

RIGHTS OF WOMEN & CHILDREN

Frequently Asked Questions



FAMILY
LEGAL CLINIC



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PREFACE

The Family Legal Clinic ('FLC') was established in the Maldives in August 2014. FLC was registered as an independent NGO on 20th September 2017. Placing itself as one of the pioneers in the Maldives, focusing on providing free legal services, and awareness and advocacy in the areas of family law, prevention of domestic violence law and sexual offences laws.

This booklet is primarily plain language, which is the translation of an Act of Parliament into language that is easily understood by anyone not legally trained. These translations are available both in English and Dhivehi. The content has been carefully curated to address legislation most relevant to the rights of women and children. To ensure ease of understanding, sections from the relevant pieces of legislation have been reconstructed into the format of 'frequently asked questions', making it relatable and easy to understand. The acts covered in this booklet are: Family Act (4/2000); Special Provisions Act to Deal with Child Abuse Offenders (12/2009); Prevention of Domestic Violence Act (3/2012); Sexual Offences Act (17/2014); Prevention of Sexual Harassment Act (16/2014); Gender Equality Act (18/2016); and Protection of the Rights of Children Act (19/2019).

The aim of this text is to empower each and every person impacted by these laws by arming them with information on their rights, and more importantly, the options available to them in the event of a dispute.

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MARRIAGE



MARRIAGE

What does it mean to be married by law?

By Law, a legal marriage in Maldives can be between 2 Maldivian nationals or between a Maldivian national and a foreigner. Both parties must have given their consent. The marriage must however, be solemnized in compliance with the law stated in the Family Act. Both parties must be above 18 years old and must also be eligible for marriage based on the principles of Islamic Shariah.

What are the requirements for my marriage to be solemnized according to law?

Only the Registrar of Marriages can approve the solemnization of a marriage. He may only do so if the conditions under Islamic Shariah and the law are met.

Only a Judicial Mauzun can solemnize a marriage in the Maldives. On condition that:

- (i) one party has accepted the offer of marriage from another party; and
- (ii) this is done in the presence of the judicial guardian of the bride and 2 witnesses with the *wali* of the judicial guardian of the bride.

What are the circumstances where a woman CANNOT marry?

A woman cannot marry if:

- (i) She is under the *ismath* of a man - that is if she is currently married;
- (ii) She is observing the period of *iddah* after a divorce (except if it is with her former husband);
- (iii) She has been divorced 3 times by the same husband, she cannot marry the said husband unless she has observed the period of *iddah* of a marriage contract with another man and that marriage has been consummated; or
- (iv) She is a widow and has not completed observing a period of 4 months and 10 days from the date of her husband's death.

Is my husband allowed to marry when he is still married to me?

Yes, he however cannot be married to more than 4 women at a time. He is allowed to do so upon approval of his application by the Registrar of Marriages.

The Registrar of Marriages will consider his financial competence, the number of dependents he may have and whether his reasons based on the principles of Islamic Shariah are acceptable to the Registrar of Marriages.

The man/woman I want to marry is not a Muslim. Is this allowed?

A Maldivian woman cannot marry a non-Muslim man. However, if the man has taken the necessary steps to convert to Islam, they may proceed to marry.

A Maldivian man may marry a non-Muslim if she is permitted by the Islamic Shariah to contract a marriage with a Muslim man.

My daughter is about to marry but we are not able to obtain *wali* of the bride's judicial guardian. How do we proceed?

If the reasons you are not able to obtain *wali* is any of the following:

- (i) There is no judicial guardian alive;
- (ii) *Wali* is withheld by the judicial guardian without reasonable cause;
- (iii) You do not know the whereabouts of the judicial guardian;
or
- (iv) The judicial guardian lacks the requirements to grant *wali*,

Then, the marriage may be solemnized with judicial consent by the Judicial Mauzan.

I am about to marry, is it necessary for my future husband to provide mahr/dowry?

Upon solemnization of marriage, a woman is entitled to *mahr*/dowry. Based on the principles of Islamic Shariah, the man is responsible to provide *mahr*/dowry. Only the woman can

determine the type and amount of *mahr*/dowry, other parties have no right to interfere in this decision. The type and amount of *mahr*/dowry must be permissible under Islamic Shariah.

For dowry, any item of value or any benefit or work which is permissible under Islamic shariah is allowed.

My fiancé suggested that we sign a nuptial agreement before getting married. This agreement is supposed to include how our finances and property should be divided in the event something goes wrong with our marriage. Is this allowed?

Yes, this is allowed. However, do note that you should only do so if you have understood the implications and you agree to the terms of the agreement. It is always best to consult a lawyer. The terms in the agreement must be in accordance with the principles of Islamic Shariah.

MARRIAGE TO A FOREIGNER



MARRIAGE TO A FOREIGNER

Can a Maldivian marry a foreigner?

Yes. However, there are conditions that must be met. A Maldivian can only marry a foreigner if:

- (a) The man and woman meet all the conditions for a valid marriage under Islamic Shariah; and
- (b) Where the man is the foreigner, he is financially stable and is able to support the expenses for his future family.

If the marriage contracted is between a man of foreign nationality and a Maldivian woman, the man must sign a declaration accepting all obligations on him under the Family Act and the Regulations under it. The declaration must be signed before contracting to marry. The marriage will then be registered in accordance to the provisions of the Family Act.

Is the divorce process the same for Maldivians married to foreigners?

Yes, the process is the same and must be done in accordance to the Family Act. However, with regards to maintenance, where a Maldivian husband divorces his wife who is a foreign national, he must arrange for her to travel to her country of origin and bear all costs related to that, and maintenance required under the law.

DIVORCE



DIVORCE

DIVORCE: HUSBAND

- (1) If the husband wishes to initiate a divorce, he has to submit an application to the relevant court and he may only proceed if a Judge grants leave.
- (2) If the wife agrees to the divorce, then the husband may divorce his wife with the leave of court.
- (3) If the wife wishes to remain in the marriage, the Judge will refer them to the conciliation division.
- (4) The conciliation process must be completed no later than 3 months.
- (5) The conciliation division will inform the Judge on the status of the process, whether it was successful or not.
- (6) If the judge is satisfied that the parties will not be able to remain married, the Judge will grant leave to the husband to divorce his wife.
- (7) If the reconciliation is successful and the couple communicates this to the court, the application for divorce by the husband will be dismissed

DIVORCE: WIFE

- (1) A wife may apply for divorce based on the following grounds:
 - (a) The husband has done something to damage the reputation and dignity of the wife
 - (b) The husband has been cruel and abusive to the wife
 - (c) The husband has forced the wife to commit an act that goes against Islam
 - (d) The husband has abstained from sexual relations with his wife for more than 4 months without justifiable reason
- (2) The judge will then refer the matter to the conciliation division
- (3) The conciliation process must be completed no later than 3 months

- (4) The conciliation will inform the Judge whether or not the conciliation was successful. If the judge is satisfied that the parties will not be able to remain married, the court will then dissolve the marriage by a *baayin* divorce
- (5) If the reconciliation is successful and the couple communicates this to the court, the application for divorce by the wife will be dismissed

GROUNDS OF DIVORCE

Khul'u divorce	A divorce by agreement, where the parties to the marriage agree that the wife may seek a divorce from her husband by giving him something of value
Faskh	A woman can make an application for dissolution of marriage by <i>Faskh</i> provided that the conditions stated below are met. In such a case, the court shall dissolve the marriage without referring the matter to conciliation.
Thafriq	<i>Thafriq</i> is the special right of a woman under Islamic shariah to demand a divorce where the court finds that any of the grounds stated under the Islamic shariah for <i>thafriq</i> continue to exist. The wife can request for a divorce when the husband has committed an act of domestic violence against his wife

Is the conciliation process compulsory?

It depends. The Family Law Act allows for dissolution by *Faskh*. If the following has occurred, the court can dissolve the marriage WITHOUT referring the matter to the conciliation division:

- (a) the husband cannot be located for over one year and the wife does not know where he is
- (b) the husband failed to provide maintenance for 3 months in a row and the matter has been filed in court twice and the husband has defaulted on orders to make payment.

- (c) the wife was not aware that the husband is impotent. In order for this to apply, the wife must be prepared to provide evidence that the husband is impotent.
- (d) the husband has been in a state of insanity for 2 years
- (e) the husband suffers from a dangerous and contagious disease which cannot be cured
- (f) any other event that allows for a marriage to be dissolved by faskh, according to the principles of Shariah

Can my husband divorce me by triple divorce in a single pronouncement?

No – it does not matter what words or the number of times it is said. The act of a husband divorcing his wife will be deemed a single divorce.

How do I divorce by way of *Thafriq*?

Thafriq is the special right of a woman under Islamic shariah to demand a divorce where the court finds that any of the grounds stated under the Islamic shariah for *thafriq* continue to exist.

The wife can request for a divorce when the husband has committed an act of domestic violence against his wife, based on the following grounds:

- (a) seriousness of the act of domestic violence results in the failure of a peaceful life between the husband and wife;
- (b) safety and wellbeing of the wife cannot be guaranteed in reference to the seriousness of the domestic violence;
- (c) in spite of the implementation of other measures prescribed under the Prevention of Domestic Violence Law, the marriage is irretrievably broken because of the act of domestic violence and it is impossible to remain married.

Once the court has ordered for a dissolution of marriage by way of *thafriq*, the marriage will come to an end immediately. The principles of Islamic shariah applicable upon the dissolution of a marriage shall also apply to both the husband and wife

DIVISION OF PROPERTY IN A DIVORCE

In a divorce proceeding, the court has the power to distribute property acquired by the couple during the course of marriage provided that there is a nuptial agreement between the party that provides for division of property.

What if there is an existing nuptial agreement?

If the parties do not dispute the nuptial agreement, property will be divided in accordance with the agreement. However, (and continue with the existing sentence provided here already)

What is an equitable distribution?

By law, equitable distribution will consider:

- (a) the property or the amount of money the couple came into possession during their marriage.
- (b) the portion or amount due to the husband and wife from the property or money

In divorce proceedings, how do I determine which assets remains mine and which assets will be eventually divided by the court?

The property that will be subjected to division during divorce proceedings is referred to as 'jointly acquired matrimonial property'. This includes all movable property, immovable property, cash and other property and money stipulated acquired jointly and individually by the parties to the marriage, during the time you remained married.

The following property and money are deemed individually acquired and will NOT be subject to division:

- property and money individually acquired,
- property and money in individual names and,
- property and money received by way of probate, gift or will before marriage shall be interpreted as

However, there is one exception: for property individually acquired before marriage but was made use of and its value increased during the marriage, it will be deemed as 'jointly acquired matrimonial property' and will be subject to division.

The house we lived in is in my husband's name but I have been servicing the loan and maintaining the upkeep of it. I believe that for all intent and purposes I should be the home owner. Will the court take this into account - how do I ensure that my rights and interest is protected?

Not to worry, just because the title of the property acquired during marriage is the name of one person, it does not mean that the ownership will be automatically go that person.

The court is bound to take into account the following when deciding the rightful portion to the husband and wife:

- (1) the amount of money or effort put in by the parties individually to acquire the property or money;
- (2) the duration of the marriage;
- (3) the extent of positive contribution made by the woman as the wife or as the mother of the children during the marriage regardless of she made any active physical or financial contribution towards acquisition of the property or money;
- (4) any debts owing by either party which may be tied to the property or money.

For practical reasons, not all assets and property can be divided equally. My husband and I bought a motorcycle together. Now that we will be divorced, I wish to continue using it without having to buy a new motorcycle. How will my interest be protected?

For practical reasons, not all assets and property can be divided equally. In instances where due to the nature of it, the property (in this case, the motorcycle) cannot be divided, the court will order a valuation of the property based on its current market value to determine its value. The court may then order one party

to retain the property and compensate the other party based on the monetary value. Both parties must agree as to who keeps the property in question. If both parties cannot come to an agreement, the court will decide who retains the property.

MAINTENANCE



MAINTENANCE

Who decides on the amount to be paid for maintenance and the period of payment?

In an ideal situation, both parties will come to an agreement on maintenance and it will be according to the principles of Islamic Shariah. When both parties fail to reach an agreement, the court will determine the amount and period of maintenance and will order the former husband to comply with the terms set.

How is payment of maintenance enforced?

The court has a discretion to ensure payment. One method is by appointing a third party to maintain a property belonging to the former husband and controlling the proceeds by ensuring that it is channeled towards maintenance payments.

The court will entrust another person by directing a guarantor or assignee to make the payment or by directing that an apportioned part of the income of the person liable to pay maintenance be paid as maintenance.

My husband does not have job and is not financially stable. Does this mean he does not have to pay maintenance?

He will only be exempted if he is below the age of 18 years and the court is satisfied that he has no means to financially support himself. The court will step in to discuss the matter with relatives of the children and if any of the said relatives are willing, the court will then appoint the said relatives to be responsible for bearing any cost towards children's maintenance.

Unless he fits the description above, he would be liable for punishment for failure to pay maintenance, that is a fine not more than 1,000 Rufiyaa.

Can my former husband kick me out of our matrimonial home?

No, he cannot unless he has provided you with alternative accommodation. During the *iddah* period or as long as you have custody of the children and that was your home during the marriage, he cannot ask you to leave.

CUSTODY



CUSTODY

The general practice for determining the custody of a child is as follows:

- (a) The mother of a child will have the first priority right to be given custody in accordance with the Family Act and Islamic Shariah.
- (b) If the Judge is of the opinion that the mother of the child is not suitable by law to be given custody, then reference will be made to the relevant Regulations to determine the person who should be awarded custody of the child.
- (c) If a man is given custody of a female child, such a person shall be one who does not qualify to marry her under Islamic Shariah.
- (d) where more than one person is entitled to the child's custody, and they are in equal degree of relations with the child, the custody of the child shall be entrusted to person who appears to be most compassionate towards the child and who bears the most virtuous of character.
- (e) Best interests of the child must be the priority in entrusting custody of the child according to the provisions of this section.

What are the requirements for someone to be given custody of the child?

For a person to be eligible for custody, that person must be:

- (a) a Muslim;
- (b) of sound mind;
- (c) capable of providing compassion and care necessary for the child's upbringing;
- (d) not involved in the commission of vice acts prohibited in Islamic shariah;
- (e) the person's home must be one that is safe and not susceptible to immoral activities.

What type of conduct can result in someone losing custody?

You could lose custody of your child if you:

- (a) if the mother has custody and marries a person who is also eligible to marry the child under Islamic Shariah;
- (b) commit vice acts prohibited in Islamic shariah openly;
- (c) if the mother has custody and she moves to a different island that is not her native island without the consent of the father or legal guardian;
- (d) if the mother has custody and she moves to a place that makes it difficult for the father to visit the child;
- (e) commit apostacy; or
- (f) neglect the child or treat the child with cruelty or abusively.

Can the terms of the duration of custody change?

Custody of the child will be with the person awarded custody until the child is 7 years of age based on the hijri calendar. Should the person holding custody choose to apply to for an extension, the court may grant the custody of a female child until she she completes 11 years of age and for a male child until he completes 9 years of age according to the hijri calendar. Upon expiry of the period of custody, or completion of the requisite age of custody, the child shall have the right to live with either of the parents the child may choose, unless the court has ordered otherwise.

PATERNITY



PATERNITY

What are the rules for determining the legitimacy of a child?

The minimum period for attributing the legitimacy of child is 6 months from the date of marriage, based on the hijri calendar. The maximum period is 1 year from the date of divorce or death of the husband, also based on the hijri calendar. A spouse may deny the legitimacy of the child by way of li'an (infidelity) in accordance to the Islamic Shariah.

DOMESTIC VIOLENCE



DOMESTIC VIOLENCE

Understanding Domestic Violence

What is domestic violence?

When persons are in a *domestic relationship*; and one party causes harm to the safety or health or well-being of, or may cause one party to feel threatened or fear harm being inflicted to the other party.

In the eyes of the law, what does it mean to be part of a 'Family'?

'Family' refers to:

- (a) married persons;
- (b) children of the spouse (born from the current marriage or from a previous marriage);
- (c) blood relatives and relatives of the spouse; or
- (d) from the persons sharing the same household, if there are persons who are being cared for and financially assisted by another person's financial assistance, then the person who provides the financial assistance and the corresponding dependents on such assistance will also be considered as family.

What does it mean to be in a domestic relationship? Who are the victims and abusers?

If you are in a relationship where:

- (a) you are married
- (b) both parties live together or recently lived together in the same home
- (c) you are a parent or guardian with the responsibility of raising a child
- (d) you are related to the person involved
- (e) you are a domestic child care worker
- (f) both parties are intimate – for legal purposes, the court will consider the nature of the relationship and how significant the relationship is with the person. This includes the amount of time spent together, the extent of personal matters

shared, the type of place where both persons spent time together and how long the relationship lasted

Who are the victims and abusers?

Persons involved in any of the relationships stated above can be an abuser or a victim to the other party in a relationship.

What type of acts amount to domestic abuse?

physical abuse	any act or threatened act of physical violence
sexual abuse	any type of abuses, including humiliating, degrading or violating sexual integrity
verbal and psychological abuse	degrading or humiliating a victim. including repeated insults, ridicule or name calling, constant threats to cause emotional pain.
causing financial or economical restrictions	Acts of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the victim's privacy, liberty, integrity or security; includes the following: (1) the unreasonable deprivation of economic or financial resources to which a victim is entitled under law or which the victim requires out of necessity, including household necessities for the victim, and payment of rent or mortgage bond repayments in respect of the shared household; or (2) the unreasonable disposal of household effects or other property in which the victim has an interest.
intimidation	uttering or conveying a threat, or causing a victim to receive a threat, which induces fear

harassment

means engaging in a pattern of conduct that induces the fear of harm to a victim, including:

- (1) stalking and loitering outside of or near the building or place where the victim resides, or works, teaches, studies or happens to be;
- (2) bothering the victim by making telephone calls or inducing another person to make telephone calls to the victim;
- (3) bothering the victim by repeatedly sending letters, telegrams, packages, facsimiles, short message service (SMS) text messages, electronic mail, or other messages or objects to the victim;

stalking

means repeatedly following the victim of domestic violence, going to places where the victim goes, harassing and bothering the victim;

damage of property

means the willful damaging or destruction of property belonging to a victim or in which the victim has a vested interest;

impregnating the wife, without considering her health condition and against the advice of a medical doctor;

impregnating a woman without her consent, while she is trying to get out of an abusive relationship;

deliberately withholding property that belongs to another person in a manner that will prevent him from being able to use it;

entry into, and staying at the home of a victim of domestic violence without consent, in cases where the parties do not share the same residence;

any other act which may be seen as an act of violence, or one of asserting control over the victim of domestic violence;

coercing, intimidating or forcing a person to do something which he would not have done or would not have wanted to do with his own volition;

confining a person to a particular place without his consent, or restricting a person's movement from one place to another on his own volition, or restricting a person's movement or transportation on his own volition;

attempting to commit any of the acts stated above, or causing apprehension of fear in a person that such an act may be committed;

causing a child to witness or hear an act of domestic violence or presenting or placing a child in such situation where the child may witness or hear an act of domestic violence.

HOW TO REPORT A DOMESTIC VIOLENCE INCIDENT



HOW TO REPORT A DOMESTIC VIOLENCE INCIDENT

Who can report a domestic violence incident?

If you are a victim of domestic violence or have information of a domestic violence incident, you should report the matter to the police. Especially if you witness it firsthand. However, in situations where you suspect domestic violence, suspicion itself is sufficient grounds to report the matter. Reports made in good faith will have legal immunity.

How do I report a domestic violence incident?

The report can be filed orally or in writing with your local Police Department. You may also call the hotline or landline (please refer to page XX for further details).

What role does the Police play in a domestic violence situation?

The Police will initiate the process of investigation and take all necessary action as soon as they receive a report of an act of domestic violence. Information that will be noted of includes:

- suspicions that an act of domestic violence is taking place or has taken place;
- given the circumstances, its highly likely that an act of domestic violence will take place;
- statement that determines in situations where there was a protection order, anything that would lead the police to believe that the order has been or will be breached;
- statement that may lead to the conclusion that an act of domestic violence has taken place in that location

Once a formal report is filed, the Police will do the following:

- inform the Family Protection Authority ('Authority') of the domestic violence incident;
- request the Authority or a social service centre to send a social service provider to the place where the incident of domestic violence occurred;

- go to the place of the reported domestic violence incident (there is no warrant required) to clarify and assess the situation;
- in situations where there is physical or psychological abuse and medical attention is required, bring the victim to the nearest health facility to ensure that they are attended to accordingly. When escorting the victim, the Police will also ensure that there is no loss of evidence and may prohibit certain acts as a result of this;
- to investigate the case thoroughly, including meeting all persons related to the case, obtaining witness statements. If there are grounds for prosecution, to send that matter to the Prosecutor General;
- when obtaining witness statements from children, it is done in an appropriate environment and in the presence of a social service provider;
- compile true and complete details of the act which constitutes an act of domestic violence;
- advise the victim of the domestic violence of their rights and remedies:
 - (a) protection order;
 - (b) custody order;
 - (c) order relating to place of residence;
 - (d) monetary compensation order;
 - (e) the right to press charges where prosecution for a criminal offence is possible;
- prepare relevant report and submit it to the Authority and the court;
- if required, take the victim of domestic violence to a protective shelter (this is at the cost of the Police);
- provide Police protection to the persons who report incidents of domestic violence;
- if needed, arrest the abuser;
- share information on the abuser and the offence he committed to media source;
- to assess whether the abuser may also be prosecuted under the Penal Code or any criminal laws, such as assault and

battery, grievous bodily harm, rape, other sexual offences and murder. This will then be forwarded to the Prosecutor General.

As a victim, you have the right to request the following from the Police:

- receive a formal document that evidence that a report has been registered with the Police;
- details of the investigating Police officer;
- if you require medical assistance as a result of the act of domestic violence that the Police transfer you to a healthcare provider as their cost;
- that the Police arrange your transfer to protective shelter at the cost of the Authority where services of such a shelter is available;
- may make an application for an order of court to restrain the abuser from contacting you;
- that such an order will prohibit the following:
 - (a) cause any physical, sexual or psychological injury to the protected person;
 - (b) threaten to cause any physical, sexual or psychological injury to the protected person;
 - (c) cause or threaten to cause damage to the property of the protected person;
 - (d) commit or threaten to commit any act to intimidate, humiliate or cause psychological trauma on the protected person;
 - (e) the respondent of the order committing any of the prohibited acts against the protected person through an intermediary;

Note: it is not a requirement to engage an attorney to obtain an order of court and you have the right to seek assistance from the Police or relevant ministry to obtain the order;

- advice of the temporary remedies that the Police can provide in the event the domestic violence has occurred at a time during the night, over the weekend or on a public holiday.

PROTECTION ORDERS



PROTECTION ORDERS

What is a protection order?

The purpose of a protection order is to protect victims or potential victims of physical and domestic violence and to ensure their health and rights are protected and preserved. It is an order made by the court when act of domestic violence has happened, ordering the abuser to, or prohibiting the abuser from doing certain acts in order to protect the victim. Even if an incident has not yet happened but you fear that you are at risk, you still have the right to apply for a protection order. The protection order will be enforceable throughout the Republic of Maldives.

If respondent of the order has been using or encouraging a third party to commit act which may be deemed an act of domestic violence instead of directly committing such acts, the court may issue a protection order against the said third party.

How will the court decide whether to issue a protection order?

The court can issue a protection order if it has verified the following circumstances:

- (1) that the person referred to in the order has committed, is committing, or may commit an act that is an act of domestic violence; and
- (2) issuing an order is a must for the protection of the interests of the person making the application, his/her children, or a member of his/her family.

Who can be protected under this order?

A person seeking an order of the court and his/her children will be protected under the order where the court issues a protection order. When issuing a protection order, the court may direct that the order enforced will extend to continuously protect the person who sought the order and any other person bound by a domestic relationship with the him/her.

Can anyone apply for a protection order?

Here's a list of categories of people who can apply for a protection order by law:

(1) The victim themselves:

A party in the domestic relationship can apply for a protection order

(2) Children:

This application should be made through the child's parents or guardians or custodians, or any person allowed under the law.

The application will allow the court the opportunity to hear from the child, even if it was made through the child's parents or guardians or custodians, or any person allowed under the law. As long as the child is accompanied by an employee of a social service provider, he/she may be summoned to court.

(3) Third party:

If the victim is not in a position to make the application, then it can be made through a person appointed by the victim. A third party will be allowed to make an application if:

- (a) practical incapacity due to present circumstances;
- (b) fear in making such an application;
- (c) making such an application in his own name may compromise their interests and wellbeing due to the circumstances.

'Third parties' includes registered associations, the family, relatives and friends of the victim of domestic violence.

In turn, the court will validate the following information before proceeding with a third-party application:

- (a) that the person does in fact want to make the application for an order;
- (b) that the third party who filed the case in, and made the application for an order to the court was appointed by the person;

- (c) that the person has appointed a third party on his/her will;
 - (d) that the designated third party has accepted the appointment;
 - (e) that there is no conflict of interest between the person making the application and the third party representing the person.
- (4) Persons with disability
- Parents or guardians or custodians may apply on behalf of a person with the following disabilities:
- (a) by reason of his disability; or
 - (b) lacks mental capacity to make decisions related to personal welfare or, inability to judge the nature and importance of such matters; or
 - (c) lacks ability to express or communicate matters despite such person's mental capacity to appreciate personal welfare matters and consequences of their actions.

I am in the middle of divorce proceedings and I have reason to believe my safety is at risk. Can I still apply for a protection order?

Yes. Even if you are on the midst of an on-going divorce or child custody proceedings related to the person you are seeking an order against or any other civil or criminal proceedings, you can still apply for a protection order.

How will the order protect me?

The order will prevent the respondent from:

- (a) causing or threatening to cause any physical or sexual injury;
- (b) causing or threatening to cause damage to your property;
- (c) commit or threaten to commit any act to intimidate, humiliate or cause psychological trauma;
- (d) the respondent of the order committing any of the prohibited acts against the protected person through an intermediary.

If *both parties do not share the same household*, the protection order will specifically prevent the respondent from:

- (a) Learning commonly visited places; or following the victim at times they enter these place with the intent to distress or discover the victim's whereabouts.
- (b) stalking, going to the same place, stopping, bothering or verbally assaulting the protected person;
- (c) entering or staying at the home of the protected person or other place without the permission of the person;
- (d) interacting with the victim using phones, letters, electronic mail, short message service (SMS) text messages or any other form, unless:
 - (i) it is allowed in an agreement or order pertaining to visitation rights in respect of a child of the victim and, to the extent allowed under the special conditions of the protection order;
 - (ii) for, and to the extent necessary for taking part in a family gathering.

Where the court deems it is reasonably necessary to protect or provide for the safety of the protected person or any child of the protected person, the protection order can also include *special conditions*:

- (i) an order relating to the place of residence:
 - protected person cannot be evicted or excluded from the shared household or any part of it by the respondent of the order.
 - the respondent may be required to deposit to the court a financial bond as security in order to discourage domestic violence. The bond may be forfeited by the court in the event of a breach of the residence order;
 - the court may pass an order directing the officer-in-charge of the nearest Police station to protect the victim or to assist the victim in making an application for a court order or in the enforcement of an order;

- the court may impose obligations relating to the discharge of rent and other payments related to the residence of the victim, having regard to the financial needs and resources of the parties.
- (ii) custody order; and/or
 - the court may, at any stage of hearing the application for protection order, issue a custody order granting temporary custody of any children of the victim of domestic violence to the victim or the person making an application on behalf, if the court is of the opinion that there is a possibility that the children or their interests may be harmed.
 - if the court is of the opinion that any visit of the respondent may be harmful to the interests of the children, then the court may prohibit the respondent from visiting the children.
- (iii) order for recovery of monetary damages.
 - based on the application, the court may make an order for recovery of monetary compensation

I have a protection order in place but the situation has escalated and I feel more threatened. The restrictions in the protection order is not sufficient. What can I do?

The protection order can be amended to meet the requirements of the current situation. You would have to apply to the courts and if the courts are satisfied, the court may:

- (a) remove or modify a special condition;
- (b) add a new special condition;
- (c) variation of the manner in which a certain act are to be performed, or removal of the requirement for performance of the same;
- (d) specify instructions for a specific matter.

How long does a protection order last?

The courts can impose a protection order for up to 1 year, maximum. It will remain lawful until revoked by the court. The

protected person or the respondent may apply to the court to revoke the order. The court will only revoke the order if it is satisfied that the conditions to revoke a protection order if fulfilled.

What happens when someone breaches the protection order?

If breached, the person would have committed an offence. A person is considered to have committed a criminal offence if he/she:

- (1) breached a protection order;
- (2) failed to comply with a term in the protection order;
- (3) breached an order of the court relating to a home, custody order and/or an order for recovery of monetary compensation;
- (4) failed to perform an act that is stated in a protection order.

At the scene of an incident, the Police has the power to arrest any person suspected of committing a domestic violence offence without having to produce a warrant (ie the person will be arrested straight away) and if there is reason to believe that the person has breached a protection order.

Because it is a criminal offence, the penalty if found guilty of a breach is as stated below:

First time offender	Not more than 6 months imprisonment or a fine of not more than MVR15,000
Second time offender	Not more than 1 year imprisonment or a fine of not more than MVR30,000
Third time offender	Not more than 3 years imprisonment or a fine of not more than MVR50,000

Note: The respondent will NOT be eligible for bail if he has been arrested for breaching a protection order.

The respondent is still liable for criminal offences committed during the act of domestic violence such as assault and battery, grievous bodily harm, rape, other sexual offences and murder.

What if I need a protection order on an urgent basis?

You may apply for an *Emergency Protection Order*. This order can be granted without notice to the abuser and will be based on the statement of the victim. This is a temporary order that should not last more than 3 months. However, unless it has been revoked before the expiration of the 3 months, it will then become a permanent order.

The following elements must be satisfied in order for the court to issue an emergency protection order:

- (a) a hearing from both parties may put the victim at risk;
- (b) justice sought by the victim may not be served;
- (c) threat and risk faced by the victim may escalate;
- (d) the victim is a person who is in a difficult situation.

The court will consider the following before issuing an emergency protection order:

- (a) seriousness and issues of the complaint filed by the victim;
- (b) harshness or seriousness of the acts carried out by the respondent of the order;
- (c) extent to which the interests of the victim are compromised by the abuser's conduct.

Can my abuser have the protection order revoked or change the terms of an emergency order?

It depends. The respondent has to the right to:

- (1) request to be heard before the order becomes permanent;
- (2) request for variation or revocation of a condition or matter in the order;
- (3) request the court for a revocation of the order;
- (4) put forward his objection to the order.

This will be decided through a court hearing and it will be conducted with both parties represented. And the court will ultimately decide to maintain, vary or revoke the temporary order.

If as a result of the abuse, you require medical attention, what should you expect?

By law, healthcare provider, who takes note of an act of domestic violence by way of being notified by the Police or having suspicions when treating a patient, is required to do the following:

- (a) examine the victim of domestic violence to the highest possible degree;
- (b) advise the victim of domestic violence on support options available;
- (c) assist the victim of domestic violence in seeking psychiatric support or counselling;

In circumstances of suspected sexual or physical abuse, the health care provider must examine the victim to the highest possible degree and prepare a report which will be submitted to the Police and Authorities.

BASIC INFORMATION ON THE SEXUAL OFFENDERS REGISTRY



BASIC INFORMATION ON THE SEXUAL OFFENDERS REGISTRY

- (1) Most offences under the Sexual Offences Act will be registered.
- (2) Information in the registry will not be published to the public. However, there may be policies in place to allow the information to be shared among specific parties.
- (3) The following information will be included in the in the Registry:
 - (a) Name, address and identity card number
 - (b) Offence committed
 - (c) Sentence passed
 - (d) If the sentence was appealed, name of the appellate court
 - (e) Number of convictions under Sexual Offences Act
 - (f) Status: whether under detention or free
- (4) The Registry is maintained and updated by the Minister responsible for women and family affairs.

Can someone remove their name from the Registry?

Yes, that is a possibility. It would depend on whether the person has a right to do so by law. Once an application has been submitted accordingly to the court, the court may order the Minister to remove someone's name, taking into account whether this was the first offence; the type of offence (ie not rape, sexual injury, sexual assault or sexual act); whether the offender was a child; the level of punishment imposed on the offender and whether the conviction was appealed and overturned.

REPORTING A SEXUAL CRIME



REPORTING A SEXUAL CRIME

As a victim, I am reluctant to report a sexual crime. I do not want people to know my identity and details of my personal life. What can I do?

Rest assured, in cases where the sexual offence was committed without consent, it will be conducted in closed proceedings. Even information that would indirectly reveal your identity, whether in reporting or reports on the investigation or trial is not permitted. Anyone who does so will be liable to pay a fine between MVR 10,000-MVR 15,000.

As a victim, I fear retaliation if I reported a sexual crime against me. How do I protect myself?

Depending on the circumstances, the court can grant a protection order. Effectively, the protection order will function best under these situations where the accused is:

- (a) entering and exiting your home, place of work, school/university and other commonly visited places, by restricting the accused.
- (b) stalking, going to the same place, stopping, bothering or verbally assaulting the victim;
- (c) entering or staying at the home of the victim or other place where the victim is, without the express permission of such person;
- (d) communicating with the victim, this includes phones, letters, electronic mail, text messages or any other form
- (e) causing any physical, sexual or psychological injury to the victim;
- (f) threatening to cause any physical, sexual or psychological injury to the victim;
- (g) causing or threatening to damage to the property of the victim;
- (h) committing or threatening to commit any act to intimidate, humiliate or cause psychological trauma on the victim;
- (i) committing any of the prohibited acts against the victim via a third party.

SEXUAL ABUSE AND HARASSMENT



SEXUAL ABUSE AND HARASSMENT

What does sexual abuse and harassment mean?

When a sexual act is done against someone by another person without the persons consent.

The 'sexual act' can be in the form of words, writings, drawings, images, sounds, acts, movements, look or any other act which causes the victim to deduce, understand and/or interpret sexual intention.

Sexual abuse and harassment includes the following acts:

- (1) whistling;
- (2) staring at a sexual organ in manner that will make the victim feel uncomfortable;
- (3) touching any part of the body;
- (4) hugging;
- (5) lingering after a handshake and squeezing or tickling the hand;
- (6) showing pictures, drawings, or videos of sexual acts being performed;
- (7) making inappropriate jokes about body parts as a form of harassment;
- (8) direct or indirect propositions which imply that employment may be secured or remaining in employment or promotions will be granted, or any other benefits due to the employee will be available only if a sexual desire is fulfilled or by agreeing to acts of sexual abuse and harassment in return.

EMPLOYER GUIDELINES: SEXUAL HARASSMENT IN THE WORKPLACE

- Employers or employees cannot commit sexual abuse and harassment against a co-worker or a person working in a lower rank or position.
- Employers cannot conduct themselves or speak in a manner that gives a person seeking employment that they would have to consent to acts of sexual abuse and harassment in order to secure a job.
- Employers cannot conduct himself in a manner that would give the employee the impression that in order to retain the job or receive a promotion, they would have to consent to acts of sexual abuse and harassment.
- Employers must take necessary steps to ensure that the workplace is free of and protected from acts of sexual abuse and harassment.
- If the employer has knowledge of any incident of sexual abuse and harassment, the employer must take steps to prevent it from further occurring and to protect the victim from suffering further.
- If the employer has knowledge of any incident of sexual abuse and harassment, the employer will be held responsible for damages suffered by the victim.
- All workplaces must openly display their policy on sexual harassment. This includes emphasizing that it is prohibited by law and there are measures that will be taken should there be any incident reported.
- Employers must ensure that their employees are aware that there are means for them to make complaints. This would include having a process in place where complaint forms may be submitted and procedures are documented.
- Employers must ensure that all employees are adequately briefed on the workplace Sexual Harassment Policy.

COMMITTEE ON PREVENTION OF SEXUAL ABUSE

- Where a workplace consists of more than 30 employees, it is compulsory to establish a committee for investigating and taking measures with respect to complaints made about sexual abuse and harassment. This committee will be named 'Committee on Prevention of Sexual Abuse and Harassment'.
- It is also compulsory for every ministry, President's Office, independent institutions, People's Majlis and all courts established under the law to establish a committee.
- There are no restrictions for smaller workplaces with less than 30 employees. Committees may be formed in any main secretariat, holding company or if it is a department, in the relevant ministry.

Requirements for establishing the Committee

- The Committee must be established within 6 months from the date the Prevention of Sexual Abuse and Harassment Act (16/2014) came in to force: 13 May 2014. Failing to do so could result in a fine of MVR5,000.
- The Committee must be established by the human resources department of the workplace or institution. In circumstances where there is no human resources department, then the most senior official is responsible for forming the committee.
- There should be 3 members in the Committee, 1 of which must be a female, comprising of senior management.
- A chairperson must be elected from among the members.
- A person against whom a complaint of sexual abuse and harassment has been made, or a person found to have committed such an act and has been penalized cannot be appointed as a member of the committee

Penalties for not establishing the committee

Failure to establish a committee within 6 months from the date the Prevention of Sexual Abuse and Harassment Act is an offence. Any person also has the right to complain to the Employment Tribunal where a workplace or institution failed to establish Committee on Prevention of Sexual Abuse and

Harassment. After investigation, if the Tribunal finds that there was no committee established, the workplace or institution may be fined MVR5,000.

Duties and responsibilities of the committee

- Displaying messages in the workplace or institutions stating sexual abuse and harassment is prohibited by law;
- Conducting awareness programs for employees and customers about prevention of sexual abuse and harassment;
- For institutions that serve as a shelter for children and other persons, conduct awareness programs on prevention of sexual abuse and harassment for children and other persons;
- Where a complaint was filed, or the committee reasonably believes that acts of sexual abuse and harassment has happened, then the committee must summon and obtain witness statements and evidence related to the suspicion of sexual abuse and harassment,
- Obtaining relevant documents in relation to a complaint of sexual abuse and harassment;
- Where the respondent is found to have committed an act of sexual abuse and harassment, the committee must conduct investigations in relation to a complaint, and take measures against the person in a manner within the powers given under the Employment Act;
- Conduct investigations in relation to a complaint, and direct the complainant to file a case in the relevant investigation authority where the complaint relates to a criminal offence, and aid the complainant to proceed in filing such a complaint;
- Conduct investigations in relation to a complaint, and assist the complainant in reinstating a concession, promotions or any other right which the complainant was deprived of, where the respondent is found to have committed an act of sexual abuse and harassment; or where the complaint was filed by a customer of an institution, assist the complainant in reinstating an opportunity or right that the person was deprived of.

Penalties

Upon the conclusion of the investigation, the committee may impose the following penalties based on the seriousness of the offence:

- issue a written advice to the perpetrator;
- issue a written warning to the perpetrator advising the person not to repeat such an act;
- suspend the perpetrator from employment for a certain period of time;
- dismiss the perpetrator from the responsibilities the perpetrator was carrying out;
- demote the perpetrator to a position that is lower than the current position;
- terminate the perpetrator from employment;

Any of the measures stated above are taken against the perpetrator will be recorded in his/her employment record.

SEXUAL HARASSMENT IN INSTITUTIONS

- (1) People who seek services of institutions and children and adults in shelters must be protected from acts of sexual abuse and harassment.
- (2) Senior officials of institutions must take adequate measures to ensure that the institution is not exposed to acts of sexual abuse and harassment by formulating.
- (3) Senior officials and employees cannot conduct themselves in the following manner:
 - (a) someone seeking services of the institution will only be assisted if they consent to act of sexual abuse and harassment;
 - (b) services will be expedited/given priority or a slot in the institution will be provided if the person seeking assistance consents to sexual abuse and harassment;
 - (c) a person who consents to acts of sexual abuse and harassment will not be terminated from working there even though there is valid reason to do so;

- (d) where the institution provides shelter for children and other persons the services will only be provided by agreeing and consenting to acts of sexual abuse and harassment.

Note: for purposes of this section, 'Institution' is defined as educational institutions, jails, children's shelters, shelters for the disabled, drug rehabilitation centres, health services, sports centres, social centres and other places providing services to the public.

What rights do I have after filing a complaint?

As a complainant, you will have to be given the opportunity to provide further details with regards to the incident and you will also be allowed to put forward any relevant witness. Do note that the respondent also has rights. As the accused, the respondent will be provided information on the details of the complaint and will also be given the opportunity to submit a defence.

After lodging a complaint, how long will it take for the investigation to complete?

The investigation should not take more than 60 days to conclude. If 60 days has lapsed and the committee has not completed its investigation, the complainant may submit the complaint directly to the Employment Tribunal.

Can my employer retaliate against me for filing a sexual harassment complaint?

No. By law, the employer cannot create the impression that an employee's rights and benefits are available only on the condition that the employee consents to sexual harassment conduct. Your employer cannot deprive you of any opportunities for advancement, the right to remain employed and other benefits tied to your employment, because of a complaint.

My co-worker told some of us a joke with sexual content. Some people were offended by it, but I found it quite funny. He later received a warning from HR. Is this warranted?

Yes. Based on the interpretation of sexual abuse and harassment, if the conversation leads someone to interpret the words as sexual intention by a person of sound mind. Any employee has the right to submit a complaint to the committee for prevention of sexual abuse and harassment established in the workplace.

My current workplace does not have a Committee on Prevention of Sexual Abuse and Harassment established. Where should I submit my complaint?

Where there is no Committee on Prevention of Sexual Abuse and Harassment, the complaint may be submitted directly to the Employment Tribunal.

What are the conditions for submitting a claim to the Employment Tribunal?

If there is no Committee on Prevention of Sexual Abuse and Harassment established in your workplace or you have filed a complaint and 60 days has lapsed without the investigation concluding, you may file your complaint with the Employment Tribunal. However, the complaint must be submitted within 12 months from the date of the incident. If the complainant is a child then the complaint must be submitted within 12 months from the date the child turns 18 years old.

What can I expect from a claim with the Employment Tribunal process?

- For sexual abuse and harassment case, the matter will conclude within 90 days. The tribunal holds the discretion as to whether or not to reveal to the public information on the case and also to hold closed hearings in circumstances where public interest is not applicable.
- The cases will be decided on the principles of natural justice. Where the standard applied will be based on a 'balance of

probabilities' (which is a lower standard than that of a criminal matter)

- For cases where the complainant or respondent wishes to appeal the decision of the tribunal, they may do so and it will be in accordance with the requirements of the Employment Act, which is to Maldives High Court.

My complaint is against a member of the Committee on Prevention of Sexual Abuse and Harassment at my workplace, I fear a potential bias and that it will not be addressed and investigated. What can I do?

Not to worry, there are procedures in place to address this type of scenarios. In this circumstance, the committee will deal with it in either of the following:

- (a) advise the complainant to submit the complaint directly to the Tribunal; or
- (b) recusing the respondent from the committee and proceed to investigate the matter without the respondent;
- (c) The human resource section or the senior most official of the workplace will form a temporary committee with the approval from the complainant.

My complaint was filed and investigated. However, I disagree with the decision of the committee and feel this decision should be reviewed. What can I do?

As a complainant, if you are not satisfied with the decision of the committee, you may submit the matter to the Employment Tribunal. It must be done within 180 days from the date the committee makes a decision.

If the respondent is found guilty of an act of sexual abuse and harassment, what type of penalty will be imposed on him/her?

The Employment Tribunal will take into account the gravity of the act when deciding the penalty for the offence. The Tribunal has the power to:

- (a) decide that the act of the respondent amounts to sexual abuse and harassment, and issue a written instruction to

the respondent to immediately cease such acts and not to repeat them;

- (b) order that the victim of sexual abuse harassment be reinstated with any rights he/she was deprived of due to the act of the respondent and issue written instructions to that effect;
- (c) where the complainant and the respondent are co-workers; issue written instructions to the employer to take measures to ensure that the respondent does not repeat the acts of sexual abuse and harassment and to ensure that the acts of the respondent be prevented,
- (d) recover compensation for the victim as a result of damages suffered due to the acts of sexual abuse and harassment of the respondent;
- (e) any other measures which the tribunal may deem appropriate.

In the event the respondent breaches any order by the Tribunal to recover the victim with damages, the Tribunal has the power to order the respondent's employer to pay damages to the victim after setting-off from the respondent's wages.

The entire ordeal took a toll on me. It cost me emotionally and financially. Can I claim for compensation?

Yes, if the respondent is found guilty of an act of sexual abuse and harassment, as the complainant you have the right to put forward a claim in the Employment Tribunal to recover compensation for damages suffered. The Tribunal will take into account the following when considering a claim for compensation:

- (a) psychological trauma suffered by the victim;
- (b) loss of employment opportunities or promotions as a result of the act;
- (c) loss of opportunities or material damages suffered by a person seeking services of an institution;
- (d) costs incurred to obtain medical services or psychological help as a result of the act;
- (e) earnings of the respondent.

I do not work in the same office as my perpetrator. But he sexually harassed me in line of work. Can I submit a complaint against him?

Yes, you may file a complaint to the committee on prevention of sexual abuse and harassment in the respondent's workplace.

I just found out that I was denied a promotion and the position was instead awarded to a colleague who is in a relationship with the hiring manager. Is this sexual abuse or harassment?

This would depend on whether it was an isolated incident. If it is commonly acknowledged in the company that by agreeing to acts of sexual abuse and harassment it will help the employee secure employment or promotion, then it would be sexual abuse or harassment. You have the right to file a complaint against your employer for depriving you of career advancement.

DAMAGES RELATED TO SEXUAL OFFENCES



DAMAGES RELATED TO SEXUAL OFFENCES

As a victim of a sexual offence, what damages do I have the right to claim for?

As a victim of rape, sexual injury or sexual assault will you have the right to recover financial or non- financial damages. The court will determine the amount to be awarded based on the facts of the case based on the damages suffered as a direct result of the rape, sexual injury or sexual assault.

Financial damages amounts to:

Costs incurred to obtain health services and the health services required (including present and future costs) for injuries sustained as a result of the offence.

Non-financial damages is more extensive, it includes:

- damages to the body of the victim as a direct result of injuries sustained;
- loss of an organ of the victim as a direct result of injuries sustained;
- damages due to non-functioning organ of the victim as a direct result of injuries sustained;
- damages for loss of lifestyle for having lost an organ, or use of an organ as a direct result of injuries sustained;
- damages for pain and suffering the victim suffered as a direct result of injuries sustained;
- damages for loss of employment prospects of the victim as a direct result of injuries sustained;
- legal fees.

GENDER EQUALITY



GENDER EQUALITY

What is gender?

Sex is determined based on biological attributes of a person. Whereas gender is the meaning given socially and culturally to a particular sex. This includes the roles, way of life and other related aspects of men and women, and specific roles, work and opportunities socially assigned to a particular sex.

What does gender equality mean?

The term 'gender equality' means equality of opportunity, equality in accessing opportunities, the opportunity to achieve results on equal terms and the fundamental equality of rights and freedoms for men and women.

Did you know:

- The Gender Equality Act came into force in 2016 with the main purpose of providing principles to be adhered to achieve gender equality in Maldives. The act also lists out prohibited forms of gender-based discrimination and the role of State institutions and private parties.
- The Gender Equality Act allows for 'special measures' to be taken to establish gender equality if:
 - (a) it is believed that the actions of a person prevented the well-being of a particular gender;
 - (b) the needs of a particular gender are different, in service accessibility; or
 - (c) participation of a particular gender is of a lower rate, in public service and public life.
- Some of these 'special measures' includes:
 - (a) Passing legislation or conducting programs or activities in order to create a conducive environment for women to attain equality in results, or to review the distribution of power and resources amongst men and women, or to expedite the establishment of genuine equality, with the objective of solving the issue of the low participation of women at different

levels of the political arena or to improve the situation of persons who suffer from being disadvantaged for more than one reason, or are victims of gender-based discrimination or are disadvantaged.

- (b) providing special protection to a particular gender, to achieve genuine equality.
 - (c) providing special protection to women to safeguard them from violence against women.
- Article 17 of the Constitution of the Republic of Maldives guarantees fundamental rights and freedoms to every person without discrimination based on sex or gender.
 - Article 20 of the Constitution of the Republic of Maldives ensures that every individual is equal before law and is entitled to equal protection and equal benefit of the law.
 - Maldives is one 187 countries that ratified the Convention on the Elimination of All Forms of Discrimination Against Women and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women. Both of these are international treaties and are the most comprehensive documents in promoting women's rights and gender equality. The Maldivian Gender Equality Act is tailored to uphold these treaties.

Purpose of the Gender Equality Act:

- (1) To ensure that women enjoy equal opportunities with men, in matters of human rights, basic rights and equal opportunities in their economic, social, cultural, civil and political life in the Maldives.
- (2) To protect human dignity.
- (3) To establish gender equality principles in state institutions, businesses, civil society organizations, employers, legal entities and individuals.
- (4) To establish gender equality principles in the drafting of social, economic, political and cultural policies.
- (5) To end all forms of violence against women and girls.
- (6) To take special steps to establish gender equality.

- (7) To establish a culture of empowerment, provide equal opportunities and an enabling environment to achieve results on gender equality.

Prohibited Forms of Discrimination in Law

The Gender Equality Act prohibits 5 forms of discrimination. They are:

- Direct discrimination based on gender
- Indirect discrimination based on gender
- Systemic discrimination
- Discrimination based on factors listed in Section 9 of the Act
- Violence against women

What does 'systematic discrimination mean'?

This is when certain types of jobs are reserved for one gender only. The effect of this is that the other gender is inadvertently excluded from the same opportunity. 'Systems' includes policies, culture and practices, unjust beliefs in society on the role of a specific gender, based on social circumstance.

Discrimination based on certain factors

Section 9 of the Gender Equality Act prohibits direct and indirect discrimination based on certain factors. They are:

- pregnancy or the possibility of pregnancy
- childbirth or
- the possibility of childbirth
- breastfeeding or the possibility of breastfeeding
- sex
- marital status
- family responsibility
- qualities attributed by society to a specific gender or qualities which are not ordinarily attributed to a particular gender
- roles attributed by society to a specific gender or roles which are not ordinarily attributed to a particular gender
- established practices promoting inequality between men and women

- established practices that diminish the dignity of a specific gender
- societal or cultural beliefs that a specific gender is superior or inferior

Violence Against Women

Violence against women is a form of gender based discrimination.

What types of acts amount to violence against women?

The following acts committed against a woman are deemed to be violence against women:

- an act of domestic violence defined in the Prevention of Domestic Violence Act (Law Number: 3/2012)
- an act or threat of rape or sexual assault defined in the Sexual Offences Act (Law Number: 17/2014)
- an act or threat of physical, sexual or psychological harm;
- detention without consent;
- denying the dignity of an economic and social life;
- denying the opportunity to financially support themselves;
- an act of sexual abuse and harassment defined in the Prevention of Sexual Abuse and Harassment Act (Law Number: 16/2014);
- trafficking of girls and women or profiting through the trafficking of girls and women;
- carrying out an act against women prohibited by another law.

Women Living In Administrative Divisions

The Gender Equality Act ensures that all women living across the Maldives enjoys equal opportunities by guaranteeing specific rights to women living in administrative divisions. It is the responsibility of the government and local councils to fulfil these rights.

List of rights ensured for women living in administrative divisions

- (1) direct involvement of women in the various stages of design, planning and implementation of development initiatives;
- (2) availability of direct benefit services, information on health, counseling and family planning services without having to face any discrimination;
- (3) benefit from social welfare services without discrimination;
- (4) accessibility to all types of formal and informal education and training;
- (5) women are afforded the same opportunities as men, through self-help groups and cooperative societies, the economic opportunities to work or generate income through private or personal enterprise;
- (6) opportunity to participate in all activities of the society;
- (7) equal opportunity for men and women to access financial facilities, marketing resources, appropriate technology and the ownership of property;
- (8) ability to live with the benefits and adequate access to land, sewerage, water, electricity, transport and communication services.

Responsibilities of Institutions and Individuals

The Gender Equality Act breaks down the responsibilities of State and business institutions, service providers, employers (public and private sectors), media, educational institutions, financial institutions, political and economic sectors. Here are further details:

Responsibilities of state and businesses

- Eliminating all forms of discrimination based on gender
- Eliminating systemic discrimination
- Promoting equal opportunities between men and women. This include, elimination of prejudice or difficulties faced by a specific gender due to unequal opportunities, reducing the negative impacts of inequality between men and women, taking appropriate steps to facilitate gender specific needs in attaining services, evaluating degree of participation of each

- gender in public life and services and taking appropriate steps to increase participation of the gender with low participation
- Promoting gender equality to eliminate undesired preconceptions against a certain gender

Non-discrimination in provision of services or carrying out responsibilities related to the public (ie service providers)

All service providers must ensure:

- (1) there is no discrimination by way of denial of service to an individual to his/her particular gender;
- (2) not to refuse services to an individual seeking a service based on the individual's particular gender;
- (3) not to put someone in a position of disadvantage or difficulty based on gender in the administration of services;
- (4) that no individual seeking a service or attaining a service is harassed based on gender or on any other basis.

Responsibilities of employers in the public and private sector

- (1) provide equal opportunity to men and women in the employment, training and advancement of position;
- (2) provide equal wages to men and women who perform the same responsibilities at the same place of employment;
- (3) when in the same workplace, both men and women are given work, wages, overtime compensation, benefits and allowances equally;
- (4) employment opportunities shall not be offered or advertised to exclude a particular gender, except in circumstances where the work is required to be undertaken by a particular gender;
- (5) announcements and advertisements for work that is likely to attract more men than women must be designed to invite and not to exclude women;
- (6) take all possible steps to eliminate exclusion to employment of women and to create conducive work environments for women;

- (7) establish a complaints mechanism for recovery and compensation in the event damage is suffered following an act of discrimination.

Responsibilities of media service providers and media personnel

Institutions in media services and media personnel must actively promote the principle of equality between men and women.

This includes:

- promote the belief in the principle of equality amongst all people,
- everyone is entitled to their rights and opportunities without discrimination,
- both men and women are entitled to the same degree of representation without having to undertake particular roles in society, regardless of the biological differences between men and women.

Responsibilities of institutions and individuals providing educational services

All personnel of educational services institution must provide the following:

- (1) promote the principle of equality between men and women through educational curriculum and to promote the principle of equality amongst all people and their entitlement to rights and opportunities without discrimination;
- (2) represent both men and women equally in the curriculum and while teaching, without assigning particular roles to them, regardless the biological differences between men and women;
- (3) provide equal opportunities to men and women in acquiring education, reaping the benefits of education, training, learning, acquiring skills, acquiring knowledge, reaping the benefits of subjects related to science and technology, and in invention and innovation;
- (4) to equally provide boys and girls with education related to adolescent health;

- (5) establish gender equality within extracurricular activities amongst students; to open-up equal opportunities for men and women in such activities; and to encourage reaping the benefits of such opportunities;
- (6) provide information and training on the establishment of gender equality, for all teachers and administrative staff of schools, within teacher training programs and in the professional development of teachers;
- (7) to promote equality between men and women and to increase the participation of women, in all institutions working on the provision of education and skills training programs.

Responsibilities of institutions providing financial services

All institutions in financial services must provide opportunities for financial resources and services to men and women equally without discrimination. This should be done by formulating policies to provide women with equal opportunities as men, in attaining financial facilities.

Responsibility to establish gender equality in political arena

- (1) State and political parties are responsible to facilitate women with equal opportunities as men in all levels of the political arena.
- (2) It is the responsibility of the Ministry to work towards the provision of assisting and training, in facilitating women to participate and take initiative in all levels of the political arena, on an equal footing with men.
- (3) It is the responsibility of any government in place to work towards facilitating women with equal opportunities as men, in appointing persons to positions in government, in working at all levels of government, in representing the government at the international level, and in participating in the work of international organizations.
- (4) It is the responsibility of political parties to work towards facilitating women with equal opportunities as men, in

running for candidacy in an elected post, and in fielding candidates for such posts.

Economic empowerment

Women must be granted equal opportunities as men, in access to and use of economic resources. It is the responsibility of the Government and the relevant State authorities, to formulate and implement policies related to the identification and overcoming of barriers faced by women in their economic empowerment, that is a result of roles assigned to men by society, despite the apparent equality between men and women in accessing economic resources.

Prioritizing gender equality in formulating policy and programs relating to housing

When it comes to housing and island land use plans, the government must consider gender equality when formulating policies and programs. Both men and women should be given genuine opportunities to benefit from government housing policies and programs.

Responsibilities of health service providers

Institutions in health services are responsible for ensuring that men and women are equally provided with adequate health services and information on health. This includes information on:

- reproductive health
- general family health
- family planning

Responsibilities of the Ministry

The Minister must:

- establish a special department to prevent gender-based violence against women and to raise awareness on such violence
- raise awareness on gender equality

- establish a mechanism of cooperation between institutions and entities who have been granted responsibilities under the Gender Equality Act
- coordinate the work done by different parties on establishing gender equality to ensure that it is carried out in accordance to national policy.

The Ministry is responsible for:

- (a) Formulating and implementing a policy and an action plan that is acted upon at the national level, within 6 months from the when the Gender Equality Act came into force, with the objective of implementing gender equality.
- (b) Reviewing and revising the policy and action plan with consultation from individuals, experts and civil society actors working in the area, every two years from the policy and action plan taking effect.
- (c) Conduct various activities with the objective of establishing gender equality, and formulate and implement steps, in line with.
- (d) In order to effectively implement gender equality and preventing gender-based violence, propose amendments to existing laws or present related bills to the People's Majlis.
- (e) Conducting various programs to disseminate information to train the general public or organizations.
- (f) Collecting and compiling gender segregated data that helps to understand gender-based discrimination, with the objective of preventing such discrimination.
- (g) Collecting statistics and publishing relevant data that show the high prevalence of gender-based violence against women, the reasons behind such violence and the effects of such violence.
- (h) Establishing a reporting mechanism to report those who contravene this Act.
- (i) Formulating minimum standards for the complaints mechanisms established by employers as required by the Gender Equality Act.

- (j) Providing guidance and information to legislators and policymakers.

My current employer has not complied with any requirements by law with regards to prevention of discriminations. In fact, I believe my manager is conducting himself in a manner that favors men over women. What can I do?

If your employer is non-compliant with the law in the Gender Equality Act, you have a right to file a complaint against your employer. You may claim for compensation or a review of the actions of your company. Your company or organization should investigate and inform you of its decision within 30 days. If the decision takes longer than 30 days, you may submit your complaint to the Employment Tribunal. In the event you are not happy with the decision of your company or organization, you may proceed to submit a complaint to the Employment Tribunal within 90 days of the submission.

What will the Tribunal or Court decide on?

The Tribunal or Court has to decide on the following matters:

- (a) whether an act of discrimination that is prohibited under this Act was committed and the reasons for the findings;
- (b) if it is found that an act of discrimination that is prohibited under this Act was committed, the reasons for the finding;
- (c) if it is not found that an act of discrimination that is prohibited under this Act was committed, the reasons for the finding;
- (d) if it is found that an act of discrimination that is prohibited under this Act was committed, the steps that need to be taken in order to make amendments;
- (e) if it is found that an act of discrimination that is prohibited under this Act was committed, the perpetrator be fined between 12,000-50,000 Rufiyaa.

What type of compensation am I entitled to?

The Tribunal or Court will decide on the compensation. Depending on the severity of the offence, the Court or Tribunal may:

- (1) provide full compensation for the claim;
- (2) provide partial compensation for the claim; or
- (3) in instances where there has been a similar case with the same offence, compensation would follow the precedent.

RIGHTS OF CHILDREN



RIGHTS OF CHILDREN

Not to be discriminated

No child shall be discriminated against based on theirs or their guardians race, skin colour, gender, language, political (or any other) opinion, national origin, related family, native island, social status, disability, or financial status or any other factors.

Right to life and growth

Every Child has the absolute right to life and growth in every possible sense. Guardians, family, individuals within the community, and the State have a responsibility to ensure the Child to remains in a good health and protects them from harm and abuse.

Right to have your interests put first

A child's best interest must always be given priority, taking into account the following general criteria

- ✓ the child's opinions
- ✓ the child's individuality
- ✓ importance of the Child remaining in a family environment and maintaining the family ties
- ✓ care, protection and safety
- ✓ health
- ✓ education
- ✓ social or other status

Right to express opinions

Every Child who has the capability to form their own opinions shall have the right to express themselves, taking into account their age, and developing capabilities.

Right to care and protection

Every Child has the right to protection and care needed from their guardians, family, community and the State for growth. As a general rule, the guardians provides this protection. However,

the state bears the responsibility to protect children who are deprived of this right.

Protection from sexual exploitation and sexual abuse

Every Child has the right to be protected from sexual exploitation and from being sexually abused.

Protection from violence, abuse and negligence

Every Child has the right to be protected from all abuses that hinder their growth. This includes of physical and psychological violence, negligence, cruelty, exploitation and sexual abuse. Inaction towards the plight or sufferings of Children going through violence and abuse is also deemed violence towards those Children.

Protection from immoral matters of social and cultural nature

Every Child has the right to be protected from social and cultural matters that may have a negative impact on their interests, reputation and growth. In tandem, the State bears the responsibility to monitor this.

Registration of live birth, and the right to name and nationality

As soon as they are born, every Child has the right to have their birth registered and be given a name acceptable under the law. Every child born to a Maldivian citizen has the citizenship of the Maldives. And no Child who is a Maldivian citizen may be stripped of their Maldivian citizenship.

Right to maintain identity

Every Child has the right to have a record of the official information of their identity, to have such information protected, and the right to be protected from acts that may threaten their personal identity.

Right to know the parents, and to receive their care

Every Child has the right to know who their parents are, and if the parents are alive, to grow up under their care (unless it is not possible to obtain this information).

Right to seek and obtain information

Every Child has the right to seek and obtain information suitable for their age group, from national and international sources, regarding their social, spiritual and disciplinary well-being, in order to achieve physical and mental growth.

Rights for children with disabilities

Every child with disabilities has the right to live a full life, with equal opportunity to be part of the community. They also have the right to make decisions for themselves, without compromising their dignity. All children with disabilities have a right to special protection and care from their family, community and the State.

Right to remain in good health and the right to adequate healthcare

Every child with an illness has the right to the facilities required for a cure to the illness where they fall ill, and to the best available healthcare and services required for physical and mental health.

Quality of life and social protection

Every Child has the right to a quality of life at an adequate level in order to achieve physical, mental, spiritual, disciplinary and social advancement.

Right to education

Every Child living in the Maldives has the right to and it is compulsory for Children's parents and the State to educate Children living in the Maldives in elementary education, primary education and upbringing.

Right to obtain and transact from property

Every Child has the right to obtain, own, inherit, and transact from property in accordance with the law.

DUTIES AND RESPONSIBILITIES OF THE CHILD



DUTIES AND RESPONSIBILITIES OF THE CHILD

It is the responsibility of every Child to carry out the following to the extent permitted by their age and capabilities:

- (a) maintain a life with discipline in accordance with the instructions given by parents, family and educators;
- (b) maintain a life with good virtue, by giving utmost priority to seeking knowledge and training;
- (c) maintain a life in accordance with the Islamic faith and upbringing;
- (d) respecting oneself and others;
- (e) stay away from crime and other immoral activities;
- (f) always striving to make decisions which would result in positive outcomes in their daily lives;
- (g) strive to make use of the physical and mental capacity of each Child for the betterment of society and the nation;
- (h) carrying out individual responsibilities in their capacity as Maldivian citizens as required under article 67 of the Constitution (which states the responsibilities and duties of a Maldivian citizen).

DUTIES OF PARENTS AND GUARDIANS



DUTIES OF PARENTS AND GUARDIANS

Protection of the Rights of Children Act

It is the fundamental duty of parents to look after, educate and raise the child with his or her best interests prioritized. Parents and guardians of a Child must consider the changing capabilities of the Child when making all decisions related to the Child. This would mean to be making decision that would take into account the extent to which the child is able to learn, gain knowledge, and understand things as the Child grows up and matures.

In general, a parents' duties are:

- (a) protecting and safeguarding the rights of the Child;
- (b) provide food, shelter, clean water and other safeguards in order for the child to grow up in the best of health;
- (c) providing the Child with the necessary vaccines, healthcare, and doing all things necessary to facilitate the Child's mental and physical well-being, their protection and development;
- (d) when parents have to be temporarily away from the Child, the parent should appoint a responsible person capable of protecting the Child's interest to look after the Child.

Parents also hold a special right to present before the law on behalf of the Child.

(Note: the responsibilities of the parents are also applicable to person/persons entrusted by the parents to look after the Child)

Health

Parents must register a Child's birth in accordance to law. Failure to do so would amount to negligence and action will be taken against the parents.

It is the duty of the parents to vaccinate Children in order to provide them with the healthcare and services stipulated in subsection (c) of this Section. Parents do not have the right to refuse to vaccinate their Children.

Education

It is compulsory for Children's parents and the State to educate Children living in the Maldives about elementary education, primary education and upbringing. This includes registering and sending their children to school regularly.

With regards to discipline, no form of violent, cruel and inhumane punishments should be enforced on the children.

Social

The Child's parents or persons who have been assigned the Child's guardianship at any particular time will have the utmost responsibility of providing the Child with the standard of living required for the Child's growth, to the best of their ability and financial capacity. .

CHILD AND FAMILY PROTECTION SERVICES



CHILD AND FAMILY PROTECTION SERVICES

This is an institution established under the relevant ministry responsible for children's affairs. The responsibilities of this institution as stated under the law are:

- (1) providing assistance and cooperation to Children and their families in need;
- (2) protecting and promoting the interests of Children in need of assistance;
- (3) investigating cases reported relating to the rights of Children and finding a solution with the assistance and cooperation from the relevant institutions;
- (4) making arrangements for provision of the following minimum services to provide care and assistance to Children:
 - (i) family conferencing;
 - (ii) counseling and support;
 - (iii) legal aid;
 - (iv) rehabilitation.
- (5) coordinating with the National Drug Agency for the treatment to Children who are victims of drug addiction;
- (6) carrying out the responsibilities of the Minister under the laws in practice, with regards to Children who are brought under State care;
- (7) carrying out all the functions relating to fostering of Children brought under State care;
- (8) establishing cooperation between different fields in relation to Children brought under State care, and being fostered, and coordinating the work between such institutions;
- (9) providing assistance or services to Children with a focus on their needs;
- (10) maintaining a register of information related to the following matters:
 - (i) information of Children in need of special protection;
 - (ii) information of Children under State care;
 - (iii) information of Children under foster care and those Children who have been decided to be fostered;
 - (iv) information of care centres for Children;

- (v) information of civil society organizations working to protect the rights of Children;
 - (vi) Other information relevant to protection of the rights of Children.
- (11) conducting research on protecting the rights of Children;
- (12) collecting and publishing data required to plan, organize, monitor and evaluate the work carried out for protection of the rights of Children. The data published should detail or disaggregate data on Children's age, sex, type of disability, geographic area where Children live in or belong to, and their social and economic conditions.

CHILD RIGHTS: FAQ



RIGHTS OF CHILDREN: FREQUENTLY ASKED QUESTIONS

What is the definition of a 'Child'?

A child is someone under the age of 18 years, including an unborn child.

How old must you be in order to marry?

You must be 18 years and above to marry, regardless of what is stated in other laws in the Maldives.

Can a child work?

Yes, if the child is above 16 years old and above. For children below 16 years, they must obtain consent from their parents. However, if the work conducted prevents education or has a negative impact on education, work of that nature is not allowed.

Can a child be arrested?

No, except as provided for by the law, and except as a matter of last resort. In the even a child has to be arrested it should be for the shortest period available by law.

Can a child be guilty of a crime and be sentenced to jail for criminal offences?

A child under 15 years cannot be held responsible to criminal offences instead they will be dealt with a special mechanism specially established for Children who have committed acts against the law. It must be noted that any punishment dealt cannot be cruel, inhumane or degrading or involve any form of violence.

Can a child be sentenced to death for crimes committed?

No. This is because Children have not achieved the same level of health and mental growth as adults, and article 35 (a) of the Constitution states that they be given special assistance and special protection from their family, community and the State.

Instead, the death sentence will be replaced with a sentence does not exceed three quarters of the next most severe punishment for that offence.

How much information about a child can be shared publicly?

No one can publish personal information of Children in a manner that would harm their reputation.

For children who are suspected of an offence or requires care and protection, the following information cannot be shared: Any information which could directly or indirectly lead to the identification such as their picture; or personal information (ie name, address, information about school.

However, the court or children's ombudsperson can disclose information about a child, if it is in the interest of the child.

What are the circumstances for a child to be deemed to be 'in need'?

Children who are in the following circumstances are deemed to be in need of care and protection:

- (1) abandoned without the care of anyone;
- (2) living with parents who had neglected to protect the Child or provide a safe environment to the Child;
- (3) experiencing physical or mental abuse from their parents;
- (4) addicted to drugs and have no means to get treatment for it;
- (5) victim to an act of exploitation or live in an environment that could make them a victim to such an act;
- (6) living in an environment where their physical, mental and social well-being is threatened; or
- (7) suffering physically or mentally due to negligence.

If you know someone you could possibly be in need of care and protection, please immediately report the matter to the authorities.

Can anyone make a report if they suspect they know of a child in need?

Yes. In fact, it's your duty to report the matter to Child and Family Protection Service or the Maldives Police Service.

By law the following people may report a case related to a child:

- (a) children (if you are reading this and feel threatened or are experiencing abuse of any kind, do reach out to someone you can trust and seek help)
- (b) parents;
- (c) relatives;
- (d) neighbours;
- (e) employee of the school to which the Child belongs;
- (f) doctor or healthcare professional of the Child; or
- (g) any other person who has information about the Child.

As a person reporting a case, what are my duties/responsibilities?

Not to worry, your privacy will be protected. The Child and Family Protection Service and the Maldives Police Service under this Act cannot share your name, or any other information which can reveal your identity.

As a person who has reported a case, you are entitled to the following protections:

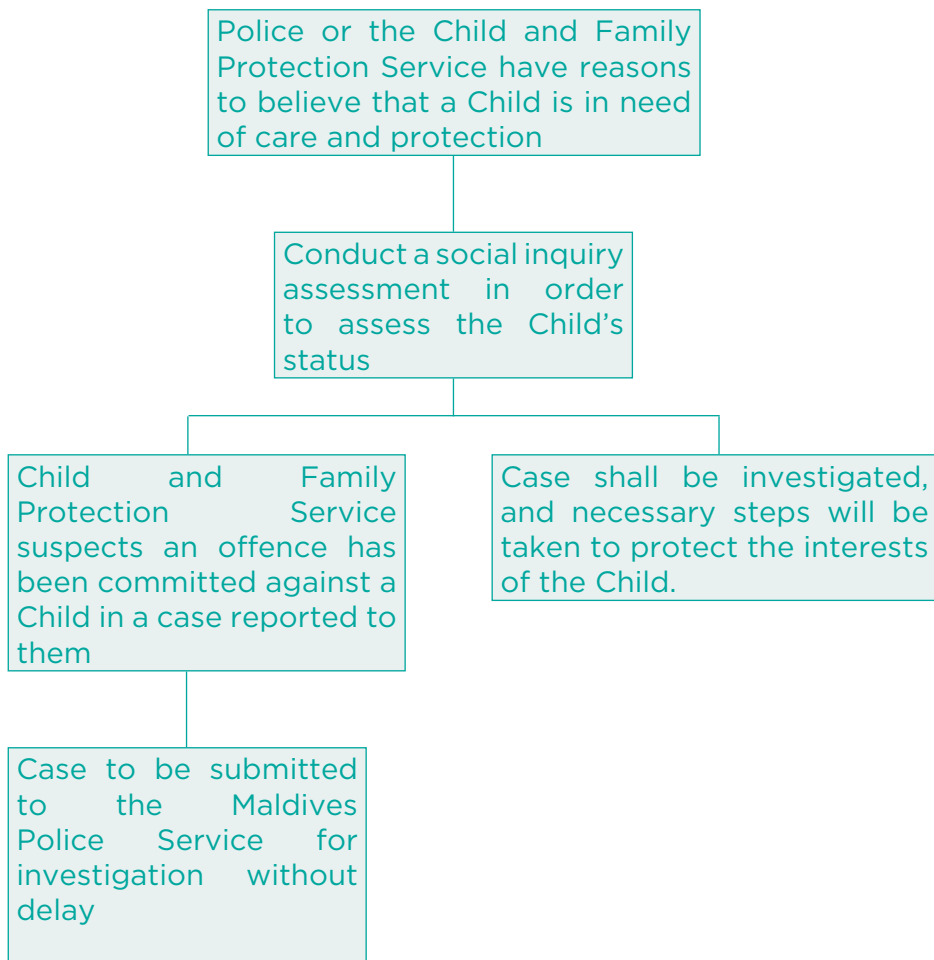
- (a) not presuming that the act of reporting is against the ethics and discipline of the reportee's job; and
- (b) not taking any legal action against the person who reported, for having reported the case.

What will happen to the child once a report has been made?

Once your report is received, the Child and Family Protection Service will also advise you on the next steps. The child will be provided protection if there is a need for it and will provide advice and assistance needed for the Child and the family. If the matter should be referred to other relevant institutions, the Protection Services will conduct case conferencing. The Protection Services also has a duty to record all cases reported.

In circumstances that involve an unborn Child, they will provide assistance and advice to the mother and father; and ensure that the mother receives the assistance of the father in the matter. Should you report the matter to the Maldives Police Service, information of the case will then be shared with the Child and Family Protection Service.

The investigation process is as follows:



What is an interim assessment?

When a report is made, the Police or Child Protection Services will conduct a social inquiry assessment in order to assess the Child's status. There may be instances where the Child and Family Protection Service or the Maldives Police Service are not able to obtain consent of a parent and guardian a court order may be obtained for an interim assessment. A court order for an interim assessment cannot exceed 5 days, although there are circumstances where an extension can be granted.

What powers do the Police or Child Protection Services have under an interim assessment?

Under an interim assessment the Police or Child Protection Services may:

- (1) continue maintaining relationship with the Child;
- (2) conduct medical examinations and healthcare as required for the child, if the Child has an illness or has been a victim of violence; and
- (3) in circumstances where the threat of danger is from the parents, the parents or guardians of the Child may be ordered not to have any direct or indirect contact with the Child except with supervision.

Can the Police or Child Protection Services enter my home, school or any other premises to conduct an interim assessment?

Yes they can, with certain requirements that the officer should comply with:

- ✓ Identifies himself/herself to the person in the place
- ✓ provides the owner with a copy of the order allowing the officer to enter and search of the place
- ✓ the officer should explain to the owner that he or she is empowered to enter the place and find the Child specified in the order

Can the Police or Child Protection Services remove a child from his or her home/current environment?

Yes, they may do so as an immediate step if there is reason to believe that child in the investigation is in need of care and protection. Measures that are taken will be with the priority to protect the child, such as: granting a protection order which would result in removing the child from the current situation and place the child under state care or appointing someone else to take care of the child.

What is a protection order?

A protection order is an order issued by the Court allowing the Child to be taken care of by someone until the Child can be returned to the parents or guardians, or any other permanent arrangement that will provide protection to the Child.

When can a court issue a protection order?

The court will issue a protection order only if the court is satisfied that the Child is in need of care and protection, and that the Child may be harmed even more if the Child is kept in the same place of residence.

What are the state's responsibilities when there is a protection order in place?

As long as the protection order is in force, the Child and Family Protection Service must ensure the following:

- ✓ care and assistance is provided to the child
- ✓ perform duties towards the child
- ✓ establishing a relationship with the Child as that of the parents and providing the Child with assistance
- ✓ anything necessary to enforce the order

If the threat of danger to the child is from the parents or guardians and the child has been removed from their parents, under what circumstances can the child meet with the parent/guardian?

The Child and Family Protection Service should provide the Child with adequate opportunity to maintain a relationship with their parents during the time the Child is under care their services. The Child or the Child and Family Protection Service may apply to the court for the court to issue an order enabling this. This would depend on what the court deems fit. All parents and guardians have the right to be heard and appeal decisions made by the court.

In what situations will a child be placed under alternative care facilities?

Alternative care facilities are residential facilities established by the Ministry in order to provide alternative care services to Children who are provided temporary shelter by the State. Children facing the following circumstances may be place under alternative care facilities:

- (a) where they are not provided with a safe environment from their parents, guardians, or legal guardians who have exposed them to violence or negligence;
- (b) parents or guardians are serving a prison sentence;
- (c) children with mental disabilities that is so serious and they cannot be in the public or within the family, and where their actions may pose a danger to others and themselves;
- (d) children with disabilities, who have been abandoned by their parents or legal guardians;
- (e) children who require temporary protection in cases of domestic violence;
- (f) children who are under the care of legal guardians who are no longer able to responsibly care for another person;
- (g) poor and orphaned Children without a surviving legal guardian or anyone else to take care of them; and
- (h) Children who have been stipulated under another Act to be taken under State care.

What is foster care?

When a Child is under state care and raising the Child cannot be handed over to their families for various reasons the Child may then be handed over to some other persons, under foster care to be looked after, brought up and disciplined. Only a person capable of providing the necessary protection, safety and care for the Child will be allowed to do so.

Under what conditions will a Child be placed under foster care?

Children under the following circumstances may be placed under foster care:

- (a) Children who are brought under State care, but who are abandoned or whose parents or legal guardians refused to look after them;
- (b) Children who are brought under State care, those who cannot live with their family for any reason;
- (c) Children who, during the period in which they were under State care, the records showed that they were not visited and their families had not enquired about them or maintained a relationship with them; or
- (d) Children who, during the period in which they were under State care, although the records showed they were visited by or checked up on by their families or that whose families did maintain a relationship with them, whose families excuse themselves from taking care or assuming the responsibilities of the Children due to their current state of affairs.

Before placing the child under foster care, the following must be completed by the Ministry:

- (a) attempt to contact the parents of the Child brought under State care, or their guardians where the parents are not alive or where the parents are not known; and
- (b) undertake an assessment of the foster parents in accordance to law.

For how long can a child be placed under foster care?

The child may be placed under foster care temporarily or until the child is 18 years old.

What is grooming?

Grooming is when someone builds an emotional connection with a child for sexual abuse or exploitation. This is done by giving the Child money or any other materialistic thing and attempting to secure the Child's trust in order to commit the act. Grooming is an offence punishable by law.

Remember that grooming can happen in person and online. Groomers could very possibly be someone known to the child or family, who has gained the trust of a child's and their parents' trust, in order to gain an opportunity to be alone with the child.

DUTIES OF THE STATE



DUTIES OF THE STATE

- (1) Generally, the state has to provide rights to Children by taking all necessary legal, administrative and other steps to ensure that the rights stated in the Protection of the Rights of Children Act, International Convention on the Rights of the Child its optional protocols, and other international treaties relating to the protection of the rights of Children to which the Maldives is a party.
- (2) To provide adequate facilities to enable parents to carry out their responsibilities in the care and upbringing of Children. The state has the duty to hold the parents accountable and provide care and protection to Children in situations where the parents have been negligent in caring for and protecting the rights of their Children.
- (3) Where private institutions have been established for services to children, the state must establish a system for accountability and to monitor the services provided, ensuring that it is in accordance with the law.
- (4) The state should establish a system for Children to participate in deciding matters related to them.
- (5) In the interest of building awareness, the state must make public, information related to the rights of Children, their responsibilities, and the duties of parents and others.

LIST OF OFFENCES AND PENALTIES



LIST OF OFFENCES AND PENALTIES: FAMILY ACT

Section	Offence	Elements	Penalty
62	Failure to register the marriage	Failure to make an application for registration of marriage in accordance with sections 19 (Registration of Marriage) and 22 (Marriages Solemnized Abroad).	MVR1,000 fine
63	Coercion to marry	Forcing a person to contract a marriage against their will.	Between MVR1,000–MVR5,000 fine Or Banishment for not more than 6 months
64	False information	Furnishing false information to contract a marriage or to register it.	Between MVR1,000–MVR10,000 fine Or Banishment or placed under house arrest for 1-2 years.
65	Contracting a polygamous marriage without leave of court	A man who contracts a polygamous marriage without obtaining leave in accordance with the law, while legally married to another woman. The woman who has contracted such a marriage shall also have committed an offence if she has knowledge of the existing marriage.	Not more than MVR5,000 fine
66	Marriage contracted to remove the bar on remarriage with the same spouse	A woman who is divorced 3 times by the same husband cannot marry another man with the intention of removing the bar on remarriage with her former husband. or	Not more than MVR5,000 fine Or Banishment for not more than 6 months

Section	Offence	Elements	Penalty
67	Divorce without leave and out of court	<p>A person marrying in return of a gift or monetary reward with the intention of removing the bar on remarriage for the formerly married couple.</p> <p>Divorcing not according to the law in the Family Act</p>	<p>Not more than MVR5,000 fine</p> <p>Or</p> <p>Banishment for not more than 6 months</p>
68	Failure to notify the commission of an offence	<p>Failure to notify the authorities of a commission of an offence under the Family Act or commission of an act that goes against the Family Act.</p>	<p>Not more than MVR1,000 fine</p> <p>Or</p> <p>Banishment or house arrest for not more than 3 months</p>
69	Continuing conjugal relations after divorce, without revival of marriage	<p>A person who continues a sexual relationship with his/her former spouse after divorcing and without reviving the marriage according to the Family Act.</p>	<p>Not more than MVR1,000 fine</p> <p>Or</p> <p>Banishment or house arrest for not more than 6 months</p>
70	Contravention with this Act	<p>A person who goes against an order directing or prohibiting an act is in contravention of the Family Act. This does not include the specific offences listed above that have penalties attached to it.</p>	<p>Not more than MVR1,000 fine</p> <p>Or</p> <p>Banishment for not more than 6 months</p>

LIST OF OFFENCES AND PENALTIES: SPECIAL PROVISIONS ACT TO DEAL WITH THE SEXUAL ABUSE OFFENDERS OF CHILDREN

Section	Offence	Elements	Penalty	Comments
3	Sexual act with a child	<ul style="list-style-type: none"> - Person who touches a child's body with sexual intent - sexual intent meaning: <ul style="list-style-type: none"> (a) touching child's genitals/sexual organs or any other part that may cause sexual gratification to the offender (b) touching directly with one's own hand or object 	10-14 years imprisonment	
4	Engaging a child in a sexual act	<ul style="list-style-type: none"> - a person causes a child to participate in sexual activity 	10-14 years imprisonment	
5	Commission of a sexual act in the presence of a child	<ul style="list-style-type: none"> - a person intentionally performs a sexual act in the presence of a child or performs such an act with the intention of exhibiting it to a child, or with the knowledge it will be visible to a child 	7-10 years imprisonment	
6	Forcing a child to witness a sexual act	<ul style="list-style-type: none"> - a person forces a child to watch, listen, shows an image, photograph, film or scene in a film of a sexual act performed 	7-10 years imprisonment	
8	Aiding and abetting the commission of a sexual act by a child	<ul style="list-style-type: none"> - a person intentionally plans, aids, facilitates, arranges, enables or abets (encourages or assists) in making a child commit any of the acts stated in section 3, 4, 5 and 6 (listed above) 	7-10 years imprisonment	

Section	Offence	Elements	Penalty	Comments
9	Sexual act by a person in a position of trust	<ul style="list-style-type: none"> - a person performs a sexual act with a child while in a position that required the child to trust him 	15-18 years imprisonment	
10	Causing a child to perform a sexual act while in a position of trust	<ul style="list-style-type: none"> - a person causes a child to perform a sexual act while he is in a position that requires the child to trust him 	15-18 years imprisonment	
11	Sexual act in the presence of a child, while in a position of trust	<ul style="list-style-type: none"> - a person performs a sexual act in the presence of and with the intention of exhibiting such an act to a child, while he is in a position that requires the child to trust him 	15-18 years imprisonment	
12	Causing a child to witness a sexual act while in a position of trust	<ul style="list-style-type: none"> - a person who is in a position of trust causes a child to watch a sexual act being performed, or forces the child to watch the act, or performs the act with the intention of exhibiting it to the child, or performs the act with the knowledge that the child is or may be watching, or forces the child to go to or enter a place with the knowledge that sexual acts are being performed in that place 	15-18 years imprisonment	
15	Sexual act with a family member	<ul style="list-style-type: none"> - a person performs a sexual act with a child who is a family member 	20-25 years imprisonment	

Section	Offence	Elements	Penalty	Comments
16	A family member abetting a child to perform a sexual act	<ul style="list-style-type: none"> - a family member of a child abets (encourages or assists) the child to perform a sexual act 	20-25 years imprisonment	
17	Sexual act with a child for a payment	<ul style="list-style-type: none"> - a person performs a sexual act with a child in return for financial or monetary paymentor leads the child to believe that the child will be paid for it 	15-21 years imprisonment	<p>'payment' refers to:</p> <ul style="list-style-type: none"> - financial/monetary consideration; or - discharging a financial obligation of a child; or - purchase of goods that the child desires; - payment towards a service that the child desires; or - gifting money; or - giving any valuables
18	Child prostitution and child pornography	<ul style="list-style-type: none"> - a person intentionally causes child prostitution, or involves a child in the creation of pornography or creates pornographic material where a child's sexual organ can be openly seen 	20-25 years imprisonment	
19	Prostitution and production of pornography by force	<ul style="list-style-type: none"> - a person engages a child in prostitution, or in the production of pornography by using force, or through control or by restraining the child in a manner that that would deprive the child's liberty 	20-25 years imprisonment	

Section	Offence	Elements	Penalty	Comments
20	Sexual acts by causing intoxication	<ul style="list-style-type: none"> - a person engages with or causes a child to engage in a sexual act, by administering an intoxicating substance or a substance to cause a child to lose free will or unable to think or feel properly 	25 years imprisonment	'administering substance' means to giving food or drink or any other form of administration of something into the body
21	Entering a house with the intent of performing a sexual act	<ul style="list-style-type: none"> - a person enters a house/place where a child lives with the intention of performing a sexual act with the child 	1-10 years prison	'house' or 'place' includes buildings and the space surrounding the building, and land transport vehicles and sea transport vessels
22	Displaying a sexual organ	<ul style="list-style-type: none"> - person displays to a child, any part of him which may be construed as his sexual organ, or if he exposes to a child, a sexual organ over his clothing 	3 years imprisonment	
23	Offence committed by more than one person	<ul style="list-style-type: none"> - regardless of the degree of participation in an offence listed under this Act, each person involved in committing such an offence with the same intention or purpose, is deemed to have committed the offence individually 	20-25 years imprisonment	

LIST OF OFFENCES AND PENALTIES: SEXUAL OFFENCES ACT

Section	Offence	Elements	Penalty	Comments
14	Rape	<ul style="list-style-type: none"> - insertion, however minute, of a person's sexual organ into a sexual organ or an organ which is not a sexual organ of another person without consent, where the two persons are not married 	<p>20-25 years imprisonment where a dangerous weapon was used during commission of the offence</p> <p>Or</p> <p>15-20 years if the offence was committed in any other manner</p>	<p>Definition of consent applies (refer to illustration at the end of this table)</p> <p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>
15	Attempt to rape	<ul style="list-style-type: none"> - attempting to rape a person, and aiding and abetting (encouraging or assisting) in the rape of a person 	<p>10-15 years imprisonment where a dangerous weapon was used during commission of the offence</p> <p>Or</p> <p>7-10 years imprisonment if the offence was committed in any other manner</p>	<p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>

Section	Offence	Elements	Penalty	Comments
16	Sexual injury	- when a person inflicts sexual injury on a person	10-15 years imprisonment	Definition of consent applies (refer to illustration at the end of this table) The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
17	Attempt to cause sexual injury	- attempting to inflict sexual injury on a person, and aiding and abetting (encouraging or assisting) in inflicting a sexual injury on a person	7-10 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
18	Sexual assault	- causing sexual assault on a person	7-10 years imprisonment where a dangerous weapon was used during commission of the offence Or 3-7 years imprisonment if the offence was committed in any other manner	Definition of consent applies (refer to illustration at the end of this table) The only exemption applicable is in circumstances for:

Section	Offence	Elements	Penalty	Comments
19	Attempt to cause sexual assault	<ul style="list-style-type: none"> - attempting to cause sexual assault on a person, and aiding and abetting (encouraging or assisting) in causing sexual assault on a person 	<p>3-7 years imprisonment where a dangerous weapon was used during commission of the offence</p> <p>Or</p> <p>1-3 years imprisonment if the offence was committed in any other manner</p>	<p>(1) conducting a lawful search of a person's body licensed professional for medical purposes</p> <p>(2) The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>

Section	Offence	Elements	Penalty	Comments
21	Sexual act with a Mahram	<ul style="list-style-type: none"> - a person performs a Sexual Act with a Mahram 	Where there is no consent: 15-25 years imprisonment	Where both parties consent, both parties are deemed to have committed and offence
			Where both parties consent: 10-15 years imprisonment	Marham: <i>Unmarriageable kin; with whom marriage or sexual intercourse would be haram in Islamic law</i>
22	Attempt to perform sexual act with a Mahram	<ul style="list-style-type: none"> - attempting to perform a Sexual Act with a Mahram, and aiding and abetting (encouraging or assisting) in performing a Sexual Act on a Mahram 	7-10 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
23	Failure to report	<ul style="list-style-type: none"> - not to reporting to the Police or Family Protection Authority of a person who committed, commits or has committed a Sexual Act with a Mahram, while having knowledge of it 	not more than 6 months imprisonment	

Section	Offence	Elements	Penalty	Comments
24	Sodomy	<ul style="list-style-type: none"> - a person performs a Sexual Act with a person of the same gender, with the consent of both parties - a performs a Sexual Act with a person of the same gender without the consent of that other person 	Where both parties consent: 5-7 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
25	Sexual act with an animal	- a person commits a Sexual Act with an animal which is alive or dead	Where there is no consent: 7-10 years imprisonment 5-7 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
26	Sexual act with a cadaver	- performs a Sexual Act with a cadaver	20-25 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
27	Zinah	- a person performs sexual intercourse out of wedlock	100 lashes of flogging and 1-3 years house arrest	
28	Sexual act with a person with disability	- a person performs a Sexual Act with a person with mental disability, knowing that the other person is incapable of giving consent, or understanding the nature of the act, or that the	15-20 years imprisonment	A person with mental disability is deemed to be not capable of the following: (1) understanding the nature of the act;

Section	Offence	Elements	Penalty	Comments
29	Prostitution	<p>other person has no means of giving consent to a sexual act by reason of the mental disability</p> <ul style="list-style-type: none"> - a person engages in prostitution in the Maldives, or for a Maldivian to engage in prostitution abroad - a person engages another person in prostitution in the Maldives, or for a Maldivian to engage another person in prostitution abroad or aiding and abetment in such an act 	Not more than 7 years imprisonment	<p>(2) making an autonomous decision whether or not to do an act;</p> <p>(3) the ability to relate the incident to another person.</p> <p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>
30	Engaging a person for prostitution	<ul style="list-style-type: none"> - a person in Maldives, or for a Maldivian abroad engages or provides for a person to and with the intent of offering that person for prostitution 	7-15 years imprisonment	<p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p> <p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>

Section	Offence	Elements	Penalty	Comments
31	Trafficking a person for prostitution	<ul style="list-style-type: none"> - Trafficking a person into the Maldives knowing that the person is coming or is being brought for prostitution or aiding and abetment in such an act - Trafficking a person from one island to another within the Maldives knowing that the person is being trafficked for prostitution or and abetting (encouragement or assistance) - Trafficking a person out of the Maldives knowing the person is going or is being sent for prostitution or encouragement or assistance in doing so. 	7-10 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
32	Using revenue from prostitution	<ul style="list-style-type: none"> - A person who engages another person in prostitution to live off of the revenue generated from engaging another person in prostitution. - A person uses the revenue generated from prostitution, knowing that he is living off 	Fine of MVR25,000- MVR75,000 Or Not more than 3 years imprisonment	If the court finds that the money or property in question was obtained by committing this offence, all monies and property will belong to the State.

Section	Offence	Elements	Penalty	Comments
		<p>of revenue generated from engaging another person in prostitution.</p> <ul style="list-style-type: none"> - Continuously living in a place without informing the relevant State institution, knowing that the house, place or a part of it is being used to operate a brothel. 		<p>=</p> <p>The convicted person will be registered for this offence in the 'Registry of Sex Offenders'</p>
33	Setting up a brothel	<ul style="list-style-type: none"> - To set-up, maintain, manage a brothel (house where persons visit prostitutes) or take part in any such activity 	Not more than 5 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
34	Intimidation	<ul style="list-style-type: none"> - a person in Maldives, or a Maldivian abroad forces a person to perform a Sexual Act with him or with another person by threat or instilling fear or scaring. - abetting (encouraging or assisting) a person to commit such an act 	5-7 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'

Section	Offence	Elements	Penalty	Comments
35	Blackmail	- a person blackmails a victim or a family member of a victim pursuant to rape, sexual injury, sexual assault, or a sexual act.	3-5 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
36	Misrepresentation	- a person in Maldives, or for a Maldivian abroad to compel a person to perform sexual act with him or with another person by misrepresentation or by omission of facts	5-7 years imprisonment	
37	Forced intoxication	- intoxicating a person with any substance amounting to liquor or drugs as prescribed by the Drugs Act (Act No 17/2011) that inhibits the person's own control of their body or to make a person to go into a state of unawareness that allows a person to perform a sexual act	10-15 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'

Section	Offence	Elements	Penalty	Comments
38	Forcing upon another person to perform a sexual act	a person performs a sexual act forcing oneself on to the other person where the other person has lost his mental faculties, is in a state of insanity, or has no power to physically defend himself.	10-15 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
39	Abduction	- abducting a person from his guardians/family members/ husband/ wife/people with whom he lives, and take him to another place, or place him elsewhere, or detain him without his consent, with the intention to: <ol style="list-style-type: none"> (1) rape; or (2) sexual injury; or (3) sexual assault; or (4) perform a sexual act; or (5) force him/her to have sexual intercourse out of wedlock with another person; or (6) cause him/her a sexual injury by another person; or (7) cause him/her a sexual assault by another person. 	7-10 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'

Section	Offence	Elements	Penalty	Comments
40	Detention	<ul style="list-style-type: none"> - keeping a person in a certain place or to detain a person by prohibiting his movements without his consent, for the purpose of rape, causing sexual injury or sexual assault (a) detained in a place; or (b) kept in a place in a manner that will not allow him to make any movements; or (c) no freedom for him to go out of the place on his own will; or (d) possibility for him to free himself from the place of detention upon the fulfillment of condition of either removing and leaving his clothes behind or leaving behind his property or any other possession; or (e) where he is given the choice to leave only upon leaving something behind without which he cannot leave. 	7-10 years imprisonment	

Section	Offence	Elements	Penalty	Comments
41	Compelling a person to participate in a sexual act	<ul style="list-style-type: none"> - a person forces or obliges another person to take part in a sexual act with him, without the other person's consent. 	3-5 years imprisonment	
42	Forcing a person to watch a sexual act	<ul style="list-style-type: none"> - a person forces another person to watch a sexual act being performed, or shows another person a picture, video, image of a video, film, or an image of a film depicting a sexual act or listen to the sound of such an act being performed. 	1-3 years imprisonment	
43	Production of pornography	<ul style="list-style-type: none"> - Making or manufacturing of pornography - publish through any medium, the pornography produced 	1-3 years imprisonment 3-5 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'
44	Forcing to produce pornography	<ul style="list-style-type: none"> - a person compels another person to participate in production of pornography without his consent, or if he produces pornography that shows a sexual organ of the other person. - publish through any medium, the pornography produced by force 	5-7 years imprisonment 15-20 years imprisonment	

Section	Offence	Elements	Penalty	Comments
45	Forcing to participate in pornography	<ul style="list-style-type: none"> - producing pornography of a person by forcing or controlling him, or by forcing him to participate in production of pornography - publishing through any medium, the pornography produced by force 	7-10 years imprisonment	The convicted person will be registered for this offence in the 'Registry of Sex Offenders'

Interpretation of consent:

For 'consent', a person is not deemed to have given consent if it was obtained:

- (a) through violence or with the threat of death or violence against the victim, or consent obtained through threat of death or violence against a person in close relationship with the victim through either family or marriage; or
- (b) based on false facts, by misrepresentation; or
- (c) by deceiving the person as to that act in question; or
- (d) by deceiving the person as to his or her relationship with the offender.

LIST OF OFFENCES AND PENALTIES: GENDER EQUALITY ACT

Section	Offence	Elements	Penalty
30	Penalties for non-establishment of complaint mechanism	Failure by the employer to establish a complaints mechanism stipulated in s 20(g) of the Gender Equality Act	The Minister may: (1) publicise information on such entities; (2) fine not exceeding MVR 25,000, on the responsible of the public-sector institution whose duty and responsibility is to establish the complaints mechanism stipulated in subsection (g) of Section 20 of this Act; (3) fine not exceeding MVR 25,000, if the noncompliant entity is a private-sector employer.

LIST OF OFFENCES AND PENALTIES: PROTECTION OF THE RIGHTS OF CHILDREN ACT

Section	Offence	Elements	Penalty
122	Exploitation of Children	<p>(a) making a Child work by force, coercion or deceit; or</p> <p>(b) using a Child to obtain a benefit to someone else, by force, coercion or deceit; or</p> <p>(c) using a Child in the commission of a criminal offence; or</p> <p>(d) recruiting or grooming a Child to commit a criminal offence.</p>	<p>3 years imprisonment; or</p> <p>5 years if the accused was in a position of trust of the child</p>
123	Grooming	<p>(a) Grooming a child for sexual abuse</p> <p>(b) mother or father or guardian or person who has been entrusted with the care of a Child to groom a Child for sexual abuse</p>	<p>For (a):</p> <p>10 years imprisonment; or</p> <p>15 years if the accused was in a position of trust of the child</p> <p>For (b):</p> <p>5 years imprisonment</p> <p>3 years imprisonment</p>
124	Neglecting a Child	When a person entrusted with the duty to provide protection to a Child deliberately commits an act that has a negative impact on the Child's health or safety or interest, or where the Child suffers a harm due to his failure to take measures to prevent such an act from happening.	

Section	Offence	Elements	Penalty
125	Negligence to save a Child from an act of violence	It is an offence not to prevent or mitigate an act of violence against a Child while being a person who works in a centre relating to Children, knowing that there is a danger of such an incident occurring, and being in a position to prevent or mitigate it	3 years imprisonment
126	Failure to report an offence of violence against Children	It is an offence if a person knows that the following acts have been committed against a child and failed to report it without valid reason: (1) sexual abuse; (2) major physical or mental abuse; (3) acts of exploitation.	2 years imprisonment If the person has attained any form of financial gain 5 years imprisonment

USEFUL CONTACT INFORMATION

Maldives Police Service

Emergency	119
Family and Child Protection Department (FCPD)	3006000

Ministry of Gender, Family, and Social Services

Hotline	3328393
Child Helpline	1412

Family Protection Authority (FPA) (for domestic violence issues)

3010551

