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Study on the Access to Health Services by Victims of Domestic Violence in the Maldives

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Abstract— *Many had believed that domestic violence in the Maldives was rare or non-existent, until the first ever national representative survey on violence against women was published in 2007. The survey found that at least 1 in 3 Maldivian women aged 15-49 who had experienced some form of sexual or physical violence during their lifetime and at least 1 in 5 women who have ever been in a relationship reported they had experienced physical or sexual violence, or both, by an intimate partner.*

While there have been explicit reports and discussions on domestic violence issues in general and its specific aspects, there is a need to look at the current state of health care provisions for domestic violence victims. This would allow for development of recommendations, taking into account best practices existing in other countries, for actors involved into Domestic Violence Act implementation. The study is structured around the guiding principles described in the National Guideline on Providing Care and Prevention for Health Care Providers and is mostly based on respondents' insights and opinions, and relevant documents.

Keywords— *collaborative frameworks, health provision, rehabilitation, referral pathways*

I. INTRODUCTION

A. Objectives

The study provides a synopsis and recommendations on the institutional situation around the access by domestic violence victims to health services in Maldives.

B. Methodology

A desk review of existing analyses and regulations constituted the first phase (February - March 2017) of the study. Semi-structured interviews with key informants were held in April – August 2017. A quantitative method of study was not chosen due to the limited data available.

C. Limitations

While representatives from the Health Protection Agency (HPA), Family Protection Unit (FPU), Family and Child Protection Department (FCPD), Family Protection Authority (FPA), Ministry of Gender and Family (MoGF), civil society and international organizations were interviewed, the report

would have benefitted from insights by other key stakeholders, such as judicial sector, and survivors of domestic violence.

The absence of a joint statistical database on domestic violence (DV) and confidentiality obligations of institutions that collect this data, did not allow for a detailed quantitative analysis. The report largely focuses on women-victims of domestic violence, without specifically analyzing other groups, such as children, migrant workers and elderly.

The research was conducted in Malé City, which presents a gap in terms of the direct observation of the situation in outer atolls.

II. CONTEXT

Many had believed that domestic violence in Maldives was rare or non-existent¹, until the first ever national representative survey on violence against women (VAW) was published in 2007. The survey found that at least 1 in 3 women aged 15-49 had experienced some form of physical and/or sexual abuse during their lifetime, among which 1 in 5 reported that they had experienced physical or sexual violence, or both, by an intimate partner².

As a signatory to the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and basing on the gender equality principle stated in the Constitution, in April 2012 the People's Majlis (Parliament of Maldives) passed the Domestic Violence Bill (hereafter referred as Domestic Violence Prevention (DVP) Act). Under the DVP Act "domestic violence" shall mean any of the acts [list of 17] 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"³.

Given the fact that DV victims would most probably seek medical support in the first instance, the DVP Act described the roles and responsibilities of health care providers (HCP) at personal and professional levels⁴, besides others. Moreover, administrative sectors, such as Ministry of Health, Health Protection Agency and institution in the Justice Sector were given responsibility to provide adequate facilities and training and strengthen the relevant areas of care provision.

In the aftermath of the DVP Act adoption, the government developed a number of sectoral plans and strategies to support the implementation of the law,⁵ including the first ever

Maldives Domestic Violence Prevention National Strategy 2014-2016 (DVPNS 2014-2016). With support by the United Nations Population Fund (UNFPA), in 2014 the Health Protection Agency issued a guideline titled “Health sector response to GBV: national guideline on providing care and prevention for health care providers” (hereafter referred as the Guideline), and an online training module for HCPs was developed.

However, human rights activists state that there is little political will to work on DV issues. Through such reporting mechanisms as CEDAW Shadow Report, civil society activists alert the international community on the issues existing in the area of DVP Act implementation. The January 2015 CEDAW Shadow Report stated, for instance, that “the main issues faced in protecting victims of domestic violence include absence of requisite procedures, inconsistencies in institutional applications, lack of sensitivity among law enforcement, judiciary, health and social service providers towards DV. It is also important to emphasize the common belief amongst law enforcement and judiciary that DV cases are family matters, which negatively impact victims from getting redress”⁶. Domestic violence in Maldives is, hence, at the line between individual concerns and being a health care issue that is not recognized as such by many state authorities.

The Maldives Domestic Violence Prevention Strategic Plan 2017 – 2021, developed to replace the DVPNS 2014 – 2016, provides a brief analysis of the context in the area of DV. As for the health services, the Plan notes, in particular, that there is “a general issue with access to health, law enforcement and justice that impedes effective domestic violence prevention mechanisms. Mental health and psychological health are underdeveloped areas in general and affect domestic violence policy and practices”⁷.

While there have been explicit articles⁸ on DV issues in general and on its specific aspects⁹, there is a need to look at the current state of health care provision for DV victims. This would allow for development of recommendations, taking into account best practices existing in other countries, for actors involved into DVP Act implementation. The following synopsis is structured around the guiding principles described in the National Guideline on Providing Care and Prevention for Health Care Providers and is mostly based on respondents’ insights and opinions, and relevant documents.

III. PROVISION OF HEALTHCARE FOR VICTIMS OF DOMESTIC VIOLENCE

A. Services Available and Minimal Standards

While the Guideline provides a list of minimum medical, psychological, medico legal services and referrals to be available for a victim¹⁰ at the level of health posts, atoll-, regional-, and tertiary care hospitals, it is evident from the analyses and interviews that there is a significant disparity between Malé and islands in this regard.

The 2015 CEDAW Shadow Report, in its Health Article states the following: “Although there are regional hospitals and healthcare centres throughout Maldives, basic health services including sexual and reproductive health services are not fully and easily accessible to people living in the atolls. Hospitals/Health centres in the atolls lack healthcare equipment

and professionals including gynecologists and gynecology equipment and devices”. As noted in an interview, if even the Family Protection Unit (FPU) – the only medical referral service in Maldives, does not get referrals from other specialists, especially, psychologists, the situation in other hospitals and health posts must be ever more drastic. Furthermore, another interviewee noted that the need for psychological therapy must be identified by a doctor, and despite the fact that such services are covered by medical insurance, most doctors do not consider them necessary, as mental health is not yet high on the health bodies’ agenda.

Minimum standards for health care services provision for DV victim, include the following, as per the Guideline: 1) location, furniture and setting; 2) skilled health care providers; 3) medications; 4) minimum medico legal services.

As for the first, it appears that standards existing, for instance, even in FPU, do not correspond to the required minimum. As noted in one of interviews, FPU’s location at the Indira Gandhi Memorial Hospital (IGMH) and the fact that patients can only access it through ER, presents considerable challenges in DVP Act implementation. Throughout its existence the Unit often lacked permanent space and could not provide safe and child-friendly environment for DV victims. The overall shortage of doctors and limited space, in addition to all victims’ traumas, add to worsening of their psychological state, as they often have to visit the hospital many days in a row and wait for long hours.

Second, understanding and acting in accordance with the DVP Act is often challenging for the doctors. The Emergency Room (where the FPU is located) at IGMH has 30 staff, with high doctor rotation level being considerable disadvantage. All incoming ER doctors receive 2-weeks induction training that includes explanation of DVP Act obligations for the health sector. According to an interview, the abovementioned online GBV training for health care providers in IGMH occurred only once. In addition, while many DV victims come for obstetrics and gynecology consultations, the doctors from respective department are not accountable to the FPU and, therefore, it is not clear whether they have been sensitized on DVP Act.

The online training on GBV, having been developed in 2015, after some time had difficulties with online domain and was later secured at the Health Protection Agency’s IT department. The training’s completion rate by doctors from other health units is overseen by the Health Protection Agency’s (HPA) HR department that generates password and login for new expat doctors. The latter have to complete the course within their first 3 months in Maldives. It is difficult to estimate the number of doctors who completed the course, due to the fact that many doctors work in private clinics. Besides IGMH doctors, ADK hospital was advised by HPA to make it obligatory for its medical personnel.

Third, while it was not possible to draw conclusions from the interviews on the minimum standards with regard to medications, the 2016 Action Plan for Health Sector Response: “Addressing GBV, Including DV in Maldives”, notes the issue of emergency contraception (“morning after pill”) not being available at island level health centers. As a solution, the plan suggests that arrangements should be made to obtain this medication in such an event without any delay¹¹, however, it is

challenging to obtain data on the adherence to the plan and frequency of the use of this solution.

Fourth, interviews also reveal that while, by law, doctors are still compelled to fill in the medico legal form (MLF) in case of victim’s hesitation, for many of them it often presents a personal conflict in terms of doctor-patient confidentiality (see also the section below), and some doctors, according to an interviewee, requested that the MLF reporting becomes optional.

Overall, the abovementioned disparity between the capital and outer atolls exists with regard to the standards, as well: scarcity of doctors, prevailing non-reporting of cases due to doctor’s personal religious and cultural beliefs, long travelling distance from distant islands to regional and capital hospitals.

B. Guiding Principles: Human Rights and Ethics

The Guideline lists the following human rights and ethical principles the HCPs have to adhere to when receiving a DV victim: 1) confidentiality and privacy; 2) safety; 3) being non-judgmental/ non-discriminatory; 4) respect.

As noted in the 2015 CEDAW Shadow Report, “information gathered from HRCM’s atoll monitoring visits revealed that there have been many incidents where sensitive medical information of patients were leaked from the health centre. As a result, many women do not trust health facilities and their service providers, especially in the islands where small communities live”¹². An interviewee from a service provider institution noted, however, that in the event of a victim’s complaint on inappropriate behavior or action by the institution’s employee, the matter is considered at the department of human resources; and if there is an apparent conflict of interest between a victim and an employee, the latter is exempted from handling the case which is then transferred to other staff. Nevertheless, other interviews revealed that most of women who come to the ER and are apparent DV victims do not want their case to be recorded and, worst, known by authorities. Interviewees also noted that in some cases where doctor was suspecting a patient might be a domestic violence victim, the doctor was threatened (including with death threats) by the patient’s spouse, when asked to leave the consultation room.

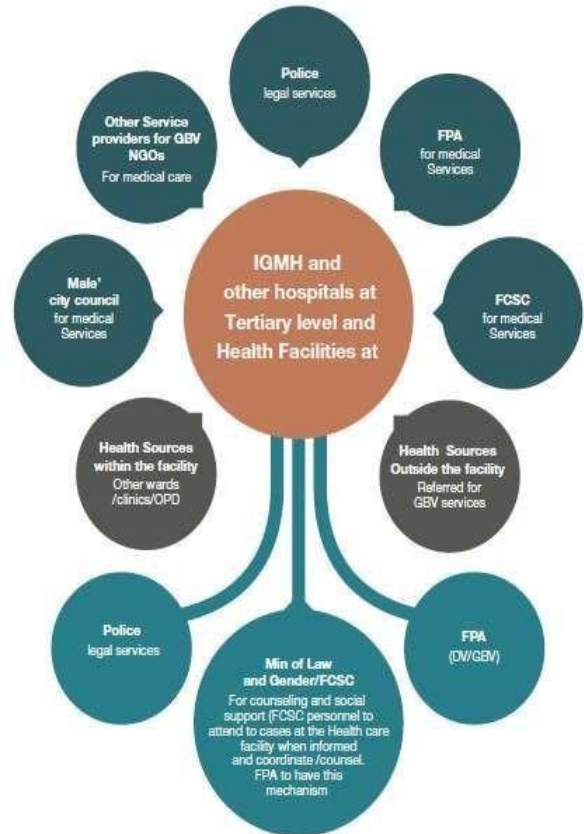
The issue of safety appears to be an alarming one, as interviewees mentioned only one safe house for GBV victims existing in Villingili (part of capital agglomeration), whereas the CEDAW state Report mentions safe houses established in 4 atolls and Malé. Doctors feel powerless, knowing about the existence of the only one safe house in the capital atoll, where safety of a victim is not guaranteed due to the fact that the house’s location is not kept secret by the police, and perpetrators may easily find it. Temporary nature of the shelter (maximum stay period is 3 months) does not allow for sufficient recovery of a victim and her/his reintegration into the society. In addition, the abovementioned issue with FPU’s premises, for instance, and the fact that it is challenging to receive patients in a secure environment, add to the problem.

Many interviews supported the fact that in many cases, especially in outer atolls and small communities, doctors find it difficult to remain non-judgmental and respect individuality of a victim. Interviewees noted, as well, that while there are mostly no commitment issues among doctors based in Malé,

those in outer atolls are less sensitized. Being judgmental is often linked to personal religious and cultural beliefs, social norms and bias existing in a community. There are also indications of existing police inaction: police is aware in most cases about DV and is responsible for bringing DV victims to hospitals when needed, although the question remains on the number of times it has actually occurred so, as many police officers perceive DV as an internal family matter where nobody can interfere.

C. Referral Pathways

The Guideline presents an explicit description of referral pathways:



As one can see from the figure above, health care providers are placed at the centre of referral scheme, with FPU to play the leading role. The Unit helps link a victim with other responsible parties.

Despite this explicit scheme of referral pathways, a number of interviewees noted that the latter are not fully functional. While there are known and well-documented referrals between FPU and other stakeholders in Malé, skills and commitment at island-level health posts, within local councils and police, are not adequate for providing explicit information and support to a victim. As one interviewee stated, there is no monitoring body within the health sector to oversee referral mechanism and coordinate with other stakeholders. Whereas FPA conducts selected case monitoring to expedite services to victims referred by the MoGF, the latter has a certain criterion to identify the victim(s), and it is not clear if other stakeholders are aware of the selection procedure. In addition, another interviewee noted that there should be separate guidelines for

police and the MoGF, and more clarity about each actor’s role. This is supported by another statement describing the fact that the Ministry sometimes refers victims to non-government organizations, especially for psychosocial support, however, this type of cooperation is not formalized. To address the abovementioned issues, it was mentioned that there are ongoing discussions on expanding referral mechanism to include, for instance, the Maldives National Defence Force, and get increased commitment from more health facilities, especially private clinics.

D. Perpetrator

As noted in the Maldives Domestic Violence Prevention Strategic Plan 2017–2021, the most underachieved area of the previous strategy is the work with the perpetrators. Perpetrator rehabilitation programme does not exist, despite some attempts by the FPA and some mediation cases by the MoGF. Moreover, as a subject to DVP Act, a perpetrator must be provided with rehabilitation services, which includes psychological counseling and other services such as anger management, although the key informants could not recall that this had been done since the adoption of the Act. This also relates to the fact that it is up to the court to declare someone a perpetrator. Given the fact that there are only a handful of such cases and perpetrators are often in denial of the harm their actions caused and reject any assistance, it is challenging to develop a respective rehabilitation programme. There is also a lack of trained personnel in this area and non-clarity about division of responsibilities among stakeholders.

Though not directly linked to perpetrator rehabilitation, but related to the scale of the issue, - interviewees noted high rate of withdrawal of cases, due to the fact that victims would not have family and financial support in case if the family only has one breadwinner (who is often also the perpetrator).

IV. BUILDING LINKAGES AND COLLABORATING WITH OTHER STAKEHOLDERS

Linkages, cooperation among stakeholders, and partnerships are indispensable for an efficient implementation of the DVP Act. The coordination, as noted in the Maldives Domestic Violence Prevention Strategic Plan 2017–2021, “remains fragmented and can be improved significantly”. While at one of the interviews it was noted that one successful area of the DVP Act is the information sharing between FPA and other stakeholders, that there are good relations, and real-time information and coordination, it appears that these mostly occur in Malé and their efficiency is not supported by evidence.

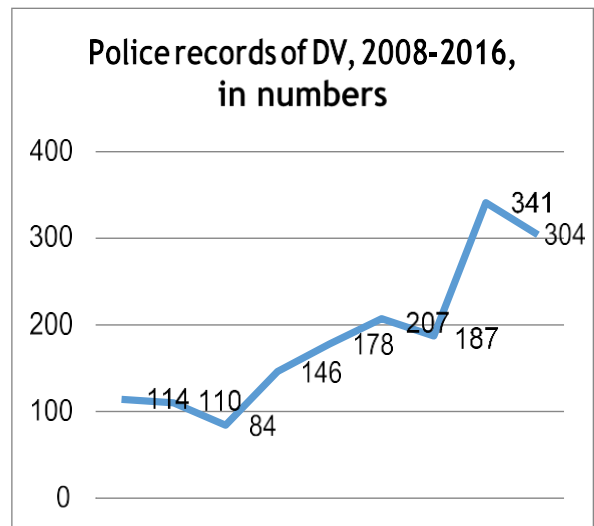
A. Data Collection and Information Sharing Among Stakeholders

The absence of streamlined data collection from atolls, private and many public clinics, does not allow for an estimation of total number of DV victims in the country. The medico legal form allows for disaggregation of GBV cases into at least the following areas: 1) mental; 2) neglect; 3) out of wedlock pregnancy; 4) rape; 5) sexual abuse; 6) physical abuse. However, due to limited number of qualified medical staff and lack of refresher training, this disaggregation may not be fully representative. It is also believed that while the DV reporting has increased, there is no sufficient action being

undertaken or there are very minimal efforts to address the situation.

The most recent Demographic and Health Survey (DHS 2009) has data on attitudes towards wife beating, refusing sexual intercourse with husband, men’s attitude towards a husband’s rights when his wife refuses to have sexual intercourse, which are proxy indicators for domestic violence, however, new data is required to see the trends in this area and develop policies. The long-awaited new DHS should have been started in 2015 and there is funding is available, however, according to an interviewee, there is a lack of skilled researchers.

Interestingly, the website of Maldives Police Service provides statistical data on the number of DV offenses from 2008 to 2017¹³. It can be seen from the below chart that there is a growth trend in DV offenses. Although not indicated in the chart, 2017 number has reached 145 by the end of June, and if it doubles by the end of the year, the number of cases may reach 300.



As for other actors, FCPD has a dedicated data analyst who generates reports for the Ministry of Health and FPA. While it is known that the Ministry investigates the cases, FCPD is not aware of the follow-up on its data analysis reports. As for the age and social status of victims received by FCPD, most of them are married, followed by the unmarried and middle-aged women.

The interviewees noted that among all actors working on DV issue, MoGF infrastructure and presence in most of the islands offers best opportunity to collect data and conduct research, although the Ministry does not make full use of it. The FPA looks into data availability directly and ensures oversight, however, it has difficulties with streamlining data collection.

B. Awareness Raising Activities

According to interviewees, while population is in general aware of domestic violence, more activities are needed on the information about the DVP Act and remedies. Most of interviewed stakeholders are personally involved into national DV prevention advocacy campaigns, contribution to consultations, seminars, and knowledge sharing (e.g. DV

brochures content), and in building capacity of islands' actors (e.g. by conducting teleconferences on the proper use of the MLF). In terms of advocacy, FPA has a 5-year advocacy plan, although there is a limited number of staff to implement it. While the Ministries of Education and Health organize awareness sessions in schools, the whole government should take responsibility to share such knowledge and improve their respective tasks with regard to the law and its implementation.

V. RECOMMENDATIONS

See Appendix 1.

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- [1] Abdulghafoor, H. (2016) Violence in the Maldivian family. Why does it continue to breed despite the Domestic Violence Prevention Act?, accessed at <http://www.dhivehisitee.com/people/violence-in-the-maldivian-family-why-does-it-continue-to-breed-despite-the-domestic-violence-prevention-act/>
- [2] Fulu, E. (2014) Domestic Violence in Asia: Globalization, Gender and Islam in Maldives
- [3] Girardi, J. (2012) An Overview of International Experience and Best Practices in 5 Countries on Selected Aspects of Addressing Domestic Violence
- [4] Health Sector Response to GBV. 2014 National Guideline on Providing Care and Prevention for Health Care Providers. UNFPA and HPA
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- [6] Maldives Domestic Violence Prevention Strategic Plan 2017–2021, accessed at http://fpa.gov.mv/dh/images/upload/DVP_Strategic_Plan.V.1.0_FINAL_23_4_17.pdf
- [7] .1.0_FINAL_23_4_17.pdf
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- [9] Maldives Health Protection Authority (2016) Action Plan for Health Sector Response: Addressing Gender-based Violence, Including Domestic Violence in Maldives, accessed at [http://health.gov.mv/Uploads/Downloads/Informations/Informations\(52\).pdf](http://health.gov.mv/Uploads/Downloads/Informations/Informations(52).pdf)
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About the Author

Lilia Ormonbekova is international development professional with more than ten years of experience in the following areas: Monitoring and Evaluation (M&E), Results-based Management (including training), Knowledge Management, Peace and Development, Gender (including training), Strategic Planning, UN Coordination, Innovative Monitoring, Data Analysis and Visualization, Project Management, Research.

APPENDIX 1: RECOMMENDATIONS

Global practice	Domestic Violence Prevention Strategic Plan 2017 -2021 Goals	Intervention paths for civil society
<p>Comprehensive response to domestic violence including the provision of psychological, social, medical, legal support to survivors and establishment of a referral system within the context of intersectoral collaboration and existing legislative environment</p>	<ul style="list-style-type: none"> - Ensure that Maldives domestic violence policy remains prevention focused and that all relevant organizations proactively address the root-causes of domestic violence (prevention goal) - Use a partnership-based approach to achieve effectiveness and efficiency (partnership goal) - Ensure that all stakeholder agencies are held responsible and accountable for their action/inaction on matters related to domestic violence (accountability goal) - Build capacity and upskill staff from FPA in key responsibilities (governance goal) - Build capacity of relevant organizations by providing them with training opportunities (governance goal) 	<ul style="list-style-type: none"> - Continuous and more inclusive activism (e.g. involving religious leaders, youth), campaigning, awareness raising and advocacy for policy development. - Networking and collaboration: organizing widely inclusive for a with participation of a maximum number of stakeholders (ideally, co-organized with ministry-level partners); attracting more service providers (especially working on psychosocial issues) from NGO sector
<p>Development and operation of clients’ registration databases on domestic violence</p>	<p>Research and publish data on domestic violence in the Maldives (governance goal)</p>	<ul style="list-style-type: none"> - Continue researching and sharing knowledge. If data is not available, look at proxy indicators (e.g. number of

		<p>femicides) and monitor media</p> <ul style="list-style-type: none"> - Continue working with local communities and empower them to tackle DV at island level
Development and application of assistance provision standards for domestic violence survivors		Advocate for and offer inclusion of civil society experts in development of government strategies and plans
Domestic violence shelter management with specific attention to existing shelter regulations, models and standards of operation, funding mechanisms	<p>Ensure that all survivors who contact designated institutions receive appropriate level of protection and support that they need (protection goal): develop a robust regulatory mechanism to oversee the operation and services of all domestic violence service providers which include domestic violence shelters and other social service providing centers established throughout the Maldives</p>	<ul style="list-style-type: none"> - Maintain freelegal aid and look into a possibility of providing helpline service - Mobilize donor and government funds for shelter maintenance and opening of safe houses. Look into a possibility of NGO-run and protected by religious institutions shelters
Models of working with male domestic violence perpetrators, with specific best practices, standards and lessons learned	All perpetrators are held accountable to their action (accountability goal)	<ul style="list-style-type: none"> - Look into an opportunity of involving more men and/or supporting of establishment of a men-led NGO committed to the idea of “men against violence” - Mobilize funds and provide free psychological and family counseling aid

APPENDIX 2: ROLES AND RESPONSIBILITIES OF HCPs AS IDENTIFIED IN DVP ACT

Section 8.a. on reporting mentions that "Cases of alleged domestic violence pursuant to Section 8 a) may be reported by any of the following persons: Employees of a health or social service provider ..."

Section 9. on health care mentions that "A duty of care is hereby established on health professionals and social workers to report suspected cases of domestic violence ... Health professionals and social workers shall further provide full support during the investigative and court stages ..."

Section 12. mentions that "A health professional that has been notified by the Police that an act of domestic violence may have been committed on a survivor...must carry-out the following:-

1. Examine the suspected survivor to the highest possible degree...
2. Assist the survivor in seeking psychiatric or counselling support...
3. Prepare a written report based on the examination of
4. Submit the report prepared under Section 12(d) (2) to the Police and Authority"

While accepting that the Act defines the roles and responsibilities of the health care providers it must be mentioned that it is the responsibility of the administrative sectors such as Health Ministry, Health Protection Authority and Justice Ministry to provide adequate facilities and training and strengthen the relevant areas of care provision in order to ensure satisfactory implementation of the Act.

Source: National Guideline, part 3.3

APPENDIX 3: MINIMUM SERVICES AVAILABLE

Services	Health Centers/ Health Posts	Atoll Hospitals	Regional hospitals	Tertiary Care Hospitals
Receive the survivor in a dignified manner	x	x	X	X
Provide empathetic listening and counseling	x	x	X	X
Take a history & basic clinical examination	x	x	X	X
Conduct relevant examination	x	x	X	X
Conduct specialized examination and in-depth investigations			X	X
Take sample for DNA Examination to send Forensic Services at police		x	X	X
Manage minor injuries	x	x	X	X
Manage possible major injuries including surgical interventions		x	X	X
Provide Emergency contraception immediately /on selected sites	x	x	X	X
Provide status prophylaxis	x	x	X	X
Provide STI Prophylaxis	x	x	X	X
Provide HIV Prophylaxis (PEP)	x	x	X	X
Psychosocial Services				
Establish a good rapport with the survivor	X	X	X	X
Reduce anxiety and make her / him comfortable	X	X	X	X
Provide empathetic listening	X	X	X	X
Provide basic counseling	x	x	X	X
Referral for other services	x	x	X	X
Follow up if required	x	x	X	X
Medico-legal services				
Document history and examination for medico-legal perspective	x	x	X	X
Collect samples for relevant laboratory examinations	x*	x	X	X
Complete medico-legal forms and submit to relevant authorities	x	x	X	X
Provide Medical expert opinion in legal cases				X
Referrals and Linkages				
Referrals to a higher level health care institution(if needed)		x		X
Referral to Police Action		x		X
Notify aggregated report to FPA		x		X
Provide information on legal redress available .such as the health sector response in line with the Domestic Violence Act 2012		x		X

Source: National Guideline 3.4.1

ENDNOTES

- 1 See in Fulu, E. (2014) Domestic Violence in Asia: Globalization, Gender and Islam in Maldives.
- 2 The Maldives Study on Women's Health and Life Experiences, 2007.
- 3 Domestic Violence Act, #3/2012, unofficial translation by UNFPA.
- 4 See Appendix 2.
- 5 See in Health Sector Response to GBV. National Guideline on Providing Care and Prevention for Health Care Providers. UNFPA and HPA. 2014, p.28.
- 6 Submission from Human Rights Commission of the Maldives for the combined Fourth and Fifth Periodic Report of the Republic of Maldives to the United Nations Convention on Elimination of All Forms of Discrimination against Women (CEDAW) Committee January 2015.
- 7 Maldives Domestic Violence Prevention Strategic Plan 2017 – 2021, Appendix A.
- 8 See, for instance, Abdulghafoor, H. Violence in the Maldivian family. Why does it continue to breed despite the Domestic Violence Prevention Act?, 23 April 2016, accessed at <http://www.dhivehisitee.com/people/violence-in-the-maldivian-family-why-does-it-continue-to-breed-despite-the-domestic-violence-prevention-act/>
- 9 Hope for Women commissioned a number of internal analyses, for instance.
- 10 See Appendix 3.
- 11 Health Protection Agency. Action Plan for Health Sector Response: Addressing Gender-based Violence, Including Domestic Violence in Maldives, 15 May 2016, p.15.
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- 13 See <https://www.police.gov.mv/>
- 14 See, for instance, in Girardi, J. (2012) An Overview of International Experience and Best Practices in 5 Countries on Selected Aspects of Addressing Domestic Violence

Dealing with Child Custody Cases: Challenges and Way Forward

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Abstract—Child custody cases are often identified by main service providing institutions, Ministry of Gender and Family, and Maldives Police Service, as one of the most emotionally charged, difficult to resolve cases that they work on. Therefore, the purpose of this study is to, identify how service providers are currently responding to child custody cases, identify challenges for service providing institutions in responding to child custody cases, and to identify ways to improve service delivery to more effectively meet the needs of families and children involved in child custody cases. The data for this study was collected through interviewing staff of Ministry of Gender and Family, Maldives Police Service, Family Court's Reconciliation and Mediation Department and also lawyers who have experience of working on child custody cases. Some of the findings of the study include, the need to move towards a system of mandatory mediation rather than the current litigation focused system, need for an intermediate family support services, to support families through divorce and child custody, need for a better response in continuous custody breach cases and the need for consistency in practice. Some of the recommendations of the study include considering detailing the factors to consider when determining best interest of the child in a regulation, to consider increasing the age of custody, and to build capacity of Reconciliation and Mediation Department, and for Ministry of Gender and Family to establish a set up to facilitate supervised access.

Keywords—*Child custody, Best interest of the child*

1. INTRODUCTION

Within the emotional turmoil of a parental separation and family breakdown, the most significant of the decisions that affects children is that of the issue of child custody and visitation. Literature affirms the relationship between parents and the level of conflict between the parents' post-divorce is a huge determinant of a child's adjustment and achievements after divorce (Treneff, 2014). However, many parents find it hard to agree on the issue of custody and children are often caught between their disputes.

Child custody cases usually involve two parents unable to agree on what is in the best interest of the child after a family breakdown. Child custody decisions are decisions which determines which parent the child would be staying with, who will be responsible for the daily needs of the child, how the significant decisions about the child would be made, time with each parent, and how the visitation time would be arranged (Dieringer, Elsen & Goldenhersh, 2008).

While some parents easily come to an agreement regarding child custody, many parents find it hard to come to a mutual agreement. Moreover, while some parents resolve the issue with the help of mediation services, others continue to be in conflict around the matter for various reasons. Furthermore, even if some parents eventually come to an agreement or the court makes the decision and issues a custody order, some parents continue to breach the terms of the order. Craig P. Treneff (2014) claims that generally around one third of parents have a significant level of difficulty in adjusting to the post-divorce period and around five to ten percent of parents remain unable to move forward after divorce.

Family Protection Authority (FPA) was established in 2012 under Act Number 4/2012 (Domestic Violence Prevention Act) 'in order to combat domestic violence; create public awareness on issues of domestic violence; provide the required services to the victims of such violence; co-ordinate the work of the relevant government institutions including Police and the Health Sector, coordinate various local efforts made by individuals (to protect victims of domestic violence) by bringing such efforts under a national policy and implementing such policies and; to undertake a leading role in carrying out such work on a national scale'.

The Domestic Violence Prevention Act (4/2012) identifies people who had been previously married as having a domestic relationship, hence custody dispute cases where verbal abuse, intimidation, not returning the child

and parental alienation occurs are identified under this Act. In the year 2016, there were a noticeable number of complaints lodged at FPA relating to child custody cases.

Moreover, Case Workers and Investigation Officers often describe child custody cases as one of the most emotionally charged, difficult to resolve and prolonged type of case that they work on. Therefore, the aim of this study is to; (i) identify how service providers are currently responding to child custody cases, (ii) identify challenges for service providing institutions in responding to child custody cases and (iii) identify ways to improve service delivery to more effectively address the needs of families and children involved in custody cases

2. LAWS AND REGULATIONS

The provisions and principles to abide by in dealing with child custody cases are set by the Family Act (4/2000), Family Law Regulation (15/2/2016), Family Act Regulation and Regulation for Procedure for Resolving Family Cases (2010/R-3) and Regulation on the procedural conduct of police officers in cases of domestic violence (2014/R-424)

Family Law Act (4/2000): In the Maldives, Law Number 4/2000 (Family Act), stipulates the rights to custody, requirements of people who are entrusted with custody and articulates the circumstances when custody may be lost. The Family Act is codified with Islamic Shariah hence abides by the three general principles drawn from the Prophet Mohammed (phub)'s Sunnah. These principles are; mother is entrusted with the preferential right to custody until she gets married, custody will be given to the parent who follows Islam, and, a child who has transcended the age of minority will have an option to choose which parent she/he wants to live with.

According to the Section 44 of the Family Act, the court has the power to make custody decisions regarding the child until the child reaches the age of 7, and after the child reaches age of 7, the child has the right to choose the parent he/she wants to live with. Section 44 also states that the court has the power to increase the period of custody of a girl until the age of 11, and a boy until the age of 9, upon application by the custodial parent. The Family Act obliges custody of child to be given to the mother until the child reaches the age 7, unless the circumstances to lose the right to custody stated in section 42 presents. This is established by section 40 (a) which states that 'the mother shall have a prior right to be entrusted with custody of the child', and section 42, which states that custody may be lost due to (1) marriage to another person other than a mahram, (2) openly commits acts prohibited in Shariah, (3) relocation to another island without consent of the non-custodial parent, (4) if the custodial parent renounces Islam or (5) neglects the child or causes any kind of harm to the child.

Family Law Regulation (15/2/2006): Section 71 of The Family Act Regulation states the chain of custody, which lists the person who would be entrusted with custody of the

child in order of priority. The chain of custody is as prescribed by Sharia with top priority given to the mother, followed by maternal grandmother, father, paternal grandmother and so on.

Regulation for Procedure for Resolving Family Cases (2010/R-3): The regulation Number 2010/R-3 details the process of mediation and the decisions which need to be taken in relation to a child during parental separation. It states some of the factors to be considered in the best interest of the child.

Regulation on the procedural conduct of police officers in cases of domestic violence (2014/R-424): Section 18 of the regulation specifies the procedures that police officers need to abide by in implementing a child custody order.

3. LITERATURE REVIEW

Section 3 of the UN Convention on the Rights of the Child states that 'the best interests of the child shall be a primary consideration in all actions affecting children'. Best interest of the child is the standard currently used in most countries in making custody and visitation decisions (Scott & Emery, 2013). What this means is that the child's physical and psychological well-being is given the uttermost significance (Charlow, 1986). There are notably two over-riding factors in making decisions regarding best interest of the child found in the literature. First, is the issue of safety, the assurance that the child would not be subjected to any form of harm. Second, custody decisions should foster relationships with both parents. Family Law in countries like Australia's Family Law Act 1975, New Zealand's Care of Child's Act 2004, clearly specifies lists of factors that needs to be considered in determining the best interest of the child. Some of these factors include history of child's relationship with parent, interactions with parents, relationship with siblings and other significant people who are going to be in the child's life, parental capacity, child's wishes, adjustment to school and home environment, physical and mental well-being of all involved and history of domestic violence (Goldstein, 2016). Some of the critiques regarding the best interest standard found in literature, Joan B. Kelly (1994) states that the lack of agreement on which factors to take into account, how these factors are defined and weighed and how to incorporate the changing developmental needs of children as some of the limitations. Moreover, Andrea Charlow (1986) while emphasizing the usefulness of the best interest of the child model questions how the model is used in practice while arguing that even today in courts with nature of litigation process, the rights of the parents are given more significance. However, as Andrea Charlow (1986) argues even with these limitations the best interest of the child standard needs to be applauded for its unique focus on the needs and rights of the child.

Looking at child custody in Islamic Shariah, three general principle have been drawn from Prophet Mohammed (pbuh)'s Sunnah (Rafiq, 2014). These

principles are; mother is entrusted with the preferential right to custody until she gets married, custody will be given to the parent who follows Islam, and, a child who has transcend the age of minority will have an option to choose which parent she/he wants to live with (Rafiq, 2014). Ayesha Rafiq (2014) in her analysis of Child Custody in Islamic Law and Laws of Contemporary Muslim World, argues that among these three factors which needs to be considered; religion of the parent, welfare of the child and child's choice, welfare of the child should be given predominance because, even from the cases presented to Prophet Mohammed (pbuh), the basic consideration was about the welfare and best interest of the child. The child custody laws in countries which has Islam as the state religion such as Saudi Arabia, Kuwait, Jordan and Iran, has no uniform fixed age of custody, and in these countries depending on the case the courts have the authority to extend the age beyond what's prescribed in the text (Rafiq, 2014).

Professionals from legal, mental health, social work and law enforcement background play key roles in custody cases. Looking at the role of mental health professionals including psychologists, psychiatrists and social workers, over the years with the move towards alternative dispute resolution over litigation, the role of mental health professionals has become more emphasized and crucial in child custody cases (Elrod, 2001). They perform various roles and assist family as mediators, child custody evaluators, parent coordinators, reunification therapists etc.(Elrod, 2001) As mediators, mental health professionals help families to resolve conflict and come to an agreement outside of court and assist families in formulating a parenting plan (Rohrbaugh, 2008; King, n.d). As custody evaluators, mental health professionals conduct a child centered psycho-social assessment and provide recommendations to courts on capturing the 'best interest of the child' principle regarding custody and visitation rights (Elrod, 2001; Rohrbaugh, 2008). One of the main reasons that courts seek views of mental health professionals is because judges lack training and knowledge in the field of child development and mental health. However, an ethical requirement for custody evaluators is that they should be impartial and should not have previously worked with either parent in any therapeutic capacity (Elrod, 2001).

The Role of police in child custody cases is limited to when there is a need to enforce custody orders and when there is risk of harm to the child and parent (Family law nova scotia, 2017). Even in the case of custody order violations police refrain from getting involved, unless there is a court order which specifically states police action (Hamilton police service, 2018). The practice in countries such as Canada, Australia and New Zealand is that if there is a breach of custody order, an application has to be made to the Family court requesting for enforcement of the order (Family court of Australia 2016, Ministry of Justice New Zealand 2018). Depending on the case, the court will order Police or Social Services to take the necessary action

(Ministry of Justice New Zealand 2018). In emergency cases, for example, if there is a risk of harm or fleeing with the child, application to court need to be made so that the court would issue an Interim order (Ministry of Justice New Zealand 2018). A landmark case in Canada *Patterson v Powell*, 2014ONSC 1419, clearly illustrates why Police role is limited in custody cases. This was a case where the parents requested for a police enforcement clause to be included in the custody order which the court rejected. The basis for the judgment was that constant police involvement is not in the best interest of the child because of the emotional and psychological trauma it causes to the child and that 'less destructive' and 'more creative' solution needs to be sought in order to resolve the situation. Moreover, that even if an enforcement clause is added to the court order it should be done 'sparingly and in the most exceptional circumstances. Furthermore, the judgment states that involvement of police is more likely to further polarize the situation, and a more therapeutic approach is favorable in addressing underlying issues and conflict resolution.

Continuous breach of custody order is an issue commonly identified in custody cases. In such cases some of the remedies that courts offer include court ordering parent to participate in counseling, ordering supervised access, participation in parenting programs, admonishment, altering the terms of court order, asking to pay a monetary bond which would not be returned if there is further breach, fines, reimbursement for the other party for any damages, community service and holding in contempt of court (Family Court Australia 2013). In some severe case might give a jail sentence, however a jail sentence is highly unlikely considering that the parent who usually breaches the term of custody order is the child's primary carer and this is not in the best interest of the child (Parent Connect, n.d.). There have also been cases where the custody was transferred to the other parent due to non-compliance with order (in Canada *Patterson v Powell*, 2014ONSC 1419).

A lot of research can be found on identifying effective solutions for high conflict custody cases. Parallel parenting is a common intervention found in literature. Parallel parenting is based on the approach that disengaging from each other should be the first step in minimizing the conflict and strong boundaries need to be set for a healthy relationship to continue (Treneff, 2014). In parallel parenting parents do not physically meet or directly communicate with each other, only written communication is used and the child is exchanged at a place where they do not need to physically meet (Treneff, 2014). Parental coordinators are also assigned for high conflict custody cases (Treneff, 2014). Parental coordinators are mental health or law professionals who works with the parents in a case management role assisting them to communicate, problem solve, make decisions while educating them and modeling healthy relationship behaviors (Treneff, 2014). Parental coordinators can be court ordered or agreed by parents in the mediation process (Treneff, 2014). In addition to this, Therapeutic approaches are also

recommended to be important in such cases, to work on the damages done by the conflict and help parents and children adjust to the new identity and lifestyle (Treneff, 2014). Some literature also argues about the effectiveness of mediation in high conflict custody cases and suggests that in these cases a more permanent solution can be reached through court (Denmon Pearlman, n.d.; Treneff, 2014). Moreover, a publication by Demmon lawyers regarding solutions in high custody cases suggest 'setting a narrowly targeted court hearing with the judge to solve an isolated problem leading to the conflict' (Denmon Pearlman, n.d.). Supervised visitation is also increasingly used in custody cases especially in cases where there is a history or risk of physical, sexual, psychological and neglect and in cases children shows signs of parental alienation (Treneff, 2014). Moreover, court ordered mandatory education programs for parents are also widely used as an intervention (Treneff, 2014). These programs are targeted to inform parents about impact of conflict on children, dispute resolution etc. (Treneff, 2014).

Looking at the family Law system in other countries, most countries such as UK, Australia, New Zealand, Hong Kong, Norway and some states of US etc., have moved towards a mandatory mediation approach to resolve child custody dispute cases (Lee & Lakhani, 2012). Therefore, it is compulsory for parents to go through a mediation process prior to application to court (Lee & Lakhani, 2012). Traditionally mediation was used more as a voluntary process however more and more countries are adopting an approach of mandatory mediation (Lee & Lakhani, 2012). Usually in these countries a document or a certificate signed by a dispute resolution service is needed to apply for court (Lee & Lakhani, 2012). It has been long established that the adversarial system as not the best place to settle family related issues (Murphy, 2010). A lot of literature discusses the benefits of mediation over litigation. Advantages of mediation includes it allows parents to communicate openly and focus on resolving the underlying issues compared to a litigation process where, as Alexandria Zylstra (2001) argues causes a more polarizing effect because of the blame and win and lose framework used in courts. Moreover, the less stressful nature of the mediation process compared to the litigation process, encourages parents to work together, while identifying ways to communicate more effectively and respectfully with each other (Sauer, 2007). This collaborative nature of the mediation is essential in fostering a positive relationship as the relationship would continue throughout the child's life (Sauer, 2007). Furthermore, the custody decision is made by the judge in a litigation process whereas in mediation both parents can take ownership of their decision and make a decision which are much better suited for them (Sauer, 2007). Alexandria Zylstra (2001) also argues that even if the mediation process fails, the process must have reduced the tension between them and narrowed down their issues. Hence most of the literature advocates that the court should be used as a last resort and that mediation is a better alternative. The success rate of mandatory mediation

criteria has been lauded by many studies. In addition to these advantages, mediation is more cost and time effective. For Example, in US California the first state to adopt the mandatory mediation requirement, one year after its implementation only 5 cases were heard in courts compared to 5-15 per day before (Deis, 1985). Moreover, in Australia after mandatory mediation was enacted only 5% of cases end up in court after mediation (Lee & Lakhani, 2012). Furthermore, a client satisfaction survey in UK revealed that 65% were completely satisfied with the adoption of the mandatory mediation process (Backsi, 2011 as cited in Lee & Lakhani, 2012)

However, most of the literature agrees on the issue that mandatory mediation is not recommended in cases of domestic violence because of safety concerns and because there is a power imbalance between the two parties in mediation (Elrod, 2001). 'Safe mediation' is used in some places for domestic violence cases, which involves the service organizing separate sessions for both parents, scheduling the session so that both parents would not meet, or meeting the parents individually in different rooms (Law, 2014).

4. METHODOLOGY

The data for this study was collected through interviewing social workers, investigation officers, mediators and lawyers, who have worked on child custody cases.

Interviews were conducted with the use of a semi-structured questionnaire developed from the information gathered from literature review. The participants were interviewed by 2 researches. The sample size for this study was nine participants and purposive sampling was used in the selection process. Two managerial level staff from case management section of Ministry of Gender and Family, two investigation officers from Family and Child Protection Department of Maldives Police Service, a social worker, a mediator and a lawyer from Reconciliation and Mediation Department of Family Court and Two Lawyers from independent law firms were interviewed.

Data collected for the purpose of the study was all qualitative. Data was analyzed using content analysis.

5. LIMITATIONS

5.1 Sample Size: One of the main limitations of the study is the sample size. A total of only 9 professionals participated in the study. A bigger sample would have further enriched the study in getting a more accurate picture with a collection of diverse views and a more holistic data collection.

5.2 Literature used: Due to a lack of access to a database, previous research only available free on the internet could be used.

5.3 Unavailability of access to court decisions relating to custody decisions: Although access to court decisions were

Table 6A: Commonly reported custody cases

Maldives Police Service	<ul style="list-style-type: none"> • Taking the child and unwilling to return the child prior to custody settlement in court • Breaching the terms of child custody order • Parent alienation; cases where either/or both parent subject the child to emotional abuse in order to turn the child against the other parent has become a noticeable trend in child custody cases • Allegation of abuse from the custodial parent
Ministry of Gender and Family	<ul style="list-style-type: none"> • Visitation interference; not being able to meet and communicate with the child, custodial parent unwilling to facilitate visitation time as prescribed in the custody order
Reconciliation and Mediation Department, Family Court	<ul style="list-style-type: none"> • Allegations of neglect and abuse as the most frequently referred custody issue
Lawyers	<ul style="list-style-type: none"> • Initiating custody process as a way of avoiding payment of maintenance fees • Intimidation tactics after divorce such as threatening to take away the child • Parent alienation • Custody cases being lodged multiple times at the court

requested for the purpose of the study, unavailability of access to court decisions, in order to get a better, and more accurate understanding of what factors are taken into account in determining child custody and best interest of the child was a limitation.

6. FINDINGS

6.1 Most commonly reported child custody issues

Table 6A shows the type of custody issues identified by the participants as most frequently reported to them.

6.2 Current role of institutions and professionals in child custody cases

The main service providers in child custody cases include Ministry of Gender and Family, Maldives Police Service and Family Court. Additionally, Lawyers as individual professionals are involved in providing representation and legal assistance to families in child custody cases.

The following are the roles of institutions/professionals in child custody cases as described by them.

6.2.1 Ministry of Gender and Family

Ministry of Gender and Family explained that they take on most child custody cases as it fits in the sphere of child protection. This is because children are emotionally affected, as they are exposed to the conflicts between parents. Reflecting on past experiences of very minor issues (e.g.; the child's pencil was not sharpened when sent to school) between parents being repeatedly reported to Ministry, the Ministry informed that they currently follow certain standards in addressing custody cases. The Ministry of Gender and Family asserts that the policy currently is that unless there is a violation to child's safety and overall well-being Ministry won't intervene and will route the case to the court process.

In the interview participants from Ministry identified the following as their role in custody cases;

- a) The first action is to always check whether there has been any impact on the child's safety and wellbeing. If there is no risk found, the case is routed to the family court.
- b) Providing information on how to proceed with the case.
- c) If it is a case where child custody is not settled through court, the case is always routed to family court, as the ultimate decisions regarding child custody cases are taken by family court.
- d) In cases of allegation of abuse, child protection procedures are followed.
- e) If it is a case where custody has been settled, however there are still issues or a case of breach of custody order, the Ministry tries to resolve the issue through mediation.
- f) One of the main roles of Ministry in child custody cases is to conduct custody assessments when requested by court.

6.2.2 Maldives Police Service

Maldives Police Service identified implementation of child custody order as their main role in child custody cases. The Maldives Police Service stated that they do not believe that police involvement in child custody cases are in the best interest of the child. The reason is that through experience police has observed that when police involvement becomes a routine, it has a very negative effect on the child's wellbeing as they get scared and distressed.

Although the Maldives Police Service saw implementing custody orders as their main role, because of the different types of custody issues reported to the police, currently the role of police is extensive to implementing court orders. Maldives Police Service stated that the whenever such a case is reported to Police, the first intervention they always use is to try to talk to both parties to resolve the issue of dispute. Police informed that force is

only used as a last option and only in instances when dispute resolution fails to work, and only if police action is specified in the custody order.

Police also stated that in cases where there is a violation of the custody order, the parent is advised to file a separate case at police and they would be investigating the violation, and if there is sufficient evidence it would also be sent forward for prosecution. However, participants from police further emphasized that, police do try to exhaust all other means such as advising and warning the custodial parent not to violate the terms of the order before prosecution process is initiated.

6.2.3 Reconciliation and Mediation Department, Family Court

Among the custody cases lodged at the Family Court, cases where parents are unable to come to an agreement regarding custody during the litigation process are referred to Reconciliation and Mediation Department. Reconciliation and Mediation Department stated that, in order to reach a decision on custody rights the Judge would request the Reconciliation and Mediation Department to carry out mediation process and prepare an assessment for court purpose that would explore the best custody options. Even though mediation between parents is carried out in some custody cases, Reconciliation and Mediation department informed that in most cases the Department is engaged in conducting the assessment needed for custody evaluation process. Moreover, they informed that assessment process is carried out fairly quickly by the Mediation Department and at the most it would not take more than 3 months to complete a custody assessment.

6.2.4 Lawyers

The role of lawyers is to represent the side of their respective client in a child custody case. Even though lawyer's representation should be strictly legal and limited to representation of their client in court, the interviewed lawyers highlighted that they do get caught up in the ongoing personal disputes between the parents and some of these issues' clients come to them with are personal rather than legal issues. They also stated the difficulty in drawing a professional boundary when clients want to unburden their emotions as they understand the lack of available counseling and psycho-social services which is very much needed in the ongoing process of a divorce case. However, lawyers highlighted that this opens up room for the client depending heavily on lawyers to make decisions for them regarding each and every single issue

6.3 Mechanisms in place to ensure best interest of the child in child custody cases

6.3.1 Acts and International Conventions

Looking at how the legal framework ensures the protection of the best interest of the child, The Maldivian

Constitution, Protection of the Rights of the Child Act (9/91), Family Law Act (4/2000), Family Law Regulations (15/2/2006) and Regulation for Procedure for Resolving Family Cases (2010/R-3) specifies factors to consider when deciding best interest of the child. Moreover, signed international conventions such as Convention on the Rights of the Child (CRC) also specify what constitutes best interest of the child. Judges are bound to consider all these factors when deciding the best interest of the child.

Some of the factors specified in the above-mentioned Acts and Convention include:

- 1) Chain of custody
- 2) Conduct of the parent
- 3) Sex and Age of the Child
- 4) Education, Health
- 5) Protection from any form of physical and mental harm
- 6) Maintaining relationship with both parents
- 7) Maintaining relationship with extended families
- 8) Primary carer prior to complaint
- 9) Child's wishes
- 10) Environment where the child will live in (risk and protective factors)
- 11) Protection from any form of physical and mental harm
- 12) Fulfilment of parental responsibilities (parental capacity)
- 13) Not be removed against will from a parent unless it's in the best interest of the child

6.3.2 Judges seek opinion from other professionals in determining the best interest of the child

Participants from Reconciliation and Mediation Department judges explained that currently judges request for assessment from either Ministry of Gender and Family, or the Reconciliation and Mediation Department, or sometimes from both, prior to making a child custody decision. This is under an agreement between Ministry of Gender and Family and Family Court to request for an assessment from Ministry Prior to making decision in every case relating to a child.

Moreover, since the Reconciliation and Mediation Department's service have not extended to atolls currently Magistrate courts request for child custody assessments from Ministry of Gender and Family's Family and Children Service Centre (FCSC)'s in each atoll. However, the mediation process is carried out by the Magistrate.

This practice of judges to consider child custody assessments in making child custody decision ensures that a holistic approach is taken when determining the best interest of the child.

6.3.3 Measures taken by service providing institutions in order to ensure the best interest of the child

During the interviews service providing institutions identified some of the measures they take in order to ensure that all actions taken by them are in the best interest of the child.

6.3.3.1 Ministry of Gender and Family

Participants from Ministry of Gender and Family explained how they try to ensure the best interest of the child through their assessment process which is as mentioned before an important document considered when a judge makes a custody decision. Ministry of Gender and Family reported that their assessment template is formulated in a way that it captures a broad range of factors including child's physical and psychosocial development, environment, background and history of family which would evaluate events that took place earlier in the child's life in order to understand the family dynamics and identifying role of each parent in the child's life, and how each parent is contributing to the overall development of the child. Moreover, the Ministry with the purpose of getting an unbiased view collects information from multiple sources, which includes a variety of people engaged in the child's environment. Furthermore, equal significance is given to the child's wishes as to who the child has a better bond with considering past experiences. In assessments where it is essential to assess the mental health needs of parents or a child, Ministry makes a referral to a mental health service provider who would assess this component of the assessment as Ministry currently lacks the expertise to conduct such an assessment. Ministry emphasized that through the assessment template ministry would evaluate aspects of fundamental rights of the child and would evaluate how well these needs are met. Furthermore, the assessment is structured in such a way that it would evaluate if the child is protected from harm or if the child is being deprived from enjoying fulfillment of all rights. Currently the Ministry does not explicitly state in assessments which parent should have custody rights of the child; an overall evaluation is made based on the findings of the assessment which captures the situation of both parents applying for custody and ask the court to decide where rights should be placed. The participants from Ministry also informed that the assessment procedure is set in a way that any assessment that is dispatched from the ministry would go through two supervisors and a head of department, so the assessment would have a thorough check to make sure that assessment needs have been fully captured and this is how the Ministry further ensures that the best interest of the child is captured through the custody evaluation assessment process.

6.3.3.2 Maldives Police Service

When asked about the measures taken by police to ensure best interest of the child the participants from police informed that one of the basic things they do in the best interest of the child in custody cases is to, even though police is a uniformed body to attend cases in ordinary attire if there are children present. Additionally, when carrying out a court order, police always attends with a social worker and it is always the social worker who would speak to the child instead of police. In cases where the child needs to be removed, it is always social workers who would carry out this process. In such instances the role of police is to assist the situation not getting worse in case a person causes any form of disruption. Moreover, as mentioned before police further emphasized here too the dispute resolution role they play in always advising the parents to resolve the issue by talking and to put child's best interest foremost and if they can't come to a mutual agreement to go to court to resolve the issue rather than letting the situation further deteriorate. Furthermore, participants also stressed here too that in order to ensure the best interest of the child they only use force when all measures are exhausted and only when there is a very specific court order which states the actions which needs to be taken by the police in instances of breach of the court order. Lastly, a study participant from police also highlighted that in the process of a removal of a child and if there are severe medical or psychological conditions and the child is distressed, they take extra precaution by ensuring that a doctor accompanies them.

6.3.3.3 Reconciliation and Mediation Department, Family Court

Similar to Ministry of Gender and Family, the main way that the Reconciliation and Mediation Department ensures best interest of the child in custody process is through their role as evaluators in the custody assessment. Participants reported that they make sure certain factors are covered in the assessment. These factors include people who will be living with the child, any risks of harm to the child within the environment, education, child's wishes, interaction with both parents etc. Information is collected from multiple sources including visiting the home environment, talking directly to the child and obtaining information of both parties contending for custody rights. Furthermore, for the purpose of assessment the Mediation Department collects additional information regarding the child such as school and health records and any other important documents that needs to be reviewed for the assessment purpose. As the information collected for the assessment is obtained through only one home visit, the Mediation department identified this as a weakness. In concluding the assessment report the Mediation Department provides the court with recommendations regarding custody and visitation. They also reported that their assessment is given a significant weight in making custody decisions.

6.4 Challenges in working on child custody cases

The following were identified as challenges by study participants

6.4.1 Ministry of Gender and Family

- 1) The expectation by parents for the Ministry to resolve every minor issue relating to the child.
- 2) In cases where Ministry identifies a need to for mediation, since the Ministry has no legal authority to bring parties to mediation, there is limited interventions which can be done, and in these cases, it is extremely difficult to find a solution.
- 3) Mediation is provided by courts during the court process, however, after the custody decision is made, there is no further role of mediation by the court. Therefore, after the court process, it is the Ministry who has to intervene when one party violates custody order.
- 4) In cases where, one party breaches the custody order there is currently not much state institutions can do.

6.4.2 Maldives Police Service

- 1) In cases where one parent takes the child away, prior to a court settlement, there is not much that police can do, because both parents have equal rights. If police are aware that the child is in a safe environment, even if it a small child, if the parent refuses to handover the child, the police cannot take any action unless there is a direct order upon the police by the court to handover the child. However, now as a practice if the child is below 7, police do try to return the child to the mother in cases where father is unwilling to return the child.
- 2) Participants from police also stated that currently in cases where the parents do not allow the police to enter the house or are not willing to cooperate; police cannot really do anything as they can't take any action without a court order.
- 3) For every custody breach incident, police having to get involved, routine involvement is not practical and not in the best interest of the child.
- 4) One of the main challenges is at times when the court gives a very short time frame for the implementation of the court order. In such cases, for example if a parent is not willing to disclose where the child is or leaves to another island it is very difficult to implement the order, as the first action that police always take is to call and try to communicate for a peaceful resolution. It also takes time for the police to locate the child.
- 5) If the parents are living on two different islands and the court orders for the child to be handed over to a parent living in a different atoll, currently police cannot make travelling arrangements for the child to be handed over, and it becomes very difficult to implement such orders if the parent does not have any means to travel. In such cases the only

assistance that Police can provide is to accompany the parent to where the child lives once the parent arrives at the island where the child is.

6.4.3 Reconciliation and Mediation Department, Family Court

- 1) The Reconciliation and Mediation Department has currently only one Mediator employed. Therefore, considering the case load it is extremely difficult. For example, looking at records of August 2017 while 29 cases were sent back to trial, there were still 30-35 cases pending. Lack of technical staff is a challenge.
- 2) In conducting the assessments, some of the challenges include, although a surprise visit is necessary, it is difficult, as it is not easy to locate the house. Sometimes, parents make staff wait outside to clean up, so it is difficult to get an accurate picture. Moreover, in cases where the child lives with one parent and usually have limited contact with the other parent prior to the assessment, in such cases it is difficult to assess the behavior of the child with the parent that the child has not lived with. This is a complaint that the department often gets.
- 3) Lack of expertise in the area of conducting child custody evaluation.
- 4) When psychological assessments are required for the purpose of the assessment, especially in cases where the child has a mental health issue or cases where judges specifically requests for a psychological evaluation, the department has to refer to other services for example; MIPSTAR to evaluate this component of the assessment. However, currently the department lacks resources to pay for these for these assessments. This is often a complaint that the department receives as psychological assessments are very expensive often costing around MVR 2000.
- 5) Custody process is more difficult for people living in atolls. Since Department's services are not available in the atolls, it is the magistrate who does the mediation.

6.4.4 Lawyers

- 1) As there is lack of services for relationship and dispute resolution, although it blurs the line ethically, clients expect a therapeutic role from lawyers because of the emotionally charged nature of custody cases
- 2) In Maldivian-foreigner divorce cases if one parent leaves the country with the child, there is not much that can be done as these are grey areas in the law. The reality is that the child is still half a Maldivian

citizen, and the question is how much of protection Maldivian laws can guarantee in ensuring the child's identity to grow up as a Maldivian citizen

- 3) Cases which are lodged multiple times at court and the issue of this spreading across a long period of time, the parents are not aware of what the child goes through during this process
 - 4) Inadequate support from families going through the divorce and custody process.
 - 5) Biased custody evaluation assessment by Social Services. The tendency to view the parent who lodges the complaint in a good light
 - 6) Ministry of Gender and Family, and Maldives Police Service's inability to use their authority granted by Act number 9/91, in addressing issues which arise in custody cases
 - 7) Inconsistency and lack of common standards of practice by Maldives Police Service in handling custody cases. For instance, while in some cases the Police may take and return the child and while in other cases they might say that they can't do anything without a court order.
 - 8) Judges taking a narrow view and not taking a holistic approach when making custody decisions
 - 9) Sometimes Judges find it very difficult to reach a decision, for example all the factors are weighing towards the mother legally speaking but if the judge has room to believe that the father will be a better parent in aspects of emotional wellbeing of the child.
 - 10) Lack of magistrates in some atolls is one of the reasons that cases get delayed in the court process
 - 11) People misusing the system. For instance, when they know institutions won't do anything without a court order, they take the child any time they want. In addition to this, in order to buy some time, a parent might not attend the first hearings, because they know they will only get summoned to court by police only after they fail to attend two hearings.
- 3) Raising the age of the custody from 7 to an age where the child would have attained the level of development to make their own decisions regarding what is in the best interest of the child. Alternatively, the ultimate choice to be given to the child only after an assessment is done on the mental development of the child.
 - 4) The need for awareness of the families to deal with family matters in a civil manner for the well-being of the children

The two most common ways suggested by participants were the following;

- 5) Almost all participants suggested significant need for an institution to be designated with complete legal authority to intervene in custody cases so as to further guarantee the protection of best interest of the child. Participants explained some scenarios where this is of critical importance. Participants noted instances where children are taken away prior to custody settlement to an unfamiliar environment, where the police are not allowed to enter the house without a court order, to ensure both parties attend mediation, to ensure that court decisions are respected, and people do not misuse the situation.
- 6) All participants agreed that there needs to be a mediation or family support service to support the families prior to the court process. Suggestions by participants include a tribunal to sort family issues, psychosocial, psychological support mechanisms for families funded under a scheme such as 'Aasanda' medical insurance, mandatory mediation service within court.

7. DISCUSSION

As identified by findings the main role of Ministry of Gender and Family in child custody cases is assessment and mediation. Ministry of Gender and Family being the only social service provider in the country creates a unique ethical dilemma for the Ministry in child custody cases. This is because while the Ministry is the only social service provider that people can report custody cases to, the Ministry also has the role of preparing custody evaluation assessments for the court, which essentially needs to be an unbiased and objective assessment. However, as suggested by some of the participants, sometimes there is a tendency for Ministry's assessment to be biased towards the party who first reports the case. The literature also emphasizes that custody evaluators must not have in any capacity worked with either party in a therapeutic capacity in order for the assessment to be fair and objective with the purpose to protect the rights of all the parties involved (Babb et al., 2009). One way the Ministry could minimize this issue is ensuring that the custody evaluation is not done by the same case worker who works on the reported issue by the parent. Judges sometimes request for assessments from

6.5 Responding more effectively to child custody cases

When study participants were asked what some of the ways are to improve, to better deal with custody cases, the following are some suggested by participants;

- 1) To make it mandatory for judges to consider custody assessments by a social work body in every case to further ensure best interest of the child when making custody decisions.
- 2) In cases where custody rights are violated by custodial parent, going for alternative solutions such as supervised visitation rights, to ensure bond between the child and non-custodial parent is safeguarded.

both Reconciliation and Mediation Department and the Ministry of Gender and Family, in some cases, and this can be viewed as contributing to an objective and fair judgment, although this is a duplication of work and can be quite burdensome for the families.

The findings indicate that the role of Maldives Police Service and their approach towards child custody cases are very much in line with practices in other countries. However, as noted by some study participants, there is still inconsistency in practice by the Maldives Police Service. The principles and procedure for police action in child custody cases are detailed in the regulation and Family and Child Protection Department's standard operation procedure. Therefore, this can be addressed through ensuring that the specified procedures are followed.

As we can infer from the findings the current system is litigation focused. As evident by literature, litigation is not an effective solution in child custody cases (Zylstra, 2001). Litigation further causes animosity between the parents and does not resolve the underlying issues of custody cases (Zylstra, 2001). Hence, this can be one of the reasons for repeated applications to court and continual reporting of cases to service providing institutions. As proven from the experiences from other countries, mandatory mediation where it is required for the contesting parties to resolve issues through mediation before a litigation process, is likely to be a much better approach in dealing with child custody cases. Moreover, participants from Family Court informed that currently in all civil cases except for family cases an approach for mandatory mediation is used.

While discussing the importance of a move towards a mandatory mediation approach, one of the challenges identified in the study was the limited capacity of the current Reconciliation and Mediation Department of the Family Court. Currently only one mediator is working in the Reconciliation and Mediation Department. Moreover, not all the custody cases referred to the department goes through mediation, due to the limited number of staffs, the study participants informed that currently department's work is more focused on conducting child custody assessments rather than conducting mediation in such cases. Moreover, while literature suggests child custody mediation to take on average two sessions which lasts for three hours (Donnelly & Ebron, 2000), mediation offered even by Ministry of Gender and Family is also limited, which is usually a one-off session only to address issues which require immediate attention. Hence, the vital need to employ more technical staff and hence enhancing the capacity of the Reconciliation and Mediation Department as the main body of mediation and custody assessment was identified.

One of the most common suggestion by participants to better improve service provision in custody cases was to introduce a family support or counseling service to assist families to cope and adjust to family breakdowns. While some participants suggested for a tribunal to sort family issues, others suggested for a state funded counseling and

psychosocial service. The main reason why custody cases gets so extremely difficult is because families are not able to cope well and adjust to breakdown of the family, and their inability to move forward from the relationships (Treneff, 2014). Therefore, early intervention is required to address these underlying issues to avoid the escalation of conflict within families and create healthy relationships for the best interest of the child. However, currently there are no family support services or relationship counseling services available within the system. Such a service would ensure families get the support they need at the point of separation and would be a preventive measure against high conflict child custody cases.

As identified in the findings some of the most challenging cases for service providers are continuous breach of child custody order and cases where police are not allowed in the house to check the status of the child. Formulation of a coordinated mechanism by Ministry of Gender and Family and Maldives Police Service with an agreement on how to approach these cases could be the solution in continuous custody breach cases also bringing consistency in service delivery. As also noted by one of the participants in the study, under current legislations, especially Act number 9/91(Protecting the Rights of the Child Act), the police have the authority to enter a house in such instances to check the status of the child. However, as indicated in the findings as there seem to be ambiguity and if this is a recurring issue it could be a point of amendment to explicitly state so in a future Act or regulation.

As presented in the findings although there is an understanding of what constitutes the best interest of the child within the legal framework, factors which specifically needed to be weighed in making a child custody decision is not stated in the Act or the regulation. As in the other countries if these factors are clearly stated in the Family Act or regulation, this would further ensure consistency in child custody decisions made, limits discretion for judges, limits focus on parent's right over child's right and hence, further ensures the best interest of the child (Charlow, 1986).

8. RECOMMENDATIONS

- a) To consider increasing the age of the custody period.
- b) In order to bring further clarity in what the best interest of the child consist of, detailing the factors in one of the court regulations
- c) To consider adopting a system of mandatory mediation prior to application to court
- d) Formulating an institutional coordination mechanism to address continuous breach cases and in cases where staff are prevented from entering the house on situations of concern.
- e) Building capacity of Mediation and Reconciliation Department

- f) As an early intervention, establishing a family support counseling service to assist families cope and adjust to family breakdown
- g) In order to create awareness on rights of each parents, conflict resolution, impact of parental conflict on children etc., Introducing mandatory education programs for parents applying for child custody
- h) Introducing a set up within Ministry of Gender and Family to facilitate supervised access in cases such as parental alienation, child refusing to visit parents, allegation of abuse etc.

9. CONCLUSION

The conflict between parents in custody cases can have a detrimental impact on the child's mental well-being. The primary purpose of institutions involved in child custody cases is protecting the best interest of the child. While there are written procedures, more focus on following the procedure and hence consistency in practice is crucial in improving service delivery. Moreover, as recommended by this study a move towards a mandatory mediation approach is essential in ensuring a more effective and long-term solution to child custody issues and hence preserving best interest of the child.

The findings and recommendations of this study can be beneficial for institutions to improve service provision for families and children involved in custody cases. However, a follow-up study is needed to seek view of families involved in custody cases to better understand and obtain a more holistic perspective on the capacity and the challenges within the current system in meeting the needs of these families involved in custody cases.

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How can the DVPA 2012 Strengthen its Mandate to Protect, Using the PO as an Effective Tool to Prevent DV?

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Abstract—The primary aim of this research was to understand the current challenges to practically apply the protection mandate of the Domestic Violence Prevention Act 3/2012 (DVPA 2012) using Protection Orders (POs). The paper uses a mixed methodology involving review of the limited available literature on the DVPA, consultations with key stakeholders including relevant authorities and lawyers, analysis of available quantitative data on POs as well as the in-depth analysis of one case study. The study found that there are significant issues in relation to the practical application of the DVPA through POs to protect domestic violence survivors as intended by the law. These include difficulties in the application process due to procedural challenges and protocols, lack of access to lawyers especially in the atolls and, barriers to access the justice system due to socio-cultural and structural constraints. The analysis of quantitative data showed that while the number of POs had consistently increased from 2013 onwards, 2017 saw a significant decrease. On average, the data shows 3 POs per month during 2016 which dropped to 2 POs per month in 2017. The data also showed that in 85% of cases, POs were sought by women and in the majority of cases, protection was sought against a husband or an ex-husband. A significant disparity was evident in the number of POs issued in Male' and the Atolls, with the latter issuing far few than the former. Interestingly, while 2017 saw an overall decrease in the total number of POs, there were more EPOs issued than POs. Overall, data patterns indicated unexplained inconsistencies and disparities which require further study to fully understand. Other findings showed serious malpractice and gaps in the quality of service provided by duty bearers, gaps in documenting and reporting POs as well as inconsistencies in the reported issues which do not corroborate with prevailing key social issues. The research concludes observing the need to improve the services provided by duty bearers to facilitate access to POs and provides a series of recommendations to improve quality of services and access to POs to strengthen the protection mandate of the DVPA.

Keywords—Protection Order, Courts, DVPA 2012

I. INTRODUCTION

This research paper was produced for presentation at the National Conference on Research in Domestic Violence (NCRDV) organised by the Family Protection Authority (FPA) of Maldives which was held in Male' from 28-29 January 2018. The primary aim of the research was to understand the current challenges to practically apply the protection mandate of the Domestic Violence Prevention Act 3/2012 (DVPA 2012) in relation to Protection Orders (POs). The findings of this research were presented to relevant stakeholders at the NCRDV on 29 January 2018. A key objective of this paper

was to use the opportunity of the NCRDV to obtain diverse views, opinions and perspective from conference delegates on the findings that were presented. This engagement was used to assess the strengths and weaknesses of the protection mandate of the DVPA based on stakeholder experiences in the prevailing context, in relation to POs. Insights from that forum and subsequent stakeholder input were used to strengthen the recommendations of this paper.

The research used a mixed methodology which is clarified in Section Two. This involved reviewing the limited available literature on the DVPA, consultations with key stakeholders, analysis of available quantitative data on POs as well as the analysis of one multi-faceted case study. The paper then focused on the position of POs in the DVPA in Section Three and studied the PO application process in Section Four. In Section Five the paper looked at the available quantitative data on POs for a 4.5-year period and provided analysis of various aspects relevant to its usage in practice. In Section Six, a case study involving a PO is presented and critically analysed. Finally, Section Seven provides conclusions and recommendations based on the findings of the research.

II. METHODOLOGY AND LIMITATIONS OF THE STUDY

Having come into force in 2012, the DVPA is a relatively new and little studied law. However, a stock-take of the DVPA was conducted by the Gender Advocacy Working Group (GAWG) in 2014.¹ This and a few other available peripheral materials relevant to the DVPA provide the limited sources of reference to inform this study. While the DVPA is the overall legislation that covers all aspects relating to the prevention of domestic violence in Maldives, the scope of this inquiry is limited to focus on issues relevant to POs within the law. This inquiry is also geographically limited only to Male'. Therefore, several key stakeholders based in Male' were consulted, including the FPA, the Family and Child Service Centre (FCPD) at the Maldives Police Service (MPS), the Family Court, the Ministry of Gender and Family (MoGF) and civil society actor, the Family Legal Clinic (FLC). In addition, individual conversations were conducted with practicing lawyers with experience dealing with domestic violence cases some of which involving POs. A questionnaire was used to obtain detailed information from lawyers with insights into cases where a PO was sought, which yielded one comprehensive response.

The limitations of the study include the challenges in obtaining substantive up to date information and data from key stakeholders and the limited availability of existing literature

on the topic in the Maldives. However, given the narrow focus and scope of the paper, the available information was adequate to produce a reasonable assessment of the situation in the prevailing challenging context.

III. WHAT ARE POS IN THE DVPA 2012 AND WHO CAN APPLY FOR IT?

Chapters 7 and 8 of the DVPA 2012 are dedicated to POs and these include two types. Chapter 7 dwells on the general type of PO while Chapter 8 specifies Emergency Protection Orders (EPOs).

The law describes a PO as follows.

“A protection order is a legal order made by the court to prohibit the commission or omission of certain acts by the person who committed the act of domestic violence, in order to protect the victim(s) from the recurrence of domestic violence.” [Article 18(a)]ⁱⁱ

Furthermore, the law elaborates the circumstances in which such an order may be issued, as below.

“The court may issue a protection order, in order to prevent the occurrence of domestic violence or with the intention of protecting a person, under the circumstances where the court believes that there is apprehension of domestic violence.” [Article 18(b)]ⁱⁱⁱ

According to the DVPA 2012,

“The fundamental objective of a protection order is to ensure the physical and psychological protection of the victims or potential victims of domestic violence and ensure their health and rights are protected and preserved.” [Article 18(c) – emphasis added]^{iv}

Therefore, the primary purpose of the PO is protection and prevention from further risk of harm from domestic violence where it exists, as emphasised by sections (a) and (b) of Article 18. The law provides the court full authority to play an integral and productive role to actively intervene and use the PO as a tool to stop acts of domestic violence. Although Article 8 states that the court may issue a PO under circumstances where “the court believes” there is a threat of violence, the DVPA 2012 very clearly specifies 17 different acts of domestic violence in Article 4(a), which removes ambiguity. Notably, these 17 acts of violence are listed verbatim as in the law, in section 5 of the Family Court’s PO application form number Fm-C-B15, for selection by the claimant.^v Article 25 of the law, given below, further clarifies that other circumstances would not be a barrier to issuing a PO.

“On-going divorce, child custody proceedings related to the victim or the perpetrator, or any other civil or criminal proceedings related to the victim or the perpetrator, for that reason alone, shall not be a bar to issuing a protection order.”

Chapter 8 of the DVPA 2012 describes the scope and functions of the EPO as per Article 37(a) below, which is further qualified with certain conditions as per Article 39.

“An emergency protection order (unlike a protection order where both parties are summoned

and heard in court prior to granting such order under the usual rules) is an order granted without notice (to the perpetrator) based only upon the statements of the victim.” [Article 37(a)]

According to Article 19(a) of the DVPA 2012, anyone “bound by a domestic relationship” to another may apply for a PO. Moreover, these include minors who may apply for a PO through a parent or guardian or by themselves or a third party as specified in Article 8(b) of the law, which defines who can report a case of domestic violence to a relevant authority. This constitutes a broad range of persons who are both directly connected and unconnected to the victim; including witnesses to the incident, a family member, an acquaintance, relevant authorities and service providers as well as anyone with “information of occurrence of domestic violence”.

Given the clarity with which POs are described in the law and the broad range of persons who can apply for a PO as per the law, there should be no barriers to access the protections and preventive remedies from violence offered by the DVPA 2012. Nevertheless, despite the lucidity of these articles of law, there are several challenges in the meaningful implementation of the spirit and letter of the law in practice.

IV. WHAT IS THE PO APPLICATION PROCESS

Consultations with stakeholders suggest that in most cases, POs are submitted by the individual seeking protection. In a few cases, a third party may be involved and in fewer cases still, a lawyer may be involved.^{vi} Although various stakeholders are mandated to provide assistance to survivors of domestic violence to obtain services, in the case of POs, it appears that applicants are generally unsupported, besides being provided the basic information on where to go to obtain a PO. Stakeholders informed that the general protocol is to guide persons seeking a PO to the relevant court which in Male’, is the Family Court. In the atolls, each island community has a magistrates’ court.

The DVPA 2012 in Article 14 specifies a series of actions under the sub-heading, “Duties of the Police”. According to this Article 14(h)(1)(aa), the police are required to advise the victim of domestic violence about their rights and remedies provided in the law, including the right to obtain a PO from the court. This information has been transferred almost verbatim to the police regulations relevant to the DVPA 2012, in section 14(b)(1)(1.1).^{vii} In addition, this regulation also makes brief reference to Article 15 of the DVPA which details at length the way in which the police must advise the victims of their rights, including through explanation and in writing if requested. Article 15 of the DVPA provides detailed guidance to the police that the victims should be informed about their right to a PO. In addition, the police are required to explain what a PO would entail, and that obtaining a PO does not require the services of a lawyer and court assistance may be obtained to seek a PO. According to stakeholders from the police, as first responders to domestic violence cases, they do provide the physical forms to people who may want to apply for a PO.

The civil society organisation FLC, which operates a pro bono legal information service for a limited number of hours per week, is a source of support for victims of domestic violence who seek POs in Male’.^{viii} But this support would be available to those who know about this service and know how to seek assistance. The complete absence of such resources in

the atolls suggest that people seeking POs in communities outside Male' would have even less opportunity to obtain legal assistance or services, and therefore, this right to protection provided by law. This situation requires the authorities, such as the police and the court system, to be much more supportive and attentive to those seeking POs in the atolls where virtually no other avenues are available.

The Family Court has a PO application form which is available on their website. This is a 9-page document which has to be submitted with a range of personal information about the applicant as well as the alleged perpetrator. The form requires a series of supporting documents to be submitted, including copies of national identity cards, medical reports of evidence of abuse where this is available and so on. The application form has a 20-point set of strict instructions on how to complete the form. This includes instructions such as font type and size to use, which side of the document should be stapled and what colour of ink should be used if the application is hand written. In addition, the statement of the incident of reported domestic violence must be provided in numbered paragraphs. To make any amendments to the application, the court allows a period of 3 working days. If such amendments are not completed within this time, the application would be nullified. The instructions also state that if all the requirements of the forms are not complete with the required documents, the form will not be accepted by the court.

It is self-evident that the above described application form process is required to be completed with a high degree of precision. This is also required to be done by a domestic violence survivor seeking protection, sometimes as a matter of urgency, from the threat of violence or actual violence from a perpetrator of any of the 17 different acts of violence as specified in the DVPA 2012. In the absence of relevant data, it is not possible to assess how successful applicants are to complete the forms to the required level of precision. Moreover, there is no data on the number of attempts applicants make in order to secure a successful submission of the necessary paperwork to obtain a PO. A brief assessment of the application instructions indicate that this process may be quite challenging for a domestic violence survivor to successfully complete in the first instance, who may be in a state of distress or anxiety and in urgent need of protection from the threat of harm. However, relevant data need to be collected to understand the actual difficulties experienced by those who seek this protection service from the courts, which is beyond the scope of this inquiry.

V. PROTECTION ORDERS ISSUED UNDER THE DVPA 2012 SINCE 2013 TO JUNE 2017 –IN NUMBERS

Available data from the FPA relating to POs show that from 2013 to June 2017, a total of 84 POs and EPOs were issued across the country. Figure 1 below shows the total number of POs issued by year, over the last 4.5 years.

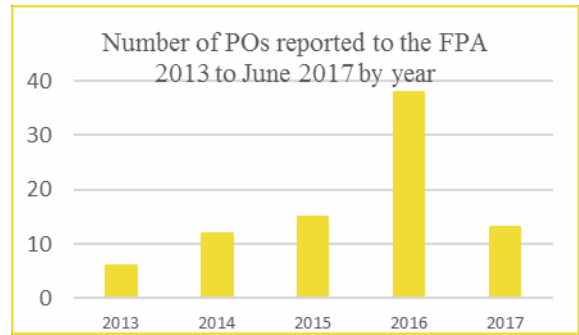


Figure 1
Number of POs issued by the courts that were reported to the FPA from 2013 – June 2017
Data source: FPA, 2017

The data in Figure 1 shows a steady rise in the number of POs during the first 3 years and a sudden spike in 2016. According to FPA, this could be attributed to the significant increase of DVPA awareness raising activities conducted by various stakeholders to build the capacity of service providers during 2015 and 2016. These activities were conducted by the FPA as well as other duty bearers such as the MoGF, the Human Rights Commission of the Maldives (HRCM), the MPS as well as civil society organisations. Furthermore, these activities had a significant outreach in the atolls where key stakeholders such as magistrates participated. However, this does not adequately explain why the numbers fell again in 2017, as evident above and also in Figure 2 below. On average, the data shows 3 POs per month during 2016 but this drops to 2 POs per month in 2017. Figure 2 below shows a significant disparity in issuing POs between the Family Court in Male' and the Magistrates' Courts in the atolls. The 2014 DVPA stock-take observed that "stakeholders expressed satisfaction with the processing of POs in Male' although serious concerns were shared about the situation in some island magistrate's courts where conservative religious views are used as justification to not issue POs even in serious cases."^{xix} It is imperative that the justice sector address these gaps to ensure equitable access to justice regardless of geography, location or individual subjective views of magistrates.

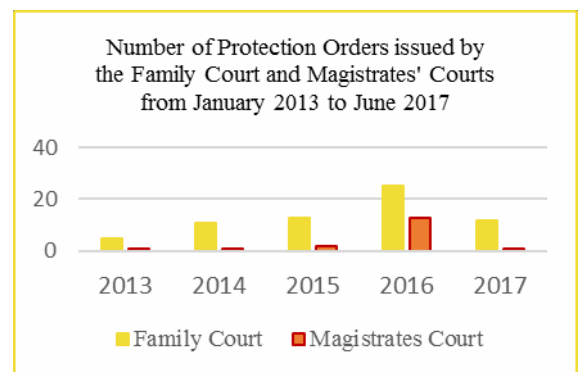


Figure 2
Number of POs issued by the Family Court in Male' and the Magistrates' Courts in the atolls, by year, from 2013 - June 2017
Data source: FPA, 2017

In terms of the types of POs issued since 2013, Figure 3 provides data on the 2 types namely POs and EPOs. Notably, unlike other years, in 2015 and 2017 there were more EPOs than POs issued, for which there is no evident explanation. Unfortunately, the available data does not enable further analysis of this point at this time. It is important to note that

as per the DVPA 2012, an EPO is issued without further consultation with the alleged perpetrator, as the concern is that the applicant may be further exposed to harm should this be done.^x This is an important reason to further scrutinise this discrepancy in Figure 3.

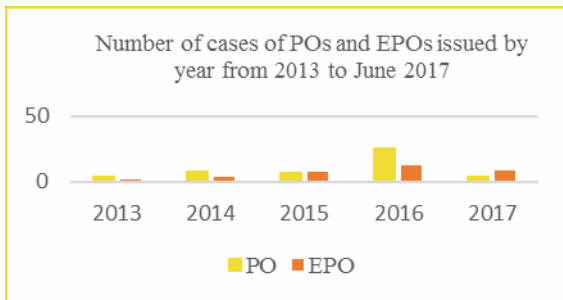


Figure 3
Number of cases of POs and EPOs issued, by year, from 2013 - June 2017
Data source: FPA, 2017

Figure 4 below provides sex disaggregated data on POs and it is evident that a disproportionate number of women requested for POs compared to men. The data shows that in 2014 and 2017, there were no POs issued to protect a man from domestic violence, the reasons for which must also be further studied. A total of 71 women (85%) and 13 men (15%) obtained POs as a protective measure against domestic violence during the 4.5 years of the data set. This is an unsurprising figure given the prevalence of violence against women in the Maldives, where the experience of gender-based violence stands at 1 in 3 women and intimate partner violence stands at 1 in 5 women.^{xi}

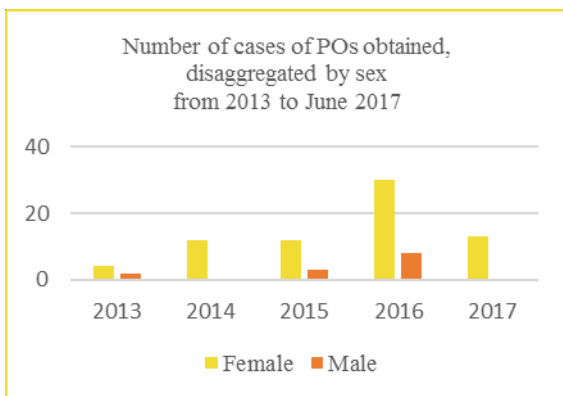


Figure 4
Number of cases of POs obtained, disaggregated by sex, from 2013 - June 2017
Data source: FPA, 2017

With reference to the perpetrators of domestic violence against whom POs were issued, data shows that there is a broad range of kin and other connections involved. Figure 5 below provides a breakdown of the various relationships and connections the claimant of the PO had with the perpetrator against whom protection was sought.

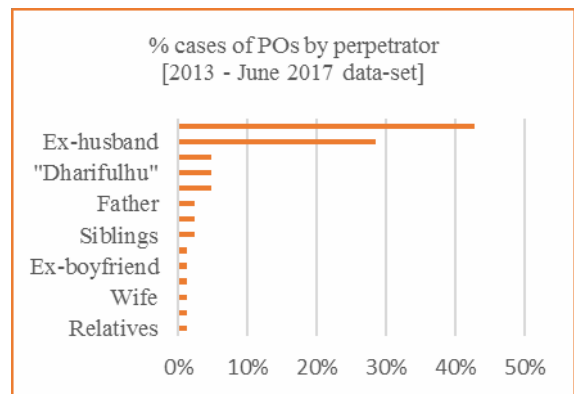


Figure 5
Number of cases by perpetrator against whom POs were issued (from 2013 - June 2017)
Data source: FPA, 2017

The data shows that in 43% of all cases of POs, protection was sought against the husband. In 29% of the cases, a PO was sought against an ex-husband. In the next most prevalent category in 5% of each of the cases respectively, the perpetrator is a brother, or “dharifulhu” (own child) where the sex of the offspring is not known. Furthermore, in 5% of the cases, information about the perpetrator was not provided in the PO form and therefore remain unknown. The remaining cases with a prevalence of 2% and 1%, the perpetrator’s connection to the violence survivor includes father, mother, other siblings and relatives, wife, ex-wife as well as ex-boyfriend. However, compared to the most prevalent two categories involving husband and ex-husband, the rest of the cases are statistically not significant.

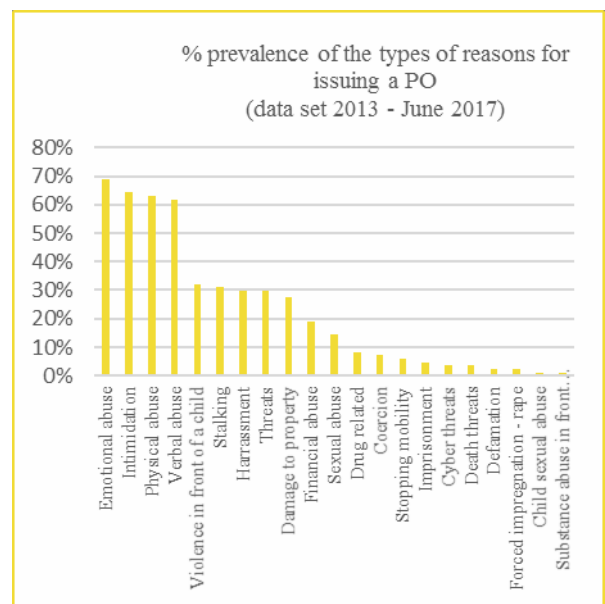


Figure 6
Types of reasons for issuing a PO (from 2013 - June 2017)
Data source: FPA, 2017

Figure 6 above provides data on the different types of reasons cited to justify issuing POs. In many instances, there were multiple acts of violence which contributed to the court’s decision to issue a PO. In one case out of the total of 84 cases in the data-set studied, all 17 acts of violence specified in the DVPA was used to seek a PO. As noted earlier, the Family Court’s application form for a PO provides the 17 acts of violence described in Article 4(a) of the DVPA.^{xii} As the data

in figure 6 shows, the most prevalent types of violence cited to issue a PO include emotional abuse in 69% of cases, intimidation in 64% of cases, physical abuse in 63% of cases and verbal abuse in 62% of cases. The prevalence of the remaining reasons drops significantly, with 32% of cases involving causing a child to witness an act of domestic violence which is also prohibited by the law.

The next most common act of violence involved stalking in 31% of cases, and harassment and threats in 30% of cases respectively. Unusually, in one such case, the perpetrator's threat involved committing suicide. In 27% of cases, damage to property was cited as a reason to issue a PO and in 19% of cases, financial abuse was cited to issue a PO, followed by sexual abuse in 14% of the cases. However, the reported cases of sexual abuse when seeking a PO is inconsistent with the prevalence of sexual abuse in intimate partner relations in the findings of the WHLE 2007. That report found "a significant overlap between physical and sexual partner violence with most women who reported sexual violence also reporting physical partner violence".^{xiii} Therefore, in the prevailing socio-cultural context and the documented occurrence of intimate partner violence, this data indicates that there is a high possibility of sexual violence being under-reported when seeking protection through a PO.

Likewise, the issue of drug abuse is a major social issue in the Maldives where the only national level study released in 2013 found the drug use prevalence rate in Male' as 6.64% and in the atolls 2.02% which, in numbers translated to 7496 drug users nationwide.^{xiv} However, only 8% (or 7 cases) of POs issued in the 4.5 years cite drug use as an associated reason for issuing a PO. Although the numbers are comparatively low, there were several other serious issues of violence cited in issuing POs. These include death threats in 4% of cases, imprisonment in 5% of cases and limiting or stopping the mobility of a person in 6% of cases. In 2% of cases, rape and forced impregnation was cited as a reason to issue a PO and in 1 case, child sexual abuse was cited. Based on the gravity of the issues evident in PO cases, serious concerns must be raised about the significant drop in issuing POs in 2017 compared to 2016. Furthermore, the fact that major social issues are not representatively evident in the POs issued indicate serious service gaps exist in the protection services.

One critical factor that is not addressed in this limited study, but requires emphasis here nevertheless, is the lived realities of victims of domestic violence in a variety of social, economic, cultural and religious contexts which limit access to a way out of violent and abusive relationships. Consultations with lawyers provide anecdotal evidence that some violence survivors have such reservations about going through with a PO that even after completing all the paperwork, they withdraw the submission.^{xv} Some of these reasons are discussed later in this paper, but the underlying reasons for this must be studied through further research to understand the dynamics that deter women from pursuing legal remedies to relationship conflicts that lead to harmful outcomes. This observed reservation by women could be attributed to the sense of vulnerability a woman may feel in the Maldives social context, where victim blaming is a common problem. A culture of real support to survivors of violence can only be nurtured through broader societal level sensitisation of the lived realities of survivors of violence through sustained advocacy for prevention.^{xvi}

Furthermore, the experiences survivors have with first responders such as the police, lead to betrayals of trust in duty bearers and the authorities. Anecdotal evidence suggests that in some cases, there is grave malfeasance by individual police officers where personal favours are sought from victims of domestic violence in exchange for protection or in progressing the case.^{xvii} According to one such anecdote, a case officer is alleged to have asked for sexual favours when attending a crisis call of a woman in fear of her perpetrator.^{xviii} Stories of such exploitative behaviour by duty bearers are extremely alarming and require serious investigation. The prevailing systemic challenges present a serious barrier to ensuring accountability. These realities cannot be captured here but are essential to study further to understand the socio-environmental factors that undermine the ability of vulnerable beneficiaries of the DVPA from accessing the remedies provided by the law. Such anecdotal evidence indicates the significant gaps and limitations of the support mechanisms available within the social protection system. They also bring to the fore some of the reasons behind the lack of trust and confidence violence survivors have in duty bearers, to provide basic social and legal protections. Best practice tools are available in various forms as evident from resources produced by authoritative organisations that study the issue globally.^{xix} The findings of this limited inquiry show that the need to significantly strengthen the capacities of first responders such as police officers in line with best practices is clearly acute in the Maldives.

As discussed previously, the DVPA 2012 gives much importance to POs as a tool to prevent acts of domestic violence and their non-repetition. Therefore, the speed with which POs are issued becomes an essential point of scrutiny. Available data provided in Figure 7 below shows that in the case of regular POs where the protocol used is to consult both parties before issuing the order, 25% of cases were handled within 1 week. In the majority of cases consisting 33%, the PO was issued within 8 to 30 days of submission to court. In another 25% of cases, this duration took between 1 to 2 months while in 17% of cases, it took over 2 months for the relevant court to issue a PO. Consulted stakeholders acknowledge that the Family Court in Male' responds efficiently in many of the cases involving POs, although there is no data-based evidence available to validate this view. In fact, the most appropriate source of this information will be the beneficiaries. Therefore, the necessary information about service provision must be gathered by asking direct beneficiaries about their experiences. This once again, require further research.

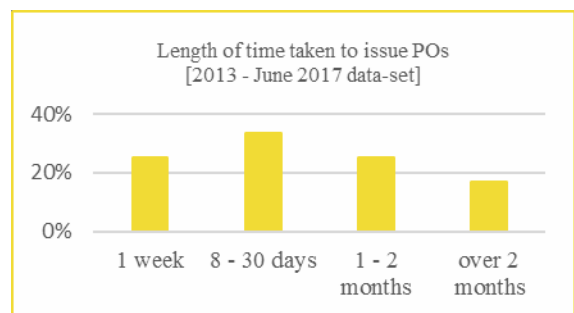


Figure 7
Length of time taken to issue a PO (from 2013 - June 2017 data-set)
Data source: FPA, 2017
Note: some POs do not have submission dates which affect total numbers used in this data set.

Figure 8 below provides data on the time taken to issue EPOs. In these cases, the data pattern is very similar to the information provided in figure 7 above for regular POs. It is evident from the data that in the majority of EPOs consisting 37% of cases, it took 8 to 30 days to issue the order. In 32% of cases, the EPO was issued within 1 week. However, in 24% of cases, it took 1 to 2 months to issue this order which is almost the same situation as a regular PO. This is clearly not the result the DVPA 2012 wants to achieve, by providing protection through EPOs. It is notable that significantly fewer EPOs than POs took more than 2 months to be issued, although the fact that 8% of EPOs took this length of time is entirely unacceptable. According to the FPA, the POs reported to the authority by the Family Court sometimes do not have the date of application on them, which impinges data accuracy and analysis provided here with this data set. Nevertheless, the data patterns evident from the numbers available clearly shows there is significant scope for improvement in the speed of issuing POs and EPOs.

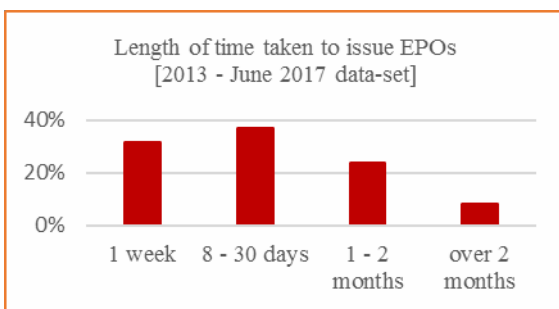


Figure 8

Length of time taken to issue EPOs (from 2013 - June 2017 data-set)

Data source: FPA, 2017

Note: some POs do not have submission dates which affect total numbers used in this data set.

It is beyond the scope of this study to scrutinise the reasons for these major delays in issuing both POs and EPOs in any depth. However, consulted stakeholders provided conflicting explanations about the duration usually taken to issue POs. According to the Family Court, EPOs are issued within 24-48 hours and this information is supported by some of the lawyers consulted for this study.^{xx} However, this speed may be influenced by the fact that a legal practitioner is representing the applicant. According to the Family Court, most PO cases are submitted by the claimants themselves.^{xxi} Available studies show that serious challenges exist for ordinary members of the public to access the justice system in the Maldives, and women in particular consider access to justice a key personal concern.^{xxii} Furthermore, access to a lawyer is unaffordable to most, and virtually impossible in the atolls, with 99% of registered legal practitioners being based in Male'.^{xxiii} Therefore, this analysis asserts that most applicants seeking POs do not have the assistance of a lawyer which may have a significant negative impact on the speed and efficiency of the process. In section 14 of the PO application form of the Family Court, there is a tick box which asks for a form to be filled if a lawyer or third party is acting on behalf of the applicant.^{xxiv} This suggests that there is an existing data collection avenue to facilitate further study to understand if cases attended by a lawyer moves more quickly than those that are not. It is a worthwhile activity for the FPA and the Family Court to collate this data within the PO

application forms, to understand accessibility and speed of service provision more clearly.

The Family Court informs that it facilitates requests for POs by opening on Saturdays when the need arises, which is an important service available in Male'.^{xxv} Nevertheless, several key stakeholders raised concerns about delays in issuing POs which is consistent with the data provided in Figures 7 and 8 above.^{xxvi} The data clearly shows serious gaps in the efficient issuance of POs and EPOs across all relevant courts. Therefore, it is evident that further inquiry is needed to understand these discrepancies. In addition, an important point to note here is that among key stakeholders, the only 24-hour service available for victims under threat of or experiencing domestic violence, is the police, and this service is not consistent across all communities in the atolls. From the perspective of accessing EPOs in particular, there is also a systemic gap which is the lack of access to a court during unofficial hours. Furthermore, the official hours for submission of documents, including the MVR 25/- fee to the Family Court are between 08.30hrs and 11.30hrs which consists of only 03 hours of access time within the 24-hour day.^{xxvii} While this is the situation in Male', the difficulties of access to courts in the atolls was observed by some stakeholders to be much worse. Although the handling of PO and EPO cases are reported by some stakeholders as reasonably good in Male', one stakeholder described that these cases are "not urgent for magistrates in most instances". Once again, the discrepancy of number of PO cases between Male' and the atolls evident from data provided in Figure 2 earlier in this report supports this observation.

According to the Family Court, the process flow used to issue regular POs require a 3 day-period for court registration which includes time to rectify any errors in the PO application.^{xxviii} The PO application form which is a 9-page document is considered by some stakeholders as too lengthy and difficult for applicants to use. However, the Family Court informs that the PO form is in its second version now, having been simplified and amended with tick box options to increase its usability.^{xxix} As this inquiry does not include consultations with applicants directly, it is not possible to provide detailed information about the challenges faced by them to complete PO applications. However, a few observations are available from service providers about such challenges.

One of the challenges observed is the requirement of personal documentation such as national identity cards, which may sometimes be in the possession of the alleged perpetrator who refuses to hand them over. Additionally, the detailed PO is also perceived to be a barrier because of the requirement to disclose essentially private information like income details which are arguably unrelated to obtain protection from the harm of domestic violence. In addition, claimants are sometimes reluctant to pursue a PO because of the creation of a criminal record, as well as for reasons of economic security due to such dependency on the perpetrator. Therefore, it is evident that there are certain practical considerations identified by service providers which need to be systemically addressed to make the PO more accessible to beneficiaries. Survivors of domestic violence are often in a very vulnerable situation. Therefore, every effort must be made by duty bearers and service providers to ensure they are practically and reasonably able to access protection through the PO, which is designed to facilitate that protection by law.

In terms of breaches of POs, most stakeholders were not aware of such cases. The FLC which provides pro bono legal information and services to domestic violence survivors has experience of supporting clients in 11 PO cases between 2014 and 2017. The organisation informed that they were aware of one such experience of breach of a PO, which as a result of changes in case circumstances nullified the need to pursue further. The issue of breaches of PO appears to be a relatively new area for most stakeholders consulted and there does not appear to be much knowledge or information relating to this aspect of the PO.

In relation to misuse and abuse of POs too, most key stakeholders inform that they have not come across such cases. However, stakeholders from FCPD observed the incidence of misuse of the DVPA to seek divorce in some cases due to the availability of judicial divorce through the law.^{xxx} Notably, in the legal framework of the Maldives, the only avenue for a woman to obtain a divorce where a man refuses one is through the court. Therefore, considering the unequal opportunity available for women to access divorce, this interpretation by a key stakeholder such as the FCPD shows a worrying lack of understanding of context. This is especially notable because the DVPA 2012 is widely accepted as a gender-neutral law which does not in any way discriminate based on gender.

Stakeholders reported significant knowledge gaps about the actual workings of a PO. According to the Family Court, most recipients of a PO are unaware that an order can be changed or nullified. In Articles 33 and 34, the DVPA 2012 provides the court discretion to do either of these two things based on application to the court with valid reasons to do so by either party involved in a PO. Notably, this is not an issue raised by any other stakeholders. This indicates that considering the PO is an order of the court, perhaps the court has a role in informing recipients about further details relevant to the PO and how the order actually works.

VI. PROTECTION ORDER – CASE STUDY AND ANALYSIS

A. Case Study

Time taken to issue the EPO: 1 week

The EPO was somewhat effective in removing the DV perpetrator (DVP) who was the husband, out of the house of the DV survivor (DVS), who was the wife.

In this case, the house was owned by the DVS.

The DVS sought the order about one month after she filed for divorce from the DVP. The Family Court in Male' treated the PO application as a separate case from the divorce, even though it was filed as part of the divorce application. Two different judges considered the PO application and the divorce. The divorce proceeding took much longer, about 5 months, because it was treated as a routine divorce case even though one of the grounds for the application was threats of violence and ill-treatment, including death threats. The PO case involved one hearing, which was held in the absence of the DVP, and was granted for the protection of the DVS and the couple's child.

In this case, the DVP held possession of the child's passport and a separate request was made to the court to withhold the passport. This was because the DVP who was a non-Maldivian had threatened to take the couple's child out of

the country. The judge who presided over the divorce hearing granted the order to withhold the passport without holding a hearing but based on the written request.

Once the PO was issued, the court sent a copy to the police. However, it was not sent to the DVP. Incidentally, the judge who oversaw the divorce case was not aware of the application for a PO or its outcome. Therefore, although the application for a PO and divorce was submitted under the provisions of the DVPA, the two were dealt with as separate issues and overseen by separate judges.

In one instance, the PO was breached by the DVP which involved a traumatic incident for the DVS and her child. It was following this breach that a request was made to the police to remove the DVP from the house of the DVS. Even with the breach, the DVS was reluctant to call the police to remove the DVP from the property as she did not want the child to witness its father being taken away by the police.

The removal of the DVP from the property with the assistance of the police was arranged with support from the lawyer and close friends of the DVS, as she was unable to deal with the pressures of the situation alone. Furthermore, by the time police arrived at the scene, the DVP had composed himself and the police did not witness the violence.

After the PO was issued by the court, the DVP was not informed about this by the court or the police. This meant he was unaware of this development. As a result, the lawyer of the DVS informed the DVP about the order which resulted in the lawyer receiving verbal abuse from the DVP.

When the DVP found that he cannot visit the child, he applied for visitation rights. His application was considered by a third judge because the judge handling the ongoing divorce proceedings was on leave. This judge granted limited access to the child in the presence of the mother, the DVS, which meant that both parties protected by the PO were required to be with the DVP alone. In order to avoid this situation, the DVS first requested the court (unsuccessfully), and later to the MoGF to provide the assistance of a social worker to facilitate the DVP's visit to see his child, which was arranged.

B. Case Study Analysis

The above case study provides one example to analyse for the purpose of this paper. On the whole, the case shows that the PO was an effective tool in ensuring that the DVS and her child were provided the much-needed respite and protection from the ill-effects of the presence of the DVP in their home. This case however, is not representative of most of the types of cases, one key factor being the DVS's ability to obtain the services of a lawyer. However, this case helps to highlight that having the means to be self-sufficient does not necessarily provide protection from a DVP and persons in positions of privilege also require the protections provided by the DVPA. This emphasises the social reality that domestic violence is a complex problem without socio-economic and social status boundaries. Therefore, the issue of domestic violence must be addressed systemically, systematically and through legal due processes to preserve the health and wellbeing of the family unit and individual persons in society, regardless of social, economic or other status of privilege. Moreover, domestic violence is a serious social issue that is debilitating to the lives of the least able and privileged, for whom the protection systems must work with special considerations of non-

discrimination. It is for these reasons that the DVPA is one of the most important pieces of social protection legislation in the legal framework of the Maldives, that must be implemented with serious due diligence.

If the details of the case are compared with the requirements of the DVPA 2012, there are several points of note that should be considered for future improvements as well as some positive aspects. These include the following.

- The delay in issuing the EPO is inconsistent with the intent of the law. However, it is noted that the PO was issued with one hearing, which is a positive aspect.
- The EPO was issued without consultation with the DVP, which is consistent with the provisions of the DVPA. This is also a positive aspect because the reasons for doing so is to ensure that the DVS does not get exposed to further violence from the DVP, if informed.
- When the court issued the EPO, the DVP was not informed of this by any of the authorities, leaving the DVS and her lawyer to suffer the consequences of this oversight. This goes against the purpose of the law and requires effective processes in place to ensure non-repetition.
- The divorce application was submitted citing threats of violence, ill-treatment and abuse as reasons. The DVPA provides protective remedies in such cases but the fact that the DVS had to wait for about 5 months for a judicial divorce is inconsistent with the purpose of the law.
- The case of the EPO and the divorce were treated separately despite the fact that the grounds on which applications were made involved threats of violence and intimidation. The cases were dealt with by two separate judges, which eventually led to the situation where the divorce judge was unaware of the existence of the EPO case. Moreover, the application for visitation rights by the DVP was handled by a judge whose decision indicated a lack of awareness of the events and history of the case. This resulted in the vulnerable DVS and her child being exposed to the presence of the DVP by the judge's decision, which effectively undermined the gravity and purpose of the EPO. This sequence of events appears to have happened because of the fragmented way in which the different aspects of this very inter-linked case was dealt with, as separate issues by separate judges who appeared uninformed and removed from the case history. Measures must be put in place that recognise cases involve people whose lived experiences are closely interlinked, regardless of the fact that the remedies sought may be provided by different laws or instruments of such laws.

VII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

The primary aim of this paper was to critically assess the situation of the implementation of the DVPA's mandate to protect with a specific focus on POs. Therefore, this inquiry is an effort to gauge the effectiveness of the implementation of

POs with a view to further understand how the DVPA's mandate to protect can be strengthened. Section One of the paper provides an introduction and Section Two provides the research methodology which uses a mixed approach. Following a review of the available literature, the research was conducted mainly using a process of qualitative inquiry with key stakeholder consultations from relevant authorities, as well as discussions with lawyers with experience of assisting clients in PO cases. In addition, quantitative data on POs over the past 4.5 years provided by FPA was analysed to establish the performance of POs in numbers. The study is further enriched by the analysis of a relevant case study involving an EPO.

In Section Three, the discussion provided basic information about the substance and position of the PO as a tool within the DVPA 2012. It is evident that the law has a very clear intention to provide the PO as a tool for prevention of domestic violence and facilitates the claimant to access EPOs quickly without requiring the court to verify claims by consulting the accused perpetrator. It further explained who can apply for a PO as per the law. However, the analyses provided in Sections Five and Six shows that in many instances, significant inconsistencies are evident between the intent of the law and its implementation in practice.

The PO application process was explored in Section Four, which shows that as first responders, the police are required to inform the prospective applicant about the existence of this tool in the law, which can be secured through the court. The law specifically states that individuals can directly seek POs without the assistance of a lawyer. The onus is entirely on the domestic violence victim/survivor to pursue a PO through the court and the court has a duty of care to assist. Nevertheless, the question must be asked whether vulnerable individual(s) under threat of violence would have the ability to seek a PO without assistance in the prevailing context in the Maldives where most communities do not have legal information services available. Furthermore, the extent of support provided by responding police officers to an incident of domestic violence is to inform of the existence of the PO and to provide a physical form if requested. It is evident that there are significant challenges to accessing a PO given the strict guidelines for form-filling as well as the documentation required, without which a PO will not be accepted by the courts. Furthermore, the findings showed that access to POs is impinged due to administrative limitations such as the short window available for claimants to submit forms and the requisite fees during official working hours of the court. While the Family Court in Male' facilitates PO submissions on a Saturday, access to courts across the country is not assured for a claimant besides the officially accessible few hours during weekdays. At a systemic level, it is clear that improvements must be made to ensure effective access to POs by vulnerable individuals at times of need for such services. In this respect, the implementation of the DVPA requires strengthening by significantly improving the administrative and practical aspects of access to justice.

Analysis of the available quantitative data of POs provided in Section Five shows that the Family Court in Male' issues far more POs than the rest of the courts in the atolls. This indicates an inconsistency in service provision that undermines access to the protection provided by POs outside Male'. Additionally, there is a significant and unexplained drop in POs in 2017 compared to 2016. FPA data shows that

reported cases of domestic violence across the country has increased exponentially since 2013 and this is largely due to the work done by all stakeholders to facilitate this. According to FPA statistics, there were 19 reported cases of domestic violence in 2013, 149 cases in 2014, 438 cases in 2015 and 642 cases in 2016.^{xxxi}

The analysed data also shows that in 85% of cases, POs were sought by women and in the majority of cases, the perpetrator from whom protection is sought is a husband or an ex-husband. In terms of the types of violence against which protection is sought, emotional abuse, intimidation, physical abuse and verbal abuse are the most frequently occurring types of violence. However, this raises questions about the absence of cases linked to major social issues that exist in the Maldives, such as intimate partner sexual violence, drug and gang related violence as well as child sexual abuse to name a few issues. The data also shows a concerning pattern that shows the length of time it takes to issue a PO and EPO are quite similar overall. For instance, in 69% of cases, it took over 1 week to issue an EPO and the same duration was taken to issue POs in 75% of cases. The EPO is expected to be issued within 24-48 hours although the data clearly does not corroborate this.

In Section Six, the discussion looked at a case study and analysed some of the details of the case against the proposed application of the law as per the DVPA. The way in which the PO was handled by the court indicates there are important procedural protocols that can be improved to ensure the remedies provided by the DVPA 2012 are effectively applied by duty bearers. While the study of one case is not adequate to make generalised statements, there were several issues of concern evident from this one case study. This includes procedural inconsistencies which undermine the intent of the law, such as the fact that while the DVSSs were under the protection of an EPO, access to them by the DVP was enabled by the same court through a court order allowing visitation rights. Such outcomes indicate the gravity of the need to strengthen the existing procedural protocols of the courts in order to ensure that the purpose of the law to prevent and protect from violence are fully respected.

B. Recommendations

The following recommendations are to all relevant stakeholders identified in this discussion, including the FPA, the DJA and courts, the police service and the MoGF. Some of these recommendations may have to be led by specific stakeholders while others may have to be considered by individual stakeholders to improve the services they currently provided. Nevertheless, the application of the DVPA protection and prevention mandate in practice through POs, require a cohesive, coherent and collaborative effort by multiple stakeholders mandated by the law. Therefore, these recommendations need to be considered at both institutional and multi-stakeholder levels where appropriate.

- In 2015 and 2017, there were more EPOs issued than POs, unlike other years. As EPOs are specifically meant to provide an emergency service to protect a DVS from imminent harm, the fact that more EPOs was issued require further study.
- In 2014 and 2017, there were no POs issued to men. This disparity needs to be studied to understand unexplained discrepancies in the data sets and to

ensure discrimination based on sex does not influence such data outcomes.

- Analysis of some findings for this study indicate that where a lawyer is involved, the issuing of a PO may be quicker. The DVPA 2012 supports individuals to apply for POs directly, which should be facilitated in different ways by the police and the courts. Data shows that in the majority of cases EPOs and POs take roughly the same length of time to process. Therefore, these aspects must be studied further, using the available information from the PO application and lawyer's forms submitted to the court. Such an inquiry will help to understand this occurrence further to address ways to improve access to POs equitably regardless of legal representation.
- In some cases, it is evident that the necessary information is not provided in the relevant PO documents produced by the court. The data shows several cases where the sex of the perpetrator is not known, as in the description "dharifulhu" and the connection between the DVS and DVP is not known in some cases. It is recommended that reporting authorities ensure basic information such as sex of the subject and relationship to perpetrator are complete in documentation. Additionally, it would help to improve data analysis if application dates are provided accurately in POs and EPOs. It would be possible to remove such discrepancies completely, especially given the precision with which PO applicants must provide information to the courts.
- Anecdotal findings of this research indicate serious attitude and behavioural issues by police officers who have a duty of care to DVSSs. It is recommended that comprehensive DVPA and related practical training is provided to attending officers with period refreshers.
- It is highly recommended to conduct further research to assess the prevalence of malpractice towards DVSSs by police officers. Further research is also recommended to establish the quality of service provided by police officers as first responders to incidents of domestic violence and subsequent follow up and support provided.
- It is highly recommended that police officers attending to domestic violence cases are properly managed, monitored and supervised to ensure professional practice and conduct are observed to acceptable standards of due diligence as duty bearers
- Provide comprehensive training and periodic follow-up refresher training on the DVPA and the PO/EPO to judges at the family court and magistrate courts across the country
- This inquiry found that anecdotal evidence suggest that women are extremely reluctant to pursue court processes for a PO even in challenging circumstances. As the reasons for this are not known, efforts must be made to research these dynamics which undermine access to justice for women in need of legal protection from the DVPA.
- It is recommended that research is conducted to assess the quality of services beneficiaries receive from

service providers such as the police, courts and social service providers including the Ministry of Gender and Family and its FCSCs

- This study found significant access issues for DVSs to submit applications to the courts due to the short time-frame available to submit forms and related fees. The Family Court and magistrate courts are recommended to significantly improve accessibility to DVSs submitting POs/EPOs and provide clear guidance on the procedural protocols and follow-up actions relevant to such applications to claimants.
- It is also recommended that the court stop incurring a fee to submit a PO/EPO as this is a basic service which should not incur any fees, as evident in best practices elsewhere.^{xxxii} It would also remove the current barrier to PO submissions due to the short time period fee payment is facilitated by the court.

About the Author

Humaida Abdulghafoor is an independent social research consultant based in Male'. She has a social science undergraduate background with a master's degree in international relations, both from the UK. Since 2010, she has conducted research on various issues affecting women in the Maldives for national and international organisations including NGOs, INGOs and UN agencies in the Maldives. She is an advocate for the DVPA 2012 having participated in the multi-stakeholder efforts to strengthen the draft bill and its subsequent passage by the People's Majlis. She is a co-founder of Uthema, which is a women's rights NGO in the Maldives.

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ENDNOTES

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- ⁱⁱ Domestic Violence Prevention Act, 3/2012, Unofficial Translation – English, by M Shareef for UNFPA [undated]
- ⁱⁱⁱ *ibid*
- ^{iv} *ibid*
- ^v See Appendix 1 for section 5 of the PO form Fm-C-B15
- ^{vi} Some associated issues are noted in section 5 of this report; see also footnotes 18 and 19
- ^{vii} Regulation number 2014/R-424 on Police procedures on responding and investigating reported cases of domestic violence to the Police, 30 December 2014, Gazette of the Government of Maldives.
- ^{viii} FLC website - <https://www.familylegalclinic.org.mv/> (accessed: 16 December 2017)
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- ^{xi} The Maldives Study on Women’s Health and Life Experiences [WHLE 2007], Ministry of Gender and Family, November 2007
- ^{xii} See Appendix 1(a)
- ^{xiii} The Maldives Study on Women’s Health and Life Experiences [WHLE 2007], Ministry of Gender and Family, November 2007:32
- ^{xiv} National Drug Use Survey Maldives 2011/2012, UNODC/EU/Government of Maldives, 2013
- ^{xv} Personal communications with practicing lawyers in Male’
- ^{xvi} An example of documentation of lived realities of violence in Maldives can be seen in Uthema NGOs story collection produced during the 16 Days of Activism campaign to stop violence against women in 2017. Ref: https://www.youtube.com/playlist?list=PLZQL_QMqfnbCcE-i7OYBdAxRt_BXQUxTK (Uthema, YouTube, accessed : 25 July 2018)
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- ^{xx} Stakeholder meeting with the Department of Judicial Administration and Family Court, 10 September 2017, at DJA
- ^{xxi} *ibid*
- ^{xxii} Maldivian Women’s Vision Document, UN Women/UNDP, 2014
- ^{xxiii} Legal & Justice Sector Baseline Study 2014, Attorney General’s Office/UNDP Maldives, 2015:26
- ^{xxiv} See Appendix 1(b) for an image of this section
- ^{xxv} Stakeholder meeting with the Department of Judicial Administration and Family Court, 10 September 2017, at DJA
- ^{xxvi} Stakeholder meeting with the FCPD-MPS, 10 September 2017, at FPA; Stakeholder meeting with FLC, 11 September 2017, at FLC, Stakeholder meeting with Ministry of Gender and Family, 14 September 2017, at MoGF
- ^{xxvii} Clarification of hours from the reception of the Family Court in Male’, 17 December 2017
- ^{xxviii} Stakeholder meeting with the Department of Judicial Administration and Family Court, 10 September 2017, at DJA
- ^{xxix} *ibid*
- ^{xxx} Stakeholder meeting with the FCPD-MPS, 10 September 2017 at FPA
- ^{xxxi} Rivili, Volume 2, [Annual FPA Statistics and Information Journal], 23 April 2017:2
- ^{xxxii} Applying for a PO in family violence cases, New Zealand, <https://www.justice.govt.nz/family/domestic-violence/apply-for-a-protection-order/> (accessed : 26 July 2018)

Domestic Violence Protection Order: Exploring Its Effectiveness Through the Victims' Perspective

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This paper was prepared and presented at the National Conference in Research in Domestic Violence, organised by FPA. We hope that the findings of this study open more doors to conduct research in this area, thus improving the effectiveness of Domestic Violence Protection Orders.

Khadheeja Areesha
Nash'a Adil

ABSTRACT

Protection orders are the primary form of protection for victims of domestic violence. Across the world, in many developed and developing countries, they are widely used legal interventions, that intends to reduce the risk of harm by one person that is considered to be a threat to another. In Maldives, under the Domestic Violence Prevention Act (3/2012), Domestic Violence Protection Orders (DVPOs) can be issued by the court(s), to ensure the victim(s) health, physical and psychological well-beings, and their rights are protected and preserved. However, how effective the DVPO is, to fulfil the above purposes, is a question that is left unanswered, as the effectiveness of the DVPO in the Maldives context remains to be studied.

The present study would aim to explore the effectiveness of DVPOs in the Maldives. The study would assess how orders increase the safety of the victims, while also bringing the inconclusive deterrent effect of DVPOs to the fore. It would aim to identify the challenges faced in implementing the orders with special regard to law enforcement and courts. The findings of the study would be used to suggest ways to improve the effectiveness of DVPOs, thereby hoping to alleviate the challenges faced in the implementation and execution of DVPOs.

Keywords

Domestic Violence, Protection Order, Victims, Effectiveness

1. INTRODUCTION

In Maldives, like many other countries, Domestic Violence was considered as a “family matter” for centuries. Over the years, victims of domestic violence had increased in the country at an alarming rate. However, the passage of the Domestic Violence Prevention Act (Act no: 3/2012) has recently moved this nationwide issue to the spotlight of public debates.

One “legal remedy” for the victims of domestic violence that many believe, is provided under this Act is the Domestic Violence Protection Order (DVPO). This is one of the most important legal interventions used worldwide as it provides immediate relief to victims by enjoining batterers from further violence. Clause 18 (a) of the DVP Act states that “A Protection Order is a legal order made by the court to prohibit the commission or omission of certain acts by the person who committed the act of domestic violence, in order to protect the victim(s) from the recurrence of domestic violence”.

In 2016, a total of 642 cases of domestic violence were referred to FPA, but only 38 protection orders have been issued in that year (FPA Annual Report, 2016). As for 2017, according to the first and second quarter statistics report developed by FPA, a total of 459 cases have been referred. However, up to August 2017, only 21 orders have been issued from the courts. The number of DVPOs issued being so low raises the question of whether the public has sufficient knowledge of the remedies it provides or whether they doubt the effectiveness of the order.

1.1 Purpose and objective of the study

The purpose of this study is to find the overall responses of victims on the efficiency of DVPOs and to assess how an order increases a victim's safety. As the effectiveness of DVPO in the Maldives context remains yet to be studied, this study would focus on capturing the victims' point of view on how DVPOs ensure their safety.

In this regard, this study would focus on the following:

- [1] To what extent DVPOs provide safety for the victims;
- [2] Identify the challenges faced in the application and issuance of Protection Orders, thereby recognizing areas in need of legislative, regulatory and administrative reforms;

- [3] Understand the deterrent effect of Protection Orders by investigating how often perpetrators breach orders;
- [4] Present recommendations on how to improve the efficiency of Protection Orders based on the findings of this study.

2. LITERATURE REVIEW

Domestic violence is a worldwide epidemic, faced by all countries around the globe. Protection Order is an important tool that can help to eliminate domestic violence. However, many researchers believe that relevant authorities should efficiently use and enforce protection orders in order to ensure the safety and protection of victims. Finn and Colson (1990) in their report on Civil Protection Orders: Legislation, Current Court Practice, and Enforcement indicated that several jurisdictions they examined have shown that changes in the justice system's handling of protection orders can significantly increase their utility. Their observation include that many victims seek protection orders to prevent future battering, choosing this course either, instead of or in addition to filing a criminal complaint or seeking some form of legal separation.

In addition to this, for those victims who petition early, as violence begins to escalate, judges can structure needed protection before such crime can lead to serious injury or death (Finn & Colson, 1990). Moreover, this report by Finn and Colson discussed the importance of granting protection orders before violence escalates, preventing future injuries, including fatal offences.

In 1997, the National Centre for State Courts, Williamsburg, VA, USA initiated a study named Civil Protection Orders: The Benefits and Limitations for victims of Domestic Violence, to measure the effectiveness of civil protection orders. This study examined protection orders from three jurisdictions of United States of America. The findings of this study showed that 80% of those with a protection order in effect felt safer, thereby proving that protection orders are valuable for helping victims regain a sense of well-being (Keillitz et al, 1997). This study also found that temporary protection orders can be useful even if the victim does not follow through to obtain a permanent order, meaning that in majority of the cases, protection orders deter incidents of physical and psychological abuse. This was concluded from the fact that 35.5% of the perpetrators had stopped bothering the petitioner upon the issuance of a temporary protection order.

The study on Civil Restraining Orders for Domestic Violence: The Unresolved Question of "efficacy" indicates how low socioeconomic status of the victim link to re-abuse. To be specific, the findings of the study states that women with low socioeconomic statuses are more likely to be abused before and after the restraining orders, and reports a significantly smaller decrease in re-abuse. (Ko, 2002).

The research report on Evaluation of the Pilot of Domestic Violence Protection Orders highlights the importance of having trained magistrates and judges to deal with domestic violence cases. Having properly drafted protection orders from judges who are sensitized to domestic violence can result in effective implementation of the orders. Furthermore, this report states that judiciary and law enforcement should hold uniformity in issuing, implementing and interpreting orders. Moreover, the degree of evidence to collect and adequate sanction should be established and streamlined between the judiciary and law enforcement in cases where there is violation of the order. This is said to bring a

sense of relief for the victims, to know that the law enforcement authorities could arrest the perpetrator if/when a breach of the order occurs (Hillier & Nicholas, 2013).

It is important to note that although significant studies have been conducted on the efficacy of protection orders in other parts of the world, the effectiveness of DVPO in the Maldives context remains yet to be studied. With the year 2018 marking 6 years to the ratification of the DVP Act, it is high time to investigate the degree of efficacy in protection orders issued in Maldivian courts.

3. METHODOLOGY

Victims who have been granted DVPOs/EDVPOs, during the period of January 2017 to August 2017 were recruited for this study. During this period, a total of 21 orders were issued. However, with reasons such as unavailability of contact details and unstable mental state, the sample size was reduced to 15 (n=15).

A telephone survey questionnaire (see Appendix) was developed to administer the interviews. The questions were developed under four main themes. A Dhivehi translation of the questionnaire was developed, as the interviews would take place in the native language, Dhivehi.

Initially, a pilot telephone interview was administered with a staff from FPA to ensure that the questions are clear and is aligned in the direction of the study objectives. Afterwards, telephone interviews were conducted separately to each participant. The purpose of the study was notified to the participants prior to administrating the interview. They were told that they have the right to skip any question(s) they do not wish to answer, or to withdraw from the entire study any time they want. They were also assured that their personal information as well as the information they provide to the study, would remain purely confidential. Each and every interview was administered only after obtaining a verbal consent from each participant.

Interviews were administered at FPA. Enclosed settings were selected to conduct the interviews as to maintain confidentiality throughout. A total of 21 days was spent on administering the interviews.

4. LIMITATIONS

- [1] A total of 21 DVPOs were issued during the period of January 2017 to August 2017. Contact details of the participants were taken from the referrals received to FPA, but unfortunately some of the referrals did not have their contact numbers. Despite making huge efforts with the assistance of MPS and MOGF to retrieve the contact numbers of the participants that were not available at FPA, the researchers were able to collect the contact details of a total of 15 participants. In addition to this, the researchers also decided against interviewing a participant who was currently mentally unstable and grieving the loss of her child. Hence, the sample size of the study was limited to 15.

The researchers did think of recruiting more participants from the previous years as well. However, it was noticed from the participants that they do not remember some of the precise and specific details of their experiences and hence, were only able to assume some answers based on their faint memories of the events. Therefore, it was decided that only the most recent victims who were granted DVPOs (January

2017 to August 2017) would be the only participants for the study.

- [2] More than 3 weeks were spent to administer the interviews due unavailability of rooms. As confidentiality was taken as the utmost priority when administering the interviews, the interviews were administered in the FPA training and meeting room. However, these rooms were not available most of the days due to meetings and other official work, which in turn brought large delays in completing the interview process.
- [3] There has been no local research done on DVPOs issued in the Maldives previously. Hence, researchers could not refer on a previous research to compare the findings and to identify what was already lacking in the system.
- [4] Important statistics such as representation of domestic violence victims by age, were unavailable.

5. DATA ANALYSIS

5.1 Findings

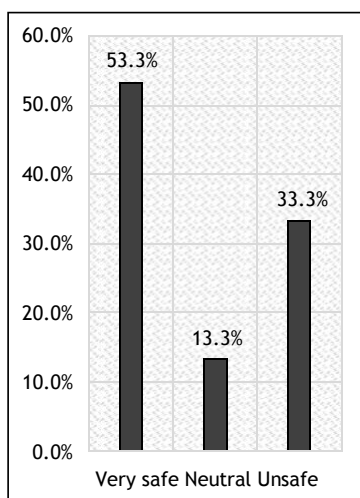
The data was analysed using Statistical Package for the Social Science (SPSS). Descriptive statistics such as frequencies, means and percentage distributions were used to draw conclusions to the findings.

One main aim of this study is to analyse how safe the participants felt after the order was issued.

	n	Percent
Very safe	8	53.3
Neutral	2	13.3
Unsafe	5	33.3

M=1.80, SD=.941

Table 1: The descriptive statistics of how safe the participants felt after the order was issued.



Graph 1: The graphical representation for how safe the participants felt after the order was issued.

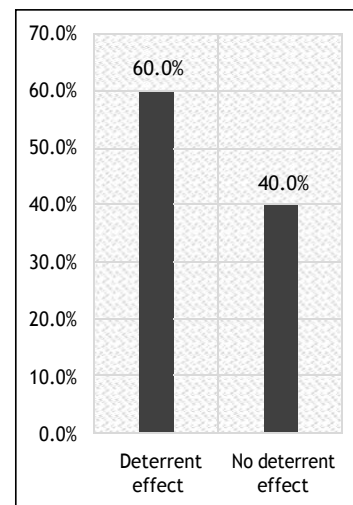
Of all the participants, 53.3 percent stated that they felt safer after the order was issued against their perpetrators. However, the 33.3

percent of the population who felt unsafe even after the order was issued said that the main reason, they feel so is that no monitoring of the perpetrators have been established to ensure they do not breach the orders. In addition to this, when the orders are violated, no action is often taken against them by the related authorities.

The participants were also asked if the order acts as a deterrent to the perpetrator to not commit the abusive act(s). 60 percent of the population believes that the order has a deterrent effect, but 40 percent do not think so (M=1.47, SD=.640).

	n	Percent
Deterrent effect	9	60
No deterrent effect	6	40

Table 2: The descriptive statistics of whether the orders have a deterrent effect



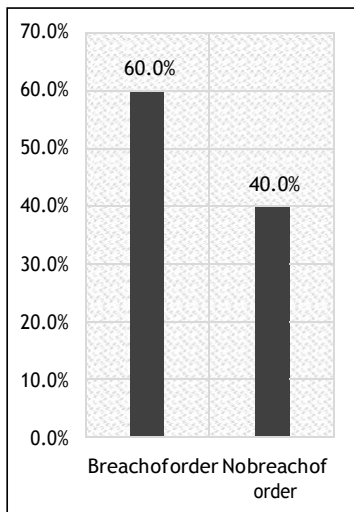
Graph 2: The graphical representation of whether the orders have a deterrent effect

This 40 percent of the participants agrees that the order plays a crucial role in stopping the physical violence they go through, but they believe it rarely has a deterrent effect in reducing or eliminating verbal abuse, psychological abuse, threats and intimidation.

The questionnaire also aimed to see how severe the issue of perpetrators breaching the order is. Of the 15 participants, 60 percent said that their perpetrators have breached the order.

	n	Percent
Breach of order	9	60
No breach of order	6	40

Table 3: The descriptive statistics for breach of order

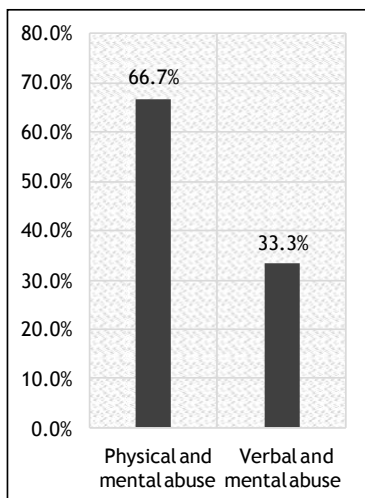


Graph 3: The graphical representation for breach of order

A follow up question was asked to this percentage of participants on the types of act(s) the perpetrators have inflicted on them to breach the order. The response to this question is presented in table 4.

Types of act(s)	n	Percent
Physical and psychological abuse	6	66.7
Verbal and psychological abuse	3	33.3

Table 4: The descriptive statistics of the types of act(s) inflicted to the participants by the perpetrators to breach



Graph 4: The graphical representation of the types of act(s) inflicted to the participants by the perpetrators to breach

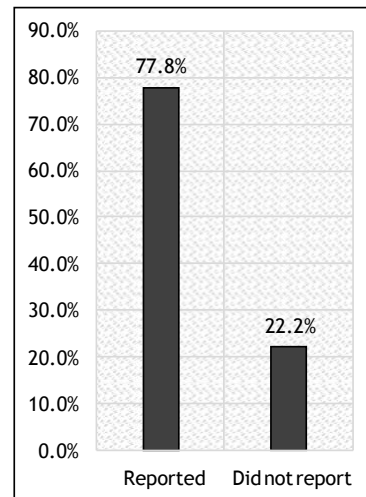
66.7 percent reported that the perpetrators have breached the order by inflicting physical and psychological abuse to the victims. Even though an order has been issued against them, the main reason that they do not hesitate to breach the order is that they do not fear on the actions the authorities would take against

them, as most of the time not much is done for those who breach orders.

This particular percentage of participants were also asked if they had reported to the MPS upon the violation of the order. 77.8 percent reported the incident while 22.2 percent did not.

	n	Percent
Reported	7	77.8
Did not report	2	22.2

Table 5: The descriptive statistics for the participants who reported breach of order

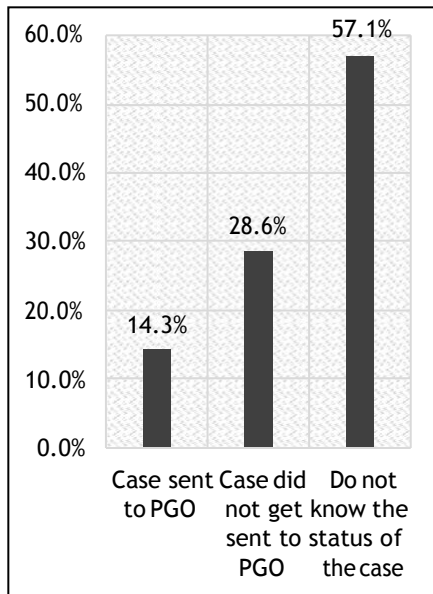


Graph 5: The graphical representation for the participants who reported breach of order

The participants were also questioned to see if they know the status of their case (whether the breach of the order case has been sent to Prosecutor General's Office (PGO) for prosecution). 14.3 percent are aware that their case has been sent to PGO, while 28.6 percent said that their cases have not been sent. The majority of the population, 57.1 percent, do not know the status of their case.

Status of case	n	Percent
Case sent to PGO	1	14.3
Case did not get sent to PGO	2	28.6
Do not know the status of the status	4	57.1

Table 6: The descriptive statistics of the participants' knowledge on the status of their case



Graph 6: The graphical representation of the participants' knowledge on the status of their case

According to the DVP Act, the breach of the order is a criminal offence, which should be investigated and sent to PGO for prosecution. Upon receiving the report of the breach of order, it is mandatory for MPS to attend to the case and take the necessary statements as soon as possible. However, some participants have pointed out that these procedures have not been followed in their case. Majority of them have not been given any update on their case, making them hesitant to report such cases in the future.

5.2 Discussion

Hillier and Nicholas (2013) concluded in their study that DVPOs were generally seen positively by the majority of the victims. It also indicated that most of the victims they interviewed felt safer after the release of the order. Likewise, Keilitz et al (1997) found that protection orders are valuable for assisting victims regain a sense of well-being. Similar to these studies, 53.3 percent participants of our study felt safe with issuance of the DVPO. In addition to this, the study indicated that 60 percent views DVPOS as a deterrent effect that ensures the victim does not face any further violence in the future. These results are also consistent with the first hypothesis of our study; that DVPOs act as a deterrent in preventing future abuse and violence to victims.

Keilitz et al (1997) concluded that in majority of the cases, protection orders deter incidents of physical and psychological abuse. Additionally, the study also highlighted that being the subject of a court's attention can influence the perpetrator's behavior. Similar findings arose in our study as well, although it was not entirely consistent with the second hypothesis of the study; that DVPOs play a significant role in specifically reducing the physical violence victims undergo in domestic violence cases. 40 percent of the participants reported that the DVPOs play a crucial role in preventing future physical violence; however, it often does not help to stop verbal abuse, psychological abuse, threats and intimidation.

One of the significant findings of our study is that approximately half of the population felt protected having the knowledge that

they could report breach of orders. It was found that victims were relieved to find that the police could arrest the perpetrator if/when a breach of the order occurs (Hillier & Nicholas, 2013). In fact, from the two-third of the participants that have informed that their perpetrators have breached the order, 77.8 percent have reported the incident to MPS. However, the findings of this study are inconsistent with that of Hillier and Nicholas's (2013) statement on "DVPOs being associated with reduced rates of re-victimization compared to similar cases that are followed by no further action".¹ A large percentage of the participants of our study, 57.1 percent to be precise, who had reported the breach of order and are willing to send the case for prosecution, do not know the status of their case. This was found to be a quite alarming issue as this has subjected the participants to re-victimization as well as lessen the trust they have on institutions. Furthermore, due to this, perpetrators could perceive this as a weakness in the law enforcement authorities, thereby reducing the deterrent effect it aims to hold.

Women with very low socioeconomic status are more likely to be abused before and after DVPOs (Ko, 2002). It is remarkable that our study results are consistent with that of Ko's. 100 percent of the participants in our study are women, with various socioeconomic statuses. Among those interviewed, very few of them were well-educated and employed. Those who had a good educational background, is employed and lives in Male' (the capital of Maldives), were found to be more empowered to protect themselves from their perpetrators and more eager to take control over their own lives. It was found that these women, in addition to seeking assistance from government institutions, had also sought help from private legal firms to ensure that they do not face abuse after the release of the order. However, the rest of the population whose socioeconomic status is low compared to the previously mentioned group, had reported facing abuse even after the order has been issued. This is especially high in cases where the victim and perpetrator live in the same house.

Finn and Colson (1989) indicated the importance of judges having a unique opportunity to intervene in domestic violence cases. They highlighted on the significance of granting orders before violence begins to escalate and lead to serious injury or death. It is noteworthy to highlight that in our study; 60 percent of the participants were asked to appear for their first hearing in less than a week. This has enabled, as mentioned in Finn and Colson's study, to prevent possible fatal injuries.

The utility of DVPOs is determined largely by whether they are consistently enforced (Finn & Colson, 1989). According to the first and second quarter statistics report developed by FPA, a total of 459 cases have been referred. However, up to August 2017, only 21 orders have been issued from the courts. This raises the concern of whether the public, specifically victims who encounter violence are aware of DVPO, or whether people had lost trust in institutions. It is notable to highlight that this is an area where future research need to be carried out.

Furthermore, DVPOs provide the most effective remedy for abuse, although serious in its long-range potential for harm, is of unclear or borderline criminality (Finn & Colson, 1989). Such abuses include, conduct which constitutes a misdemeanor crime

¹Hillier & Nicholas, (2013), Evaluation of the Pilot of Domestic Violence Protection Orders, p. 6

but might not present sufficient evidence for charging or conviction. However, our study found that only a few of the violation of order cases, 14.3 percent to be exact, have been sent to PGO for prosecution. There has been little or no progress with the rest of the cases due to insufficient evidence to convict the perpetrators. This, as a result has provided no remedy for those victims who are constantly in danger of abuse and violence.

6. RECOMMENDATIONS

The following set of recommendations evolved from the findings of this study.

6.1 Professional and quality services to victims;

- [1] Ensure proper legal aid is provided to the victims. It is necessary to ensure that victims are provided with sufficient knowledge to understand the procedures involved in applying for both the EDVPOs and DVPOs, and is given the choice to choose between the two types of order.
- [2] Conduct sensitization training programs to law enforcement and judiciary, particularly to those established in the atolls, to ensure that victims in the islands are also given sufficient information and assistance in DVPO cases.
- [3] Upskill administrative staff employed at Family Court and Magistrate Courts, so that they are more knowledgeable and aware of the information that the victims are required to submit when applying for DVPOs. This would help to reduce the delay in issuing orders, as the staff would be able to identify if any information/attachment is missing in the form and assist the victim in completing the missing information.
- [4] Offer flexible timings to submit forms at courts.
- [5] Provide professional legal representations to victims to ensure that their cases are properly presented and justice is attained.

6.2 Ensuring safety and protection of victims;

- [1] Emphasize victims to develop and maintain safety plans, even after the order has been issued. It is essential to advise victims to enlist their family, friends, neighbors and coworkers to the plan in addition to the institutions. Moreover, if the victims are using smart phones, they could be instructed to add one or two of their contacts in the safety plan as their emergency contact numbers since majority of the phones come with that feature.
- [2] Monitor daily the actions of the perpetrators to ensure that they do not breach the order, and to take necessary actions if an order is violated. The law enforcement could review police records of the perpetrators routinely as well as contact victims to check for any violation of order. Collecting update from the victims is extremely important as even though the order often deters physical violence, victims are, in many cases subjected to acts such as harassment, mental and verbal abuse even after the release of the order.

6.3 Regulatory and legal reforms;

- [1] Develop and implement a detailed regulation for the courts to follow in cases related to DVPO. This regulation could

specify certain sections for the maximum period of days before an order should be issued and how to ensure consistency in issuing, implementing, and interpreting orders.

- [2] Develop a procedure or guideline for the law enforcement to follow in cases where orders have been breached.
- [3] Lower the standard of proof required to convict the perpetrators in cases where the orders have been violated. It is understandable that this recommendation calls for major reforms in the legislation and law enforcement. Despite the major challenges that might arise to bring this change, this particular area is of utmost importance and needs to be explored through further research.

6.4 Right to Information;

- [1] Inform victims of recent updates on their cases, either by phone or in writing. This is an important procedure to follow especially in cases that are sent for prosecution due to violation of orders.

7. CONCLUSION

The introduction of the DVPO, with the enactment of the DVP Act is considered as the most fulfilling legal remedy for victims of Domestic Violence. Despite the positive outcome it brings, much work still needs to be done in many areas to tackle the systematic challenges that the victims face before and after the issuance of orders. This includes regulatory and legal reforms, advocacy and awareness, assuring the victim's rights are protected and preserved, and also further exploring specific areas within the DVPO itself.

We hope that this study would help related institutions, sectors and advocates to understand the concerns of the people who are at the receiving end of the DVPOs. And we wish the findings and the recommendations of this study are useful to confront and alleviate the challenges faced in the implementation and execution of DVPOs.

8. APPENDIX

Includes the questionnaire used for the telephone interviews. (View appendix from pg. 8 onwards)

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APPENDIX; Questionnaire used for the telephone interviews

The following introduction and instructions were given before administering the interviews.

The purpose of this interview is to explore the effectiveness of DVPOs in the Maldives. The information that you provide would be used to prepare a research paper that would be presented in the National Conference on Research in Domestic Violence, organized by FPA. Your personal information as well as the information that you provide to this study would remain purely confidential. You also have the right to skip any question that you do not wish to answer, or to withdraw from the entire study any time you want. Your contribution to this study would help institutions to alleviate the challenges faced in the implementation and execution of DVPOs.

Approximately 20 minutes would be spent for this interview. Do you have any further questions?

Do you give consent to proceed with the questions?

Yes No

(The interview was proceeded only when the participants give their verbal consent).

TELEPHONE SURVEY QUESTIONNAIRE

Domestic Violence Protection Order: Exploring its effectiveness through the victim's perspective

- Gender** Male Female
Age 15 – 25 years 26 – 35 years 36 – 45 years 46 years and above
Type of order DVPO EDVPO
Court Family Court Magistrate Courts

A. INFORMATION PROVIDED ON DVPO/EDVPO	
(1) How did you know that you could seek an Emergency / Protection Order? <i>(If an Emergency Order, then proceed to question 3 after this question)</i>	<input type="checkbox"/> Maldives Police Service <input type="checkbox"/> Ministry of Gender and Family / FCSCs <input type="checkbox"/> Family Protection Authority <input type="checkbox"/> Court / Magistrate <input type="checkbox"/> Family / Friends <input type="checkbox"/> Others:
(2) For those who have sought a Protection Order, were you given any advice about seeking an Emergency Order?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(3) How satisfied are you with the service provided by Maldives Police Service?	<input type="checkbox"/> Very satisfied <input type="checkbox"/> Slightly satisfied <input type="checkbox"/> Neutral <input type="checkbox"/> Slightly dissatisfied <input type="checkbox"/> Very dissatisfied
(4) How satisfied are you with the whole court procedure?	<input type="checkbox"/> Very satisfied <input type="checkbox"/> Slightly satisfied <input type="checkbox"/> Neutral <input type="checkbox"/> Slightly dissatisfied <input type="checkbox"/> Very dissatisfied

B. "REQUEST FOR DVPO" FORM-RELATED QUESTIONS	
Part One: Filling out the "Request for DVPO" form	
(1) Is the form easily accessible?	<input type="checkbox"/> Yes <input type="checkbox"/> No Mode of access:
(2) (a) How user friendly is the form?	<input type="checkbox"/> User friendly

	<input type="checkbox"/> Neutral <input type="checkbox"/> Not user friendly
(b) If the answer is No to 1(a), then what were the difficulties faced when you filled out the form?	
(3) (a) Did you receive any assistance during the form filling procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No (<i>If NO, then go to (3) c</i>)
(b) (i) If the answer is Yes to 2 (a), from which institution(s) did you receive the assistance(s)?	<input type="checkbox"/> Maldives Police Service <input type="checkbox"/> Ministry of Gender and Family / FCSCs <input type="checkbox"/> Court / Magistrate courts Others:
(ii) How satisfied are you with the assistance(s) received?	<input type="checkbox"/> Very satisfied <input type="checkbox"/> Slightly satisfied <input type="checkbox"/> Neutral <input type="checkbox"/> Slightly dissatisfied <input type="checkbox"/> Very dissatisfied
(c) If the answer is No to 2 (a), do you know you could ask for assistance during this process?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Part Two: Submission of the “Request for DVPO“ form to court	
(1) What were the administrative difficulties you faced during the submission of the form? (Long queue, timings, lack of urgency from staff, etc.)	
(2) Upon the submission of the form, were you given any information from the court regarding the trial?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(3) (a) Was your form rejected at any point?	<input type="checkbox"/> Yes <input type="checkbox"/> No (<i>If NO, then go to theme C</i>)
(b) If the answer is Yes to 3 (a), were you informed of this rejection by the court?	<input type="checkbox"/> Yes <input type="checkbox"/> No
(c) What was the reason for the rejection?	

C. ISSUANCE OF DVPOs/EDVPOs	
(1) (a) Was the Order issued upon your first application?	<input type="checkbox"/> Yes (<i>If YES, then go to question 2</i>) <input type="checkbox"/> No
(b) If the answer is No to 1 (a), then how many times did you apply?	<input type="checkbox"/> One <input type="checkbox"/> Two <input type="checkbox"/> Multiple (.....)
(2) How long did it take for the first hearing after the submission of the form?	<input type="checkbox"/> 1 week <input type="checkbox"/> 1 month <input type="checkbox"/> More than 2 months <input type="checkbox"/> Others:
(3) What were the difficulties you faced with the court hearing(s) and trial?	

D. IMPLEMENTATION OF DVPOs/EDVPOs

(1) (a) How safe did you feel after the order?	<input type="checkbox"/> Very safe <input type="checkbox"/> Neutral <input type="checkbox"/> Unsafe
(2) Do you feel the order acts as a deterrent to the perpetrator to not commit the abusive act(s)?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, the answer given by the survivor:
(3) (a) (i) Has the perpetrator ever breached the order? <i>(If NO, then you have reached the end of the questionnaire)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
(ii) If the answer is YES to 2 (a), how often has the perpetrator breached the order?	<input type="checkbox"/> Once <input type="checkbox"/> Twice <input type="checkbox"/> Multiple times (.....)
(iii) What act(s) has the perpetrator inflicted to the victim to breach the order?	<input type="checkbox"/> Physical abuse (beaten, shoving, kicking, etc.) <input type="checkbox"/> Sexual abuse <input type="checkbox"/> Mental and verbal abuse (intimidation through threats, stalking, harassment, etc.) <input type="checkbox"/> Others:
(4) (a) Did you report to the relevant institution(s) upon the violation of the order? <i>(If YES, continue with the rest of the questions; if NO, then you have reached the end of the questionnaire)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No Name of the reported institution:
(b) How many times did you report to the institution regarding the violation of the order?	<input type="checkbox"/> Once <input type="checkbox"/> Twice <input type="checkbox"/> Multiple times (.....)
(5) What assistance/advice were you given by the institution?	
(6) If the reported institution was Maldives Police Service, were you given any advice on how to store the evidence of the violation of the order?	<input type="checkbox"/> Yes (Advice given:) <input type="checkbox"/> No
(7) Was the case (breach of a DVPO/EDVPO) sent to Prosecutor General's Office for prosecution?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> I don't know

Domestic Violence: Psychological Profile of Abusers

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Abstract—Unlike victims of domestic violence, the batterers have traditionally been overlooked in research and theory despite the fact that, batterer also have high rates of psychological problems and are equally in need of intervention. Towards the object of extending extant research on psychological profile of abusers, the study aims to review existing evidence and propose a multidimensional model which incorporates psychological, biological and social approaches with an emphasis on pathology and personality dynamics of abuse in domestic violence. Online resources were searched for relevant articles and 18 suitable studies were found and reviewed. The study concluded that the psychological makeup of the batterer is not judged by one major factor but a combination of the biological, social and psychological aspects. The importance of further research regarding the relationship between these subtleties and the role of personality dynamics, psychopathology and other variables is discussed on the basis of the findings so that a prevention model of psychological profiling with a focus on batterers can be developed in near future to address the issue through effective rehabilitation.

Keywords—*Psychological profile, domestic violence, batterer, personality, psychopathology.*

1. INTRODUCTION

Domestic violence is an issue that is neither new nor unique to the Maldives. It is a serious issue and often a hidden issue, where the victims silently live in humiliation and indignity. Understanding its nature, the factors involved and its effects on a single person and the society as a whole is crucial, to ensure the delivery of a high-quality and cost-effective service to deal with the problem.

Domestic violence also named domestic abuse, battering, intimate partner violence or family violence is a form of violent behavior or other means of abuse in a domestic setting. It's an intentional, ongoing, controlling and coercive act by one person, using emotional, financial, physical and sexual violence, stalking and harassment, to ensure power and control over another, with whom they have, or have had, an intimate or family relationship. (Guerin & Ortolan, 2017).

Domestic violence originates from a sense of entitlement, which is in most of the cases rooted in patriarchal traditions and supported by sexist, racist, disablist, homophobic, biphobic, transphobic and other discriminatory attitudes, behaviours and systems that maintain and reproduce inequality (Anon, 2011).

Domestic violence against men is also an issue that is prevalent in many countries and should not be excluded in the case of the Maldives as well. Although it is a fact that there are undoubtedly less men who are sufferers of domestic violence than women, there are many cases where men become victims of serious domestic violence as well. In cases where men become victims, reporting or collecting information is comparatively less and also complicated as mostly qualitative accounts are accepted from women and not from men. (Dasgupta, 1999).

Battering is a double-edged sword; it affects both the batterer and the victim. In most of the cases the victim is focused and we fail to understand that the abuser has committed the act due to psychological disturbance and he is equally in need of intervention. Persons with certain risk

factors are more likely to become perpetrators and it is mandatory to get an insight in to the perpetrators mind. Batterers show evident signs of emotional disturbance, problem in the areas of adjustment, behavior problems and presence of some form of psychiatric problems. (Ali & Naylor, 2013). Providing the abuser with required psychological support would help both the perpetrator as well as the victim in intervention thus, also avoiding future incidents.

The relationship between psychological problems of abusers and domestic violence highlights the importance of understanding batterers from a psychological perspective. This would enable us not just to understand the temperament and the psychological makeup of the abuser but also to design effective preventive measures. Several studies have analyzed the psychological factors and its relation to domestic violence. However, they have focused only on a specific area like personality, psychopathology, intelligence or other related factors and did not give an overall picture. In order to study the area as comprehensive as possible and to offer a multidimensional model of psychological profile of abusers we have performed a review of studies that examine the relationship between these factors.

1.1 Understanding an Abuser

In order to understand the mentality of the abusers several researchers have studied the common traits and their behavior patterns. As a result, some common traits have been identified as indicators of their personality. They forcibly gain control over the victims through constantly threatening them. This act of threat can be verbal like shouting at them, using bad language or answering in a rude way and physical like trying to instill fear by gestures and body language and engaging in activities like breaking belongings and destruction of property. (Tjaden & Thoennes, 2000). This also affects the victim's self-image and when they are constantly blamed as being unfaithful and cheating and are compelled to answer for the time they spend away from the abuser, it shatters their self-confidence and esteem making them more vulnerable. (O'Leary, 1999). Further the abuser demands the victim to obey to them and compels them to carry out their commands and orders. This may vary from taking care of all the house hold activities to forced sexual contacts. In some cases, they may claim control over the income and economic resources as well. Finally, the act of physical violence is carried out in most of the scenarios. It can be as simple as pushing and can be severe as rape and stabbing. (Archer, 2004).

The intention of this study is to review the available literature on DV and gain a complete understanding of intricacies related with the influencing factors, including psychological, biological and social aspects with an emphasis on pathology and personality dynamics of abuser in domestic violence. This would permit us to have a better knowledge of the contemporary research and propose a multidimensional model of abuse in domestic violence. Thus, also paving way for further research in the area so that the yet to be explored areas can be addressed.

2. METHOD

Online database was prudently searched for published research studies in the area of domestic violence without regard for year of publication. Appropriate articles were identified and shortlisted when they consisted Domestic Violence as a keyword or as a term in the title or abstract, along with other search words. These words are batterers, psychological profile, personality and psychopathology. Also, researches were shortlisted if they had the phrases intimate partner violence, domestic abuse and family violence in the title or key words.

The first criteria for inclusion in our study is that the focus should be on the abuser leading us to exclude the studies which investigated the victims and their profile. We also included theoretical studies, reviews and meta analyses as long as they are focused on the batterer. The search identified 132 suitable research papers with the key words. The screening was done against the inclusion and exclusion criteria by a team of investigators. The research paper was thoroughly studied and 18 papers were selected and included. Most of the studies were excluded due to the reason that the prime focus was not on the abuser but the victim.

3. RESULTS

3.1 Psychological Aspects of Abuser

We found 9 studies that examined the psychological aspects of abusers. (Spellacy, 1978) did a comparative study of 40 violent and nonviolent inmates in prison. They were administered a neuropsychological battery of tests and another personality inventory. The neuropsychological test measured their cognitive motor and perceptual abilities. The results revealed that there was a significant level of difference between the two groups in the cognitive domain and low level of IQ is directly related with the intensity of the violence.

Winters, J., Clift, R., & Dutton, D. (2004) studied the relationship between emotional intelligence and domestic violence among people who were sentenced for assaulting their partner. They used emotional quotient inventory and propensity for abusiveness scale to get the data from 44 samples and compared it with the data from 76 undergraduate students. The results showed that the batterers scored significantly lower than the other group in the area of emotional quotient and higher in PAS scale indicating that deficit in EQ would result in increased abusiveness.

Snoyman and Aicken (2011) studied impulsivity, cognitive ability and violence among 108 male offenders using Barratt impulsiveness scale version 11. The study found that offenders who has low cognitive ability also had high impulsiveness indicating less concern for the consequences of their act and high level of impulsivity is directly related with high level of violence.

3.1.1. Psychopathology and Personality

Henning, K., Jones, A., & Holdford, R. (2003) did a comparative study of treatment needs of women arrested or domestic violence with male offenders. Million Clinical Multi-axial inventory was used to investigate their psychological functioning. The results revealed significant scores on one or more areas of personality disorders for 95% of the samples indicating high level of personality disorder is directly related with domestic violence. Similar result was obtained by Leising, P. A., Dowd, L., & Rosenbaum, A. (2000). They found clinically significant level of PTSD features among the females who wanted to enroll for program to manage their anger.

Stuart, G. L., Moore, T. M., Ramsey, S. E., & Kahler, C.W. (2004) studied the hazardous alcohol use, relationship aggression and violence perpetration on a sample of 103 women. The result showed substance abuse and general violence is related to some form of victimization and perpetration. Ehrensaft, M. K., Cohen, P., & Johnson, J. G. (2006) followed a sample of 543 people over a period of 20 years and examined the development and stability of symptoms of personality disorders. They found that the symptoms of personality disorders in cluster B (borderline, narcissistic, antisocial and histrionic) are found to be more stable in batterers throughout their development.

Coleman, V. (1994) studied the relationship between violent behavior and personality. The study found that many batterers have personality structures indicative of the borderline, narcissistic, or anti-social disorders; and undoubtedly, in certain cases they show more than one disorder. Also, there are chances that they exhibit traits of other disorders, such as dependent, passive-aggressive, or compulsive traits. It is important to keep in mind that an individual may have personality traits characteristic of a disorder without having a diagnosable disorder. The result revealed that personality structures has a great influence on the action of domestic violence.

Rosen, I. (1991) studied the relationship between the factors of narcissistic personality and domestic violence in the lights of psychoanalysis. The study showed that lack of proper responsiveness from parents during childhood would cause regression to early body needs which further leads to violence, indicating a strong influence of the personality on domestic violence. Dutton, D. G. (1995) came out with a similar finding stating that batterers have a significant level of personality problems. This is further supported by Wolf, E. S. (1988) who states, according to self-psychology, because persons with personality disorders lack the capacity to self-soothe, feelings such as anxiety and fear result in extreme rage reactions.

3.2 Biological Aspects of Abuser

We found 5 studies that focused on the biological aspects of abusers. George, D.T., et al., (2004) studied the neural structures that mediate and influence the expression of fear induced aggression in abusers. They compared it in 8 batterers and 11 alcoholic individuals and 10 healthy normal people. The results showed lower level of metabolism in hypothalamus which can be attributed to fear induced aggression. The relationship of hypothalamus to aggression and violent behavior is supported by Miller, L. (2012), who states that, when hypothalamus is not fully developed or damaged it might lead to increased level of violence.

George, D.T., et al., (2006) investigated the relationship between the biological basis of behavior and the psychiatric problems exhibited by the abusers. The study revealed problem in conditioning and avoidance of fear and difficulty to modulate reaction to sensory stimuli because of lack of cortical input to amygdala.

Hibbeln, J.R., et al., (2004) examined the relationship between omega 3 status, cerebrospinal fluid and aggressive behavior in batterers. The study examined 21 batterers and concluded that higher intake of omega 3 minimizes the activation of sympathetic mechanisms which ultimately reduces the occurrence and intensity of the violent behavior. Which clearly shows the influence of the biological factors on the violent behavior. Carlson, N. (2010) stated that the violent nature of an individual can be controlled by lowering the level of testosterone which is another supporting study for the influence of biology over abusers' violent behavior. Sieger et al., (2003) in their work "How children develop" state that men are more tend to be aggressive and abusive than women. They also attributed this gender difference is greatly influenced by the genetic factors. Wilson, M., & Daly, M. (1993) studied domestic violence from an evolutionary psychological perspective. The study states that men are designed physically and mentally to be more violent than women. The psychological factors such as sexual jealousy and suspicion of infidelity provokes the individuals as evolved psychological mechanisms influence them resulting in violent behavior.¹

3.3 Social Aspects of Abuser

We found 4 studies that focused on the social aspects of abusers. Cribb, J., & Barnett, R. (1999) investigated the way women respond to domestic violence across various social strata. They study found that women from a traditional rural background would go to their extended family when they are faced with domestic violence. Around 80% of women in the rural area gave the same response. In another class of society with various divisions around 58% told that they would walk out and a very small minority said that they would try to get help from institutions and might make complaints. A third category of society which is more urbanized also gave a similar answer but only around 37%. The common

¹ If necessary, you may place some address information in a footnote, or in a named section at the end of your paper.

influencing factor in all the three classes of society is a patriarchal model which justifies male dominance and projects the act of violence in a different way.

Gelles, R. J. (1989) researched the prevalence of domestic violence in families with relation to parental absence and economic deprivation. They surveyed around 6000 families and analysed abusive patterns in the families. The study found that the intensity and frequency of violence in the family is greatly influenced by the presence of both parents and economic deprivation. They found that families with single parent had more violence than families with both parents and it is very high when the single parent is male. This is further supported by another study by Gelles, R. J. (1994) which states that in the families from low socioeconomic background the male members very readily use aggressive behavior to sort out the issues. Further, Pickett, K., & Wilkinson, R. (2010) states that male members get in to more violent behaviours when they are deprived of economic and social status, as they find aggressive acts as a means to regain and maintain control.

Steinmetz, S. (1978) examined the battering of male members of the family. He states that violence on male members of the family is also common and a major factor why this does not get noticed is that male members in the middle socio-economic families tend to use verbal ways to deal with the problem unlike others who readily use physical ways to gain control of the scenario. This shows the strong influence of the socioeconomic factors on batterers and battering.

4. DISCUSSION

The current review analyzed the studies on domestic violence and the relationship of psychological, biological and social factors on the abuser, identifying 18 relevant research studies. The studies reported the influence of various factors right from social to the psychological aspects of personality and pathology each on its own way. Studies on psychological aspects reveals negative correlation between cognitive abilities, emotional intelligence and violence. Low level of IQ and EQ would result in increased violence and aggressiveness, which is consistent with the finding of Snoyman and Aicken (2011) who pointed that people with low cognitive ability had high level of impulsivity and exhibit high level of violence. Hamberger, L. K., & Hastings, J. E. (1986) also found high level of psychopathology among abusers. The studies on psychopathology and personality revealed that the presence of features of personality disorder and psychopathology is positively related with the act of domestic violence and extreme rage reactions.

The research done by Wilson, M., & Daly, M. (1993) focused on the evolutionary aspect of domestic violence. It stated that men are designed physically and mentally to be more violent than women. The results of studies on the biological aspects very clearly showed the influence of biological factors on the violent behavior. Studies done on social aspects revealed the justification of male dominance

and violent behavior in the context of patriarchal model of society. Studies done by Gelles, R. J. (1994) stated the impact of socioeconomic deprivation on the act of domestic violence by abuser. And the findings are consistent with the findings by Steinmetz, S. (1978) who examined the battering of male members of the family and Pickett, K., & Wilkinson, R. (2010) who stated that male members get in to more violent behaviours when they are deprived of economic and social status, thus showing the influence of social factors over the abuser.

4.1 Conclusion

The insight from the review shows that there are many factors that play a vital role in making up the overall psychological profile of a person who batter. However, it is beyond the scope of this article to discuss each of these characteristics in depth. As a whole it can be concluded that the psychological makeup of the batterer is not judged by one major factor but a combination of the biological social and psychological factors. This is more of an initial attempt to explore the not much explored areas of domestic violence with a different perspective.

4.2 Limitations of the included studies

While the research papers in this review gave an awareness in to the psychological profile of abuser, they had some limitations. First, none of the studies were done in Maldivian context, thus restricting us to relate it, by raising the question of applicability of the findings to Maldives. Secondly most of the studies were conducted with convicted batterers which leaves a majority population of people who are abusers but not (yet) convicted. Third only one of the studies was done in a longitudinal design. And finally, very few studies addressed the area of abusers' interaction with children and no study focused on the elderly people.

4.3 Future Research

This review identified and hopefully shed light on some of the dynamics related with domestic violence. It can be inferred from the study as well as from the limitations that there is a very vast gap in the understanding of the psychological profile of abusers indicating an urgent need to do further studies in this area. Some authors have studied the relationship between various factors and domestic violence but only a few studies focused on abusers. Also, there are no much studies which gave a multidimensional model of profile of abusers. In order to improve our understanding of domestic violence and provide effective intervention, we must continue to pursue critical thinking and research regarding the role of personality dynamics, and the relationship between them and other psychological factors such as self-esteem, locus of control, emotional intelligence, and quality of life. Increased understanding of the factors would permit us to gain in depth knowledge so that a prevention model of psychological profiling with a focus on batterers can be developed in near future to address the issue through effective rehabilitation.

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The Forgotten Gender: Questions About Men and Boys in the Domestic Violence Debate

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Abstract—*The impact and implications of domestic violence to women are now widely prevalent in policy and research. Thus, it is not surprising to see that the term domestic violence is most widely seen as a crime in which the women are the victim and men are perpetrators. Indeed, in everyday usage and in many academic analyses the term domestic violence is used interchangeably with violence against women. For many people domestic violence is, unapologetically, a gendered term because women are more likely to be affected by it. This conceptualization of domestic violence is being contested, however. The purpose of this paper is to look at this contention critically in the context of the Maldives. Subsequently, the paper asks two inter-related question: to what extent, and how, are gender reflected in the domestic violence debates and discourses in the Maldives?*

Keywords—*Domestic Violence, Gender, Maldives, Men, Boys, Conceptualization.*

I. INTRODUCTION

Domestic violence is one of the greatest challenge countries are facing presently. It is estimated that around the globe as high as 50% of women may have endured some form of violence that can be classified as domestic violence (UN Women, 2017). These numbers are even higher in developing countries, with some records showing nearly 70% of women experiencing domestic violence (Kishor & Johnson, 2004; WHO, 2014). The impact and implications of domestic violence to women are, no doubt, felt by women and it is not surprising to see that the term domestic violence is most widely seen as a crime in which the women are the victim and men are perpetrators. Indeed, in everyday usage and in many academic analyses the term domestic violence is used inter-changeably with violence against women. For many people domestic violence is, unapologetically, a gendered term because women are more likely to be affected by it.

This conceptualization of domestic violence is being contested, however, in recent years. Notwithstanding the very pressing needs of women in relation to domestic violence, there is a growing argument to re-conceptualize the term (Meyersfeld, 2003). To this end, there is a claim that the literature and polices neglect men (and boys) who can also be victims of domestic violence. Thus, the need for

domestic violence to shift its dominant focus on women to emphasizing on the role of men in the domestic violence debates is increasing (Jeweeks, Flood & Lang, 2015). The purpose of this paper is to look at this contention critically in the context of the Maldives. Subsequently, the paper asks two inter-related question: to what extent, and how, are gender reflected in the domestic violence debates and discourses in the Maldives?

The paper is not a call to stop focusing on women or to underestimate the realities of domestic violence faced by women. Rather, it is a call to critically look at the issue of domestic violence and an initial attempt to showcase empirical data that introduces a new trajectory of domestic violence in the case of the Maldives. This paper is an attempt to contemplate this within the context of the Maldives. It critically analyzes the positions of men (and boys) in the domestic violence agenda in the Maldives. To answer this general question about domestic violence in the Maldives it looks at police recorded statistics and some of the existing secondary documents published about domestic violence policies and strategies.

II. CONCEPTUALIZATION OF DOMESTIC VIOLENCE

Attention given to domestic violence has been increasing in recent years throughout the world. At least 140 countries now have some form of legislation criminalizing domestic violence (UN Women, 2017). Domestic violence is high on the justice agendas of many countries. Criminal justice systems, especially law enforcement agencies, are increasingly sensitized to the needs of domestic violence victims in the delivery of services. Of course, there is much to be done, especially with regards to making sure that what is written in laws, policies and strategies are implemented.

But there are also areas which require some new thinking. Re-positioning men and boys in the domestic violence prevention agenda is a worthwhile exercise for several reasons. Firstly, while the existing drawbacks in the conceptualization of domestic violence have been remedied to some extent, at least in policy and in laws, especially in the developed West, research continues to show that there are gaps in policy and practice. Studies still show that significant gaps exist between policy and practice. Today

there is a general trend to consider domestic violence as a form of violence that covers violence other than physical violence. Emotional, psychological and financial threats are considered domestic violence in many countries. Moreover, informed and pressured by the feminist movement of domestic violence is now widely accepted as something that covers many other forms of violence. But there is also much to be achieved in terms of altering public's views about domestic violence. It is upsetting to see that despite the efforts, victim blaming is still highly prevalent when it comes to domestic violence (Harne & Redford, 2008). The current fight against domestic violence, therefore, needs to continue.

Secondly, there have been progressive developments on the issue of relationship between the victim and perpetrator. Again, while there is much to be done, progress has been made to persuade stakeholders that domestic violence does not occur only between married couples or within those in long term live-in relationships. Instead, evidence show that domestic violence or acts of violence between intimate partners, by family members of different relationships, those in authoritative positions and many more make up the actual size of domestic violence incidents. These developments are much to be praised because it has broadened the horizon when it comes to considering what is domestic violence (Jognson and Ferraro, 2015).

Unlike the above two developments an issue that has received less progress is the inclusion of men and boys in the conceptualization of domestic violence (Kimmel, 2002). As a result, it has led some to describe men and boys as the forgotten gender in the examination of domestic violence. The understanding of this in the context of developing countries is much limited because the few existing researches on the subject are carried within developed West. Examining domestic violence through a gender asymmetric lens is therefore helpful to understand the problem in a more critical manner. There are many misconceptions to counter in examining the issue of gender in domestic violence. In light of these the paper asks to what extent, and how, is men's roles and function conceptualized in the domestic violence prevention agenda in the Maldives. The following parts aim to answer this question.

III. MEN, MASCULINITY AND VIOLENCE

It may be easy to consider that men would not report violence when they are victims. Especially, they may be less likely to seek help or call law enforcement when they are victimized by a woman. Using evidence from the US, Kimmel (2002) suggests that this is a misconception and that when men are at the receiving end of violence, they are more likely than women to use the criminal justice system against the woman. Other studies have shown that men tend to call police and after doing so they are less likely than women to drop charges (Ferrante, Morgan, Indermaur & Harding, 1996). The existing body of research on women's decisions to participate in domestic violence prosecution reveal

women drop charges or stop cooperating with law enforcement after initially requesting for help. The different attitudes and practices of men and women in decision makings related to domestic violence reporting and using criminal justice system for remedies allows us to explore different practices that can be explored to bring men into the debate of domestic violence. Therefore, these general observations about the state of domestic violence and women give further reason to critically look at the role of man when there is a case of domestic violence.

While the basic question about gender symmetry and asymmetry in domestic violence is whether or not men are also victims, and to what extent, an oversimplification of the problem can be counterproductive too. An important question that needs focus is the severity of violence received. Again, when this is considered a variable, research is clear that the level of violence that women receive from men is much more severe than the violence men receive from women in the cases where men are victimized. However, looking at this factor alone undermines a major achievement in domestic violence agenda that is violence is not only when it is physical. If we want domestic violence to cover all forms of violence when it is used against women, then the same criteria should apply for when men are victims. Therefore, even if men face less severe forms of violence, the fact that they are receiving violence should be taken seriously and addressed within the domestic violence prevention program.

An important issue to consider in the domestic violence debate when it comes to both men and women as victims is the controlling behaviour of offender towards the victim. O'Compo et al., (2014) note that the controlling behaviours are a dominant attribute amongst domestic violence victims. Evidence from studies that look at controlling behaviour within domestic violence cases show that often there is a pattern of behaviour and such behaviours are long lasting.

Research shows that the availability of social networks is helpful to domestic violence victims. Men and women however utilize the available support mechanisms differently. This then impacts on how those of different gender are able to get protection and support

Also, the claim that why is domestic violence always about women argument is many times evoked to undermine the very real violence women endure on a daily basis that are no as common for men. This becomes a problematic issue when key stakeholders that needs have a very proactive attitude to prevention of violence, such as frontline police officers, use this type of tone and arguments. Because the justice system is still not the ideal environment for a domestic violence victim, raising these types of arguments tend to undermine and influence the extent to which both men and women forth come with evidence of violence.

The attributes of the current adversarial justice system that are used to deliberate on domestic violence may not always be sufficient when there are efforts to put male in

interest. Restorative justice is a much more viable approach that has shown to be significantly successful (Strang & Braithwaite, 2002).

IV. DOMESTIC VIOLENCE IN MALDIVES

When it comes to domestic violence, a number of issues that was highlighted previously in this paper are highly relevant to the Maldives. This part of the paper will present some of available evidence about domestic violence in the Maldives.

A. Prevalence of Domestic Violence in Maldives

The nature of domestic violence and its state in the Maldives is not that different from many other countries. Until recently, domestic violence was not a highly known crime in the Maldives. In fact, it can be suggested that it is only within the last decade that domestic violence has come to be formally accepted within the legal and justice sector with focused attention to it. All readings of domestic violence in the Maldives now refer to a study done in 2007 that, for the first time, brought the issue of domestic violence to the forefront. “The Maldives Study on Women’s Health and Life Experience: Initial results on prevalence, health outcomes and women’s responses to violence” is a starting point of all discussions of domestic violence (Fulu, 2007).

This study on violence against women is the first of its kind in the Maldives. The data and findings from the study uncovered the forms and patterns of violence against women in the Maldives. It brought the issue out into the open and began a discursive trend which illuminated policies to accept domestic violence as a problem. One of the most significant findings of the study is the now widely used statistics that 1 in 3 women aged 15-49 experienced some form of physical or sexual violence during their lifetime. This includes intimate partner violence, violence by other people such as family members, work colleagues and strangers, as well as childhood sexual abuse. Nevertheless, this report showed that women are most at risk of violence by their partners or ex-partners challenging the assumption that the home is always a safe place for women.

The results of the Study also demonstrate that violence against women is a major public health issue, impacting significantly on the physical, mental and reproductive health of women and girls. Subsequently, it allowed new approaches to be used when framing the crime of domestic violence. Within the following years domestic violence in Maldives emerged as a significant health and human rights problem in which relevant stakeholders of these issues recognized and started to act against domestic violence. The number 1 in 3 has, since then become a leading slogan used in domestic violence prevention and information awareness agenda.

B. Policy focus on males in the domestic violence prevention agenda

The Maldives has, in many ways, a very progressive domestic violence prevention legislation and strategies. This

part of the paper looks at the current legislation and existing policy documents to analyze the extent to which, and how, the focus is put on males in the domestic violence agenda. To do this, the research has critically examined the existing law on prevention of domestic violence (DVP Act 2012).

The DVP Act defines certain acts conducted between two individuals in a “domestic relationship” to be an act of domestic violence. Section 3(a) of the DVP Act defines what constitutes such a domestic relationship and furthermore. They are:

- Persons who are or were married to each other
- Persons who share or have recently shared the same residence
- Persons who are the parents of a child or are persons who have or had parental responsibility for that child
- Persons who are family members related by consanguinity, affinity or marriage
- Persons who are domestic child carers or domestic workers
- Persons who are in an intimate relationship

The language of the DVP Act (2012) is highly gender neutral. In fact, it does not distinguish the gender of victim when an act is to be treated as a domestic violence offence under this particular law. Instead, the focus is on the relationship between the offender and the victim. If a domestic relationship exists then it can be pursued as a domestic violence offence. As a result, the law is clear that both men and women can be victims of domestic violence in the Maldives.

Complementing the gender-neutral nature of the law, the strategic focus of Family Protection Authority, the key institute established under the DVP Act (2012) to combat domestic violence has a gender-neutral policy in which strategic focus is to involve men in the prevention of domestic violence. The Domestic Violence Strategic Plan for 2014-2016 lists several objectives to gain greater male involvement in the prevention of domestic violence (FPA, 2014). The 2014-2016 Strategic Plan states

gender roles within society have a big influence on how domestic violence is perceived and takes place in the first place. Gender equality is an important first step in the prevention of domestic violence.

The second Strategic Plan formulated for 2017-2021 has taken the focus on men further by identifying and acknowledging the useful role men can play in domestic violence prevention. The 2017-2021 Strategy make recognition of existing gaps and has focused significantly on men (FPA, 2017). It states

While there is no policy difference in terms of accepting, or considering who is a survivor, in practice, for cultural and many other reasons, male

oriented protection and support programs are limited. Therefore, there is an emerging need to have protection and support services that are more gender neutral and ensure that all survivors, irrespective of their gender, receive necessary services.

Subsequently, the 2017-2021 list the following as one of its main goals to be achieved in the next five years

Ensure that all survivors who contact designated institutions receive appropriate level of protection and support that they need

Furthermore, with regards to prevention the 2017-2021 strategy notes the following.

men in power, prestigious positions and popular personalities can be useful ‘gatekeepers’ to the needed culture of change. Media can be useful partner too. There is a need to look at a broad horizon to see who can be effective partners and promote partnership for domestic violence broadly. There are those who are not traditionally considered partners for domestic violence purpose but who can reach out to people and groups that the state alone cannot.

As a result, it distinctively identifies men as a key stakeholder and partner in the prevention of domestic violence. A key goal listed in the 2017-2021 strategy is “mobilize key community agents including men, businesses and organization in the fight against domestic violence”.

V. FINDINGS

A. Beyond 1 in 3: Findings from the Maldives reported and recorded statistics

Following the publication of the findings of the study a coordinated effort tackle domestic violence in the Maldives began at relevant stakeholder organizations level. The outcome of this is relatively progressive legislation on domestic violence passed and enacted. With the legislation a separate institute called the Family Protection Authority as a lead agency in domestic violence matters started.

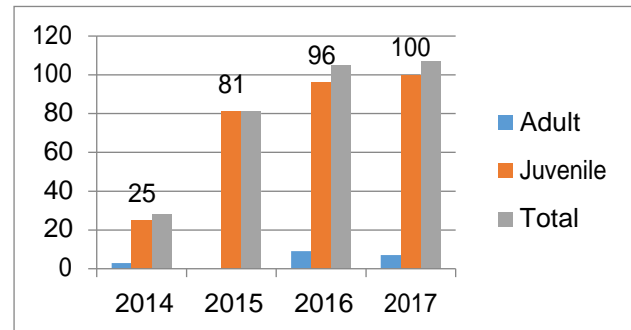
A significant feature of domestic violence legislation in the Maldives is the mandatory request to collect data on domestic violence incidents in the Maldives. In Maldives the police are the key agency responsible for enforcement of the laws. Also, the police are the main agency with most developed criminal statistics. The following table shows the reported incidents of domestic violence as recorded by the Maldives Police Service.

Table I Statistics of domestic violence victims from 2014-2017

	2014			2015			2016			2017*		
	F	M	Total	F	M	Total	F	M	Total	F	M	Total
Adult	16	3	19	31	-	31	121	9	130	88	7	95
Juvenile	18	25	43	47	81	128	76	96	172	72	100	172
Total	34	28	62	78	81	159	197	105	302	160	107	267

*2017 figures are up to 30th November

As can be seen from the table above, the number of total victims of domestic violence has been increasing in the last three years. From 2014 to 2015 there was an increase in 61%.



From 2015 to 2016 the increased percentage of victims of domestic violence nearly doubled with a total increase of victims by 47%. While there is a slight decrease in 2017 (considering the available figures are only up to November 2017, it can be seen that there are nearly 24 victims on average in each month.

Looking at the primary theme of this paper, that is victimization of men and boys that needs further attention, the indication that there is an increase in the last 4 years of male victims require analysis. The following graph illustrate the changes in Male victims from 2014- 2017. From this date it shows that when male victims are young it is more likely to be accepted as an offence that needs to reporting as opposed to victim being an adult.

One of the clearest observations from these statistics is that there is a significant attention that needs to be given to the issue of men and boys as victims. Although the numbers are not statistically very high, the recording of these figures point to a need to further look into the details of the cases. Interestingly, it is the number of juvenile male victims that are the majority of male victims. This points to the complexity of the problem because with young people being more victimized of domestic violence the work is more challenging in terms of providing support and assistance.

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B. Attitudes towards males versus females

A study done by the Human Rights Commission of the Maldives (HRCM) in the Maldives has looked at how people view sexual violence against boys and girls. These differences shed some insights into the notion that violence

against males that can be considered domestic violence is seen with less condemningly than violence against females. The survey asked do you consider sexual abuse to be a serious problem in the Maldives for boys and for girls. In 2005 over 81% of respondents viewed sexual abuse of girls to be a significant problem but 68% viewed sexual abuse of boys to be a problem (HRCM, 2005). When the survey was done again in 2011 the figure had increased for both girls and boys. In 2011 97.2% of the surveyed women and 85.3% of men viewed sexual abuse of boys to be a serious problem (HRCM, 2011). While the change in perception is in no way linked to any actual increase in violence against boys the data brings to attention that there is a growing recognition that sexual violence against boys, which in many instances occur within a domestic violence setting, is accepted as something that needs careful attention.

VI. DISCUSSION AND CONCLUSION

The paper raised attention to domestic violence in general but more specifically with regards to a need to conceptualize it to cover men as victims and not solely as perpetrators. The papers research findings point to a highly progressive legal and regulatory framework that allows victims irrespective of their gender to seek help and protection in the Maldives.

No doubt, the experience of men and women may differ in many aspects related to domestic violence. Thus, programs and interventions need to consider these. Currently the existing shelters are only catering to women. While there is little need for any separate shelter for males the support systems provided to males need to enhance significantly.

There are many venues planned and ongoing that offers significantly huge support to men. In Maldives the law makes no discrimination on victim's gender. Last few years have seen progressive developments on training and sensitizing key stakeholders to the issue of domestic violence.

While the need for a focus on men is important, it is much more important to consider that domestic violence against women is a significant factor and that resources allocated to fighting violence against women must not be shifted. Especially, given that the actual number of victims reported is significantly low it is important that any change in policy or practice is carried out with significant attention to the limitations of resources.

While the focus on men is maintained it is important that the punishment approach to domestic violence perpetrators need to changes, to include them as offenders who can be rehabilitated with right interventions. To this end, the domestic violence prevention strategies used by family protection authority showcase that there are many useful venues for using more appropriate intervention. The existing DV strategies in the Maldives offer a pathway for restorative justice which can cater to the needs of males. The first Strategic Plan of Maldives Family Protection Authority formulated for 2014-2016 states "use of a system of

restorative justice is encouraged, especially where young perpetrators are involved" (FPA, 2014, p. 23). Because restorative justice is more likely to allow a voice to all parties involved, a restorative justice-based approach can offer men the voice that they are either reluctant to raise or unwilling.

To conclude it is sufficed to suggest that the domestic violence agenda in Maldives is already shaped by a significant emphasis on gender neutrality. This has been an achievement for Maldives domestic violence prevention agenda in the past and therefore should be continued with.

Having looked and presented this initial look at research on the topic it is now important to look more detail and research the cases of male victimization thoroughly. Some of the key points to compare can be who men deal within supporting environment. Future research needs to also look at the different needs of males in different parts of the country such as a comprehensive study focusing directly on men.

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