

Report on The Maldives Islands **9th Session of the Universal Periodic Review – November 2010**

This report is submitted by: **The Maldives Women Coalition - MWC¹** and **The Sexual Rights Initiative²**. This report deals with **sexual rights** in Maldives and makes references specifically to the situation of young men and women and cultural norms/beliefs about gender/sexuality that lead to human rights violations, including discrimination, domestic and sexual violence, lesbian, gay, bisexual and transgender people (LGBT).

A. Background

1. The Maldives islands have been populated as early as historical records are available. Estimates based on archaeology and linguistics concludes that the islands were populated around 2,500 years ago if not earlier. Islam was introduced to the Maldives in the 12th century, and in 1155 the whole nation was converted after the decree of the king who took the title of sultan. Old temples were demolished and mosques built on their foundations. Islamic law and moral codes were imposed upon the population much later, mainly in this century.

B. The Legal Framework

2. The Maldivian legal system is based on shari'ab law³. Personal law which includes family and inheritance laws are exclusively governed by shari'ab law. Other laws such as criminal law, contracts, company law etc, are governed by laws enacted by parliament based on sharia'ab law. The Legislative sources are based on the Constitution of the Republic of Maldives, Laws enacted by Parliament, Statutory instruments (Rules and Regulations of the various government authorities)⁴

3. The administration of Justice is the responsibility of the various courts under the ministry of justice and the High Court of Maldives. There is a court in each island which hears criminal, juvenile, family as well as civil cases. Criminal cases are heard in the criminal court, while civil cases are heard in the civil court. The High Court of Maldives has the authority to hear any of the cases heard in the lower courts if it considers it to be in the interests of justices that the case be heard⁵

Main Issues

C. Cultural norms/beliefs about gender/sexuality

¹ **Maldives Women Coalition**, is an organization committed to promoting and protecting health rights and needs, particularly in the area of women's sexuality and reproductive health. We believe that good health and wellbeing, and access to comprehensive, accessible and affordable gender-sensitive health services are fundamental human rights.

² **Sexual Rights Initiative**: Coalition including Action Canada for Population and Development (ACPD), Creating Resources for Empowerment and Action (CREA, India), Federation for Women and Family Planning (Poland), Mulabi - Latin American Space for Sexualities and Rights, and others.

³ <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/EXTSAREGTOPPRISECDEV/0,,contentMDK:20584874~menuPK:496677~pagePK:34004173~piPK:34003707~theSitePK:496671,00.html>

⁴ http://www.mv.undp.org/v2/downloads/4b41d5c82e3b8_Annual%20Work%20Plan%20-%20Criminal%20Justice.pdf

⁵ <http://www.worldlii.org/catalog/50841.html>

4 Maldivian state imposes restrictions to Human Rights in the name of Islam. Human rights and fundamental freedoms are considered as a western norm and its universality denounced.

5. Divorce is available to men and women, but husbands may divorce more easily if the decision is not mutual. Women suffer greater losses in divorce than men do, because of their financial dependence on their husbands. Women often stay in the homes of their ex-husbands until they remarry. Divorced women and their children are particularly economically vulnerable and divorced women have limited choices to improve their situation apart from remarrying. The effect on women and children of being forced to continue residence with an estranged husband or father has not been closely addressed.

6. A Muslim woman is not allowed to marry a non-Muslim man whereas Muslim men are allowed to marry non-Muslim women⁶. With the object of protecting morality and preventing sexual anarchy, women are expected to cover their whole bodies bar, their faces and their hands up to their wrists. Women can have no contact with men to whom they are not related without the presence of a male relative.

7. Maldives women had the freedom to dress according to indigenous norms and give their children Divehi language names. They also had the freedom to be governed by female rulers. One by one, these indigenous freedoms were violated by the mullahs. It looks increasingly likely that very soon every Maldivian woman would be obliged into the Islamic head-dress called *hijab* by decree.⁷

8. Girls and boys are separated from the very beginning in schools. In the base of the laws of Maldives, women are the source of corruption in the community and the cause of the deviation of men⁸. By these crimes they are controlled and punished from the early childhood and during all their life⁹

9. Girls are under enormous pressure in school as well as in society. This deprives them of free movement, from playing freely, and from happily participating in social activities. The schools authorities spy on girls to see if they wear make up, to hear if they talk about boys or if they carry pictures of stars. Pupils are even intimidated into spying on their parents and to report to the school authorities about their parents' life style and whether their female relatives offend against Islamic rules at home. This has produced a system of inquisition in schools. The environment is full of repression and control, the control of children's minds and behaviour. Friendship between girls and boys is forbidden, considered a sin and punishable. Girls are under strict scrutiny. Their talking, walking, laughing, dressing and movements are controlled and carefully monitored. Teachers and principals punish girls physically and psychologically if the veil is not worn properly even at play.

D. Female discrimination

10. Culture dictates a certain level of separation of men and women in the workplace. Usually, women are found in lower-paying positions, such as clerical work, agriculture, and service jobs in the tourist sector. Maldives has experienced rapid economic

⁶ These norms are not regulated by the Penal Code, but are prohibited by Islamic Sharia law applicable to Maldives along with civil law, with penalties decided by Islamic courts, <http://www.ediscoverislam.com/About-Islam/Islamic-Law-and-legal-Systems/islamic-sharia-law>

⁷ <http://www.worldlii.org/catalog/50841.html>

⁸ The legal system is based on Islamic law; as adapted to the modern Maldivian judicial system. Article 7 states that Islam is the state religion, Article 156 states that law includes the norms and provisions of *sharia*, Article 1 identifies was adopted identifies Maldives as a democratic republic based on the principles of Islam, <http://www.trosch.org/moh/sharia-law.html>

⁹ <http://www.worldlii.org/catalog/50841.html>

growth and modernization over the past decade, but many women benefit less from this growth, because some traditional beliefs conflict with women's free participation in the economic market.¹⁰

11. In connection with sex roles and stereotyping, the traditional cultural values associate women mainly with domestic work and childcare, and there are limited opportunities for women to work outside the home.¹¹

12. Regarding the role of women in political and public life, women have the right to vote in all elections and are eligible for candidature to elected bodies and all public positions except that of head of State. Although women are entitled to stand as candidates for the National Assembly, the percentage of women candidates is small. Only three out of the 50 members of the National Assembly are female. In the absence of constitutional barriers to women's participation in decision-making positions, the main constraint of women's access to these positions is the deeply rooted gender subordination.

E. Domestic and sexual violence

13. The women of Maldives face violence in various forms within their homes, in public space, in the workplace, and within the community in general. Generally it is observed that these kinds of problems are not denounced and tend to be kept in secret because women believe that these issues should remain in the family. It may be difficult for them to talk to someone because their husband may be very controlling. Maldivian government tries to hide these issues believing that it is a family problem that should be dealt within the private sphere.

14. A married woman must have sex whenever the husband wishes¹². A man can easily divorce a woman by pronouncing that he is divorcing her three times. Polygamy with up to four wives is permitted, and temporary marriage is allowed whereby a man can have access to an unlimited number of women. Men are also permitted concubines and female slaves. No specific definition of rape exists and the law does not extend to recognize *marital rape*.

15. As traditional practices, a man is ordered to beat his wife if she doesn't obey him. The marriage with young girls who have not reached puberty is common practice.

16. The Maldivian Law is totally opposed to freedom of dressing – for women. This is an obvious and enormous barrier to the personal development of girls and women; going against their autonomy, freedom of expression and exercise of their sexuality. Under Islamic law, women have no choice about their looking and are imprisoned behind veils under the justification that otherwise men cannot trust that they will control their sexual impulses. On the pretext of protecting their honor, women are kept locked up, isolated and unable to enjoy a full life and to develop their potential¹³.

¹⁰ <http://www.un.org/special-rep/ohrls/ldc/MTR/Maldives.pdf>, and http://www.islammonitor.org/index.php?option=com_content&view=article&id=3318:non-muslims-banned-in-maldives&catid=210&Itemid=67

¹¹ <http://www.un.org/special-rep/ohrls/ldc/MTR/Maldives.pdf>, http://www.islammonitor.org/index.php?option=com_content&view=article&id=3318:non-muslims-banned-in-maldives&catid=210&Itemid=67, Article 10 of the constitution states that Islam shall be the basis of all laws in the Maldives and no laws contrary to any tenet of Islam shall be enacted.

¹² This norm is based on Islamic law; as adapted to the modern Maldivian judicial system, <http://www.trosch.org/moh/sharia-law.html>

¹³ Article 156 states that law includes the norms and provisions of *sharia* ://www.worldlii.org/catalog/50841.html

17. Children grow learning that the main duty of women is to take care of the home and children. Women are pictured only as mothers and housekeepers. The transmission of stereotypical gender roles is an essential element of school education. In this way, oppression of women by men and male domination are perpetuated and naturalized in our culture. In school, children are taught that the traditional male–female gender roles, women’s segregation, and sexual apartheid are a desirable state for women in society. They also learn that women are inferior to and equal to only half of a man, that women belong to men, that men have the right to punish their wives if they do not obey them, that women constitute a potential source of corruption in society so the hijab must be imposed on them. They are taught that the veil is the legitimate physical border of a woman’s existence in society to protect men and the community from any possible moral and social danger and the devastation they may cause.

18. Child sexual abuse is allowed by Islamic Law¹⁴. A Muslim man can have sex with a baby girl without consequences. This also means that non-Muslim pedophiles can convert to Islam and their illegal behaviors get legal.

F. LGBT Rights

19. Consensual acts between adults of the same sex is illegal in the Maldives under the Sharia¹⁵. Punishment for adults is 19-39 lashes and one to three years banishment or jail time. A serious issue of concern is that consensual acts between adults receive almost the same punishment as acts between an adult and a minor.¹⁶ The penalty for an adult engaging in same-sex relations with someone younger than 16 is 19-39 lashes and three to six years banishment or jail time. Sexual acts between men and between women are not regulated by the Penal Code, but are prohibited by Islamic Sharia law, applicable to Maldives along with civil law, with penalties decided by Islamic courts. The punishment for women is house arrest for nine months to one year. There have been reports of women being sentenced to a whipping as well for lesbian acts.

G. Recommendations

The government of Maldives should:

20. Take the necessary steps –including legislation- to stop child sexual abuse and other forms of sexual violence and create an independent judiciary body to deal with independent and impartial investigations on these issues, and dispose punishment to perpetrators and redress to victims.

21. Ensure that all children, particularly girls, enjoy fully the right to such measures of protection as are required by their status as minors, following the international standards.

22. Inform victims of sexual violence and their families about their rights and judicial proceedings, offer counseling to women and child victims through trained staff, and avoid re-traumatizing or stigmatizing victims during the judicial process.

¹⁴ Based on Islamic law; as adapted to the modern Maldivian judicial system

¹⁵ Penal C Penal Code of 1960 (As amended by Sharia law)

¹⁶ Penal Code of 1960 (As amended by Sharia law)

23. Take appropriate action to stop female discrimination, on the basis of gender, sex and marital status, introduce provisions by amending the Nationality Law which discriminate on the basis of gender, religion, sex or status and violate the right to equality of spouses.

24. Prohibit any law, custom, or tradition that undermines women's dignity, welfare, interest, and autonomy; the definition of equality should be incorporated into the draft law on women's rights¹⁷ as well as in the Constitution to ensure compliance with international human rights standards, including gender-neutral statutes related to adultery and premarital sex.

25. Guarantee women's right to equal treatment with men, including equal rights to inherit, has access to, and control property.

26. Continue to address, through radio, press and other media, support for women's and girls' rights to equality in all aspects of their public and private lives, including freedom from cruel, inhuman, or degrading treatment.

27. Investigate and prosecute persons who threaten to harm female family members to dishonoring the family; and implement recruiting and training programmes for female police officers to investigate crimes of domestic violence, commissioning experts in this area in order to modify police attitudes and teach relevant skills.

28. Create adequate and accessible shelters for victims of domestic violence, especially for women who have been victims of "honor" crimes or who are at risk of such violence, including their children.

