

Maldives NGO Statement to the CEDAW Committee

Thank you Madam Chair,

We, at Hama Jamiyya, presented to you the Maldives Shadow Report prepared with the participation of nine NGOs, five Community-based organisations (CBOs) working on women's development and the contribution of a number of individuals for women's rights.

As evident from the State report, there has been very little substantive development in protecting women's rights in the Maldives in the past ten years. The main problem, we believe, is a lack of conceptual clarity in understanding equality as defined in Article 1 of the Convention, especially the concept of substantive equality, by the State. Lack of action in implementing Articles 2 and 5 has meant that the Convention brought no positive change to the lived realities of women.

There is no recourse to remedy discrimination against women, and the Convention remains outside domestic law nearly fifteen years since the Maldives acceded to the Convention.

Civil Society action on human rights in the Maldives is new given the lack of democratic space under the existing system. The current drive for democratic reform, and emerging space for promoting international human rights standards, we believe, would ensure active civil society participation in promoting and implementing the convention.

Today, public perception in the Maldives in general is that women in the Maldives are not discriminated against. Dominant discourse take a comparative approach designed to convey the extent to which women in other countries are discriminated against, thereby convincing the public that discrimination against women is a non-issue in the Maldives. The power of this discourse is such that it has convinced women themselves that there is no discrimination, despite the every day realities of women's lives.

A baseline survey carried out by the Human Rights Commission of the Maldives in 2004 revealed that a significant proportion of the population, both men and women, consider women to have a subordinate role in the husband/wife relationship. For example, 44.9% “strongly agree” and 45.0% “agree” that a good wife always obeys her husband even if she disagrees with him. Further, the survey revealed that more women than men, believed it justified to hit a wife for various reasons. Given these beliefs, it is not surprising that the preliminary results of a survey on VAW in the Maldives carried out by the Ministry of Gender and Family in 2006 showed that 1 in 3 women between the ages of 16 and 45 had experienced physical or sexual violence at some point in their lives.

Though the State Report claims the issue of Violence Against Women a priority issue of the Government, there is as yet no system to address or deter VAW. There are no legislation on VAW, and victims do not have access to justice in the existing system. The few who do go to the police to use the existing system face a gender insensitive system which do not take into account the dangers faced by a woman victim who reports domestic violence. Police, and the State as a whole continue to treat VAW and domestic violence as a private matter and work to keep the family intact rather than to protect the woman’s right to a life free from violence.

The Concluding Comments of 2001 were published in English and distributed to all Government agencies but, were not disseminated to the public, nor were they translated into Dhivehi, the local and official language of the Maldives.

Still today, reservations to the Convention and constitutional limitations on women’s participation in political and public life remain.

No positive changes have been brought even where such action is possible without constitution or legislative change. For example, despite the availability of competent women and no constitutional or legal impediment to the appointment of women to the judiciary, there is not one single woman judge appointed in the history of the Maldives. Further, a gender balance is not reflected even in administrative matters such as appointments to public bodies, government positions and diplomatic positions which are decided by the President.

No Temporary Special Measures have been introduced in any area, and a proposal to introduce a quota for women members in Parliament was defeated in the Constitutional Assembly three months ago.

The Constitution and domestic legislation does not incorporate the definition of discrimination as defined in Article 1 of the Convention, and amendments proposed to the Constitution do not include this definition in full.

The Family Law which promised much ten years ago, has since failed to bring the expected positive changes to realities of women.

Considering that the Maldives had, one of the highest divorce rates, if not the highest in the world, it is noted that the divorce rates which dipped initially following the enforcement of the Family Law has once again risen to very high levels.

It is noted that the requirement of the codified Family Law for husbands to obtain the permission of the Court prior to divorcing their wives, and the sanctions provided for failure to comply, has not deterred husband's use of unilateral divorce. The attitude of both the public and the judiciary is that divorce is an inalienable "right" of man, as is marriage.

Administrative action to limit polygamy takes into account the income of the man, thereby signifying polygamous unions as a status symbol to be entered into by the wealthy.

Prenuptial agreements are provided for in the Law, but the concept remains vague both to members of the judiciary and the public alike. In five years since the codified Family Law came into effect, it is not known that a single couple entered into a prenuptial agreement.

The concept of matrimonial joint property noted in the Concluding Comments has never existed in the Maldives, and the Family Law does not provide for equal division of property as envisaged in the initial State Report.

The minimum age for marriage was set at eighteen and maintained in initial years. However, in 2006 there were marriages of girl children under the age of eighteen carried out with the approval of the Child Protection Authority of the Ministry of Gender and Family. It is understood that all requests for the marriage of minors were from girls.

An emerging issue of great concern is the disregard of the law by a few religious extremists who enter underage marriages and enter polygamous marriages without following procedure laid down in the Family Law. These self-administered marriages are not registered and go unrecorded.

Women continue to be denied fundamental rights, especially in relation to Article 16 marriage and family life, and there has been no development in using comparative or progressive jurisprudence to interpret Islamic Law in harmony with international standards and the Beijing Platform for Action.

Replacement of the National Women's Council which met and discussed issues regularly, by the Gender Equality Council headed by the President has proved to be a backward step. The Gender Equality Council had one single meeting in six years and is yet to draw up their mandate.

To date, the action undertaken to implement the Convention has been neither systematic nor focussed. The concept of *State* Obligation is lost as full responsibility is placed upon a single unit of the state – the National Machinery or Ministry of Gender and Family – without due support from other state agencies.

The Maldives has ratified the Optional Protocol and signed other major human rights instruments including the ICCPR and the ICESCR in 2006.

In implementing the Convention, there is much administrative action that can be taken immediately without legislative changes, and more that can be done in the short term with proper legislative changes.

We recommend that the State use the opportunities presented by the ongoing democratisation and Constitution reform to uphold its State Obligations to guarantee women the rights in the Convention, and prove a genuine commitment to international human rights standards.