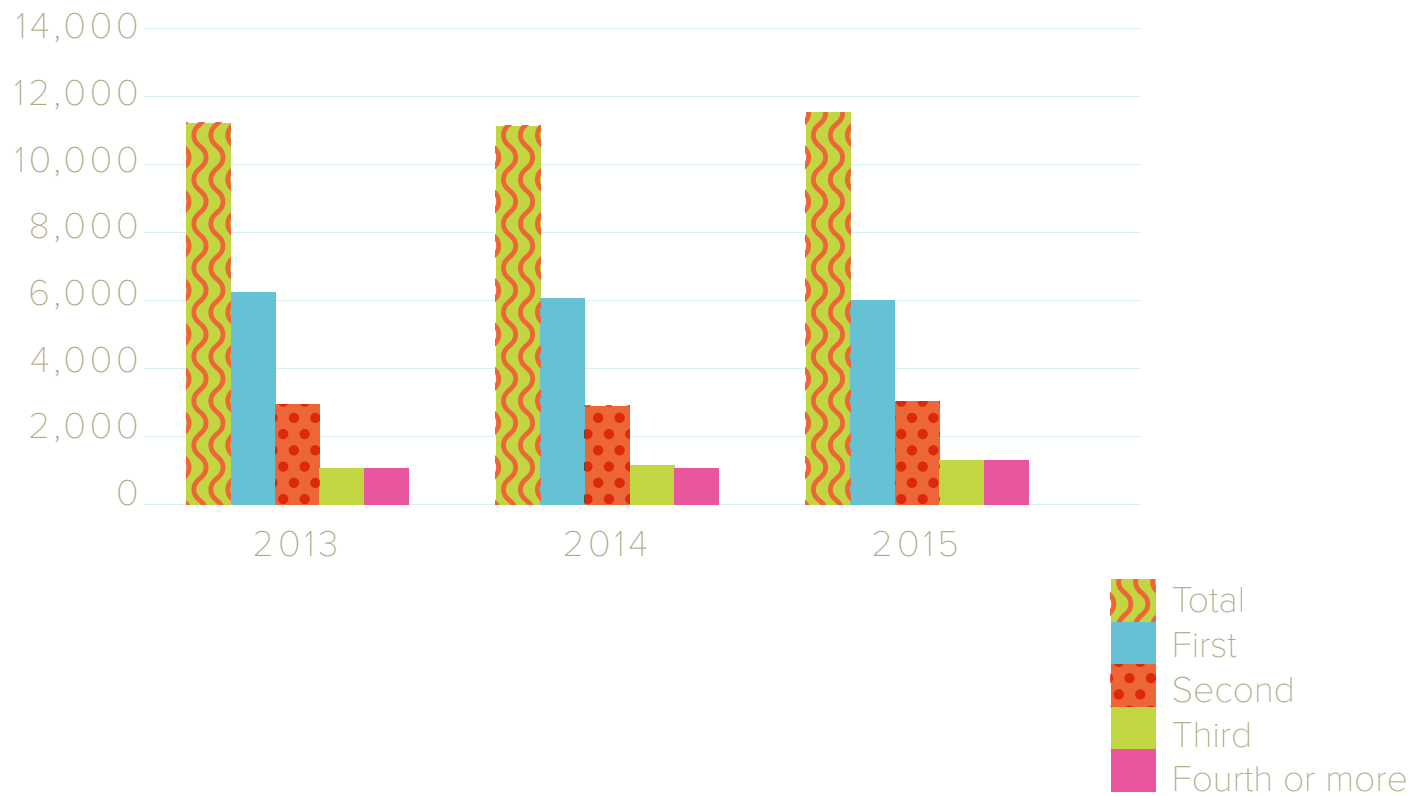
Number of marriages and divorces in Maldives from 2009 - 2017



Data source :
Statistical Yearbook of Maldives 2018,
Population Indicators, National Bureau of Statistics, Maldives

APPENDIX 4

Total number of marriages of both sexes, by number of times married, 2013-2015



Data source :
Table 3.18, Number of marriages by number of times married, by sex, 2013 - 2015
Department of Judicial Administration, Maldives
[Note : the data provided here are cumulative for both sexes]

7 GLOSSARY OF TERMS

adl	justice	qiwamah	“generally denotes husband’s authority over his wife and his financial responsibility towards her” ⁸⁶
ahkam	legal ruling	sakinah	serenity
bi’l-ma’ruf	that which is commonly known to be right / common good	Shari’ah	divine law
darurah	necessity	tashawur-wa-tara di	consultation and mutual consent
fiqh	science of Islamic jurisprudence / interpretation of Shari’ah by jurists	usul al-fiqh	principles of fiqh
fuqaha	Islamic / fiqh jurists	wilayah	“generally denotes the right and duty of male family members to exercise guardianship over female members” ⁸⁷
ibadat	devotional relation between God and the believer		
iddah	the post marriage waiting period for women		
ijtihad	independent reasoning		
insaf	equity		
karamah	dignity		
la darar	do not harm		
ma’ruf	common good		
maslahah	public interest / common good		
mawadd-ah-wa-rahmah	love and compassion		
mu’amalat	relations among humans		
musawah	equality		
qawwamun	“translated as ‘protectors and maintainers’” ⁸⁵		

⁸⁵ Mir-Hosseini Z, Al-Sharmani M, Rumming J, *Men in Charge? Re-thinking Authority in Muslim Legal Tradition*, Musawah, 2015

^{86, 87} *ibid*



ACCESS TO JUSTICE

WHAT CONSTITUTES A WOMAN AND FAMILY FRIENDLY FRAMEWORK ON CHILD CUSTODY, PRE-NUPTIAL AGREEMENTS, MARRIAGE AND DIVORCE?

FAREESHA ABDULLA

KNOWLEDGE EXCHANGE FORUM – JULY 2018
UNFPA MALDIVES
UN WOMEN MALDIVES
MINISTRY OF GENDER AND FAMILY, MALDIVES

*“All happy families are alike; each
unhappy family is unhappy in its
own way.”*

– LEO TOLSTOY, ANNA KARENINA

CONTENTS

Abstract	190
Introduction	191
Methodology	193
Findings	195
Family Law	196
Marriage	197
Marriageable Age	199
Marriage Ceremony and Registration	200
Polygamous Marriages	200
Pre-Nuptial Agreements	201
Divorce	203
Custody and Child Maintenance Payments	207
Maintenance Payments	208
Child Maintenance Payments	208
Conclusion	214
Recommendations	216
References	218

ABSTRACT

This paper is an exploration of the family law system in Maldives with regard to its accessibility and fairness for women and families in matters of marriage, pre-nuptial agreements, divorce, custody and child maintenance. The legal system is assessed by reviewing the existing laws, procedures and practices through the story of a woman, Adeela, who married at a young age and later divorced with four children. Her story shows Adeela's struggle to keep the custody of her children as a single mother and then after her marriage to another man. The research was limited by time constraints and the challenge of accessing and acquiring required unpublished data from relevant official authorities. However, this paper reveals that except for the minimum age of marriage, Maldives law discriminates against women when it comes to marriage contracts, divorce and custody of children. Underage marriages for both sexes remain a feature of the legal system in Maldives. The law treats women as lacking in capacity to enter a marriage contract without the consent of their fathers or another patrilineal male, and women have limited grounds to apply for divorce. Men are allowed to enter marriage on their own and have polygamous marriages and divorce at will, both in and out of court. Pre-nuptial agreements, though allowed since 2000, remained unutilized until the amendment of the Family Act in 2016 which introduced matrimonial property division in the event of divorce.

Although mothers are given priority right to the custody of the children in the event of divorce, to maintain this right their employment opportunities are curtailed, and must either remain single or married only to a close male relative of their ex-husband. Divorced mothers must reside in a place that does not hinder the father's rights of access to the children. If a father refuses to pay maintenance as ordered by the court, there is no effective enforcement mechanism.

It is recommended that Maldivian family law be amended to eliminate the discriminatory features of the system.

INTRODUCTION

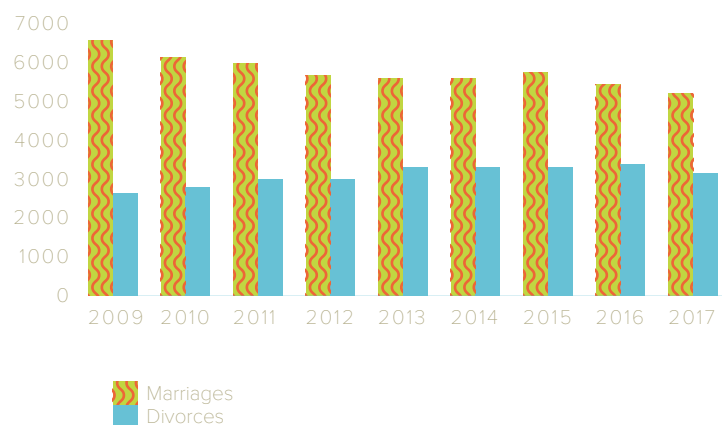
On my way to the Civil Court and passing the Family Court corridor, I noticed a man and woman sitting and waiting for service. Later I saw the couple still sitting at the same spot. She was looking forlornly at a legal form. The man called me over and asked if I would explain how to fill it in.

It was the Family Court form for child custody matters. It quickly became clear that a simple explanation from me would not be sufficient, as their story was complicated. The man asked me to fill the form for them, so we arranged to meet at my office the next day.

At the meeting, they asked me to take their case. They were married recently and both had children from previous marriages. The man's children were living with their mother and access was based on an understanding between them without the involvement of the court. The woman, Adeela, had four children from her previous marriage and she was seeking custody of those children. In this paper I will discuss Maldives family law through the lived experience of Adeela¹ and other women.

The Big Picture

According to official statistics, there were 5488 marriages and 3417 divorces registered in Maldives in 2016.² This is roughly 15 marriages and 9 divorces per day during that year. The Family Court in Male' handled 2304 marriages and 1341 divorces,³ which is a significant proportion. The remaining marriages and divorces were handled by the Magistrate Courts in various islands of the Maldives. According to official statistics, a similar number of marriages and divorces were registered in 2015. In fact, the divorce rate remains around 60% every year. This begs the question, why is there such a high rate of marriage breakdowns in the Maldives.



Source : Statistical Yearbook 2018, National Bureau of Statistics, Republic of Maldives

The Family Act of 2000 was meant to address the issue to some extent, but after 18 years there has been no change in the rate of divorces. Before the year 2000, there was no written law governing marriage, divorce, maintenance payments and child custody. Marriages and divorces were registered in the courts of the country in accordance with established practices based on Islamic shariah. Before the arrival of the Family Act, it was widely believed that ease of divorce was the root cause of the high divorce rate, and discouraging out of court divorces would bring the rate under control. However, the available data indicate that the divorce rate still remains high. The issue is beyond the premise of this paper, which is a discussion of access to justice for women in the existing family law system with focus on marriage, pre-nuptial agreements, divorce and child custody. However, the high rate of divorce is a fundamental contributing factor to the complex issue of child custody and other issues discussed in this paper.

¹ Not the real name –

² <http://judiciary.gov.mv/news/dja/565-26955.html> (accessed 7 June 2018 @9:25am)

³ *ibid*

METHODOLOGY

This research reviews the current family law in connection with marriage, pre-nuptial agreement, divorce, child custody and maintenance through Adeela's real life story. In reviewing the law, it is intended to assess whether the legal system is set up to be fair, just and women and family friendly.

In order to assess whether the lived experience of Adeela reflects the general picture of the experience women face in the family law system in the Maldives, requests for meetings with relevant authorities and official data was made through sponsors of this paper – UNFPA, UN Women and the Ministry of Gender and Family. Information received at the meetings with officials and with Family Court is used where relevant. However, there has been no response to a written request for data sent to the Ministry of Gender and Family.

Publicly available data only provide annual statistics of marriage and divorce which are used to highlight the magnitude of the problems of family breakdowns in the country. There is no publicly available data in connection with child custody and child maintenance. Requests for unpublished data held by relevant official authorities were made without any success. To make up for the lack of official information, 24 decisions of the Maldives High Court relating to family matters, divorce, child custody and maintenance were analysed in writing this paper.

The scope of the research was ambitious and limited by the time and resource constraints. There has been insufficient time to conduct a broader study of existing literature on the subject. It is also limited by the authorities' refusal to make the unpublished data available as per the requests. Despite these obstacles, this paper identifies the challenges women and families face in the family law system and makes recommendations to address those challenges.

FINDINGS

FAMILY LAW

The Constitution defines Maldives as a sovereign, independent, democratic state based on the principles of Islam,⁴ which is also the main basis of all laws of the Maldives.⁵ It is prohibited to enact any law that is contrary to any tenet of Islam.⁶ Article 34 of the Constitution states that every person of marriageable age is entitled to marry and establish a family, and the State is required to provide special protection to the family as the fundamental unit of society. In a divorce involving children, they are to be given special protection.⁷ The laws that govern marriage, prenuptial agreements, and divorce and child custody are the Family Act 4/2000 and its regulations. The fundamental principles of this law are based on Islamic law. In this system, marriage is a contractual relationship where the woman is seen as the subordinate partner. Her primary role is as care giver of the children and therefore the opportunities for her to engage in economic activities are limited or considered irrelevant. The man is the primary financial supporter with whom both the decision-making, and authority over the children and wife, are vested.

Article 10 of the Constitution 2008

At the time of Adeela's first marriage in 1995, neither the Constitution nor the Family Act were in existence. However, by the time of her first divorce, both the Family Act and the Constitution were enacted.

Adeela was brought up by her grandmother from a young age after the death of her mother. Her father is from Male' and lived a separate life. She grew up in a poor household but was loved by her grandmother. Adeela has an older sister but their relationship is not close. She wanted to marry a man from a large family and they welcomed her. However, her father disapproved and at first refused to give consent to the marriage. He eventually transferred his authority as Adeela's judicial guardian or wali as it is known in Islamic law, to the marriage celebrant, known under Islamic law as the mauzun.⁸ After this transfer of his guardian powers, Adeela's father disowned her.

The grandmother was frail at this time and she was not happy with the match, but accepted the marriage. She passed away shortly afterwards and Adeela moved to her husband's family home which was owned by his eldest sister. The husband was working and had a good income. They soon built their own house and moved there after the birth of their first child. However, for reasons outside Adeela's control, it was a difficult marriage.

⁴ Article 2, Constitution 2008

⁵ Article 10, Constitution 2008. (The English translation states 'one of the basis [sic]' whereas Dhivehi original states 'the main basis')

⁶ Article 10, Constitution 2008

⁷ Article 34 (a) and (b), Constitution 2008

⁸ Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011, pg 44.

MARRIAGE

The Family Act states that all marriages in Maldives, whether a marriage between two Maldivians or between a foreigner and a Maldivian, must be in accordance with provisions of the Act.⁹ Even though there is no specific definition of marriage in the family law, marriage is treated as a contract between a man and a woman where the woman's consent is required but not sufficient for the relationship to be legally recognised. The Dhivehi legal dictionary defines marriage as a legally recognized contract between a man and a woman that allows an intimate relationship and for the purpose of living together.

The family law states that a marital contract or agreement (*ސަވަދު ދަވަދު*) shall only be formalized by a sharuee mauzun (judicial marriage celebrant) in the presence of the man and woman intending to marry, along with the woman's legal guardian (or wali veriyaa) and two witnesses. The participants to the marriage show that an offer made by one party has been accepted by the other, and consent of the judicial guardian of the woman has been obtained as provided by the legislation.¹⁰

Any party to the marriage may file an application for marriage with the consent of the other party.¹¹ However, the law requires the consent of a judicial guardian of the woman in addition to her consent for a marriage to be approved by the registrar and for the marriage to proceed.¹² In certain circumstances the law allows a judge to give consent instead of the judicial guardian of the woman. These circumstances include where a person capable of being legal guardian (male relative of paternal lineage) is not alive, consent is withheld without reasonable cause, and the whereabouts of such

person is unknown or is lacking capacity.¹³ Both the Family Law and its regulations, and the rules regarding marriage and divorce registration procedures provide detailed procedures for obtaining the consent of the judicial guardian (wali) in cases where he cannot attend in person or is incapable or refuses to give consent, highlighting the fact that a woman can only marry with the consent of a man. As stated above, this same rule applied to Adeela even though her first marriage pre-dated the Family Act of 2000. This indicates that the common practices of marriage in existence at the time were the same requirements that were written into the new law.

Requirement of consent for marriage from the legal guardian of the woman is not uniformly applied in Islamic societies. For example, in Bangladesh, Pakistan and Sri Lanka, women who belong to Hanafi school of Islam are not required to obtain consent from their legal guardian provided that the woman has reached puberty.¹⁴ Similarly in Morocco and Tunisia, woman gains the capacity to contract her own marriage on reaching the age of majority. In Turkey, Uzbekistan and Kyrgyz Republic, it is not a requirement for women to obtain consent of the legal guardian to marry.¹⁵

Obtaining such consent is not required for a man. He is allowed to marry up to four women at any given time.¹⁶ Whereas a woman may only marry one man at a time provided she has not been divorced three times by the intended husband, and she has been divorced for over three months or has been widowed for at least four months and ten days.¹⁷ A Maldivian woman is not allowed to marry a non-Maldivian unless he is a Muslim and can prove that his monthly

⁹ Section 2, Family Act 4/2000

¹⁰ Section 3, Family Act 4/2000

¹¹ Section 3, Family Act 4/2000

¹² *ibid*

¹³ Section 9(b), Family Act 4/2000, and Supreme Court Circular No. 2016/01/ SC <http://www.supremecourt.gov.mv/mediafolder/16.10.2016.pdf> (accessed on 8 August 2018)

¹⁴ Musawah, CEDAW and Muslim Family Laws: In Search of Common Ground, 2011, pg 46

¹⁵ *ibid*

¹⁶ Section 7, Family Act 4/2000

¹⁷ Section 6, Family Act 4/2000

income meets the minimum requirements specified by the regulations¹⁸ – at the time of writing (July 2018) this amount is MVR 15,000 (approx. \$US1,000) per month.¹⁹ The law prohibits a Maldivian woman marrying a non-Muslim man.²⁰ However, a Maldivian man is allowed to marry a non-Muslim woman provided she belongs to a religion approved by Islamic shariah.²¹ Even though the law does not specify the religions, it is commonly considered Christianity and Judaism, and in some instances Zoroastrianism, are the approved religions because the people of these faiths are referred to as the People of the Book (Ahl-al-Kitab).²²

Interfaith marriage in Islamic Shariah is based on the interpretation of the following two verses of Quran:²³

“Do not marry idolatresses (al mushrikāt) till they believe; and certainly a believing maid is better than an idolatress even though she would please you; and do not marry idolaters (al Mushrikīn) till they believe (hatayūminū), and certainly a believing slave is better than an idolater, even though he would please you. These invite to the Fire, and Allah invites to the Garden and to forgiveness by His grace, and makes clear His revelations to mankind so that they may remember.”

Qur'an 2:221

“As to marriage, you are allowed to marry the chaste from among the believing women and the chaste from among those who have been given the Book before you (are lawful for you); provided that you have given them their dowries, and live with them in honor, not in fornication, nor taking them as secret concubines.”

Qur'an (5:5).²⁴

The first verse clearly states that both Muslim men and women are allowed to marry believing men and women, and prohibits both Muslim men and women marrying polytheists.²⁵ The second verse makes it clear that those who are referred to as the People of the Book are not excluded from the believers. Therefore, when interpreted by taking into consideration Quranic order of these verses, the meaning and the existing realities of the time, there is no doubt that when it comes to interfaith marriage, both men and women have equal status under Islamic shariah.²⁶ However, the codified law discriminates them. Corollary to this fact is that this discrimination is not based on Islam but cultural practices based on patriarchal attitudes.

¹⁸ Section 8(a), Family Act 4/2000

¹⁴ Reg 12(b), Marriage and Divorce Registration at the Family Court Regulations 2015

²⁰ Section 8(a), Family Act 4/2000

²¹ Section 8(b), Family Act 4/2000

²² <https://www.britannica.com/topic/Ahl-al-Kitab> (accessed on 8 August 2018)

²³ <http://www.asma-lamrabet.com/articleswhat-does-the-qur-an-say-about-the-interfaith-marriage/>

²⁴ <http://www.asma-lamrabet.com/articles/what-does-the-qur-an-say-about-the-interfaith-marriage/> (accessed on 8 August 2018)

^{25, 26} *ibid*

MARRIAGEABLE AGE

In general, the official marriageable age in Maldives is 18 years of age for both men and women. However, the family law allows marriages in certain circumstances where the bride or groom is under the age of 18. The decision to allow such a marriage is left at the discretion of the registrar of marriages.²⁷ Some of the factors that the registrar needs to consider in approving such marriages include the physical and mental maturity of the person intending to marry, police reports, and the views of the parents.²⁸

“Where a person who has not completed 18 years of age in accordance with the Gregorian Calendar makes an application to marry, the Registrar of Marriages has the discretion, where that person has attained puberty, to grant approval to the solemnization of that marriage upon having considered the person’s physical wellbeing, competence to maintain a livelihood, and reasons for contracting the marriage.”²⁹

The Family Court in Male’ has its own set of regulations that provide further details on the protocols that the registrar must follow where a party to a marriage application is under the age of 18 years. The registrar is required first to determine whether the under aged party has reached puberty and then must take into consideration certain factors before exercising his discretion to approve the marriage.³⁰

²⁷ Section 4, Family Act 4/2000

²⁸ Reg 14, Marriage and Divorce Registration at the Family Court Regulations 2015

²⁹ Section 4(b), Family Act 4/2000

³⁰ Reg 14, Registration of Marriages and Divorces in the Family Court Regulation (18 March 2015) At the time of writing the Registrar of the Family Court is man and his predecessor was also man

The listed factors are:

1. Physical and psychological health (maturity)
2. The reason for wanting to get married
3. Registrar shall determine whether reason for getting marriage is acceptable
4. The opinion of the parents or the guardians regarding the marriage
5. Must take into consideration what the parents or the guardian say in their statement that has been taken by summoning them to the court.
6. Police report and criminal record

Minimum age of marriage and exceptions to the normal rule vary in Islamic countries. In Algeria the marriageable age is 19 for both men and women, and the judge is allowed to make an exception when it is deemed necessary or beneficial.³¹ In Bangladesh the minimum age of marriage is 18 for women and 21 for men without any exception.³² In Turkey, Morocco and in Sierra Leone, minimum age is 18 years and exceptions are permitted³³ as in Maldives.

Couples intending to marry for the first time are required to attend a marriage awareness program. A copy of the certificate of attendance should be filed with the marriage application along with other documents. The Family Court in Male’ runs the program which is held on every Sunday and Wednesday from 7:00pm to 11:00pm.³⁴ The program focuses on four topics: (1) legal procedure for marriage, (2) marriage and health, (3) economic and social aspects of married life, and (4) marriage in Islam.³⁵

³¹ Musawah, CEDAW and Muslim Family Laws: In Search of Common Ground, 2011, pg 45.

^{32,33} *ibid*

³⁴ <http://familycourt.gov.mv/awareness-program/> (Accessed on 25 June 2018)

³⁵ *ibid*

MARRIAGE CEREMONY AND REGISTRATION

Once the marriage application is approved by the registrar of marriages, a date for the marriage ceremony is set. The marrying couple may choose to take their oaths at the Family Court or any other location and the ceremony should be attended by the man and woman with her legal guardian and two witnesses. A licensed mauzun conducts the ceremony and only men are allowed to perform that role.³⁶

The registrar of marriages is responsible for keeping and maintaining a register of all marriages.³⁷ Family law requires that marriages solemnised abroad or out of court between Maldivian couples and Maldivians with foreign spouses are to be registered at the Family Court in Male' or in a Magistrate Court.³⁸ There were 58 marriages between Maldivians and foreign nationals in 2016.³⁹ It is not clear whether these marriages took place in Maldives or not. The available data does not show the number of marriages solemnised abroad.

POLYGAMOUS MARRIAGES

A man may marry up to four women and when applying for a polygamous marriage he must prove to the satisfaction of the registrar of marriages that he has adequate financial means to support multiple wives and his other dependents, and to provide them with adequate housing.⁴⁰ Other factors that the court must take into consideration include whether he has any unpaid debts or maintenance matters lodged against him, or is in any form of detention.

In 2016, only three percent of Maldivian marriages were polygamous.⁴¹ Such marriages are prohibited in Turkey, Uzbekistan, the Kyrgyz Republic and in Tunisia.⁴² The basis of prohibition in Tunisia is the interpretation of the following verse of Quran to mean that no husband can treat multiple wives equally.⁴³

“You are never able to be fair and just as between women, even if it is your ardent desire ...” Quran 4:129

³⁶ Reg 6 of Sharuee Mauzun Regulations (2011)

³⁷ Section 19, Family Act 4/2000

³⁸ *ibid*

³⁹ <http://judiciary.gov.mv/news/dja/565-26955.html> (accessed 7 June 2018 @9:25am)

⁴⁰ Section 12, Family Act 4/2000

⁴¹ <http://judiciary.gov.mv/news/dja/565-26955.html> (accessed 7 June 2018 @9:25am)

⁴² Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011, pg 46.

⁴³ Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011, pg 46

PRE-NUPTIAL AGREEMENTS

Maldivian family law always allowed pre-nuptial agreements. Before the 2016 amendment to the Family Act, there was no mention of matrimonial property division in the event of divorce. Regardless of the duration of a marriage, after divorce, women were left with no assets or any form of income if they were not employed. At best, a divorced woman could expect maintenance support for the first few months. The assumption appears to be that the woman would remarry and find another man to support her. In Adeela's case, she married her second husband because she was unable to support herself and her children after being divorced and receiving no financial support from the father of her children.

The original Family Act in 2000 did allow marrying couples to come to a formal agreement determining the terms and conditions of their marital relationship.

“This Act does not prevent the inclusion of the basic principles to be observed in the marital relationship between a man and a woman contracting a marriage in a nuptial agreement made in writing, and compliance with such an agreement.”⁴⁴

This clause still remains in its original form in the amended 2016 version. However, there is no record of anyone making use of this provision. There seemed to be an assumption that any written agreement that includes property division in the event of divorce would not be legally valid. It is likely that marrying couples who were aware of the existence of the provision may not have considered that it was a worthwhile pursuing the matter, especially in the absence of any action from official authorities highlighting its significance. There is also the important question whether matrimonial property division through pre-nuptial agreements are beneficial to women.

The 2016 amendment introduced the concept of matrimonial property division in the event of a divorce. As part of its enforcement procedure for pre-nuptial agreements, the Family Court revised the marriage application form to include disclosure of the existence of any pre-nuptial agreements by the marrying couple. This was a positive step towards bringing the option to the attention of marrying couples. However, it has been hardly utilized by marrying couples. In the two years since the law came into effect, only two pre-nuptial agreements have been registered in the Family Court.⁴⁵ The couples appear to be from a socio-economic group associated with lawyers and judges.⁴⁶ All indications are that there is a lack of awareness among the general public about the existence of the option. Emphasizing information about pre-nuptial agreements during the mandatory pre-marriage counselling program run by the Family Court for anyone marrying for the first time, could improve public understanding of these options. Even better, all marrying couples regardless of whether they have been married before, should be advised of the importance of these agreements.

The amendment gives the woman power to set up a legal process for the recognition her contribution to a marriage in the event of a divorce. How effective the existence of such an agreement would be, is yet to be tested in court.

In other Islamic countries, division of matrimonial property by law is common practice. Equitable division of property is enforced in Malaysia and in the shariah courts of Singapore, whereas in Turkey the equal division of property acquired during marriage is the default position of the law.⁴⁷

⁴⁵ Meeting with Family Court, 6 June 2018 at 1:00pm.

⁴⁶ *ibid*

⁴⁷ Musawah, CEDAW and Muslim Family Laws: In Search of Common Ground, 2011, pg 47

⁴⁴ Section 11, Family Act 4/2000 and Section 11(a), Family Act 4/2000 (as amended in 2016)

DIVORCE

Family law allows a man to divorce his wife at will, but a woman does not have that right with her husband. In Indonesia, Iran, Morocco and Tunisia, both men and women have equal right to divorce, out of court divorces are not recognised.⁴⁸

In Maldives, a husband may apply for divorce at the Family Court in Male' or any of the Magistrate courts in the islands, and the law does not require him to provide any reason for his decision.⁴⁹ However, the court must summon both the husband and wife, and ask whether the wife consents to the divorce. If the wife objects to the divorce, the judge must refer the matter to the conciliation division of the court.⁵⁰ The court will allow divorce only where conciliation is unsuccessful.⁵¹ A husband may also divorce the wife out of court, and if either the husband or wife informs the court within three days of divorcing, the court will accept the divorce without the husband being subject to a fine. The husband is subject to a fine of MVR100 (approx. \$US6) and MVR1 (approx. 6 US cents) per day, if neither the husband nor wife inform the court of the divorce after three days.⁵² Women informing the court will need to provide evidence of the divorce.

Here are three examples of this process.

Case 1: An out of court divorce case filed by a wife at the Family Court in Male' was dismissed when the husband told the court that he did not divorce her.⁵³

Case 2: In the case of Adeela, divorce was upheld when she named two male witnesses. Both witnesses said that the husband divorced her in their presence.

Case 3: A consensual application for a divorce by both parties was rejected by the court on the first instance, but was granted at the insistence of the parties a few months later. The presiding judge did not give any legal or shariah basis for the initial rejection.⁵⁴

Married women are allowed to apply for divorce only in certain circumstances. A wife may apply to the court for any of the following reasons:

- i. Commission of an act by the husband that injures the integrity of the wife,
- ii. Cruelty by husband towards wife,
- iii. Compulsion by husband towards woman to commit an act unlawful by religion, or
- iv. Abstinence by husband, without just cause, from performing sexual intercourse with the wife for a period exceeding 4 months.⁵⁵

⁴⁸ *ibid*

⁴⁹ Section 23, Family Act 4/2000

^{50, 51} *ibid*

⁵² Reg 40, Family Act Regulations (2006)

⁵³ *Writer provided legal advice to one of the parties in 2017*

⁵⁴ *Communication with a lawyer representing a party in this case shared the story with the writer due a legal precedent*

⁵⁵ Section 24, Family Act 4/2000

Applications for divorce citing any of the above reasons are first referred to the conciliation division of the court before allowing a divorce,⁵⁶ unless the applicant can prove to the court that her husband has:

- been missing for a period exceeding one year,
- failed to pay maintenance for over three months and
- failed to pay after being ordered twice by the court, or
- an infectious incurable disease or is suffering from impotence or, any other shariah recognized reason.⁵⁷

The following two examples demonstrate the obstacles that women face when applying for divorce citing legally sanctioned grounds.

Case 1: A wife's application for divorce, on the grounds of lack of care and non-payment of any maintenance for many years, was dismissed when her husband refused to divorce her and refused to attend conciliation sessions. In this case the wife was employed and she supported herself and children with her monthly salary.⁵⁸

Case 2: A wife applied for divorce on the grounds of violence. The court then referred the matter to conciliation although the wife was granted a protection order.⁵⁹

In the case of Adeela, her husband divorced for the first time when she was pregnant with her second child. The marriage was renewed before the birth, but her husband's fits of anger became more frequent and more violent and they sought medical treatment for his mental illness in India. A few months into the treatment, her husband refused to continue. The fits of anger returned and over the next few years he often told her that they were divorced. On one of these occasions,

she had two witnesses and asked him to divorce her in their presence. He divorced her and she applied for registration of the divorce immediately. At this time, she was pregnant with her fourth child. Her divorce certificate stated that the period of idda in her case was until the birth of the child. Idda is a waiting period of three months after divorce for the woman before marrying another man if she is not pregnant at the time of divorce, and if she is pregnant, it is until the birth of the child.⁶⁰ Family law allows the divorced parties to renew their marriage by applying to the court in writing.⁶¹ Any effort to renew a marriage out of court is considered invalid as demonstrated by the following decisions of the High Court.

1. A couple registered their divorce and six months later the divorced wife married another man. The divorced husband applied to the court to annul her new marriage stating that they had renewed the marriage a few days after divorce, during the idda period, by having sexual intercourse. The court ruled the renewal was invalid because it was not registered in court. On appeal, the High Court upheld the lower court's decision.⁶²

2. A couple registered their divorce and then applied to court seeking a ruling that their marriage was renewed during idda period by having sexual intercourse. The application was made after the expiry of the idda period, and the court ruled that it was an invalid renewal and fined both parties. On appeal, the High Court upheld the decision of the lower court.⁶³

⁵⁶ *ibid*

⁵⁷ Section 28, Family Act 4/2000

⁵⁸ The writer provided out of court legal advice to a party in this case in 2017

⁵⁹ Writer provided legal advice to a party in this case

⁶⁰ Musawah, CEDAW and Muslim Family Laws: In Search of Common Ground, 2011, pg 43

⁶¹ Section 26, Family Act 4/2000

⁶² 2014/HC-A/57

⁶³ 2015/HC-A/348

A marriage cannot be renewed if it has been annulled by the court on the application of the wife by making a payment to the husband.⁶⁴ Similarly, marriages annulled by the court cannot be renewed where it is established that the husband has been missing, failed to provide for the wife for a period of three months, has a physical or mental incapacity, or is suffering from an infectious incurable disease.⁶⁵

The concept of revocation of divorce or renewal of a marriage is not recognized in Indonesia.⁶⁶

The Maldivian family law provides legal restrictions for women applying for divorce, while it allows men to divorce at will both in court and out of court. The law has been in effect for nearly 18 years but it has not had a significant impact on the rate of divorce in Maldives.

Adeela decided not to renew her marriage during her idda period and remained unmarried for nearly three years. She assumed, based on the divorce settlement order by the court, that her children's father would continue to provide for her and the children as ordered.

⁶⁴ Section 27, Family Act 4/2000

⁶⁵ Section 28, Family Act 4/2000

⁶⁶ Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011, pg 47

**CUSTODY AND CHILD
MAINTENANCE
PAYMENTS**

At the time of her divorce, the court granted the custody of the couple's children to Adeela. Although the house was built during their marriage, the house was registered in her husband's name. Therefore, Adeela had no legally recognized claim to the house. The arrangement was that she continued living in the house with the children, and her husband paid maintenance. Adeela's husband moved out of the house and often travelled for work. She bought her family's food, clothing, school books and stationery from the local shops on credit. The arrangement was for the ex-husband to pay the bills at the end of each month. This arrangement worked for the first few months, but then the ex-husband insisted that he would make the payments only if she made herself sexually available to him. When she refused, the payments were delayed and the local shop owners refused credit. She tried to earn a living by doing domestic jobs which paid very little. She asked for help from her father who said that he would look after her if she went to live with him without the children. It was at this low stage of her life that Adeela met her new husband and they decided to marry. She discussed the matter with her children's father and he agreed that he would let her keep the children after the marriage.

MAINTENANCE PAYMENTS

Family law encourages divorcing parties to agree to the manner of payment of maintenance for the divorced wife and children. If the parties cannot agree in a reasonable manner, the court is required to determine the amount due and duration of the payment.⁶⁷ The court must comply with the principles of Sharia when exercising its power in issuing an order requiring the husband to pay maintenance to the wife and the children.⁶⁸ As the law does not specify what these principles are, the presiding judge decides what principles are

to be applied. The monthly payment and the period payable is determined as provided in the regulations of the Family Act. The regulations set the minimum amount payable, leaving to the discretion of the court any increase in the amount, depending on the financial means of the divorcing husband.

A divorced wife may apply to court for an order seeking overdue maintenance from her ex-husband. If she proves to the satisfaction of the court that she has not received payments, she is entitled to a minimum amount of MVR2,000 (approx. \$US130) per month.⁶⁹ The court has the discretion to increase the amount depending on the income of the husband. If the wife was pregnant at the time of divorce, she is entitled to the monthly amount plus medical expenses during pregnancy and child birth at public hospital rates.⁷⁰

In a divorce settlement case, the court set MVR5,000 per month as maintenance for the divorced wife where the husband admitted that he had sufficient financial means to pay that amount. (At the time, the monthly minimum maintenance payment was MVR500 per month.) Later he applied to the court seeking to reduce the amount to MVR1,000 per month stating that his divorced wife disobeyed him during the marriage. The court refused to reduce the amount because there was no evidence to prove disobedience. On appeal, the High Court upheld the lower court's decision.⁷¹

CHILD MAINTENANCE PAYMENTS

The court has the discretion to make arrangements to ensure maintenance payments to a divorced wife and children are paid where she is granted the custody of the children.⁷² If

⁶⁷ Section 32, Family Act 4/2000

⁶⁸ Section 35, Family Act 4/2000

⁶⁹ Reg 62 and 63, Family Act Regulations 2006 (as amended in 2014)

⁷⁰ Reg 63, Family Act Regulations 2006

⁷¹ 2012/HC-A/125

⁷² Section 39, Family Act 4/2000

maintenance arrangements were not part of the divorce proceedings, or the husband fails to pay, the wife may apply to court seeking financial payments and other support for the children, provided the children are under the age of 18 years.⁷³ Currently, the minimum amount of maintenance for a child is MVR2000 (approx. \$US130) per month for a single child and if there are more children, MVR1000 per additional child per month⁷⁴ plus clothing, schooling, and medical expenses.⁷⁵

Failure to pay maintenance may result in a direct deduction from the salary of an employed man, or criminal penalties such as imprisonment. Unfortunately, it is a long procedure and many women do not pursue payments after an acrimonious divorce, or they may tolerate non-compliance to maintain an amicable relationship with the father of the children.

In a divorce settlement case where the mother was given custody of the child, the court set a child maintenance payment at MVR4,000 per month as was offered by the father. (At the time of this decision, the minimum amount was MVR450/- per month.) In addition to this amount, the father was ordered to pay medical expenses when required, and clothing expenses for the child. Later, the father applied to the court to reduce this amount, and the mother also agreed that half of the amount would be sufficient. However, the court refused to reduce the amount. On appeal, the High Court reduced the amount to MVR2000/- per month based on the fact that mother agreed the reduced amount would be sufficient.⁷⁶

There are certain instances where maintenance payments are made to the court but remain unavailable to the woman because the claim procedure is complicated. The Family Court in Male' accepts only cash or card payments and

therefore the man has to physically attend and wait in a queue to make the payments between 8:30am and 11:30am on the working days of the week. Recently the court has made arrangements to deposit maintenance payments in the accounts of the woman if she has a bank account. There is about MVR2 million (approx. \$US130,000) in unclaimed maintenance payments in the account of the Family Court in Male'.⁷⁷ There is no data available to show the number of effective maintenance orders and how many are being complied with by the payees. The Family Court says that it has now implemented a policy of reminding the payee to make the initial payment but it is not clear if this is an effective method of ensuring payments on a regular basis, as evident in the example provided below.⁷⁸

Case 1:

The Family Court ordered a divorcing husband to pay maintenance of MVR2,000 (approx. \$US130) per month until his 17-year-old son living with the mother reached 18 years of age. Since the husband lived on another island for employment, he fell behind in payments but then made payments to the Family Court to cover the overdue amount and even paid a further three months in advance. A month after this payment, the Family Court mistakenly told him to attend court for non-payment.⁷⁹

Custody

After discussions with the children's father and with his agreement to let her keep the custody of the children, Adeela intended to marry her second husband. He lived in Male' and she decided to travel there with her four children. She first asked her father for temporary accommodation but he

⁷³ Reg 65, Family Act Regulations 2006

⁷⁴ *ibid*

⁷⁵ Reg 66, Family Act Regulations 2006

⁷⁶ 2012/HC-A/126

⁷⁷ Meeting with Family Court, 6 June 2018 at 1:00pm.

⁷⁸ Meeting with Family Court, 6 June 2018 at 1:00pm.

⁷⁹ The writer provided legal advice to one of the parties.

refused to allow the children of her first marriage into his house. This delayed her travel and her new marriage to the second husband. Adeela then decided to temporarily leave her children with their father, and with the agreement that he would give the children back on her return. Although she had planned to be away only a week, she had to stay in Male' for a month to solemnize her marriage.

On her return, she found that her four children were not with their father but in separate households and being looked after by his sisters and brothers. The eldest two children, a boy and girl, were staying with an uncle, the third child was at another, and the fourth and youngest girl was with her husband's eldest sister. This sister was married to a man who was one of several men convicted of the sexual abuse an underage girl a few years ago. Her ex-husband's family members were hostile to Adeela and they refused to allow her to see the children. Faced with this, she went to the local court and filed a case seeking custody of her children. She had no legal help and the case progressed slowly. Often hearings were cancelled because the children's father failed to attend the hearing. Eight months later the court removed Adeela's custody rights because of her marriage with a new man who was not a mahram of her children. Under Maldivian law, a mahram is a person who is "within the prohibited degrees of marriage in respect of the child",⁸⁰ in other words, it is a man who is more closely related to the children than their first cousins.

It is curious that the concept of mahram, which defines the people with whom a person cannot marry, is now being used in Maldives to condone such unions, ostensibly to protect the interests of children⁸¹ though in fact it restricts the right of the women to remarry and prevents her from having a family life after divorce. The consequent unhappiness of the mother cannot be in the interests of the children.

⁸⁰ Section 42(a), Family Act 4/2000

⁸¹ Islamic scholar's comment at validation meeting on 1st August 2018.

Regarding custody rights under Maldivian law, in the absence of the wife's mother, the father is next in line for custody and hence in Adeela's case the court granted custody of the children to the father. Adeela was given access to the children once a month during school term and weekly meetings during school holidays. The judge advised Adeela to file an appeal at the High Court in Male'. She did not appeal because she had no legal help. Even if she did appeal, the Magistrate Court's decision would have been upheld based on the following precedent.⁸²

A mother applied to a magistrate court seeking custody of her child when the father took the child away from her and refused to return her. This was soon after the mother was married to another man and moved to his island. The mother claimed that the child had been with her since birth and they had never been separated. The magistrate court ruled that the mother had lost her legal right to the custody of the child for two reasons. They are:

- that the mother was married to a man other than a mahram of her child and
- that the mother has moved to a different island other than her native island without the permission from the father of the child.

The lower court ignored the mother's claim that the child had never been separated from her since birth and for her to have the custody of the child was in the best interests of the child. On appeal, the High Court upheld the decision of the lower court.⁸³

Similarly, in Adeela's case she had married a man who was not a mahram of her children and also moved to Male' to live without permission from the father.

⁸² 2014/HC-A/03, pg 9

⁸³ 2014/HC-A/03, pg 9

Neither the Family Court nor any the Magistrate courts publish any of their judgments in relation to divorce, child custody and maintenance cases. Where the decisions are appealed, the High Court rulings are publicly available. Out of 24 cases analysed for this paper, 18 cases were about child custody and in 10 of those cases the mother was granted the custody of the child. In all of the 10 cases, the mother remained unmarried and dedicated to looking after the child. In the remaining cases, the father or maternal grandmother were granted custody of the child. In granting custody of the child to the grandmother, the court obtains an assessment of the physical fitness of the grandmother and her place of residence. In one case, the mother was refused custody of the child because she was married and in full time employment. Additionally, the child's maternal grandmother was not in good physical health and was living in a separate house from the mother of the child.⁸⁴ The father was granted the custody of the child because his mother was looking after the child.⁸⁵ It was irrelevant as to whether the father was in fulltime employment, spent long hours at work and spent little time with the child.

Contrary to the court order, Adeela's children were not looked after by their father but were cared for by his sisters and brothers. Adeela was refused phone calls and even brief meetings with the children. Her efforts to obtain access to the children were ignored or dismissed by all relevant authorities. Nevertheless, she visited the island frequently in the hope of seeing her children by chance.

⁸⁴ 2014/HC-A/75

⁸⁵ *ibid*

Child Custody

Under Maldivian law, foremost priority is meant to be given to the mother of the child when it comes to matters of custody.

*"The mother of the child shall have a prior right in accordance with this Act to be entrusted with the custody of the child."*⁸⁶

This priority depends on the mother meeting and maintaining a criteria defined by the Family law. Furthermore, she is required to prevent occurrence of an event specified by the law. The mother loses custody of her children if, in the opinion of the judge, she does not meet the criteria provided in section 41 of the Family Act, and there is an occurrence of any of the events stated in section 42 of the Act. The criteria and the events are:

1. Section 41 Criteria:

(a) The person shall be a Muslim;

(b) The person shall be of sound mind;

(c) The person shall be capable of providing compassion and care necessary for upbringing the child;

(d) The Person shall not be involved in the commission of vice acts prohibited in shariah."

Furthermore, *"the person's dwelling shall not be a place that may subject the child to any undue physical or immoral influence."*⁸⁷

⁸⁶ Section 40(a), Family Act 4/2000

⁸⁷ Section 41, Family Act 4/2000

Provided that the mother meets the above criteria, she has to ensure that any of the events described in section 42 of the Family Act did not occur before or after she had been granted custody of the child.

Section 42 events:

- (a) Where the mother has custody of a child, and she marries a man other than a mahram of the child.
- (b) Where custody of the child is entrusted to a person who openly commits vice acts prohibited in shariah;
- (c) Where custody of the child is entrusted to the mother of the child, and she moves residence to a different island without the consent of the father or legal guardian of the child, or changes her residence to a different residence in a manner that restricts the visitation rights of the father;
- (d) Where the person to whom the custody of the child is entrusted renounces Islam.
- (e) If the person with custody neglects or is cruel to the child.⁸⁸

Adeela lost custody of her four children not because she did not meet the section 41 criteria, but because of her marriage to another person as described in section 42(a) of the Family Act.

Table Showing the Priority Order⁸⁹

1	Mother	11	Full sister’s daughter (niece)
2	Maternal grandmother	12	Paternal half-sister’s daughter
3	Father	13	Maternal half-sister’s daughter
4	Paternal grandmother	14	Brother’s daughter (niece)
5	Sister (full)	15	Paternal half-brother’s daughter
6	Half-sister (paternal)	16	Maternal half-sister’s daughter
7	Half-sister (maternal)	17	Paternal aunt (full)
8	Maternal aunt (full)	18	Paternal aunt (father’s paternal half-sister)
9	Maternal aunt (mother’s half-sister - paternal)	19	Paternal aunt (father’s maternal half-sister)
10	Maternal aunt (mother’s half-sister -maternal)		

⁸⁸ Section 42, Family Act 4/2000. Translation by the writer.

⁸⁹ Reg 71, Family Act Regulations 2006

When Adeela lost the custody of her children to their father, he passed on the responsibility to his sisters and brothers. Paternal aunts and uncles are last in the priority list as shown above. He had no concern over the fact that his youngest child was with his eldest sister who was married to a man who was among a group who were convicted of sexually abusing an underage girl.

Failing all efforts to come an amicable arrangement for access to the children, Adeela filed a case at the Family Court in Male' about 18 months after she lost custody of her children. At this stage she was considering getting divorced from her second husband so she would be given priority for custody over the father. Meanwhile, her second husband became concerned that his wife would leave him if she was unable to have the custody of her children.

The two older children were left traumatised by the separation from their mother and other siblings at the same time. They spoke to her over the phone but were very reserved. The third child and the youngest were both very fond of her and always came running if they happened to see her on the street. However, the minders of the children made every effort to prevent the children seeing her. At times the children were taken away by force.

Adeela's custody case at the Family Court took nearly nine months because the judge referred the case to the family protection authority to make an assessment of the status of the children. Then the judge took leave of absence which significantly delayed the case. The other delaying factor was the children's father's refusal to attend hearings in person or to appoint another family member or friend in his stead.

Adeela's third child, who was deaf, had reached the age of seven years by then. If the child is seven years or older, they are given the opportunity to decide which parent to live with.⁹⁰ In the case of Adeela, her third child was brought to the court by his father. Without the help of a sign language interpreter the child was asked to decide whether he wanted to live with the mother or the father. According to the judge the child did not choose any of his parents. Adeela was not convinced. The court did not take into consideration the disability of the child, and the argument was that the child was living at a place that had no special schooling for him, whereas if he were living in Male' with his mother he would have the opportunity to attend a school that specialized in education of deaf children. In making the final decision, the court ignored the repeatedly raised issue that the father did not look after the children and there was no evidence to suggest that he spent any time with the children. In fact, the father admitted that it was true and blamed Adeela for leaving the children with him. In the final decision, the court did not give her custody of her deaf child, but granted her custody of her youngest child because the father did not object to it.

⁹⁰ Section 44, Family Act 4/2000

CONCLUSION

Around about 60% of marriages in Maldives end in up divorces. Each divorce is a serious breakdown of a relationship and if children are involved, they are most likely to be subject to emotional and sometimes physical harm. The family law that is based on Islamic law has been in force for 18 years and it has not brought about a reduction in the rate of divorce and family relationship breakdowns.

Adeela's experience clearly shows that the family law system does not provide easy or equal access to justice for women. When it comes to marriage, a woman's acceptance of an offer of marriage is insufficient without the approval from her legal guardian. She has no legal claim to any property acquired during the marriage regardless of her contribution to the marriage in terms of finance or labour, unless there is a pre-nuptial agreement. The concept of pre-nuptial agreement in its current form became law only in 2016. In theory it was permitted since 2000, but it remained unknown and unutilized. With the 2016 amendment to the Family Act, equitable division of property in the event of divorce is a possibility if there is a pre-nuptial agreement to that effect, but it is the exception rather than the norm. Considering that there are only two pre-nuptial agreements in existence at the time of writing, it is not making any significant improvements for women. Such agreements are subject to the principles of Islamic shariah which are not specified in the law and remain unwritten.

Women do not possess the authority to divorce but may apply to court for a judicial divorce in certain circumstances as provided by the family law. However, men have the legal authority to divorce at will and without requirement to provide any reasons, and the divorce rate remains high. Divorced women face further disadvantages in child custody matters. A mother loses her priority position for the custody of her children if she chooses to marry again to a man who is not a mahram of the children, among other criteria and events set by the law.

There is no effective system to manage divorce, maintenance payments and custody matters. The system in place is often not enforced, and the interests of children are often secondary to the jealous and vengeful behaviour of the adults involved. The law treats women as subordinate partners in the marital relationship and caregivers of the children without any legal authority. There is no effective system to collect maintenance payments and distribute them to the women. The need for change is acute.

Maldives is only one of the many countries where Islamic family is in practice. As discussed in this paper, women enjoy the same freedoms in entering into a marriage, initiating divorce and equal or equitable division of property in the event of divorce. There is no justification to perpetuate the inequalities within the family law on grounds of the tenets of Islam.⁹¹

In order to make the system women and family friendly, it is essential to amend the current family to bring about the recommended changes

⁹¹ Musawah, *CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011, pg 42

RECOMMENDATIONS

It is recommended to amend the Family Act to bring about the following changes to remove the discrimination of women.

1. Women be allowed to marry without having to obtain consent of a judicial guardian
2. Minimum age for marriage for both males and females to be 18 years without exception
3. Prohibition of polygamous marriage
4. (a) In the short term, encourage all marrying couples to have a written pre-nuptial agreement guaranteeing equitable division of property acquired during the marriage in the event of divorce

(b) In the long term, amend the law to include equitable division of matrimonial property as the default position of the law
5. Prohibition of divorces outside of court and provide equal grounds to apply for divorce
6. Custody be granted on the basis of the best interests of the child – both mother and father be subject to same rules. Most importantly, remove a mother's loss of custody rights when she marries a man other than a mahram of the child
7. A more effective child maintenance payment procedure

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