

CHILDREN AS VICTIMS AND WITNESSES

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Violence against children today is an ever increasing, horrible epidemic around the world, including not only physical but sexual, emotional and psychological abuse. Unfortunately, there has been a shockingly massive increase in the cases of violence against children in our country in the past few years, not only in the quantity of the reported cases but also in the severity of the offences, including negligence, assault, sexual abuse, prostitution and murder. Among the crimes reported, most were committed by someone related to or known by the child. This problem is something that people did not talk about; it was considered a family matter, something to shove under the carpet, something to ignore and act as if nothing was happening.

I. RELATED AGENCIES

A. Maldives Police Service

The main authority for the investigation of crimes reported.

B. Ministry of Law and Gender

The Ministry of Law and Gender will oversee all government functions related to families, children, women, people with special needs, and human rights. These sectors had previously been under the authority of the Ministry of Health and Gender.

C. Family Protection Authority

The Family Protection Authority will also be brought under the Ministry of Law and Gender, with the Attorney General, Usthaaz Mohamed Anil, being responsible for overseeing its functions. The Ministry of Law and Gender will further be mandated with tackling the issue of domestic violence, apart from those responsibilities of the courts and the Maldives Police Service.

D. Prosecutor General's Office

The authority for public representation in the court in criminal cases.

E. Courts

Both the criminal and family courts deal with cases involving child victims and witnesses. The criminal court hears cases of criminal matters while the family court deals with protection issues of the child, i.e., issuing protection and child custody orders.

II. REPORTING

Anyone can report a crime to the Maldives Police Service (MPS), the Ministry of Law and Gender, the Family Protection Agency or any other non-governmental organization working to protect children by phone, mail or by any other means. However, cases reported to other agencies must be reported to the MPS for investigation. The reports can be made anonymously for the protection of the complainant. Furthermore, to encourage people and children to report such cases, the Ministry of Law and Gender has established a toll-free child help line.

III. INVESTIGATION

Cases involving child victims are investigated by the Family and Child Protection Department (FCPD)

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of the MPS. The department deals with cases of child victims, children in conflict with the law and domestic violence cases. The investigating officers in this department are officers trained to deal with child victims and witnesses and children in conflict with the law. The department is located apart from the police main headquarters and has child friendly interview rooms. The investigating officers are to be present in casual attire when dealing with child victims. An interview with a child victim will be done in a child friendly manner in the presence of a social worker or the guardian. If the perpetrator is the guardian of the child or someone related to the child, the interview will be conducted only in the presence of the social worker. In addition, if the investigating officer finds that the guardian or the family of the child victim is not supportive of the investigation and the child's presence in his/her home is not safe for the child, the child will be taken into state custody and brought to a state shelter.

However, the FCPD only investigates cases reported to Male', the capital of the Maldives. Cases reported in the islands will be investigated by island police stations. MPS met their target in 2015 to have an investigating officer sensitized and completed the child and family centered training at all police stations across the Maldives.

IV. SOCIAL SERVICE WORK DONE WITH THE VICTIMS

Along with the police investigation of the case, the case would also be filed with the Ministry of Law and Gender, and a case officer will be appointed to work with the victim. The social workers will keep records and notes about the victim in their case file. They would be taking sessions with the victim and would recommend psychological therapy if necessary. Also the social workers will be making home visits to victims and keep track of the situation of the victims. In cases where the child is taken into custody, the children will be assigned to a social worker along with a programme for the child.

V. PROSECUTION

As soon as the investigation is completed, the case will be brought to the Prosecutor General's Office. The case would then be discussed with the appointed prosecutor and the investigating officer. After the discussion, if the prosecutor finds the investigation is complete and that the case can be submitted to court, the prosecutor will then draft the charges, which will be double checked by the senior prosecutors, and then submitted to court. On the other hand, if the prosecutor finds the investigation is incomplete, he/she will send the case back for further investigation along with a list of things to be completed.

Before the case hearing, the victim's family/guardians will be informed that the case has been submitted to court and the crimes that the offender has been charged with. The witnesses will be prepared before being summoned to court by the witness assistance unit and the prosecutor handling the case.

VI. COURT PROCEDURE

Under the Special Provisions Act to Deal with Child Sex Abuse Offenders, no. 12/2009, a special procedure needs to be followed to take child victim and witness testimony. Under section 48 of the act:

To obtain testimony of a child for purposes of this law, testimony of the child should be obtained through interview which should be video recorded. The interview should take place away from and trial proceedings and the police station, and be carried out in a familiar environment for the child, in the presence of familiar or trusted person to the child. Further, where the child has a disability, the interview should be video recorded and carried out in the presence of a trusted or familiar person to the child, in addition to the person capable of translating what the child narrates.

The act also establishes other special provisions, including section 47's evidential requirement:

Section 47. The evidential requirement for a criminal offence Law no: 12/2009 (Special Provisions to Deal with Child Sex Abuse Offenders) stated in another law shall not apply when charges are made under this law or, when establishing offence stated in this law or in establishing the commission of a sexual offence with a child where at least 5 types of evidences are available from the following types of

evidences. Where the 5 types of evidences are available, such evidence shall be deemed to constitute sufficient evidence to establish the offence beyond reasonable doubt as stated in Article 51 (a) of the Constitution.

- (a) An official document establishing that a sexual offence has been committed with a child.
- (b) Results of scientific investigations.
- (c) Statements of eyewitness accounts.
- (d) Forensic evidence and evidence derived from investigations.
- (e) Evidence received from video records.
- (f) Statement given by the child to the child's parents, or relatives, or friend, or doctor, or health worker, or psychologist, or psychiatrist or police officer involved in the investigation, or a child protection worker, within a short period or duration of commission of the act.
- (g) Child's statement explaining the events and what had transpired with the child.
- (h) A child's narration of the events when a long time had not elapsed between the time of the event and the narration, and grounds to believe that slander is being uttered against a person does not exist.
- (i) Corroboration between the child's statement Law no: 12/2009 (Special Provisions to Deal with Child Sex Abuse Offenders) and medically established physical injury, and findings of forensic investigations.
- (j) The person who had engaged in the sexual act with the child has a previous conviction for committing a child sex offence
- (k) Material evidence
- (l) Child's narrative when interviewed by investigator.

Obtaining testimony of a child. The main purpose for such provisions in the act is:

- (a) Protect children of the society from person who could harm them and to maintain that protection by detaining child sex abusers in custody during investigation and trial stages, and monitoring of offenders under a specific monitoring mechanism even after they have served their sentences.
- (b) In addition to the types of evidence admissible Law no: 12:2009 (Special Provisions to Deal with Child Sex Abuse Offenders) to court, to permit other types of evidence to be admitted to establish child sex abuse, and lower the admissibility criteria of evidence.
- (c) Stipulate severe punishment for child sex abusers and those who aid and abet in the commission of such.
- (d) Prevent requests to the child to demonstrate to court through actions, or by other means, the manner in which the abuse was carried out or committed.

Although special provisions are only made in the above-mentioned act, if child witness testimony is necessary in any other case, the testimony must be taken under the procedure established in section 48 of the act number 12/2009 Special Provisions Act to Deal with Child Sex Abuse Offenders. Furthermore, if the prosecution requests the judge to protect the identity of the witnesses and the testimony to be taken without revealing their identity, the court arranges the hearing to be conducted in such manner (i.e., audio-video conferencing without the presence of the witness inside the court).