RESEARCH ON WOMEN’S ACCESS TO JUSTICE IN THE MALDIVES

UNITED NATIONS DEVELOPMENT PROGRAM 2017
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</tr>
<tr>
<td>AGO</td>
<td>Attorney General’s Office</td>
</tr>
<tr>
<td>CBO</td>
<td>Community Based Organizations</td>
</tr>
<tr>
<td>FPA</td>
<td>Family Protection Authority</td>
</tr>
<tr>
<td>FCPD</td>
<td>Family and Child Protection Department</td>
</tr>
<tr>
<td>DV</td>
<td>Domestic Violence</td>
</tr>
<tr>
<td>DVPA</td>
<td>Domestic Violence Prevention Act</td>
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<tr>
<td>DJA</td>
<td>Department of Judicial Administration</td>
</tr>
<tr>
<td>HRD</td>
<td>Human Rights Commission of Maldives</td>
</tr>
<tr>
<td>ISLES</td>
<td>Institute for Security and Law Enforcement</td>
</tr>
<tr>
<td>MPS</td>
<td>Maldives Police Service</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>NIC</td>
<td>National Integrity Commission</td>
</tr>
<tr>
<td>PGO</td>
<td>Prosecutor General’s Office</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Program</td>
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EXECUTIVE SUMMARY

INTRODUCTION

This report presents the findings of a research undertaken to explore access to justice for women in the Maldives. The study consisted of a survey of a sample of women from different parts of the Maldives, consultation with key stakeholder agencies and a desk review of relevant publications and documents. As the study is a first of its kind in the Maldives it aimed to gain a better understanding of the extent to which, and how, women experience access to justice.

The specific objectives of the study were to:

1. To understand the extent to which, and how, women use the justice system;
2. Explore the most significant accessibility issues and remedies for women to more efficiently access justice;
3. Understand what are the key areas that related stakeholder and donor agencies need to focus in relation to access to justice for women;
4. Identify what are the implications of domestic violence, sexual and gender-based violence and family and divorce issues on access to justice for women;
5. Explore women’s perceptions on the obstacles to accessing justice and how perceptions towards key justice sector institutions influence these perceptions;
6. Identify areas in need of legislative, regulatory and administrative reforms to improve access to justice for vulnerable women;
7. Identify other potential factors affecting delivery of timely, affordable and accessible justice for women and make recommendations for a way forward;

METHODOLOGY

The study comprised of a quantitative survey and qualitative interviews and consultations with members of key stakeholder agencies. The quantitative data were gathered from five different regions of Maldives. Details of the sample are presented below.

<table>
<thead>
<tr>
<th>Locality</th>
<th>Female Population</th>
<th>Sample Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male’ region (High access)</td>
<td>66,864</td>
<td>355</td>
</tr>
<tr>
<td>Haa Dhaalu atoll (Hanimaadhoo) (Medium access)</td>
<td>9,874</td>
<td>130</td>
</tr>
<tr>
<td>Shaviyani atoll (Funadhoo) (Medium access)</td>
<td>6,609</td>
<td>80</td>
</tr>
<tr>
<td>Thaa atoll (Guraidhoo) (Low access)</td>
<td>4,510</td>
<td>80</td>
</tr>
<tr>
<td>Gnaviyani Fuvahmulaku (High access)</td>
<td>4,404</td>
<td>70</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>92,261</strong></td>
<td><strong>715</strong></td>
</tr>
</tbody>
</table>
RECOMMENDATIONS AND PLAN OF ACTION

The study’s findings confirm several issues that can help find more meaningful remedies to improving access to justice for women. General findings from the study include:

1. Public’s dissatisfaction and mistrust towards key justice agencies including the police and courts;
2. An immediate need for a comprehensive legal aid program that will allow greater access to women to gain different aspects of justice as victims that covers assistance beyond legal representation in courts;
3. A significant concern about the lack of an existing multi-agency approach to prevention and awareness raising in relation crime and justice in general but also specifically with regards to tackling crimes against women;
4. The immediate need to facilitate further protection facilities including the enhancement of shelter service to women and girls who become victims of domestic violence and further capacity building with regards to services offered from shelters;
5. The importance of streamlining data collection, data analysis and producing analytical products that can inform future policies;

In light of these findings, the research has produced a plan of action which is described below. The activities proposed were validated in a meeting with relevant stakeholders and is expected to provide a way forward to both the UNDP and relevant stakeholders to further improve access to justice for women in the Maldives.
## ACTION PLAN - ACCESS TO JUSTICE FOR WOMEN

<table>
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<th>Goal</th>
<th>Strategic Action</th>
<th>Indicator</th>
<th>Responsible Agencies</th>
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| Reduce re-victimization of domestic violence survivors and provide support to re-integrate and empower survivors of domestic violence | Increase the available safety support to female victims of domestic violence by establishing designated shelters/safe houses and by implementing a coordinated support structure to address the needs of female victims requiring shelter services | - Number of available shelters for female victims of domestic violence  
- Stakeholder satisfaction with available services  
- Victims satisfaction with services | Ministry of Gender and Family  
FPA |
| | Build capacity of staff working within the shelters to deliver effective and efficient support services to the needs of women and girls | - Number of staff trained in vital services | - Ministry of Gender and Family  
- FPA (regulate and oversee the quality of trainings)  
- MPS FCPD & ISLES (take up a partnership role in training) |
| | Ensure written SOPs exist and best practice procedures are followed within the shelters when dealing with victims of domestic violence | - Written procedures exist for all services  
- Shelters fully comply with regulatory and best-practices in shelter management | Ministry of Gender and Family  
FPA (regulate and monitor) |
| | Coordinate amongst all relevant stakeholders to ensure that all necessary legal documents/forms are made available to women who need them by ensuring documents/forms are always available and are easily accessible | - Periodic monitoring of agencies;  
- Complaints from victims | FPA  
DJA  
MPS |
| Legal Awareness | Explore the possibilities of an IT based solution to improve and increase access to and requests for Protection Orders from beginning to end of its life cycle | - A commonly used software application that keep track of PO from start to finish  
- Reduced delays in processing and managing Protection Orders | - Family Protection Authority  
- Family Court  
- FCPD  
- DJA |
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<td></td>
<td>Educate, train, sensitize and develop judges and magistrates on violence against women and on special measures allowed in relevant legislations and international best practice</td>
<td>- All judges and magistrates receive periodic and standardized training though an existing training program or through a specialized training program</td>
<td>Supreme Court, DJA &amp; Judicial Academy</td>
</tr>
</tbody>
</table>
| | Consult amongst all relevant stakeholders and formulate a national crime prevention coordination mechanism to reduce resource duplication on prevention, trainings and awareness raising | - Number of multi-agency trainings  
- Relevant stakeholders satisfaction with the level of awareness | MPS/Ministry of Home Affairs  
AGO  
HRCM |
| Improve the collective understanding of crime and justice issues related to women and ensure evidence based policies guide practice | Develop nationally agreed indicators to measure access to justice for women and develop guidelines for key stakeholder agencies to implement the National Human Rights Action Plan | - Regular publication of comparative analysis | Attorney General’s Office  
MPS  
DJA  
FPA  
HRCM |
| | Formulate a regulatory/policy guideline to streamline currently collected/processed crime and justice data by various stakeholder agencies and publish analytical reports related to gendered crimes | - Standardized analytical reports published and disseminated periodically to relevant institutions/agencies | AGO  
MPS  
Ministry of Gender  
FPA  
Supreme Court  
DJA |
| Practice preventative policing with regards to all forms of crimes against women | Increase coordination within the sector with regards to prevention and community awareness and increase multi-agency training and awareness programs; | - A comprehensive national crime prevention plan and an authority to direct, plan and organize prevention activities | Ministry of Home Affairs/Ministry of Gender and FPA |
| Implement innovative developments relating to prevention, diversion and reporting in relation to crimes against women | | - Increased detection and reporting of selected crimes against women | MPS |
| Strengthen partnership between MPS and state institutions and non-state groups such as NGOs/CBOs and associations working to prevent and address gender related crimes | | - Improve satisfaction with the police from key stakeholders | MPS |
| Develop and widely make available a manual/handbook aimed at investigators to standardize investigations of domestic violence, especially in Male’ and other Divisions. | | - Increased public and key stakeholders’ confidence on police response to domestic violence | MPS |
| Promote the understandings of and respect for women and girls’ legal rights more widely | Strengthen the communication strategy targeting young women and girls about their legal rights and responsibilities Providing information about legal rights in school environment and through alternative sources to relevant school age children | - A multi-media awareness campaign - Assessment of awareness impact - School Leavers who have legal literacy | FPA Ministry of Education |
| Ensure a sustainable and effective legal program exist in Maldives and that all vulnerable women who need legal aid support receive adequate legal aid support in a timely manner | Improve the awareness of legal rights, particularly about the rights prescribed by domestic violence act amongst women of various demographics, including those in intimate relationships, school leavers and young working age adult women | - Analytical reports of training participants’ feedback reports;  
- Number of women from specific demography and target groups who receive information | Ministry of Gender, FPA & FCPD, CSOs |
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<tr>
<td>Establishment of a national legal aid mechanism including the enactment of the legal aid bill</td>
<td>- Enactment of a Legal Aid Bill</td>
<td>AGO/ NGOs</td>
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</table>
| Support, monitor and periodically report on the outcomes of national legal aid program to ensure a sustainable services to victims of domestic violence | - Establishment of a legal aid program and adequate resources to the legal aid program  
- No of, and the types of, domestic violence victims using legal aid  
- Satisfaction of victims and victim support groups with the service of legal aid to domestic violence victims | AGO |
<p>| Provide support to existing legal aid facilities to provide greater legal representation (in courts and in tribunals) in addition to providing legal advice and information; | - Implementation of Legal Aid Bill | AGO |
| Identify and promote new legal aid opportunities through partnerships with universities and higher educational establishments; | - The number of lawyers and law students volunteering for legal aid | AGO/ NGOs |</p>
<table>
<thead>
<tr>
<th>Legal Adjudication</th>
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<tr>
<td>Explore the gaps in legal education needed to improve access to justice for women including a review of legal curriculums to incorporate a more thorough emphasis on Clinical Legal Education (CLE), Alternative Dispute Resolution (ADR), Restorative Justice, Mediation and other alternative themes emerging in the policy and applied context.</td>
</tr>
<tr>
<td>- Reviewed curriculum and introduction of a CLE program in universities and higher education centers.</td>
</tr>
</tbody>
</table>

| Registered higher education centers, AGO/NGOs |

| Formulate the regulation(s) to be enacted by the justice sector with regards to implementation of Domestic Violence Prevention Act. |
| - The enactment of the regulation. |

| Supreme Court/DJA |
| FPA |
| Family Court PGO |

| Strengthen regulatory frameworks for alternative and community based solutions to increase access to justice for women in particular but A2J in general. |
| Strengthen the legal and regulatory framework to use ADR and mediation more widely within the justice system; |
| - A draft bill on ADR |
| - Wider awareness of, and involvement from, law firms and private law practitioners about the use of ADR; |

| AGO, Private law firms, Family Court |

| Formulate a regulatory framework for restorative justice that would enhance the formal use of RJ in various stages of domestic violence case processing including at investigation and prosecutorial stages; |
| - A regulation that will standardize and institutionalize the use of RJ in policing domestic violence and sexual offences |
| - A guideline on the use of RJ practices at prosecutorial stage. |

<p>| PGO &amp; MPS |
| Supreme Court DJA |
| Ministry of Home Affairs FPA AGO |</p>
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<thead>
<tr>
<th>Task</th>
<th>Outcome</th>
<th>Responsible Entities</th>
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<tbody>
<tr>
<td>Develop and conduct a multi agency training/seminar/workshop on ADR, RJ and mediation that includes private sector lawyers in addition to members of state-led institution</td>
<td>- A training program conducted for lawyers</td>
<td>AGO, Supreme Court, Family Court, DJA</td>
</tr>
<tr>
<td>Provide international exposure on best practices on improving access to justice to judges from family court, FPA, FCPD and Ministry of Gender</td>
<td>- An assessment of attitudes towards new programs from key stakeholders</td>
<td>Ministry of Gender/DJA</td>
</tr>
<tr>
<td>Strengthen the case management system and streamline approach within the judiciary and provide support to build capacity of the judges and administrative staff to effective use of case management to improve efficiency;</td>
<td>- Reduced time in processing domestic violence cases reported to relevant courts</td>
<td>Supreme Court/DJA/</td>
</tr>
<tr>
<td>Explore and identify the possibilities of more victim centred processes in the criminal justice system including victim impact statement to trials, parole hearings and clemency hearings and the introduction of victim support officers in the judiciary</td>
<td>- A widely accepted victims charter and regulatory framework for greater involvement of victims in decision making processes</td>
<td>AGO, PGO, MPS</td>
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<tr>
<td>Review the procedural fairness of key policing activities</td>
<td>- A comprehensive analysis of police response to crimes against women</td>
<td>MPS</td>
</tr>
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<td></td>
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<td>HRGM, NIC</td>
</tr>
<tr>
<td><strong>Legal Oversight</strong></td>
<td><strong>Promote the understandings of and respect for women and girls’ legal rights</strong></td>
<td><strong>Strengthen the communication strategy targeting young women and girls about their legal rights and responsibilities</strong> Providing information about legal rights in school environment and through alternative sources to relevant school age children</td>
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<td><strong>Develop a peer to peer support platform allowing young women to take a leadership role in awareness raising and engaging with at-risk groups</strong></td>
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<td></td>
<td><strong>Increase public confidence of key justice agencies including the police, courts and PGO with regards to how women are dealt and treated within the justice system</strong></td>
<td><strong>Encourage reporting of all discriminatory and extra-legal decisions by justice sector agencies to relevant oversight bodies;</strong></td>
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<td><strong>Empower, educate and sensitize oversight bodies such as National Integrity Commission and Judicial Services Commission to ensure gender related investigations are thoroughly investigated</strong></td>
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<td><strong>Provide support to treaty implementation, legislative agenda and parliamentary capacity to formulate gender rights law</strong></td>
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CHAPTER ONE

INTRODUCTION AND BACKGROUND

A 2014 Legal and Justice Sector Baseline Study (LJSBS 2014) undertaken by Attorney General’s Office (AGO) and the UNDP Maldives found that special measures need to be put in place in the Maldives to achieve adequate level of access to justice for women. Following the LJSBS 2014, UNDP Maldives initiated a research in 2016 to explore and understand the extent to which, and how, women experience access to justice. This report provides the findings from the research on access to justice for women in the Maldives. As the first comprehensive study on this topic the research covers a broad range of issues relevant to gain insights about the extent and nature of issues relevant to understanding access to justice for women in the context of Maldives.

PURPOSE, OBJECTIVES AND SCOPE OF THE STUDY

In recent years there have been significant policy recognition, statutory and regulatory enactments and relevant institutional focus on access to justice for women in the Maldives. Nonetheless, women’s experiences in accessing justice also attest to the notion that there are significant gaps between policy and practice when it comes to access to justice for women. To address these, first and foremost, it can be suggested that a proper understanding of the issue needs to take place. This research explores these gaps and identifies a way forward to increasing and improving access to justice for women. It identifies and highlights key areas of focus for the broad justice sector, donor agencies and all relevant stakeholders to meaningfully engage to improve access to justice for women. In particular, this analysis of access to justice for women in Maldives has the potential to unravel a way ahead to help achieve greater access to justice for women in a more holistic manner.

The main purpose of this study is to enhance the understanding of issues that affect women’s capacity and ability to access justice in the Maldives. It explores and identifies challenges women face in the process of accessing justice in different domains.

In this regard, the study specifically focused on the following:

1. To what extent, and how, women use the justice system;
2. What are the most significant accessibility issues and remedies for women to more efficiently access justice;
3. What are the key areas that related stakeholder and donor agencies need to focus in relation to access to justice for women;
4. What are the implications of domestic violence, sexual and gender-based violence and family and divorce issues on access to justice for women;
5. Explore women’s perceptions on the obstacles to accessing justice and how perceptions towards key justice sector institutions influence these perceptions;
6. Identify areas in need of legislative, regulatory and administrative reforms to improve access to justice for vulnerable women;
7. Identify other potential factors affecting delivery of timely, affordable and accessible justice for women and make recommendations for a way forward;

As the first detailed study on the subject carried out in the Maldives, it offers useful empirical data on a wide range of issues related to women’s access to justice. By using a mixed methodology and triangulated data sources the study provides a deeper understanding of the social, cultural, legal and structural re-organization needed to achieve access to justice for women in the Maldives.

**METHODOLOGY**

The study is a mixed methods research that utilizes both quantitative and qualitative approach. For quantitative data, a survey was conducted with women from 5 (five) different areas who were sampled using a cross-sectional sampling frame. The qualitative data includes information received through stakeholder consultations, one-on-one interview and focus groups with youth. Refer to Annex 1 for further details and clarifications on the methodology, samples and respondents.
CHAPTER TWO

ACCESS TO JUSTICE : A CONCEPTUAL FRAMEWORK FOR MALDIVES

INTRODUCTION

Access to justice is now a popular phrase found in many spheres of research and policy. Before going for empirical analyses of access to justice for women and its state in the Maldives, it is important to understand the meaning of access to justice and explain the conceptual framework used to assess access to justice for women in this research. This Chapter, therefore, reviews the literature on access to justice with special focus on access to justice for women and offers a conceptual framework through which access to justice for women in the Maldives can be examined.

UNDERSTANDING JUSTICE

Justice is a multi-dimensional concept. Reference to the term access to justice in the policy and research arena include those relating to formal and informal justice, social, civil and criminal justice, procedural and substantive justice, retributive and restorative justice and more. Access to justice, therefore, is a concept bound by these various facets of what justice could mean in different contexts. In many ways access to justice for women cuts through all these dimensions of justice and operates concurrently to engage and deliver various forms of justice.

Traditionally, access to justice was promoted around the world as simply the ability to access institutions of law and justice and the equal right to participate where issues of justice is debated. This includes strengthening the ability and capacity of state institutions to addressing delays in getting justice, costs in accessing justice and eliminating corruption in justice sector agencies working as stakeholder. Recent explanations of access to justice, however, go beyond this legalistic understanding and links access to justice for women with economic and social development. In this regards, access to justice for women involves a number of policy and strategic developments.

While legislative and policy developments can be geared towards achieving access to justice for women there is a useful need to be considerate of the gaps in policy and practice and rhetoric and reality. Having a policy, a law or a strategy does not, on its own, improves access to justice—for women or otherwise. There are various other issues that require significant attention. Research from other countries suggest that access to justice for women is bound by the various constraints related to the opportunities for women and their empowerment in policy and in practice.

But, when conceptualizing access to justice for women it is important to recognize and acknowledge that access to justice in the current times does not mean, and should not be conflated with, simply a demand for equal status for women. Indeed, the concept of equality itself needs to be conceptually redefined and related to how it will improve accessibility to justice in a more holistic manner.

The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) explains this when they state the following:

“A purely formal legal or programmatic approach is not sufficient to achieve women’s de facto equality with men, which the Committee interprets as substantive equality. In addition, the Convention requires that women be given an equal start and that they be empowered by an enabling environment to achieve equality of results. It is not enough to guarantee women treatment that is identical to that of men. Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences. Pursuit of the goal of substantive equality also calls for an effective strategy aimed at overcoming underrepresentation of women and a redistribution of resources and power between men and women”.

Access to justice for women, therefore, should cover a broad spectrum of issues that go beyond equality and empowerment of women. While eliminating gender inequality and discrimination are important for access to justice, there are important achievements to be gained from having mechanisms for good governance, independence, impartiality and the credibility of the CJS. Equal participation of women in judiciary, in law enforcement and in fight against corruption, to name a few, are important factors to be considered in the contemporary access to justice for women agenda.

This and many other issues make access to justice a highly complex phenomenon. This complexity is further exacerbated when it is undertaken within the remits of justice for women. Women are a highly vulnerable group in all stages of the justice cycle. Cultural, social, economic and political (in addition to legal and judicial dimensions of justice) becomes highly critical for understanding and promoting access to justice for women. Thus, access to justice for women is linked to these issues as well.

BEYOND A LEGALISTIC AGENDA FOR ACCESS TO JUSTICE FOR WOMEN

In many parts of the world the access to justice agenda proliferated with the assumption that the legal and justice sector are the sole providers of justice. Today, this assumption can be strongly contested. Many developing and transitional countries, in particular, provide ample empirical evidence that a significant and important role is played by informal justice arrangements. Even in the developed West, concepts like security are no longer the monopoly of the state. There are many non-state actors and non-state mechanisms that offer venues to improve security and safety of all, including women. The mainstreaming of measures like Alternative Dispute Resolution (ADR), Restorative Justice (RJ) and Community Oriented Policing (COP) reveals that, increasingly, the delivery of justice is a shared concept where more than the state is involved in making decisions. Because these alternative arrangements have significant impact and implications on access to justice for women, the need to look at these variables from a gender perspective to improve access to justice for women is important than ever.

To this end, it is now accepted that while traditionally legal development meant that promoting rule of law and enhancing the legal and justice sector institutions (most prominently the judiciary) as key to improving access to justice, the contemporary trend in access to justice is to look at the capacity of justice to influence a wider spectrum of issues. Poverty reduction, sustainable development, good governance and other related issues are now central tenets of access to justice agenda. In this new framework, in addition to the state institutions, non-state actors such as non-governmental and community based organizations and the community are key stakeholder groups. This shift in the attention from institutions or the law to the needs of the individuals who seek justice needs consideration.

In the context of access to justice for women this shift in attention can be characterized as a shift from a top down (institutional reform) approach to a bottom up (grassroots) approach. The state takes an important role in this but strong emphasis is placed on those that are actually affected by the lack of accessibility to justice.

**ACHIEVING ACCESS TO JUSTICE FOR WOMEN**

It is within such a bottom up framework that the UNDP defines access to justice. According to UNDP access to justice is “the ability to seek and obtain remedy through formal or informal institutions of justice, and in conformity with human rights standards” (UNDP, 2005). This definition gives a glimpse to the complex nature of access to justice both as a concept and a construct.

First, access to justice requires that the public should be able to seek and obtain justice. It points to the fact that it is not sufficient that mechanisms or pathways for justice simply exist. People must be able to obtain justice through those means and mechanisms. Secondly, it proclaims that the process of justice must conform with human rights standards. Therefore, it is important how justice is delivered. A human rights approach to access to justice is necessary for access to justice to flourish.

Within this approach there are multiple entry points to seek justice. Access to justice needs to be eased within these various stages.

Research shows that in many parts of the world justice is not achieved not because there are no means or institutions to deliver justice. In an analysis of access to justice for women in Afghanistan it has been observed that access to justice is hindered by the following:

- Economic dependence on someone else;
- Conservative social norms;
- Selective enforcement of laws related to women’s rights and protection;
- Pervasive and continuing gender inequalities

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Because access to justice is a concept drawn from several legal and non-legal doctrines there are many issues to think about when talking about access to justice. Especially for women, access to justice has strong links and relationships to gendered norms in society and empowerment of the women. Therefore, equality before the law, for example, is a key determinant of access to justice. Similarly, it also involves enhancing the quality of justice.

The latter, no doubt, requires a critical look at organizational and individual behaviours and attitudes. Considering this it is useful to conceptualize access to justice within this broad perspective.

Moreover, given the multi-faceted nature of access to justice, analysis of the term requires examining multiple facts and facets. There is an urgent need to better understand the various difficulties and barriers for women to access justice in the Maldives. In recent years, several policy developments have been geared towards making access to justice a reality for women.
CHAPTER THREE

ISSUES OF ACCESS TO JUSTICE FOR WOMEN IN CONTEXT OF MALDIVES

INTRODUCTION

For several years now there have been promising and visionary commitments conveyed about women and gender issues in the Maldives. Within these there is a nuanced emphasis on access to justice for women. For example, in Maldives’ first comprehensive action plan to reform the criminal justice system, developed for 2004-2008, one of the listed policy with regards to crimes against women and gender was to “establish a process whereby the victims would be able to stand up for their rights and obtain justice against perpetrators”. In their 2010-2013 Strategic Plan, the Maldives Police Service lists tackling crimes against women and gender as one of the four high priority crimes. The 2014 Legal Sector Baseline Study, which now is a core document used by the Attorney General’s Office to strategize their work, it is identified that special focus need to be placed to improve access to justice for women. But there are also things to worry about. In the MPS Strategic Plan for 2014-2018 or in the judiciary’s Action Plan for 2016-2017 the terms women or gender does not appear even once. While this is not in itself an evidence of lack of attention to women and gender issues in these important stakeholder agencies’ strategic focus, it raises some question about the priority and resources spent on making access to justice for women a reality.

THE JUSTICE SYSTEM OF THE MALDIVES

The Maldives’ legal and justice system is highly formal and since the enactment of the 2008 Constitution has further strengthened the regulatory processes of judicial adjudication. In fact, the Constitution of the Maldives does not recognize any informal mechanisms of legal conflict resolution unless distinctively authorized by law. There are, however, some within the commercial, contractual and business related laws that can be called quasi formal. For example, all cases that are lodged at the Civil Court of the Maldives are first sent to a mediation Unit. Likewise, in Family Court conferencing is used in relevant matters. The extent to which, and how, access to justice for women accommodate contemporary developments need to be, therefore, vary of the existing constitutional, legal and practical limitations specific to the Maldives.

The Maldives has a three-tier court system – with superior courts (includes the superior courts in Male’ and the magistrates’ courts in the outer regions), High Court and Supreme Court. There have been two branches of the Higher Court in North and South of the Maldives. Magistrate courts established by and deriving their jurisdiction from the Judicature Act 2010 operates at the island level. The Courts are bound by the rulings of the court above (Attorney General’s Office & UNDP, 2014, p. 11). While 5 subordinate courts are located in Male’, another 196 magistrate courts are located in the atolls. While the courts in the atolls are generally limited in jurisdiction to family, property and criminal cases, the superior courts in Male’ receive the bulk of cases related to commercial, company and financial matters (Attorney General’s Office & UNDP, 2014, p. 11).
THE LEGAL FRAMEWORK

The enactment of the 2008 Constitutions offered a promising legal framework to improve access to justice for both men and women in the Maldives. In particular, the Constitution ended several restrictions curtailed previously by law and by practice with the explicit guaranteeing rights. To this end the 2008 Constitution provides for the following:

- For the first time it allowed a women to become the Head of State thereby formally eliminating the restriction on women to contest for and be elected as the President;
- A comprehensive Bill of Rights within the Constitution that provides for all democratic rights including the right to legal representation in all stages of criminal justice system;
- A clear statement that prohibits any form of discrimination including discrimination based on gender;
- A clear separation of powers between the three branches of the state;
- A right to legal aid by the state in matters of serious criminal accusations;

The 2008 Constitution of the Maldives has incorporated the two core international human rights instruments, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Socio Economic and Cultural Rights (ICESCR). Thus, the Constitution of the Maldives is considered a highly progressive and reformist document that fits modern democratic ideals.

Maldives is party to various international human rights instruments which aim to seek gender equality, women's advancement and empowerment to access equal rights and justice. Maldives also ratified the Convention on the Elimination of all Forms of Discrimination against Women in 1993. Gender related legislations are strongly derived from the CEDAW Convention.

But, a number of statutes passed to fulfil the legal framework for a democratic justice system has provisions that undermines a democratic justice agenda. In some legislation the rights are curtailed to make it easier for justice agencies such as the police to investigate crimes that have significant impact on women and girls. For instance, the DVPA 2012 allows the police to search and seize without a court order under special powers given to police to deal specifically for domestic violence reports. While there is a balance that need to be in place to disallow democratic rights to be invoked versus public safety, how these unprecedented powers are practiced by the police need to be closely scrutinized. Consultations with stakeholders revealed that the police invoke these powers discriminately and were accused of favouritism. A comprehensive analysis of the police response to domestic violence can shed useful insights and information related to policing of crimes such as domestic violence.

6 Recent amendment to the family law in the Maldives (2nd amendment to the Law No. 4/2000 (Family Act)), now aims to divide marital property equally and seeks to ensure equal justice for women in terms of property rights.
LEGAL OBSTACLES FOR WOMEN

While the Constitution has removed a number of fundamental legal obstacles to achieve access to justice in general, and for women, unsurprisingly, this does not mean that in practice access to justice is achieved equally by men and women. A closer analysis of the legal achievements indicates that there are concerning issues with regards to gender equality and equity which can have significant access to justice implications for women. For example, the number of women working in the justice system is significantly low and there are very few female judges on the benches. Also, despite there being no legal barriers to acquiring property in marital relationships, it is a common practice to register property under the husband’s name (Jabyn, 2016). In cases of divorce then, the woman is often forced to make alternative arrangements for herself without access to economic wealth created by both. Such structural and pragmatic issues contribute to make access to justice for women a difficult endeavour.

LEGAL AID

An important aspect of access to justice for women that needs to be highlighted is the provision (or the lack) of legal aid. The Constitution mandates legal aid to those accused of severe crimes. However, from an access to justice for women perspective, such a limited focus on legal aid limits women’s needs to legal aid facilities because women are more likely to be victim of crimes than the offender. Furthermore, a large proportion of women’s engagement with the justice system is likely to be in matters unrelated to a crime. This may include family issues, divorce, land rights and so forth. To look at access to justice for women it is important to look at how these areas of law and justice can be enhanced and linked to legal aid. In addition to advancing the legal sector, there are non-legal factors that influence access to justice for women. Access to justice must also be seen from multiple angles, especially those related to creating a more empowering environment for women to exercise their participation and agency. There is also the recognition that from a woman’s point of view, access to justice entails a broader set of institutional arrangements such as “the ability to seek safety through effective protection orders, physical and mental recovery through good quality and accessible health services; and/or the opportunity to seek a divorce and a new life free from the violence of a spouse” (International Commission of Jurists, 2016, p. 3). Women’s engagement with the justice sector is more likely to be within these family law and commercial law domains of marriage, divorce, social protection and health.

DOMESTIC VIOLENCE

And most vitally, access to justice for women needs look at the gendered nature of domestic violence. In Maldives, the first ever comprehensive study on violence against women in the Maldives was carried out in 2007, which revealed that 1 in 3 women between ages of 15-49 have experienced some kind of physical or sexual abuse at some point in their lifetime (Ministry of Gender and Family, 2007). The study also revealed that among those women who have experienced violence, very few sought help from formal services including formal justice system. There may be several reasons for such low access to justice particularly for women who continue to face significant barriers in addressing their grievances through formal justice system in the areas of domestic violence (DV).

In 2006 the then Ministry for Gender and Family published preliminary results of a study titled Maldives Study on Women’s Health and Life Experiences (MSWHLE). A ‘shocking’ finding from this study was, like in many other countries, various forms of violence against women (VAW) are highly prevalent in the Maldives too. It reported that 1 in 3 women aged 15-49 experienced physical and/or sexual violence during their life-time. Since then, the phrase 1 in 3 has become a powerful slogan for policy and practice change to improve the status of VAW.

Other findings from MSHWLE include:

- 1 in 5 women aged 15-49 (19.5%), who had ever been in a relationship, reported experiencing physical and/or sexual violence by and intimate partner.
- Approximately 1 in 8 women aged 15-49 (13.2%) reported experiencing physical and/or sexual violence by someone other than an intimate partner, since the age of 15.
- Combining physical and/or sexual violence by partners and non-partners, since the age of 15, we find that more than 1 in 4 women (28.4%) have experienced partner or non-partner violence, or both.
- Approximately 1 in 8 women aged 15-49 (12.2%) reported that they had been sexually abused before the age of 15, that is, that they had experienced childhood sexual abuse.

In the years that followed, domestic violence received slow, but growing attention in policy if not in practice. In 2012 the much-awaited Domestic Violence Prevention Act (DVPA 2012) was passed and enacted that offered a comprehensive legislative framework to tackle domestic violence.
DOMESTIC VIOLENCE PREVENTION ACT 2012

The term domestic violence means different things in different legal jurisdictions. The Domestic Violence Prevention Act (DVPA) 2012 defines “domestic violence” as “acts by a perpetrator where such conduct harms, or may cause imminent harm to, the safety, health or wellbeing of the victim(s), and provided the victim(s) and perpetrator are in a domestic relationship” (Domestic Violence Prevention Act, 2012, Article 4(a)). Domestic relationship is meant to include:

1. Persons who are or were married to each other;
2. Persons who share or have recently shared the same residence;
3. Persons who are the parents of a child or a are person who have or had parental responsibility for that child;
4. Persons who are family members related by consanguinity, affinity or marriage;
5. Persons who are domestic child carers or domestic workers; or
6. Persons who are in an intimate relationship

Furthermore, the DVPA (2012) recognizes various acts as domestic violence. They are:

1. Physical abuse;
2. Sexual abuse
3. Economic and financial abuse
4. Impregnating the spouse, without concern to her health condition and against any medical advice to refrain from impregnation for a specified period;
5. Deliberately withholding the property of a person;
6. Intimidation;
7. Harassment
8. Stalking

As can be seen from the above, the conceptualization of domestic violence in the Maldives is very broad and covers a spectrum of offences. This progressive approach to criminalizing domestic violence opens with it new challenges as the institutions that must be at the forefront of protecting women and assisting them with the access to justice endeavour are tasked with a broad mandate.
DOMESTIC VIOLENCE NUMBERS

Like many other countries, and to similar proportions as several others, domestic violence is recognized as a significant issue in the Maldives. Until recently, it remained strongly hidden and it is only recently that it has become an issue of public and open debates. Today, domestic violence can be considered a highly-focused arena of violence against women (VAW).

In the current research when women are asked to list the most serious crime problems in their own society, 28.8% of women surveyed in this research reported that domestic violence as a significant problem in their society. Given the hidden nature of this crime this reflects that domestic violence is witnessed or considered a major concern for many women. Table xxx and xxx shows reported number of domestic violence incidents to the FPA and the police respectively. As can be seen there is a difference in the reported number which illustrate that a more streamlined approach to data collection and coding crimes needs to come into effect to get a true ‘correct’ picture of the actual extent and nature of crimes against women.

**Reported cases to Family Protection Authority 2013-2016**

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases</td>
<td>19</td>
<td>149</td>
<td>438</td>
<td>642</td>
</tr>
</tbody>
</table>

**Table 1.2 present statistics based on reported incidents to the police**

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</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>304</td>
<td>341</td>
<td>187</td>
<td>207</td>
<td>178</td>
<td>146</td>
<td>84</td>
<td>110</td>
<td>114</td>
</tr>
</tbody>
</table>

As can be seen from the above two statistics the reported incidents to both the FPA and the MPS have been increasing rapidly. In part, this is because of an increased awareness of domestic violence in the community.

As can be seen from the following table the majority of domestic violence victims in the Maldives are women, although the law covers violence against men too.

<table>
<thead>
<tr>
<th>Gender</th>
<th>Age</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Under 18 years</td>
<td>Over 18 years</td>
</tr>
<tr>
<td>Female</td>
<td>125</td>
<td>433</td>
</tr>
<tr>
<td>Male</td>
<td>87</td>
<td>83</td>
</tr>
</tbody>
</table>

**Number of domestic violence victims involved in reported cases for 2016**
The DVPA (2012) defines domestic violence based on the relationship between the offender and the victim. Therefore, violence against women by those not in a domestic relationship is not covered by the DVPA 2012. The Sexual Offences Act, 2014 (SOA 2014) addresses some of the gaps by criminalizing sexual assault and rape. However, this latter legislation also does not cover marital rape.

**CHALLENGES IN ACCESS TO JUSTICE**

While access to justice and judicial remedies are guaranteed in the constitution of Maldives for women and men equally, there are strong reasons to believe that women face greater challenges to gain access to various institutional mechanisms to protect their rights and receive remedies. The Legal and Justice Sector Baseline Study carried out in 2014 offered insights to the lack of systematic, realistic, time-bound and comprehensive procedural rules in the justice system; low levels of trust with respect to the quality of justice, independence, integrity and efficiency of justice delivery; delays in delivering justice; low level of public awareness of the roles, functions and procedures of the legal and justice sector agencies; affordability and costs to the state as significant challenges in the justice sector (Attorney General’s Office & UNDP, 2014).

The report further highlighted structural and individual barriers to accessing justice sector services including low level of public confidence, lack of awareness of the roles, functions and procedures of the legal and justice sector agencies and the lack of affordability for legal assistance (Attorney General’s Office & UNDP, 2014). The baseline study in particular highlighted that access to justice is most difficult for most vulnerable groups including women providing justification for this study.
CHAPTER FOUR

WOMEN’S ATTITUDES, BELIEFS AND EXPECTATIONS

INTRODUCTION

An important objective of the research was to understand how women view key attributes linked to access to justice so that policies designed to improve access to justice for women in the Maldives will address and cater to their needs. Too often, policies about gender and women perpetuate the status quo of men’s power over women and the inherent disparity in these power relations. To move away from such androcentric policies it is helpful to inquire directly from women about their experience and expectations. This Chapter provides an analysis of key issues identified from this research with regards to women’s attitudes, belief and expectations about key access to justice issues.

WOMEN’S USE OF LEGAL SYSTEM

This study examined to what extent and how women need and use the justice system. More than a third (34%) of those surveyed reported that they faced a legal issue in the last five years. A significant majority of the respondents, however, preferred to resolve issues informally without involving the formal justice system. As can be seen from the graph 1.1 over 84% of survey respondents preferred informal settlement.

With regards to the particular kinds of legal issues experienced by respondents the survey revealed that 35.1% of the issues related to family disputes, 21.6% related to crime, 12.4% related to land or environment disputes, 9.3% related to domestic violence and 10.3% reported as other issues.

Those within this latter ‘other’ category include issues such as arrest of husband or an accident which required women to seek legal help on behalf of a man. The types of legal needs of women denote that a focus on family and non-criminal justice issues need to be a priority in access to justice for women agenda.

8 DJA Annual Report 2016
9 DJA statistics
This is further supported by statistics on cases dealt by the courts. When the number of cases dealt by the Criminal Court, the Civil Court and the Family Court is compared, the statistics show that compared to the first two, the Family Court hears a significantly high number of incidents. In 2015 Criminal Court dealt 17 percent and Civil Court dealt 30 percent while Family Court dealt 54 percent of the total workload. Similar trend is observed from 2016—Criminal Court, Civil Court and Family Court dealt 26 percent, 25 percent and 49 percent respectively. Given the types of issues dealt by Family Court women are likely to be a significant clientele of Family Court, especially in matters related to divorce, custody and child rights. Moreover, the small number of female offenders compared to the males in the Maldives further points to the need to focusing on issues that are not just criminal in nature per se when dealing with access to justice for women.

A legal aid program to improve access to justice for women, therefore, needs to cover issues beyond support for criminal cases.

Interestingly, a cross tabulation of the survey data revealed that over 70% of those who depend financially on someone else prefer an out of court settlement for their legal issues. This suggests that the financial capacity to pursue cases through the legal system may be a major reason for the reluctance to use formal judicial system.

Discussions with key stakeholders provides supporting evidence to this in the sense that both police and NGOs believe that a major reason domestic violence victims’ commitment to retract from their decision to pursue a legal case depends strongly on concerns about economic dependence on husband or male guardians.

This study explored the extent to which the legal issues experienced by women were attempted to be addressed (Figure 2)—through legal or other judicial means. A surprising result of this research is that a large percent (67.7%) reported that no action was taken to address the legal issue while there were some who had direct negotiation with other party (11.4%), sought help from justice agency (11.6%) and sought help through a third party (8.2%). In other words, only 11.6% of those who took any action in relation to their cases sought judicial remedies.

Although half the surveyed population preferred not to take any action to address the legal issue, when respondents were asked to explain their preferred method of settling disputes, the majority of them explained that they prefer out of court settlement rather than going to any agency of the law. It was also identified from the survey that among all the participants, most (70%) prefer quiet and peaceful out of court settlement.

![Figure 3: Prefer out of Court settlement](image-url)
There are many probable explanations to the above findings. An interesting observation from the disaggregated statistical analysis is that those who depend on someone else financially are more likely to prefer an out of court settlement. This point to the fact that the cost involved or the perception of the cost of accessing justice has a significant impact on women’s preference to not use the court system.

Another is the low level of trust to the justice sector institutions. This study offers empirical evidence that shows the levels of trust to key justice sector institutions are very low. Table 2 below shows response to the questions about the level of trust with the public.

The low level of trust to police and the courts, two key institutions of the justice sector, demands urgent attention by all relevant policy makers and these specific institutions. Quite surprisingly, none of the women surveyed reported that they were strongly satisfied with MPS. Only 12.5% of the women said they are moderately satisfied. A total of 59% reported they are dissatisfied which includes 20.3% moderately dissatisfied and 39.1% strongly dissatisfied.

![Level of satisfaction with MPS](image)

Nonetheless, MPS remains the most commonly approached institution when legal help is required. This is important to emphasise for two reasons. Firstly, as previously stated the majority of legal issues women faces are not criminal offences per se. Instead, they tend to be family issues that require some form of non-policing response. Yet, 31% of those surveyed approached police with their legal concern. Secondly, as stated earlier, the low level of trust to police suggest that many may not actually go to police for their legal remedies.

![Figure xx provide detail of stakeholder agencies approached by the respondents.](image)
THE IMPACT AND IMPLICATIONS OF POLICING TO ACCESS JUSTICE FOR WOMEN

Following these survey responses, interviews with the police and other institutions pointed out to the important role the police could actually play in improving access to justice for women. The police are the most visible entity of the justice system although their primary role relates only to criminal justice. As the gatekeepers of the criminal justice system, the police have an instrumental role to play in improving access to criminal justice, no doubt. And the police are structured, quite appropriately, to achieve this with comparably adequate resources paralleled to other agencies (budget figures per population number).

It is evident that difficulties related to policing reported by respondents relate more specifically to procedural difficulties and procedural justice. The survey, to this end, showed that 21.9% of the women stated that they face difficulty in seeking help from police due to lack of fairness (treats differently depending on the person). A common point observed from stakeholder consultations that are also supported by the survey results is that police response is not consistent and strongly depends on the individual officer. While policing, by its very nature, requires giving discretion to attending officers, there is a strong need to standardize service response and strengthen supervision to ensure that established policies and practices are followed consistently.

When the issue of why people are dissatisfied with the police procedural issues are the most commonly cited response. In addition to fairness, difficulty in contacting the police (15.6%), corruption (14.1%) and abuse of power (12.5%) are reported as concerns about the police.

A common response to the perception issues is that policing is different in Male’ and other islands and this influences public’s perception. Previous studies on policing in the Maldives have pointed out that there is a strong geographical discrepancy with regards to perception towards the police with those from Male’ reporting more favourable attitudes when compared to people from outer islands (Shuhad, 2015). One of the possible explanations to this is because all services are available from Male’ and the response to incidents are quick which influence public perception.
This study, therefore, shows that those from Male’ are more likely to be dissatisfied with police than satisfied. This variation from previous research on general satisfaction with police compared to women’s satisfaction with the police indicate that even in Male’ where more services are available and response to incidents are likely to be high for gender related crimes women report a significant dissatisfaction which counters the view that the lack of resources to deliver services may be influencing the support and perception towards police. This further adds to the notion that procedural justice and procedural fairness has a more important role to play in the satisfaction with police.

Also, those who have had a legal issue are more likely to report police as procedurally unfair compared to those who reported they have not experienced a legal issue. Again, this indicates that interaction with the police may be having an inverse relation to satisfaction with the police. As stated before, since women’s needs from the justice system are not always crime or criminal justice related a stronger awareness of and a good initial interaction with the police can significantly help improve perception of the police by directing those who come for assistance to proper agencies.

THE COURT (SYSTEM) AND ACCESS TO JUSTICE FOR WOMEN

In addition to the police the courts are the second most contacted agency to deal with women’s legal issues. More than 20% of women approached the courts at least once in the last five years. Again, intriguingly, no respondents felt highly satisfied with the court they had dealt with.

![Level of satisfaction with the courts](image_url)

Similar to the views about the police, no one is highly satisfied with the courts, while only 14.7% expressed that they are moderately satisfied with the level of service provided by the court. The largest percentage of respondents (38.2%) said that they are neutral about the level of satisfaction with the courts, while 23.5% are moderately satisfied and 23.5% are dissatisfied.
As shown in Figure 24, participants in the survey indicated corruption, delay in delivering justice, and lack of fairness as the three most common challenges they face when seeking help from courts. Individual interviews with victims have also shown delay in delivering justice as a significant challenge in accessing justice for women. These negative perceptions about the court system are likely to be a major challenge for the judiciary to overcome. While the reasons reported about perception towards the courts have implications beyond access to justice for women, urgent action on issues is needed to improve women’s experience with justice in the Maldives.

To do this, changes are needed from administrative setups of the courts as well as courts to adopt direct and indirect measures to improve trust and legitimacy. Over the last several years, there have been several assessments by international organizations on the judiciary of the Maldives. Recommendations from these assessments need to be met as a matter of priority. Moreover, various judicial actors—the DJA, Supreme Court, Judicial Academy...etc—have developed comprehensive Strategic Plans that, if properly implemented, can have a significant and meaningful improvement to the delivery of justice. Resource to implement and evaluate these Strategic Plans needs to be a national priority.
CHAPTER FIVE

DOMESTIC VIOLENCE: IMPLICATIONS TO, AND FROM, ACCESS TO JUSTICE PERSPECTIVE

INTRODUCTION

This Chapter divulges into the complex phenomenon of domestic violence and related issues to gain a more in-depth and detailed understanding of how access to justice for women becomes a real necessity in their daily lives and explore the barriers that hinder women to seek and obtain justice. The Chapter provides summary of empirical evidence from the survey conducted for this research and analyses existing secondary data.

THE EXTENT AND NATURE OF DOMESTIC VIOLENCE IN THE MALDIVES

Results from this study confirm that there has been a high awareness of DVPA (2012). The study asked respondents to report on their awareness of several inter-related legislations. Nearly 78% reported they are aware of the DVPA (2012). Worryingly, a high number of those who are not aware of domestic violence have a good education with 24% having completed secondary school. Therefore, there is a need to target programs to school leavers which can help achieve a longer term impact.

The consultations highlighted that a misunderstanding or misperception that domestic violence is all about women is often highlighted by even members of key justice agencies to rationalize inaction or to undermine the importance of enforcing the DVPA 2012 to its full extent. While it is important to maintain the gender neutrality of focus in combating domestic violence, it is also important to keep focus and be unapologetic to a greater focus on women in the context of domestic violence because it is, in all its forms, a crime that impact women more than men. Greater sensitization to this issue may need to be done in future trainings.
SEXUAL ABUSE AND HARASSMENT ACT

To assess women’s experience with issues of sexual abuse and harassment, respondents were asked whether they had to pursue legal action due to sexual abuse or harassment either at their workplace or any other public places. Among the women who pursued their right under the Act, 8.3% pursued rights due to sexual abuse cases and 6.9 % pursued rights due to harassment cases (Figure 22).

![Pursued the rights under Sexual Abuse and Harassment Prevention Act](image)

**Figure 16: Pursued the rights under Sexual Abuse and Harassment Prevention Act**

The enactment of the Sexual Abuse and Harassment Prevention Act is a positive step towards tackling the problem of workplace harassment and in other context. The DVPA 2012 also covers harassment as a prescribed offence of domestic violence and with these new legislative arrangements there is an adequate legislative framework in place that needs to be further institutionalized within the work environments. To this end, related agencies’ need to examine the extent to which the law is practically applied and understand the feelings of safety that are being experienced by women. Further support to key institutions like the Civil Service Commission, Employment Tribunal and other oversight bodies like National Integrity Commission will help achieve the objectives of the law by ensuring proper mechanisms exist to oversee the implementation of the law.

SEXUAL OFFENSES ACT

Previous studies done on gender based violence such as ‘The Maldives Study on Women’s Health and Life Experiences (2007) revealed that 8% of the women experience sexual violence from their partner and 8.6% women experienced forced sex several times by their partner. A similar finding is observed from the current study with 8% of the surveyed population reporting that they were raped by their husband.

It is important to highlight that the current study is only showing the cases of marital rape (8%) and does not include cases of forced sex by intimate partners who are not married. Intimate partner violence is covered in the DVPA 2012 but it remains a highly underreported form of domestic violence. Given the young population Maldives has, this needs to be a focused area in the prevention of domestic violence.
Indeed, there is a lack of information among many respondents about their rights to seek justice and remedies related to domestic violence and other rights granted to women through specific legislations. This is a major obstacle to seek justice as women who are exposed to domestic violence or other injustices are not fully prepared to take appropriate actions towards realising their constitutionally-guaranteed right to justice. A key challenge highlighted by the police during consultations is that female victims tend to stop cooperating with the investigation after initial report to the police. Considering the vulnerabilities women face during these situations there is a need to fasten investigation and provide assurance and support through dedicated victim support arrangements.

While there are victim support officers working in Male, given the resource limitations it may not be feasible to have dedicated officers in the regions but investigation officers and supervisory level officers can be more sensitized to the needs of female victims.

Because there are no set standards to assign or standard trainings senior police officers overseeing command posts in island police stations have to undertake, there are reports of inconsistencies in the way violence against women are dealt with depending on the individual officer attending heading the station. These inconsistencies can be significantly reduced by having written manuals and handbooks related to domestic violence investigation as well as further sensitizing senior police who supervise investigations and police stations.

As I do not know what to do and how to go about, I got assistance to fill forms. I am still unable to process the form - the single mother allowance form. (DV Victim)
PERCEIVED CHALLENGES, INCENTIVES, AND DISINCENTIVES IN ACCESSING JUSTICE

Survey respondents identified a number of common challenges they face in seeking justice within the formal justice system. Among them, lack of awareness on key legal provisions, inability to fill forms and receiving adequate legal support are often identified as significant challenges. In addition, qualitative responses received from respondents also indicate that political interference and challenges such as perceived bias in favour of the rich or powerful, lack of police response and distrust of the justice system due to unfair treatment or discrimination as some of the main disincentives that hinder women from approaching those authorities.

“...I do what I can. I go to different houses and sweep their house and I get money for this. I even applied for 'ekaniveri mainge' allowance. I face lot of difficulties even to get this allowance. It took about 8 months to get that money. I don’t know why it took so long I submitted the form to island office and from there they send it to Male’, and it takes a long time from there to get everything settled. I got for each child 1000 rufiyaa allowance. I got this allowance till I got married again. (DV Victim)

The issue of power relationship was also highlighted in survey responses as a decisive factor affecting women's ability to approach courts and other agencies of justice. This is particularly so when the women perceive their limited power vis-à-vis the perpetrators or parties against whom they must litigate. Often there is also the fear of retaliation by the other party and their associates when cases are brought into formal judicial process. These perceptions were reported by a significant majority of women interviewed. As seen from the interviews with victims, fear of perpetrators, with whom they usually live and social stigmatization within their community are major intimidating factors for these victims mainly due to threats from perpetrators with further harm or death if they tell anyone else. The women shelters provides one venue to get some form of security but as was highlighted by NGOs working in the field there remains much improvements needed to Shelter service.

Similarly, an equally or even a more important factor that causes women to avoid authorities in seeking justice is related to economic factors. Disincentives included lack of adequate financial resources, or the perpetrator who usually is the husband being financially well-off and if the case was reported and action was taken against him, the woman may be cut off from all or most of the financial and material support received from the husband. This may have a significant impact on the overall welfare of the woman and her children. In addition to not having any financial back up or support, these victims usually are held back in these violent relationships as they have not only themselves to tend to but also their children. Analysis of the statistical data from this research shows that there is a significant correlation between economic dependence on someone else and decision to not seek formal justice.
Moreover, qualitative data shows that having depended on the husband for all or most part of the married life, many women lack knowledge and know-how of court procedures and finds it difficult to go through the courts to apply for their rights. In addition, processes and procedures they have to follow in making such applications are unfamiliar and cumbersome to them.

For most of these victims, extra support and guidance are required on how to fill the applications and to go through the process. To this end, one of the most useful service to victims of violence can be assistance (legal or otherwise) provided to complete application and administrative forms. Next Chapter offers more details about legal aid and how it can be applied to improve access to justice for women.

“I faced lot of difficulties; I do not get financial support from my current husband and not even from the father of my children. I have three children and every month I have to go to court because he is not giving money. (DV Victim)"

“Moreover, qualitative data shows that having depended on the husband for all or most part of the married life, many women lack knowledge and know-how of court procedures and finds it difficult to go through the courts to apply for their rights. In addition, processes and procedures they have to follow in making such applications are unfamiliar and cumbersome to them.

For most of these victims, extra support and guidance are required on how to fill the applications and to go through the process. To this end, one of the most useful service to victims of violence can be assistance (legal or otherwise) provided to complete application and administrative forms. Next Chapter offers more details about legal aid and how it can be applied to improve access to justice for women.

“It was very difficult to fill the forms but the people in the council are very helpful. I also go to different people who have good knowledge about these things and with the help of them I fill the forms. But it was very difficult. It is very very difficult every time I have to go to different people to fill the form and have to try to get the allowance. (DV Victim)"

“But, this being said, it is evident that in number of islands, particularly, there are significant challenges posed to victims even by officials of the justice system to drop cases without pursuing criminally or refusing to accept the stories they tell institutions. A more robust accountability mechanism need to be in place especially in the context of islands where many stakeholders identified that it is very difficult to get a protection order from magistrate courts.

“I did not seek help during the marriage because of the fear that I will be labeled as a bad person; the person causing trouble if husband is taken to the police or court. (DV Victim)"
Another disincentive for women in getting out of these relationships is a lack of family support. That is an important and very much required strength for women in violent relationships; especially when they have children that will need to be catered for if they are to move out of the marriage relationship.

As identified and discussed in earlier chapters, various forms of discrimination against women arise due to cultural norms and values, which then help perpetuate social stigmatization and stereotypes against women. These factors in turn play a key role as barriers for women to access justice on an equal footing with men. Also, often, in cases where domestic or sexual violence occurs, it is either between the husband and wife or among the family members and therefore it usually is considered as family secret which if revealed will disturb the reputation of the whole family and the feeling that they might be looked down upon prevents these victims from reporting such cases.

"Every time I submit divorce form they will give advice and ask me to try to live with him for three months. First I have to submit the form. And it will take one or two month to complete the process of that form. Once I submit the divorce form they will ask me to come to court and they will take my statement. After taking the statement then I have to wait for about a month then they will again ask me to come to court. This time they will announce the verdict. After that I have to take the report how the case was concluded. With this form I have to take a stamp (20 ge stamp) and then I have wait for another three months. (DV Victim)"

Respondents also identified many other forms of deterrents in accessing justice, such as the lengthy trials which drain the victim of very little self-esteem and courage left due to the long time it takes to finalize investigations, the expenses that have to borne by the victims and discrimination or unfair treatment from magistrates/judges in giving out the verdicts.

Given the severity of the case, once a DV case has been reported to the authorities, the slow and burdensome processing of formal procedures; inaction or slow paced action can be detrimental to the victim who has to live with the perpetrator and go through the ordeal. Thus, this procedure needs to be accelerated; especially given the dire need to process and provide safety to the victims.

Though there are several disincentives as discussed above, this study found that the government’s implementation of the legal incentives such as the DVP Act, Social Protection ACT, Family Act, etc., institutional incentives (for example, having child care facilities for women to take their children when they go to report cases to police) as important first steps in creating avenues for women, especially those within the most vulnerable category to begin thinking about seeking justice from the authorities.
Major challenges that were reported by women who had to obtain the rights under various Acts were: lack of information (sexual abuse victims 25.5%, harassment victims 23.8%), political barriers (sexual abuse victims 30%, harassment victims 19%), procedural difficulties, (sexual abuse victims 18%, and harassment victims 19%) and geographical barriers (sexual abuse victims 14%, harassment victims 14%). In relation to specific Acts and their provisions, respondents also identified the most common challenges they face in accessing justice. To that effect, out of the 4 key provisions under the Family Act (i.e., prenuptial agreement; right to accommodation during iddaah; right to maintenance for custody; and right for women to initiate divorce), geographic barriers are identified as the most serious barrier, followed by lack of information. On the other hand, major challenges that were reported by women who had to obtain the rights under the Sexual Offence Act were: lack of information (30.8%) procedural difficulties (26.98%), legal costs (19.2%), fear of reprisals (15.4%) and socio cultural barriers (11.5%).

“...There is a long procedure through court to get protection from husband. It took almost 10 months. So I applied to HRCM, FPA, court, and police. But police did not give support in an effective way. After submitting to HRCM only the proceeding was faster. (DV Victim)"

“My step father once told me to go to Male’ and show all this to a doctor. So with the help of doctors’ report we could go to police....but if my husband knew that I am planning something like that he will kill me. I honestly don’t want make things worse. I only wanted a divorce from him. (DV Victim)"
4.5 WOMEN AS BENEFICIARIES IN ACCESS TO JUSTICE UNDER DV ACT

To reduce the inadequate treatment that victims of domestic violence too often receive when they turn to judicial protective institutions and to combat and prevent domestic violence, statutory recognition of categories of domestic violence and imposition of those obligations on key stakeholders is recognised in the DVPA 2012. Under this Act, obligations are imposed on the general public to report domestic violence cases and allow victims to request for protection orders which is hoped to facilitate access to justice and remedies for women victims of domestic violence.

I went to the police several times and to the ministry of gender...but nothing much happened...takes my statement....they claimed later that they brought him in and that they can’t do anything about it and to go to the court....we even recorded his voice clips in which he was threatening to kill me, saying he’ll slaughter me, to the police. The only thing that happened was, he was taken in for questioning and he even walked away during that time and nothing happened to him. (DV Victim)

Perception surveyed through the current study asked the general public about their awareness of the DVP Act. Results from show that the level of public awareness about the DVP Act is high at 77.9 % (Figure 9) with 6% of the participants saying that they had to obtain protection against perpetrator under the DVP Act (Figure 28).

![Figure 18: Obtain protection against perpetrator under Domestic Violence Act](image)
Although the perception survey shows a high level of awareness of the DVP Act, interviews held with victims reveal that awareness is at a very surface level. That is, the participants have heard about the DVP Act as they have seen it from media, but what the DVP Act constitute is not very clear. Most of the victims interviewed did not fully understand their rights under the Act which can be invoked if they were exposed to domestic violence or of the procedures that could be followed.

“\nThe qaazee does not believe what I say. He has a good relationship with my husband and that's why qaazee does not believe me. I also know and have seen both of them in coffee, and even goes to qaazee's house for dinner too. Qaazee was very much biased. Even the witness he takes to court will say the same statement. They decide what to tell in the court beforehand and say whatever my husband asks them to say. There will not be the slightest difference in their statement, how can it be possible. (DV Victim)\n”

WOMEN’S SAFETY AND SECURITY

Even though the DVP Act provides legal rights for women against domestic violence, there are several factors or challenges to the beneficiaries in its implementation and how the Act is understood and applied by various stakeholders. The survey asked about the challenges faced by respondents in pursuing various rights guaranteed under the DV Act. The responses indicate that procedural difficulties, legal cost and social/cultural barriers are the most serious challenges faced by them.

“\nWhen I tried to get a divorce from my husband, he abused me and threatened to kill me and take away my daughter.....he defamed me and tried to scare me saying he secretly took photos of me while i was changing clothes and that he will put it up in the internet....constantly he kept sending me threats each day saying filthy words at me and spreading lies ...kept calling my family members even and saying filthy words at them. (DV Victim)\n”
Obtaining protection against the perpetrator of domestic violence is one of the most important provisions in the Domestic Violence Prevention Act. According to the survey results, the greatest challenge faced by those who had to obtain protection against perpetrator in pursuing the rights were related to procedural difficulties (33.3%), followed by legal costs (22.2%), and cultural/social barriers (22.2%). Similarly, lack of information (19.4%), privacy issues related to media reporting, the stigma of being a victim (16.7%), and political barriers (11.1%), were also reported to be challenges experienced by domestic violence victims in pursuing the rights stipulated under the DVP Act (Figure 19).

It is also important to note that though almost half of the participants of this survey were from atolls where access to justice has a geographical limitation, the percentage of victims who reported that geographical barriers were a challenge for them in accessing these rights was very low (2.8%).
This could be due to the fact that majority of the respondents that obtained a protection order were from Male’ region (60.0%) compared to the other atolls (Figure 20).

These findings are further supported with the interviews held with domestic violence victims as almost all the victims have reported that the main challenges that they had to face in accessing justice were related to social stigma and other economic and social barriers.

Additionally, in realising the government’s efforts in implementing the Act and its related regulations, it is of utmost importance that these cases are reported timely and dealt with efficiently in a fair manner. From the interviews held with domestic violence victims, it was found that the reporting of domestic violence cases is low and judicial response to cases involving violence against women that are reported is notably slow and hardly on par with the severity and incidence of the problem.

“It doesn’t know much about it. On radio, I sometimes hear about it. (DV Victim)

As I do not know what to do and how to go about, I tried to get advice. (DV Victim)

The divorce was finalised after one year. Every time I applied for a divorce the court will ask me to wait for three months to solve the problems and try to live together (sulhavaan). After three months I have to apply for divorce again and again. Every time I had to tell the ‘qaazee’ that he is very violent and how much he beats me, but because we both have children ‘qaazee’ is not giving the divorce for the sake of children. That is how it is stated in the law. If we have children, we can’t get divorce with the first application. But if we don’t have children we will get a divorce with the first or the second application. For the first time I told ‘qaazee’ that he is very abusive and I even told the details of what he has done. However, in front of court my husband denies that he does those things. He told ‘qaazee’ that I was lying. When this started happening, once I even asked ‘qaazee’ whether he want to see the scars on my body but the ‘qaazee’ said that he doesn’t want to see them. I told the qaazee’ that I do not feel shy to show the scars of his violence if he does not believe. I told ‘qaazee’ that I wanted a divorce because it was unbearable to live with him. (DV victim)
PERCEPTIONS ABOUT FPA

Family Protection Authority (FPA) was established in 2012. The role of FPA is to prevent domestic violence, facilitate legal assistance and rehabilitate the victims from the perpetrator (FPA 2016). The survey data shows that only a small percentage (3%) of people contacted FPA regarding any issue. A generalization may not be made about perception of FPA since the sample is too small and would not give a statistically significant conclusion. Out of the 10 people who contacted FPA 20% of the women said that they were satisfied, 50 of the women were neutral and 20% were highly dissatisfied (Figure 21). The biggest challenge faced when dealing with FPA was the lack of information on the role of FPA (Figure 22). Data from the interviews also shows that most of the domestic violence victims feel confused about what the FPA can offer help with. A more clear distinction of the roles of relevant stakeholder agencies that takes place over time will help in the future but in the meantime it is important that a more coordinated response is given to survivors or victims.

Figure 21: Level of satisfaction with FPA

“He also hit me inside the court. That’s why I contacted the police. The day when he hit me in the court magistrate didn’t say anything but the other two in the court told the police that they didn’t see anything. But that same day evening one of the employee of the court said she saw him hitting me. (DV Victim)"
Figure 22: Challenges faced when seeking help from FPA

The main function of Family Protection Authority (FPA) is to help victims seek justice regarding domestic violence. According to FPA, most of the cases they handle are related to women, though few cases related to children and men are received from time to time. FPA has a major role in monitoring and coordination of justice agencies in relation to the investigation of domestic violence cases and provide psychosocial support to victims via MLG and police.

Among the main challenges reported by FPA in providing assistance to domestic violence victims includes: lack of services provision; especially at island level or atoll level; most of the domestic violence cases not being taken to court. Other major challenges faced by FPA in the delivery of survives includes: Not enough services for mental means; no temporary place for women who reports domestic violence cases and need immediate protection, but are forced to live with abuser because facilities to move to immediate protection is not them; no data base to record all data which is important in keeping track and following up on cases; Health sector also need to coordinate; immediate protection shelters not available; no follow up by MGL; lack of psychosocial support even at institution stage; victim not getting legal representation in courts; and health sector unable to provide the required evidence.
CHAPTER SIX

LEGAL AID

INTRODUCTION

This Chapter looks at legal aid as an urgently needed solution to number of access to justice issues for women.

“Contact a lawyer regarding my mother’s land. (survey respondent)

I needed a lawyer to draft a contract for a rental apartment (survey respondent)

“

LAWYERS AND LEGAL SERVICE PROVIDERS

Getting the service of a lawyer is a big challenge in the Maldives, especially in islands. 15.7% of the respondents have reported that they have sought help from lawyers, mostly on civil cases such as those related to land and rent. Some women reported seeking help from lawyers in drafting agreements related to business and cases related to child custody and child maintenance. Further exploration on the level of satisfaction with lawyers showed that none of the participant who had contended lawyer were satisfied.

The result shows high level of dissatisfaction (dissatisfied 27.3%, highly dissatisfied 36.4%) with the lawyer. Further exploration on the reason for this dissatisfaction showed that most of participant who had contact with layers were dissatisfied because of the high cost and corruption. This is also a major challenge they women faced when seeking help from the lawyers (77.8%) as shown in Figure 28.

Figure 27: Level of satisfaction with lawyers
Interviews with lawyers also confirmed that the service provided by many lawyers is unaffordable for an average person. And because most lawyers are based in Male’, it is extremely difficult for people living in the islands to get access to lawyers. From the lawyer interview it was identified the only few ways of getting legal assistance is through the legal aid clinic established in Hope For Women, an NGO manages a legal clinic and some very few provide free legal services for the victims. Since there is no mandatory services hence there is no mechanism for victims to obtain free legal assistance from lawyers.

Figure 28: Challenges faced when seeking help from lawyer

In order to identify the perceived challenges in accessing justice, the 15% of the women that were involved in any legal issues among the respondents were asked to identify the most common difficulties they’ve faced in accessing justice (Please note that respondents were allowed to select multiple items – hence, the aggregate percentage is greater than 100%). The graph below shows the responses.

Figure 29: Difficulties faced in accessing justice
According to the respondents, the most significant difficulty in accessing justice is the lack of access to lawyers (30.4%), followed by difficulty in understanding and filling forms (23.9%) and discrimination in dealing with the justice sector (22.8%). Other factors such as lack of awareness (15.2%), fear of consequences (14.1%), and cost of legal services (13.0%) are also identified as significant.

4.7.1 AWARENESS ABOUT AND ACCESS TO LEGAL AID AND ASSISTANCE

Legal Aid is a fundamental requirement in achieving equity before the law. It is equally important for the general public to be aware of such incentive provided by the state. In order to capture level of awareness among people on the state provided legal aid respondent of this study were asked if they understand the meaning of legal aid. To this question, only 20% people indicated that they know the meaning of legal aid while 80% people indicated that they do not know the meaning of legal aid (Figure 30). However, when they were asked to define legal aid only 15 respondents were able to give a proper definition. Most of the respondent (63 people) defined legal aid as legal assistance (ehee) or legal advice (lafaa) (22 people) – despite the fact that the questionnaire used the term ‘qaanoonee ehee’ - and few people think it is legal information or even some respondent think legal aid is about providing legal expenses.

“
No I don’t know where to go or whom to approach, but I got to Island office. Sometimes, neighbors when they hear me crying they complained to office about him. Then from the office they used to give advice and two or three days will be ok. I don’t know much about it, but from radio I sometimes hear about it. (Interviewee A)
”
The results show that the level of awareness regarding legal aid was extremely low among the woman’s population. This was further evident when respondents were asked to if they know whom to approach if they need legal aid 91% stated that they don’t know, only 9% indicated that they know to whom to approach when in need of legal aid (Figure 31).

It was also identified from the current study most of the women does not require legal aid. Only 3% respondent were in a situation where they need legal aid (Figure 32). In accessing justice, it is important that victims understand the meaning of the term Legal Aid. The chart below shows the percent of respondents who understand the meaning of Legal Aid is low (20%).

The question was further disaggregated by location and by education level as is shown in the bar graphs (Figure 32) below which shows that the highest population who stated that they understood the meaning of Legal Aid were from Male’ (32.5%) and Hulhumale (26.7%) and those having a tertiary level qualification (29.1%).
The interviews conducted with victims further highlights the extend of the challenges and struggles they have to suffer in seeking timely justice as evident the following excerpt taken from an interview held with a DV victim.

Article 53(b) of the 2008 Constitution the State to provide legal defense to indigent defendants who cannot afford a lawyer. The study asked respondents whether they have ever been in a situation that required state funded legal aid. As seen from the Figure 32 above, only 3% of the respondents said that they did require state funded legal aid. 30.4% indicated that “no access to lawyers” in the island is a big challenge in accessing justice. This makes people in the islands more vulnerable since they cannot get any legal advice. Interviews with Hope for Women have shown that sometimes they provide legal advice from lawyers to the victims in the islands over the phone. However, this service is not provided to all the islands yet by this NGO or any other, mainly due to lack of adequate human resources and connectivity costs.

In order to further explore awareness, those who needed state funded legal aid from among the survey respondents were asked whether they knew if they could apply for legal aid; 73.7% of the respondents said that they knew they could apply for legal aid. This shows that that out of those who ever required state funded legal aid, majority of them know that they could apply for state funded legal aid. When inquired further about how they know of this provision, most of them stated that they knew from police explained (5), through media (2), from a lawyer (2), court/ghaazee (4) and own information (1).
Interestingly, Figure 67 below shows further breakdown of the level of awareness of according to the geographic location, which shows that awareness on applying for legal aid is highest in Hulhumale and Guraidhoo.

Figure 35: Aware that you can apply for legal aid (by location)

To further identify women’s understanding on legal aid, a question was asked on whether they knew whom they should approach in applying for legal aid. Disaggregation was performed on the variable by geographic location and their level of education. The graphs below show that less than 20% of the respondents knew whom to approach in obtaining legal aid in all the regions (Figure 68) and across the different education levels (Figure 69) with no one aware in Villimale and Funadhoo in applying for legal aid.

Figure 36: Awareness on whom to approach to obtain legal aid

Figure 36: Awareness on whom to approach to obtain legal aid
Access to legal services is essential to the protection of victims of domestic violence and is one of the primary factors in decreasing incidents of domestic violence. This would result in forcing victims to spend a lot of expenses on a lawyer who is not adequately trained and does not provide competent services for low cost or for free.

No I did not get any legal help from any one. There is no one to give this assistant. I took the form from the court and went to different people to get help to fill the form. (Interviewee B)

While legal aid is a fundamental provision by the state to ensure access to justice and equity before the law, including the right to legal counsel, and the right to a fair trial, there is yet no established system for legal aid in Maldives which can be availed for those who are dealing with civil cases. Although the Constitution of Maldives (Article 53(b) requires the state to provide legal defence to indigent defendants who cannot afford a lawyer, the existing legal aid system is only applied in cases of criminal law.

I go to different people who have good knowledge about these things and with the help of them I fill the forms. But it was very difficult. It is very very difficult every time I have to go to different people to fill the form and have to try to get the allowance” (DV victim)
DIFFICULTY IN UNDERSTANDING AND FILLING APPLICATION FORMS

For easy accessibility of justice, filling the right forms, understanding the forms and how to fill the forms are very important. Figure 29 above shows that a large percentage (23.9%) of the women indicated that difficulty in understanding and filling the application forms is a barrier in accessing justice. Difficulty in filling the application forms were highlighted by 40% of the women in applying for legal aid as well (Figure 38).

“I am working on forms. Not sure how to fill the forms and no one to help me fill the form. (DV Victim)"

In addition, interviews with the victims of domestic violence also showed that they had difficulty in filling the forms when applying for single mother allowance.

Other major challenges faced by women in accessing justice includes lack of awareness and difficulty in understanding law or legal procedures, cost of legal services and geographical barriers, lack of access to lawyers or legal assistance, difficulty in understanding and filling application forms, discrimination when dealing with justice and fear of consequences, and the lack of legal procedures, and are further explored through more questions and in-depth interviews and are discussed under separate themes.
ACCESS TO INFORMATION

One of the main barriers in getting access to justice is related to how much information regarding that service is available and accessible to an individual. Previous studies have also indicated lack of information relating to filing cases and complaints as one of the biggest hindrances to access to justice in the Maldives. This study also shows access to information to be a huge challenge for women seeking to access justice. Only 20% of the surveyed population said that they can get enough information on legal services (Figure 39). Disaggregation of accessibility based on geographic location shows that a higher percent of respondents from Funadhoo (47.5%) and Hulhumale’ (41.5%) stated that they can access information, while there was a very high percent of respondents from Villimale (100%), Hanimaadhoo (85.5%) and Male’ (83.8%) said that they cannot access information (Figure 40).

![Can get enough information on legal services](Image)

**Figure 39: Can get enough information on legal services**

![Perception on accessibility of information on legal services by Location](Image)

**Figure 40: Perception on accessibility of information on legal services by Location**

Furthermore, data from the interviews with domestic violence victims also have shown that lack of information about the laws and procedures is a big barrier to access justice. The quote below from a domestic violence victim clearly demonstrates that reality.
Furthermore, it is evident from the analysis that most of the respondents lack information on how to pursue legal action on provisions given under the various Legal Acts such as in the case of sexual offenses and domestic violence. The results show that majority of the women indicated lack of information and geographical barriers as the major challenges for them in pursuing legal action against various offences including obtaining rights under Social Protection Act, Sexual abuse and Harassment Prevention Act, Sexual Offense Act and Domestic Violence Act.

The implementation of Domestic Violence Act has however, created awareness among women on its existence and some of the rights safeguarded by the Act. Though women are aware of legal remedies and penalties for acts of DV crimes, according to results of the perception survey under this study, they are challenged due to lack of information (30.8%) and face many other procedural difficulties (26.9%) in realizing these rights.

“While the divorce was finalized after one year. Every time I applied for a divorce the court will ask me to wait for three months to solve the problems and try to live together (sulhavaan). After three months I have to apply for divorce again and again. Every time I had to tell the ‘qaazee’ that he is very violent and how much he beats me, but because we both have children ‘qaazee’ is not giving the divorce for the sake of children. That is how it is stated in the law. If we have children, we can’t get divorce with the first application. But if we don’t have children we will get a divorce with the first or the second application. For the first time I told ‘qaazee’ that he is very abusive and I even told the details of what he has done. However, in front of court my husband denies that he does those things. He told ‘qaazee’ that I was lying. When this started happening, once I even asked ‘qaazee’ whether he want to see the scars on my body but the ‘qaazee’ said that he doesn’t want to see them. I told the qaazee’ that I do not feel shy to show the scars of his violence if he does not believe. I told ‘qaazee’ that I wanted a divorce because it was unbearable to live with him. (DV victim)"

I don’t know much about the laws except what I hear from radio I sometimes hear about it. (DV victim)
Moreover, the funding available for community-based support for victims of domestic violence is inadequate and there seems to be little to no national monitoring scheme for data collection and accountability. Thus, there is still a need to conduct state-implemented programs to combat domestic violence and to assist victims of domestic violence.

As seen from the chart below (Figure 41), the most preferred channel or mode for communication, majority of the respondents preferred Television (76.6%), Radio (32.8%) and Internet (30.5%) and the kind of information that is most useful (Figure 42) includes: information on Maldives Police (23.%), Human rights (20.8%) and DV cases (21.8%).
COST OF LEGAL SERVICES AND GEOGRAPHICAL BARRIERS

For a woman trying to pursue legal action to obtain maintenance fees/financial aid for her children or for a victim of domestic violence trying to receive adequate remedies, the costs of paying for advice and taking action can be extremely prohibitive. According to data from the interviews, these fees include lawyer’s cost of travelling from one island to another island, accommodation fees if the victims are coming to Male’ and the costs of printing. Also more than 50% of the women have said that geographical barrier is a challenge in pursuing legal action to receive protection or benefits under the Family Act. Likewise, majority (61%) of the women said to pursue Social Protection Act, geographic barrier is a challenge. The data from the interviews revealed that geographical barrier is a challenge as it would be costly to travel to the point of service delivery and the accommodation can be expensive and inconvenient especially for women with children.

Hence, women who do not earn an income and depend on the husband, family or other sources, especially those who have children, are at a very vulnerable state financially which make it very hard for them to access any legal service which would incur cost.

ACCESSIBILITY ISSUES RELATED TO GEOGRAPHIC AND ECONOMIC BARRIERS

Poverty and economic deprivation are key factors affecting an individual’s ability to access justice, especially in cases where the victim is not adequately empowered and when seeking justice incurs significant expenses.

This study shows that there are economic and finance related accessibility issues to many victims of domestic violence that makes them decide to remain in the abusive relationship. As such, for DV victims with children, leaving the relationship can pose more severe economic barriers which they would need to overcome as they may not be able to support themselves and their children alone.

When the women are not economically independent or have a high reliance on their husband for basic necessities, this severely limits their ability to recognize their right to be free from abuse and seek justice when their rights are violated. In such situations, the women also hesitate to exercise their right to get a divorce, often due to calculations of financial implications on themselves and their children. Lack of child-care and other forms of child support systems further traps women in such relationships, because their ability to seek work and earn is often limited without external support. This inability to obtain decent employment traps many women in abusive relationships.
Accessing justice can be a significant challenge for women who live in remote or small islands, where the established institutional mechanisms for justice agencies are weak and ineffective. Findings from the perception survey shows geographical barrier as one of the main challenges in accessing justice. The study finds that women victims in islands who wish to seek justice often lack the means to travel to Male’ to lodge a complaint at police or other justice agencies. Moreover, lack of support services including medical diagnosis, counselling and legal aid in the islands make it significantly harder for women in these communities to take the first steps towards seeking justice.

“My step father once told me to go to Male’ and show all this to a doctor. So with the help of doctors’ report we could go to police. But I told my stepfather how can I leave the kids alone and go and stay in Male. Who will take care of the kids? (DV victim)”
CHAPTER SEVEN

CONCLUSIONS AND RECOMMENDATIONS

Overall, this study has shed light on many facets of challenges faced by women in accessing justice within the formal structure in relation to domestic/gender-based violence, other forms of offenses targeted towards women and in cases related to family and welfare. The study has also highlighted the many forms of vulnerabilities and disadvantages faced by women when they seek justice and remedies.

The results of the perception survey as well as focus group discussions generally point to the lack of proper support mechanisms for victims of domestic violence and the many obstacles they face in receiving justice through the formal structure, mainly due to personal, social, economic, legal and structural disadvantages women face. As such, women who suffer physical, psychological and sexual abuses and those who are deprived of their basic rights and dignity are often forced to live together with the perpetrators in the absence of any avenues for receiving a relief or remedy to these abuses. This often perpetuates the abuses.

The study has also brought into light that women who live in remote islands and in economically disadvantaged conditions are more vulnerable to such abuses and are less likely to benefit from existing formal justice mechanisms. Lack of adequate support facilities and justice agencies in such communities also makes it harder for women to break out of such abusive relationships. It also results in the perpetrators of violence and abuse go unpunished.

Women’s access to justice not only affects the women who seek it, but also impacts the welfare of her children. Very often, women are left with no choice but to live with abusive or uncaring husbands due to lack of avenues for justice and remedies, whereby her children are subjected to experience or witness some of these abuses. Many respondents expressed their helplessness when faced with this situation because they feel that they cannot afford to leave or divorce their husband due to lack of economic independence.

Given the many challenges in accessing justice for women, the respondents invariably identify the need for the government to take additional measures to ensure that legal and institutional mechanisms are put in place to facilitate women’s access to justice. Such measures must be designed and developed to effectively mitigate current weaknesses and to help empower women to seek justice.
REFERENCES


ANNEX A

RESEARCH METHODOLOGY

The methodology for this project has been designed with a multi-phased approach to capture as many issues and elements related to the subject of women’s access to justice. To this end, an initial desk review and stakeholder consultations were carried out to understand the context, based on which detailed surveys and focus group discussions were held. Details of the methodology and approach adopted and used for the research are presented below.

3.1 DESK REVIEW AND STAKEHOLDER CONSULTATION

As part of the desk review, the research team carried out a preliminary assessment to understand the context and determine key indicators used in the questionnaire design and identify areas for the focus groups. In addition, the stakeholder consultations of this phase included the methodology finalisation, studying relevant documents and obtaining information from stakeholders through focus group meetings.

A number of key areas of focus for the research in relation to women’s access to justice were also identified in the desk review which include: cultural barriers, awareness in the areas of legislations, seeking and accessing justice, procedural barriers, public confidence, and duration in delivering justice, fairness and integrity, transparency, coordination among justice agencies, quality of justice delivery, accessibility to data, affordability (individuals) and cost to the state.

3.2 SURVEY AND FOCUS GROUP DISCUSSIONS

Phase I: Public perception survey and focus group discussion

During this phase, a perception survey was conducted among women using pre-tested questionnaire (by duty bearers, claim holders and practitioners) in the selected regions and analysis of data disaggregated by age group, geographical location, vulnerability and other relevant variables. Qualitative in-depth interviewing was used to collect data from the relevant stakeholders including women groups, local community leaders, state institutions, law enforcement agencies and others as required. Data collected from these individuals and institutions was used to seek potential solutions for the issues identified during the previous steps and to help identify the linkages between different institutions and overlapping mandates with respect to women’s access to justice.

Phase II: Sample selection, data gathering and analysis

The sampling unit comprised of two separate components. Since there were three set target respondents three separate sampling units were identified namely the claim holder (women in general, vulnerable groups, victims of domestic violence) duty bearers (Attorney General’s Office, Prosecutor General’s Office, Maldives Police Service, the Courts, the Department of Judicial Administration, Family Protection Authority and Ministry of Law and Gender, Health Sector) and Expert Users/Practitioners (Private lawyers, Human Rights/Legal NGOs).
For the study, the sampling frame composed of the population targeted by the project. In this case there were three target respondents hence the sampling frame for each of these was identified as:

- **Claim Holder:** sampling frame for this set of respondents was the list of vulnerable women and victims of domestic violence from the selected atolls/islands. The households list through a probability sampling approach was used.

- **Duty Bearers:** list of Justice Sector institutions and other relevant authorities (Attorney General's Office, Prosecutor General's Office, Maldives Police Service, the Courts, the Department of Judicial Administration, Family Protection Authority and Ministry of Law and Gender, Health Sector) was the sampling frame for this set of respondents and was sampled using purposive sampling.

- **Experts Users/ Practitioners:** list of justice practitioners such as Private lawyers, Police, Human Rights/Legal NGOs was used as the sampling frame and here again purposive sampling was used.

The sample size for the Claim holder group was determined using statistical approach with a 95% confidence interval and less than 5% error. As per the research team's calculation the sample size was around 715 taking into consideration the geographic disparity (e.g., Male' population is much larger compared to the rest of the islands). Thus, statistically significant sample sizes were derived prior to data collection as shown below:

**Table 1: Sample size for each locality**

<table>
<thead>
<tr>
<th>Locality</th>
<th>Female Population</th>
<th>Sample Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male' region (High access)</td>
<td>66,864</td>
<td>355</td>
</tr>
<tr>
<td>Haa Dhaalu atoll (Hanimaadhoo)</td>
<td>9,874</td>
<td>130</td>
</tr>
<tr>
<td>(Medium access)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shaviyani atoll (Funadhoo)</td>
<td>6,609</td>
<td>80</td>
</tr>
<tr>
<td>(Medium access)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thaa atoll (Guraidhoo) (Low access)</td>
<td>4,510</td>
<td>80</td>
</tr>
<tr>
<td>Gnaviyani Fuvahmulaku (High access)</td>
<td>4,404</td>
<td>70</td>
</tr>
<tr>
<td>Grand Total</td>
<td>92,261</td>
<td>715</td>
</tr>
</tbody>
</table>

Three main clusters were selected based on high access, medium access and low access (based on accessibility of transport and legal facilities). The following points were considered when the islands for the final sample are selected:

- Islands where there are more than one magistrates
- Islands where there is a resident magistrate
- Islands where there should be a magistrate but vacant
- Islands where resident population is more women
For duty bearers and expert users/practitioners a smaller sample size of 10 to 20 was used. The sampling approach for the three sets of respondents were different. A multistage cluster sampling was used to select the required sample for claims holders, while purposive or judgemental sampling was used to select a group of expert users or practitioners.

A questionnaire was used as the key instrument for primary data collection in this study (see Annex x). The key components to be collected such as key indicators were finalised after the preliminary assessment. However, the components that are included in the questionnaire are namely identifiers, background characteristics, indicators for disaggregating data, outcome indicators, and impact indicators. In addition, the questionnaires were designed with the target respondents in mind, taking into account their educational level and experiences. The language used and the context of the questions were framed in such a way that they are all familiar to the respondents.

Different types of analyses were carried out on the collected data to extract patterns in different groups such as age, income, geographic location, and other variables. The analysis was done to map out the issues and challenges faced by women in getting access to justice. Advanced statistical methods were used to confirm these patterns and differences. The draft report prepared after the analysis is shared with all stakeholders. The comments and feedbacks received are incorporated and a final report prepared and validated.