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Information on the Maldives for consideration by the Committee on the Elimination of Discrimination against Women at its 79th Session (21 June – 9 July 2021)

Introduction:

1. We respectfully submit this letter for consideration during the Maldives’ sixth periodic review by the Committee on the Elimination of Discrimination against Women (‘the Committee’) during its 79th Session (21 June – 9 July 2021). Equality Now and Uthema request that this letter be used to supplement the Maldives’ 6th periodic State Party report to the Committee. Our joint submission details our concerns with regard to laws related to rape and other forms of sexual violence and procedures and practices which effectively deny access to justice for survivors of sexual violence, in violation of the Convention on the Elimination of All Forms of Discrimination against Women (‘the Convention’). Specifically, the Maldives’ legal system provides a number of opportunities for perpetrators of sexual violence to escape criminal liability or punishment, namely through imposing burdensome evidence requirements, failing to criminalise marital rape in all circumstances, and through the way sexual violence crimes are investigated and prosecuted.

Information about the authors of the submission

2. Equality Now is an international human rights NGO with ECOSOC status with the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now has offices in London, New York, Nairobi and Beirut, as well as consultants based in various parts of the world. Ending sexual violence, ending sex trafficking, ending harmful practices and achieving legal equality are the main areas of Equality Now’s work.
3. Uthema is a women’s human rights NGO registered with the Ministry of Home Affairs in the Maldives in 2016. The primary objective of Uthema is to advocate for gender equality and women's empowerment in the Maldives. Uthema seeks to understand the lived experiences of women in the Maldives and use that knowledge to advocate for positive social, cultural, economic and political change to improve the lives of women.

4. The legal provisions and practices detailed in our submission highlight the failure of the State to comply with its duty to provide equal protection under the law to survivors of sexual violence (Article 2(c) of the Convention) and failure of law enforcement to protect women from sexual violence (Article 2(c) and (e)). In violation of the Convention, the Maldives has also failed to enact criminal law provisions to effectively prosecute sexual violence and gross manifestations of violence against women including female genital mutilation/cutting (Article 2(b) and (f)). We submit that the root cause of the failures of the State is its non-compliance with the obligation to transform gender hierarchies and stereotypical and gender-discriminatory attitudes towards women and girls, contrary to Articles 2(f) and 5(a) of the Convention and the obligation to combat violence against women and provide access to justice to survivors, as described in General Recommendations 19, 33 and 35 of the CEDAW Committee. Notably, this is also despite the enactment of a Constitution that requires non-discrimination on the basis of sex, and national laws prohibiting such discrimination.¹

5. We reiterate the Concluding Observations on the fifth periodic report of the Maldives² and underscore, in particular, the recommendations urging the government of the Maldives to:
   - criminalise marital rape without any exemptions;³
   - monitor and evaluate the implementation of the new laws on sexual violence and collect disaggregated data on prosecutions and convictions;⁴
   - strengthen victim assistance and rehabilitation; and increase the effectiveness of the family and protection services centres and safe houses;⁵
   - encourage women to lodge criminal complaints, and to eliminate the stereotyping and stigmatisation faced by women who are victims of violence;⁶
   - remove evidentiary requirements that discriminate against women and ensure the equal consideration and weight of women’s testimonies as witnesses;⁷
   - ensure that women who report violations, especially in cases of violence, are treated in a gender-sensitive manner at all stages of judicial proceedings.⁸

6. Moreover, we also reiterate the List of Issues put forward by the Committee requiring information from the State on the measures taken to “address the barriers that prevent women from reporting cases of gender-based violence against them”, to “indicate whether

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¹ Constitution 2008, Article 17(a-b); Gender Equality Act (18/2016), Article 7(a-b)
² Committee on the Elimination of Discrimination against Women, 11 March 2015, CEDAW/C/MDV/CO/4-5
³ CEDAW/C/MDV/CO/4-5, 22 (a)
⁴ CEDAW/C/MDV/CO/4-5, 22(c)
⁵ CEDAW/C/MDV/CO/4-5, 22(d)
⁶ CEDAW/C/MDV/CO/4-5, 22 (f)
⁷ CEDAW/C/MDV/CO/4-5, 13 (a)
⁸ CEDAW/C/MDV/CO/4-5, 13 (b).
marital rape is recognised as a criminal offence”, and “to abolish female genital mutilation”.9

Legal Provisions enabling impunity for perpetrators of sexual violence

7. Despite extensive reforms to the laws on sexual violence through the passage of the Sexual Offences Act (Law No. 17/2014) and the Special Provisions Act to Deal with Child Sex Abuse Offenders (Law No. 12/2009), the laws relating to sexual violence still leave certain gaps which enable impunity for perpetrators.

8. Both the Sexual Offences Act and the Special Provisions Act to Deal with Child Sex Abuse Offenders have prescribed burdensome evidence requirements to prove sexual violence offences, which could make it difficult to obtain convictions. Section 52 of the Sexual Offences Act states that at least five types of the specified evidence are “sufficient” to meet the burden of proving an offence of rape, sexual injury or sexual assault beyond a reasonable doubt. The types of evidence specified include results of a scientific test; evidence of eye witnesses; forensic results; statements given by third parties “as related to them by the victim within a short period of time from occurrence of the incident, where there are no probabilities of the victim fabricating the story”; victim’s statement; evidence of physical injuries and material evidence. Many of the types of evidence listed in this section are discriminatory, and based on gender stereotypes/rape myths, such as for example evidence of physical injuries (which implies that the victim ought to have resisted), or requiring there be “no probabilities of the victim fabricating the story” (which begins with the assumption that victims are likely to make false complaints).

9. Further, setting a legal standard which could potentially be interpreted to mean that at least five types of evidence are needed is an extremely burdensome requirement which significantly reduces the possibility of successful convictions. This burden is, however, reduced in cases of child sexual abuse, as the law specifies a greater variety of evidences which can be introduced, including the child’s narration of the incident itself in addition to corroborating statements by different parties. While the law still notes that at least five types of evidence are “sufficient” to prove the offence beyond a reasonable doubt,10 the Supreme Court of Maldives in a recent case has interpreted this provision in a manner which gives more weight to the child’s testimony. In a decision rendered in March 2020, the Supreme Court held that a verdict can be reached if the testimony of a child is credible beyond a reasonable doubt, and that the evidentiary standards defined in Article 47 of the Act are merely resources in corroborating a child’s statement.11

10. The lack of jurisprudence from Maldivian courts applying these provisions in cases of sexual offences against adults makes it difficult to determine how exactly the evidence requirements for meeting the standard of proof for sexual offences will be interpreted and

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9 CEDAW/C/MDV/Q/6, 18 November 2019.
applied. However, based on a plain reading of the law, these burdensome evidence requirements could make it difficult to obtain convictions in rape cases, unless these provisions are interpreted liberally by the courts. The CEDAW Committee in its concluding observations during the fourth periodic review of the Maldives has expressed concern as to the “stringent evidentiary provisions required for sexual violence offences.”

The UN Women Handbook for Legislation on Violence Against Women also recommends that given the difficulties of obtaining evidence in rape cases, legislation should also allow for the prosecution and conviction of an offender based solely on the testimony of the complainant/survivor. This is important because it puts the focus where it should be, that is whether in principle there is evidence beyond a reasonable doubt to justify a conviction, rather than starting from an implied position of distrust and victim-blaming that is discriminatory towards the complainant.

In addition to the burdensome evidence requirements, the Sexual Offences Act also contains certain provisions which enable gender stereotyping and secondary victimisation of survivors during the legal proceedings. In particular, section 53 provides that the occurrence of certain circumstances can be used to deny the accusations of sexual violence, including long delay between the occurrence of the incident and date of reporting if the incident was not narrated to other persons in the meantime [sub-section (b)]; the court finding that there is a possibility of false testimony being supplied by the victim having regard to facts relating to the “dignity and discipline of the victim” [sub-section (c)]; the court being of the opinion that the incident is likely to not have taken place, having reviewed both parties' accounts [sub-section (d)]; and the court opining that the offence was improbable to have taken place having regard to “the relationship between the parties and the transactions between them prior to the offence” [sub-section (e)].

These provisions violate international human rights standards which provide that sexual violence legislation should not allow for adverse inferences for delays in reporting and that introduction of evidence relating to the past sexual history of the survivor should be prohibited in rape cases. On the contrary, the above-mentioned provisions in section 53 of the Sexual Offences Act encourage the introduction of evidence as to the sexual history of the victim, as well as her relationship status with the accused at all stages of the proceedings. This information, deliberately or not, is usually evaluated to assess whether she is a “worthy” victim and has been truly damaged by the rape. Such legal provisions make victims vulnerable to being asked personal questions that are not related to the case and which suggest the victims themselves were to blame for the attack.

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12 CEDAW/C/MDV/CO/4-5, para 12
13. A recent high profile case of an alleged attempted rape that took place on a Safari boat in the harbour of Hulhumale in June 2020 resulted in public protests and increased calls for police accountability in rape cases. In this context, Maldivian lawmakers have proposed certain amendments to the Sexual Offences Act, including the deletion of sub-sections (c), (d) and (e) of section 53 and the mandatory use of rape-evidence kits. These proposed amendments are currently pending before Parliament and would be welcome. However, additional amendments are also required to the provisions of the Sexual Offences Act, as set out above, including repeal of sub-section (b) of section 53 and clarification of the burdensome and discriminatory evidence requirements in section 52.

Marital Rape

14. International human rights standards highlight the obligation of States to pay specific attention when it comes to crimes committed in a domestic setting, including marital rape. However, Section 20 of the Sexual Offences Act in the Maldives only criminalises marital rape under certain circumstances, that is, when the marriage is in the process of dissolution, when one of the parties has applied for a divorce, if the husband knowingly transmits a dangerous sexually transmitted disease to the wife, or if the couple is living separately under a mutual agreement. Further, the penalties prescribed even for this narrow offence of marital rape are far lower than those prescribed for rape cases when the parties are not married. In addition, Article 14 of Special Provisions Act to Deal with Child Sex Abuse Offenders provides that sex offences under this law shall not be deemed as an offence when carried out with a child with whom a person has entered into marital relations, thereby legally permitting the marital rape of children. This is despite the fact that after the passage of the Child Rights Protection Act (19/2019), in November 2019, marriage of persons below the age of 18 is prohibited in the Maldives without exception.

15. The Maldivian Penal Code also states that consent for sexual intercourse is implied in a marital relationship “unless proven otherwise”. The Maldives Government in its State Party report to the CEDAW Committee has stated that the absence of any parameters in the Penal Code for rebuttal of this presumption of consent gives flexibility on how the

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17 Hisaan submits amendment to make rape evidence kits mandatory (headline translation), Mihaaru.com, 02 July 2020, https://mihaaru.com/news/76692
18 Section 20, Sexual Offences Act, 2014.
19 Section 20(c) of the Sexual Offences Act prescribes penalties for marital rape as 3-5 years’ imprisonment in the event a dangerous weapon is used, and 1-3 years’ imprisonment if the offence is committed in any other manner. In contrast, section 14(c) prescribes penalties for the offence of rape as 20-25 years’ imprisonment in the event a dangerous weapon is used, and otherwise 15-20 years’ imprisonment in the event the offence is committed in any other manner.
21 Article 130(b), Penal Code.
provision can be applied. However, this “flexibility” is insufficient to meet the Maldivian government’s obligation to protect all women and girls from sexual violence irrespective of their marital status, especially considering the narrow grounds under which marital rape is criminalised in the Sexual Offences Act. In fact, the Maldives Government itself has stated in its Reply to the List of Issues that the Sexual Offences Act “will be prioritised over the Penal Code in application, concerning cases of sexual offences.”

There are no known cases of conviction for marital rape under the Penal Code to date.

16. There is thus, a lack of clarity on which legal provisions apply in cases of marital rape. The State Party should amend the Sexual Offences Act, the Penal Code, as well as the Special Provisions Act to Deal with Child Sex Abuse Offenders and ensure that marital rape is criminalised in all circumstances.

17. A presumption of ongoing consent in a marital relationship, particularly where domestic violence has been established, violates a woman’s right to her autonomy, security and bodily integrity. A recent survey published by the Human Rights Commission of the Maldives found that 82.9% of respondents agreed with the statement that “A good wife always obeys her husband even if she disagrees” (with no significant difference between the views of men and women). The support for this statement also demonstrates the acceptance by both men and women of a woman’s subordinate role in a marriage. As such, in addition to amending the Sexual Offences Act to criminalise marital rape in all circumstances, in light of the existence of unequal power dynamics in relationships, particularly when the wife has been experiencing ongoing threats and demonstrations of violence, the State should ensure that the assessment of genuine consent to sex is informed by the de facto coercive realities of the national context.

18. The first ever conviction for marital rape in the Maldives under the Sexual Offences Act was pronounced by the High Court on 1 October 2020, in a case involving the rape and physical assault of ZN, which resulted in her death in 2015. The victim had been raped and assaulted by her husband from whom she had separated. In a landmark decision, the accused was found guilty of marital rape by the High Court under section 20(a)(4) of the Sexual Offences Act (as they were separated) and sentenced to three years’ imprisonment. This is an encouraging precedent by the High Court as it is a practical recognition of rape and marital rape in an environment where neither is effectively addressed.

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22 Sixth periodic report submitted by Maldives under article 18 of the Convention, due in 2019, CEDAW/C/MDV/6, 28 October 2019, para 40.
23 Replies of Maldives to the list of issues and questions in relation to its sixth periodic report, CEDAW/C/MDV/RQ/6, 20 August 2020, para 99.
19. In fact, there is a religious and conservative narrative prevalent in society that a woman must always be sexually available to her husband - so much so that 42.3% of people in the Maldives still believe that a woman does not have the right to refuse sex to her husband.\(^27\) Accordingly, in addition to amending the law, there is also a need to improve access to justice for survivors of marital rape, as they are often discouraged from reporting or turned away due to the discriminatory attitudes of frontline service providers, including health professionals, police and other government officials, particularly due to the still prevailing view of non-acceptance of marital rape as a crime due to narratives of gender-based inequality in marriage.

**Emerging issues on sexual violence against women and girls**

20. Issues linked to increasing religious fundamentalism and radicalisation, and resulting impacts on women and girls have been observed in the Maldives context by a variety of concerned stakeholders. Among key issues are the practices of unregistered child-marriage, endorsement and promotion of female genital mutilation/cutting (FGM/C) and most recently, the practice of “ruqya” or exorcism and “sihr” or black magic.\(^28\) In 2017, Uthema documented stories of lived realities of violence against women and found that narratives of misogyny propounded by "clerics" have led to justifications of sexual violence against women by the husband in long-standing non-violent marital relationships.\(^29\) Such narratives continue to be ignored by State authorities and communities are subject to widespread dissemination of misogynistic preaching leaving women and girls vulnerable to the ensuing violence. These extremist narratives are also propagating practices such as "ruqya" which effectively prey on the most vulnerable and desperate in communities where healthcare provision is weak and often inaccessible. Anecdotal evidence also indicates this practice has flourished as a business in communities and practitioners are charging exorbitant prices for the alleged "treatments".

21. On 24 November 2020, online media reported the case of a woman and her three young girls being subjected to acts of torture, under conditions of confinement and enslavement in their home over a period of 3 months, by the woman’s husband (the children’s stepfather). This prolonged period of physical, sexual and psychological violence and abuse was inflicted with the participation of a second man reported to be a “ruqya” practitioner in the community. While a prompt parliamentary probe was initiated, media reports informed that according to the woman, “her husband believed that her migraines were the result of supernatural possession by 'jinn’”, and that “medical reports had


\(^{29}\) Fathima Manike’s Story, Uthema, 2017, https://www.youtube.com/watch?v=wd1OZJH3nsI&ab_channel=Uthema
confirmed that [her] seven-year-old child was severely sexually abused.”

It is notable there are public platforms in the Maldives where alleged solutions for medical conditions are provided through the practice of “ruqya”, an emerging phenomenon in the country. On 26 November, media reported the arrest of the two men involved in the aforementioned case, aged 39 and 24 years, under “allegations of psychological, physical and sexual abuse perpetrated against a woman and her three daughters while confined to a house under the premise of ruqya (exorcism)”. A news article (unofficial translation) with further details on this case is included as an Annex to this submission.

22. Notably, reports suggest that efforts by the survivor and her family to alert the authorities failed initially as community-based law enforcement officials as well as social service workers failed to respond. This situation is an indicator of the prevalence of attitudes even among institutional service providers and acceptance of such practices, which enables impunity for perpetrators of violence and endangers the physical and mental safety and security of women and girls. It is pertinent to note that these alternative health practices are completely unregulated and unchecked by the health authorities. In fact, anecdotal evidence suggests that when well respected medical practitioners have questioned such practices in the recent past, they are subject to intimidation, harassment and even death threats. This creates a chilling effect for concerned medical practitioners to respond to such threats to vulnerable patients. The failure of the health regulatory authorities to intervene is particularly problematic.

23. In June 2020, media reported the case of a “ruqya” practitioner accused of sexual assault whose identity was disclosed by the Maldives Police Service with an appeal for any other victims to report cases. According to the report, police officials informed that “It [sexual abuse] is inflicted not just in the name of ruqya, but often under the guise of black magic”. While police are reported to have informed media sources that such cases had been investigated and sent for prosecution, no further updates are available on the progress of such cases at the time of this submission.

Access to Justice for survivors of sexual violence

24. A complete disregard of perpetrator responsibility for their own actions, which is prevalent in society, along with grave inadequacies in law-enforcement pose serious obstacles in reporting sexual violence. Lack of protection for women who report rape, fear of re-victimisation and retaliation (including blackmail), lack of women in frontline policing, and poor legal aid and institutional support services (particularly outside the urban capital Malé) are also some of the reasons which contribute to low levels of reporting in sexual

34 ibid
violence cases.\textsuperscript{35}

25. Even when cases are reported, the data submitted by the Maldives government in its reply to the List of Issues demonstrate the difficulties faced by women and girls in accessing justice for sexual violence. The official data on sexual abuse cases between 2015 - 2019 shows that over a five-year period there were 364 reported cases of sexual abuse (326 cases of sexual abuse against children and 38 cases against adults). The true figure is likely to be much higher, as demonstrated by survey data on the extent of sexual violence in the Maldives.\textsuperscript{36}

26. Out of the 364 reported cases, there have been convictions only in 49 cases to date, i.e. only around 13.5\% of cases.\textsuperscript{37} One of the major reasons for the low number of convictions is the discriminatory attitudes and poor investigation procedures followed by the police, as most of the cases reported to the police are not sent to the Prosecutor General’s Office for prosecution.\textsuperscript{38} Reports show that in many cases, police officers view sexual and domestic violence as personal disputes where they should not interfere, and often fail to take any action in such cases despite being aware that the violence has taken place.\textsuperscript{39} The Maldives government also admits in its State Party report that inadequate investigation procedures and low levels of female participation in the police force create challenges in the prosecution of sexual violence cases.\textsuperscript{40} In fact, the data submitted by the State shows that of the total cases of crimes against women lodged with the police between 2015 - 2019, less than 10\% of cases were sent by the police for prosecution.\textsuperscript{41}

27. Though the Health Sector Response to GBV National Guideline on providing care and prevention for Health Care Providers, 2014 has been developed by the Ministry of Health

\textsuperscript{36} The Women’s Health and Life Experiences (WHLE) study published in 2007, which found that “1 in 3 women (34.6\%) aged 15-49 reported experiencing physical and/or sexual violence at some point in their lives, including childhood sexual abuse.”[Maldives Study on Women’s Health and Life Experiences, Ministry of Health, 2007 https://maldivesindependent.com/files/2015/03/Maldives-Study-on-Womens-Health-and-Life-Experiences-2007.pdf]. The Maldives Demographic and Health Survey 2016-17 (MDHS) found that 11\% of women and girls aged 15-49 in Maldives had experienced sexual violence. [Maldives - Demographic and Health Survey 2016-2017, https://dhsprogram.com/publications/publication-fr349-dhs-final-reports.cfm]. However, the MDHS survey is not a qualitative study as compared to the WHLE study which is considered to have employed more rigorous data collection methods.
\textsuperscript{37} Replies of Maldives to the list of issues and questions in relation to its sixth periodic report, CEDAW/C/MDV/RQ/6, 20 August 2020, pp. 22 - 26.
\textsuperscript{40} Sixth Periodic Report submitted by the Maldives to the CEDAW Committee, 28 October 2019, available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMDV%2f6&Lang=en
\textsuperscript{41} Replies of Maldives to the list of issues and questions in relation to its sixth periodic report, CEDAW/C/MDV/RQ/6, 20 August 2020, para 27.
along with UNFPA Maldives to provide guidelines on medical care of victims of gender-based violence, these guidelines are not adequately implemented.\textsuperscript{42} The Human Rights Commission of the Maldives has found “incidents where sensitive medical information of patients were leaked from the health centre”, as a result of which many women do not trust healthcare providers.\textsuperscript{43} Combined with judgmental and biased attitudes of healthcare providers,\textsuperscript{44} women and girls are reluctant to report sexual violence or are re-victimised when they do report. The case of ZN (which resulted in the first conviction for marital rape), a woman from the island of Gaaf Dhaal Atoll Thinadhoo, who died following injuries sustained after a brutal sexual attack by her estranged husband, exemplifies the total systemic failure in providing medical care for victims of sexual violence in the Maldives. According to news reports, “she did not report the rape to the police, but went to the doctor days after the incident to seek treatment. The doctor recommended she travel to Malé immediately.”\textsuperscript{45} Despite the fact that Thinadhoo has a second-tier regional hospital, the facility did not have the capacity to attend to her injuries. ZN travelled to Malé City seeking further medical care, but the regional hospital at Thinadhoo failed to give her a referral to the public hospital in Malé. Thus, ZN was forced to waste precious time by going to a private clinic in Malé, after which she was finally referred to the public hospital. She died from her injuries while receiving treatment at the intensive care unit at the Indhira Gandhi Memorial Hospital.\textsuperscript{46}

28. As noted by the CEDAW Committee in its General Recommendation 35, states should “ensure effective access of victims to courts and tribunals; ensure authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and as appropriate \textit{ex officio} prosecution to bring the alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties”.\textsuperscript{47} In the Maldives, access to justice by survivors is impeded by lack of availability of lawyers, particularly in the smaller islands where it is difficult to obtain a lawyer. Further, the legal aid programme of the Government only extends to ‘major criminal offences’ which is an obstacle to survivors accessing remedies, as acknowledged by the Maldivian government.\textsuperscript{48}

\textsuperscript{47} CEDAW, CEDAW/C/GC/35, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19.
Compounding this is the lack of understanding of the gendered nature of the crime of rape, the negligible number of female judges,\(^{49}\) and lack of gender-sensitive responsiveness of those who work in the justice system. The absence of an effective witness protection programme and under-resourcing of the victim support unit at the Prosecutor General’s Office have also been identified as factors which impede access to justice in sexual violence cases.

29. Further, there is a lack of support services for survivors. Though the Maldivian government officially states that there are 4 shelters established for GBV survivors\(^{50}\) most of these shelters are not functional in practice. The lack of functionality, accessibility and safety of shelters to provide a safe place for survivors of gender-based violence is an immensely problematic issue which needs to be addressed immediately. Furthermore, despite the legal provision for perpetrator rehabilitation in the Domestic Violence Prevention Act (Law No. 3/2012),\(^{51}\) there has been no initiative to establish programmes to address this key aspect of violence prevention and minimise the prospect of re-offending.

Action to address Female Genital Mutilation/Cutting

30. The 2016-17 Maldives Demographic and Health Survey (MDHS), published in December 2018, for the first time collected information on the incidence of Female Genital Mutilation/Cutting (FGM/C) in the Maldives.\(^{52}\) The MDHS data indicates that 13% of women aged 15-49 have been subjected to FGM/C in the Maldives.\(^{53}\) Although the MDHS observed a 'decline' of FGM/C among younger girls, information from activists on the ground indicates that an active revival of the practice has been happening in the country by conservative and fundamentalist elements which endorse the practice as a religious requirement.\(^{54}\)

31. The Maldives does not have any laws which specifically prohibit the practice of FGM/C, though the State has indicated its commitment to bring about necessary legislative changes to address this issue.\(^{55}\) Article 2(f) of CEDAW obliges States Parties to undertake all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against women.

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\(^{51}\) Sections 2(e) and 53(k), Domestic Violence Prevention Act (Law No. 3/2012)

\(^{52}\) Please note that the MDHS survey uses the term ‘female circumcision’ as opposed to FGM/C.


\(^{54}\) Comprehensive NGO Shadow Report Responding to the 6th Periodic State Report of the Maldives, April 2019 to the UN CEDAW Committee, Uthema, Maldives, 20 April 2020 (paras. 25, 58, 59, 60)

\(^{55}\) Replies of Maldives to the list of issues and questions in relation to its sixth periodic report, CEDAW/C/MDV/RQ/6, 20 August 2020, para 78.
Suggested Recommendations for the Maldives

32. We respectfully urge the Committee to make the following proposed recommendations to the government of the Maldives regarding the violations of the Convention addressed in this submission:

a) **Amend Section 52 of the Sexual Offences Act and section 47, Special Provisions Act to Deal with Child Sex Abuse Offenders** to remove burdensome evidence requirements for proving cases of sexual violence;

b) **Amend Section 53 of the Sexual Offences Act** and ensure that negative gender stereotypes relating to delayed reporting, false cases and “dignity and discipline” of the victim are not relevant in adjudication of sexual violence cases, and abolish practices that contributed to secondary victimisation of women (such as examining prior sexual history of the victim);

c) **Criminalise marital rape in all circumstances**, without any exceptions;

d) **Effectively implement** existing laws on sexual violence;

e) **Ensure that police, prosecutors and judges are trained** according to a gender-sensitive and non-discriminatory methodology for investigating and prosecuting sexual violence;

f) **Ensure deterrent sanctions** for perpetrators and effective remedies and rehabilitation for both survivors and perpetrators as per the Domestic Violence Prevention Act, and initiate relevant research to establish prevalent risk factors contributing to sexual violence against women and children to inform evidence-based decisions;

g) **Ensure awareness raising campaigns**, including among law-enforcement, about the criminal nature of all forms of sexual violence (including marital rape) and that violence is not justified in any circumstances;

h) **Collect and publish disaggregated statistics on all forms of sexual violence and marital rape**, which are desegregated by victims' sex, age, relationship to the perpetrator, and belonging to any vulnerable groups;

i) **Specifically prohibit FGM/C under the law** and provide education and information on the existence and effects of FGM/C and take proactive measures to protect women and girls from FGM/C. State institutions must also cease enabling and supporting clerics promoting FGM/C.

j) **Take immediate measures to address the rising phenomenon of black magic and “ruqya”** as a key public health concern, as well as a safety and security concern affecting women and girls and initiate measures to protect vulnerable groups from the dangers of sexual violence linked to such practices.
Unofficial translation of original article in Dhivehi

Family of four physically and sexually assaulted and taken “hostage” in the name of ruqya!
Fazeena Ahmed, 24 November 2020, Mihaaru.com

This report on the violence perpetrated against a mother and her three children for three months, in the central region of the Maldives, does not use their real names. To protect the child victims of the violence, the island where this incident took place and the real names of the persons involved are not used. It is also a crime to disclose information about a child victim of violence.

One day, before their marriage, Hussain Solih saw how much Mariyam Hudha suffered due to migraines. She would not want to speak to anyone, became angry and was unable to get out of bed because that made her headache even worse. Even on the first day Hussain saw her in that state, he believed it was no ordinary pain. Even though the family said this was a terminal condition, Hussain concluded this was a disturbance caused by jinn.

He brought along a ruqya practitioner, held Hudha’s head and did readings and poured water over her too.

Hudha who is 30, was not happy with this and asked not to do this again. This is because she knew that when it happened, she can stop the pain by taking a Penadin tablet. Despite several consultations, the doctor had not prescribed any special medication for her condition. As she can get relief for the pain, and she explained this to Hussain, he had agreed he would not repeat what he did.

At that time, they were preparing to get married having obtained consent from the families. She travelled to Hussain’s island, got married and began to live in his house last August. Hudha moved to that island with her daughters who were 10, 7 and 4 years old. According to Hudha, soon after they started living together, her husband began to talk about ruqya once again and started to bring a man from the island to conduct ruqya.

“Even on the first day, [he] gripped her leg [on the calf in a particular way] and said that a jinn had entered my body”, explained Hudha to Mihaaru, who was with some of her family members. Having fallen for the word of Shafiu Moosa, a well-known ruqya practitioner on the island, her husband believed Hudha was possessed by a jinn. Shafiu, who began to practice ruqya at a young age is alleged to have relieved the discomforts of many people on the island by doing readings. There exists a belief in this island community that ruqya can bring relief. There are people who turn to ‘fen-kiyevun’ (‘readings into water’) to resolve disputes between married couples, sleeplessness and anxiety related conditions or for bodily aches. One of people Shafiu did ruqya for, was someone with kidney disease. Even though they had the documents from a doctor’s diagnosis, he persuaded them (patient) to believe that the stone in their stomach was the work of jinns. Relief would be possible through ruqya, according to him.

After beginning the readings at her house to cure Hudha, her husband informed her mother who lived on the island and her family who lived in Male’ that doing ruqya for a particular duration would cure her. He also told them that during that time, it would not be advisable to speak with her too often. According to Hudha, from then on, they began to do readings in the name of ruqya, and to apply black seed oil (‘kalhu-dhiri-theyo’) and perfume on her body.

“I continued to repeatedly say that this is not a jinn, this is [Hussain’s] wife. I even got angry”, Hudha said. When they began to apply black seed oil and perfume around her eyes and began to pour water on her body,
she began to resist and shout, at which point, Hudha said that the shutters on the house and the doors were screwed shut and she was locked inside with the four [sic] kids. “My phone was confiscated. There was no way light could get into the house. It was not possible to tell whether it was day or night. At certain times, the man who did the ruqya came round and poured water on my body. I had to stay like that until the water dried.”
Not long after it started, they said her 7-year-old child was also possessed by jinn and began to do readings. According to Hudha, from then on, they made the children to belief she was a jinn.
“The older child [10 years] and the youngest were told that mother and [name removed] were possessed by jinn. That it is not mother, and younger sister is also a jinn”, Hudha said.
They [the men] gave names to the alleged jinn that had possessed their [survivors’] bodies, and began to call them by these names.

**Made to live as a slave and abused and punished**

After ruqya began, Hudha could only make a movement as per orders from her husband and Shafiu. Hudha said that if she stood up from a sitting position without getting permission, they punished her for disobedience by beating various parts of her body claiming this was being done to the jinn. She had several signs of abuse all over her leg. Hudha said that she had similar other scars on her arms and other parts of her body due to being beaten and abused with an ekel broom, a chair or any other object that came to hand at that time, by her husband and Shafiu.
“When I say that the beatings were hurting me, they said I was lying and that there will be no pain as they are beating the jinn. If I say that I am not a jinn and that it hurts, they would beat me even more”, Hudha said.

According to her, the man doing the ruqya eventually moved to live in the house, saying this was to punish the ‘kafir’ jinn (non-Muslim jinn). They continued to punish Hudha and her three children by working in shifts.
According to Hudha, for three months, every night between 10 o’clock at night and 4 o’clock in the morning, they put a speaker near her ears making her listen to some audio, poured water on her body and punished her. They did not allow her to sleep. During the daytime, they made Hudha cook for the two men and the children. But Hudha and the children got whatever quantity of food they (the men) allowed them, and this was just enough to satiate their hunger, explained Hudha.
According to Hudha, on occasion they were fed rice which contained black seed oil.
“They kept me with garlic stuffed into both my nostrils and an onion in my mouth – applied oil and perfume around my eyes, and then made me stay in a particular position until I fall down from fatigue”, Hudha explained.
When the ruqya man is having his meal, they made me put his glass of water to his mouth. That too, claiming it was done as a punishment to the jinn. If I didn’t do it, they would beat and abuse me.”
The three children saw her being abused, and according to Hudha, they were so frightened they didn’t know what to do. If they did not do as they were told by the two men, they would do things like tear up the children’s books and eat the things in the gift-boxes sent by her family in front of them, without giving them any.
The two of us nearly died from hunger!

According to Hudha, claiming to punish the jinn, herself and her 7-year-old daughter were deprived of food for 2 days. They were given half a roshi (roti) on those 2 days, and Hudha said she tried to get some food for her child without the men finding out.
When she was making roshi, she would hide a few and secretly feed small pieces to her daughter when the man on watch went to the toilet.
“My child was so starved and fatigued that her tongue was hanging out and I got a jug of water and gave her water to drink. When they found out, they abused me”, she explained.
“They would beat me so much that I sometimes passed out. Sometimes, I didn’t know what was happening.”

They intimidated the 7-year-old and sexually abused her.

Given the way thing happened, members of the family believe that one of the objectives of the entire ruqya plan was to sexually abuse the child.
According to Hudha, even though her 10-year-old was allowed to go to school, her 7-year-old was prohibited to go to school. Claiming to punish her, she would be kept inside a room and following that abuse, she became very quiet according to Hudha.
Hudha said that she suspected her child was being sexually abused in the name of punishing her, when she began to wet her bed. According to Hudha, her daughter was sexually abused by the ruqya man. Claiming to punish her, she was made to hold his genitals and showed videos on YouTube that were unsuitable for children.
“My child explained to the psychiatrist what they did to her.”

Last Friday, the girl was admitted at the IGMH (Indhira Gandhi Memorial Hospital) and tests were done. Doctors reports show that she was badly abused and that she had sustained injuries to her genitals, both front and back.
“She cannot properly sit on a hard surface”, explained Hudha with emotion.

According to Hudha, she also endured sexual abuse from Shafiu who performed ruqya. She accuses him of grabbing her sexual organs forcefully while pretending to grab her hand to punish her. She was ordered to prostate herself in front of her husband after sexual intercourse with him before taking a shower, which she said was also conveyed to her as part of ruqya. According to her, she was punished for resisting this.

Prohibited from entering the house! A police officer didn’t help, care-worker from gender (ministry) was sent off

According to the accounts of Hudha and her family, she made various attempts to escape. However, every attempt was foiled due to the alertness of her husband.
One of Hudha’s family members said that they once received several audio messages from Hudha on Viber saying she was being abused and to rescue her. When they rang back at that time, there was no response and the following day, messages sent via Hudha’s Facebook said it was something the jinn had done.
“[husband’s name] is very good. He didn’t do that. It was an audio message sent during a time of jinn possession”, the [family member] explained. According to the [family member], it was possible to accept that story because of the trust the family has for Hussain and because everyone knew Hudha was undergoing ruqya.
Even if a family member called [phoned], Hudha explained that she was never given an opportunity by her husband and the ruqya man to tell them about the abuse and the main reason she hesitated to tell was because she knew how much her children will be made to suffer. According to Hudha, her husband told her family that the ruqya activities will be finishing very soon. Family members were also unable to travel to the island due to the lock-down restrictions.

According to Hudha, if a neighbour hears crying and comes round to the house, it was attributed to the jinn and they would be sent off. People in the neighbourhood were made to believe that such crying was connected to ruqya. Hudha explained that when she was taken to the doctors’ once after sustaining a neck injury due to the abuse and tried to tell the doctor it was caused by the husband, this was not taken seriously by the doctor which made her feel hopeless.

“I thought that the doctor could not understand what I was really saying”, Hudha said.

One day when she got hold of a phone, she rang a family member and explained that her children were being abused, which led to a care-worker from the Ministry of Gender to call round to the house. According to Hudha, that day she tried to explain in different ways that her children were being abused, but her husband persuaded [the care-worker] that this was something to do with the jinn. [The care-worker] was not allowed to speak to the children and was sent away.

According to her, a police officer on the island once went to the house with her husband, and she tried to tell [the officer] what was happening to her and [the officer] did not consider this important.

“The police officer said that this [ruqya man’s name] is known. That there is a jinn possession on the right leg between the knee and the ankle. I said [name] from the littler finger to the head, that’s a jinn. And [the officer] just laughed and left”, explained Hudha.

According to Hudha, when the ruqya being done to her was not improving her condition and it was taking a long time, the first ruqya person was sent away and another person was brought in and various things were done by this person too. It was after three months of this suffering that she got hold of her phone one day when her husband went out for Friday prayers. She rang a family member who lived on the island for help, and it was when they came round that she was able to leave the house on the 30th of last month. At first her husband tried to stop her from leaving and made efforts to coerce her.

The same day, she and her children went to see the doctor on the island. Hudha said that when she reported the case to the island police station, they were not responsive and it was reported to the atoll police station which sent an officer to whom statements were given. They received police assistance until she and her family were able to travel to Male’ two days later.

Due to the negligence of the island police station and the fact that one of the officers there was a close friend of her husband and would have influence, the family had lodged the case at the atoll police station. The case is now being overseen by the atoll police station. The fact that the island health centre did not begin medical treatment for the child who endured sexual abuse is a concern of the family.

“It was after we arrived in Male’ that we were able to do the tests at IGMH last Friday and Saturday after admitting her. The reports show that she had received such injuries even after doing the tests so late”, a family member explained.

Even though the police and the Ministry of Gender are investigating the physical and psychological trauma the family was subjected to, no arrests had been made as at last night. According to some members of the
family, they had been receiving warnings that the case will be judged by the “rain court”. [Translator’s note: this appears to be a play on words indicating the case won’t go anywhere].

“When my children and I managed to escape from that place, it felt like we had been released from a cage”, Hudha said.

According to Hudha, her husband now says that the ruqya performer had done readings towards him and he too was in a state in which he did not know what was happening. But she said the abuse they had suffered from him is too serious for her to fall for that explanation.

The family of four had suffered this abuse being held hostage and treated as slaves at a time when police had disclosed that there were increased incidences of sexual abuse and criminal activity under the guise of ruqya. According to police, some such cases had been reported, investigated and have been sent to the Prosecutor General’s office for prosecution.

According to Hudha, the abuse inflicted on her family in the name of ruqya as related to Mihaaru, was being given as statements to the police and Ministry of Gender along with evidence. Her wish is for justice, and for their case not to be confined within the institutions in the same way power and influence caused the confinement of her and her family.