

THE MALDIVES: INTRODUCTION TO SOCIAL SECURITY SYSTEM

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Abstract. The Republic of Maldives consists of a group of 26 "atolls" with a capital Male. The Maldives's population is about 314 542 inhabitants. The remaining working age adult population is 215 899 which is 66,4% of population, total number of unemployed population is 31 168, more than 22 000 people living below the national poverty line less than 1 USD a day. Employed population (15 years and above) reached 146 433 (respectively 46,6% of population). The fields of employment having a strong gender divide, for instance, in tourism sector only 13% of employed are female, in construction sector- 36%, meanwhile the education sector mainly employed female- 62% in atolls and up to 72% in Male. Nowadays the legal system of the Maldives is represented by Islamic Law (Rules of Shariat) with the influence of English common law. In this paper authors make a try to describe and provide the introduction into Social Security System of the Maldives, with the focus on different social clusters, financing and administration of the system.

Key words: Social Security System, Social Risks, Unemployment, Maternity, Sickness Benefit.

1 Introduction

In 2008 The Employment Act of Maldives came into force, appearing the first legal instrument regulating labor market and employment issues, establishing the compulsory written employment agreement, maximum working hours, overtime wages and employment of children. In order to respond the growth of private sector, government has established training centers to develop specific skills required to work in private sector industries, such as tourism. In 1975 the Vocational Training Center was opened and later was reformed into Maldives Polytechnic in 2010. A training institute- the School of Hotel and Catering Services was established in 1987, and recognized as a faculty of the Maldives National University, later was renamed as the Faculty of Hospitality Management. The school offers a range of undergraduate and postgraduate programs, meeting the requirements to enter the labor market for youth. Despite this, the country continues to face a mismatch between employment opportunities and the young labor force of the country (Davis, 2011: Employment Act of the Republic of the Maldives, 2008: National Social Protection Agency, Government of the Maldives).

Education wise, the Maldives has achieved universal primary education. Currently 98% of children aged 6-12 are enrolled in governmental schools, education is free, except only 5 schools across the whole country. Also, the equal right to access to education was achieved for both genders. More than 87% of children are enrolled in secondary education, even though only 13% of youth (under 18) is involved in higher secondary education. In spite of the fact, that the Maldives has developed accessible education for minors, still the educational and professional level of teachers remain low, thus, 1 of 4 of teachers is non-qualified for profession. In this paper we will first focus on the system of Social Security Law, second part will be focused on social insurance programs (Amnesty International, 2010).

2 Methods

In this paper authors have used following methodology: doctrinal research, comparative approach, empirical research and socio-legal approach.

3 Results and Discussion

Since 12th century Maldives were "sultanate" until becoming the British colony in 1887, however many spheres of public relations remained to be regulated by Islamic traditional institutions. In

1965 the agreement within frameworks of British decolonization was signed, the British responsibilities for the territorial defense and external affairs were ended and Maldives islands have received full political independency.

In 1968 according to the decision of the parliament, Maldives became republic, President Maumoon Abdul Gayoom remained a leader for more than 30 years, however, being elected by single political party. The main administrative branch in the field of social security is National Social Protection Agency (hereinafter- NSPA) was established in 2009 in order to implement and regulate the government's policy in the field of social security. However, institutions such as Ministry of Finance and Treasury, Department of /national Planning, Maldives Pension Administration Office, Civil Service Commission of the Maldives, Ministry of Health Family, National Disaster Management Center, Ministry of Islamic Affairs, and Ministry of Education also serve in different fields of social security.

3.1 Personal scope of application

Only Maldivian citizens are eligible to be enrolled in national social security system. In legal acts, regulating the provision and implementation of social security schemes, there are no references to foreign countries nationals, nor to refugees. So those groups are excluded from the scope of application of legislation concerning social security issues. In general, all Maldivians can be enrolled in national social security programs. However, each scheme having its own scope of application and covers only certain categories of citizens.

For social assistance programs- eligibility is open for all Maldivian Citizens, but in order to be entitled to program, the additional verification of a specialist/civil officer is required. (such as Welfare Assistance for the Medical Services). Some programs are applicable only for minors (Child Protection program, Thaulamee Fund), others- only for people with incapacity (Allowance for the Blind) etc. The main principle is that all beneficiaries/applicants of Social Assistance programs should be attested and registered with competent authorities, which will give them the guaranteed right to enjoy the benefits (Gunatilaka, 2013).

Social Insurance Programs in the Maldives also cover only certain groups of citizens. Before initiating new pension system, only civil servants could apply for the pension. The Health Insurance Scheme is provided both for vulnerable groups, but also open for employed population on a voluntary basis. There are no professional social insurances, economically active population is not insured. Self-employed population is out of the scope of application of the most social security schemes, except new universal retirement pension system.

Unemployment schemes, Incapacity to Work, Occupational diseases scheme do not exist in national social security system of the Maldives. The schemes such

Sickness and Maternity Leave are not entitled to the social security system, in Employment Act they are mentioned as the obligation of the employer (Bureau of Democrac, 2012).

3.2 Risks and Benefits

There are 20 social security programs in Maldives, which divided into social insurance programs, social assistance and labor market programs.

There is no legal definition adopted for social security in Maldives. Thus, according to National Strategic Action Plan states that social security is "geared towards inclusion in order to close the gap in access to social services and meet the basic needs deficits among the poorest sections of the populations".

In 2009 government adopted a “minimum social protection floor” which consists of social insurance programs, social assistance and labor market programs. All types of risks and benefits in social security existing in the Maldives will be discussed further on.

3.3 Retirement pension scheme

Before the reform of pension system, the former system covered only public sector employees- The Civil Service Pension Scheme (hereinafter- CSP) and the Government Provident Fund (hereinafter- GPF). In 2009 new Maldives Pension Law came into force, with the objective of making the pension system financially more sustainable and expanding workforce coverage over time. The new system regulated and implemented by MPAO with technical and financial assistance from the World Bank. The pension is composed of 2 elements- contributory (retirement pension scheme) and the other non-contributory (old-age basic pension). New pension system provides guaranteed income for people who reached 65 years and above. Even though, retirement age is not legalized yet in the country. Also, it is expected, that new system will replace by time CSP and GPF

3.4 Health Insurance Scheme

In the Maldives the health insurance scheme is called “Madhana”. The scope of application covers: civil servants; senior citizens; government pensioners; retirees; the beneficiaries of absolute poverty scheme; people with disabilities; children of single parents claiming allowances from the government;

The scheme covers 61 000 inhabitants, which is 19% of population. Since 2009 any citizen of the Maldives can be enrolled to the Health Insurance system, however, for economically active people the compulsory yearly contributions were imposed, 2000Rf (130 USD) depending on beneficiaries income level. The objective of the scheme is achieve universal coverage for all citizens.

In 2010 came into force new Health insurance program “Madhana Plus”. It covers medical services from selected international healthcare providers. This is a contributory scheme with 1500Rf (96 USD) and available only for citizens enrolled in “Madhana”. Under this scheme, each recipient is entitled to medical services up to 100 000Rf (6400 USD) (The world Factbook).

3.5 Maternity Leave

Female employees shall be granted 60 days maternity leave based on a medical certificate given by a licensed medical professional. This period does not include the period of pre-natal leave, which is 30 days prior estimated date of giving birth. Female employees during the maternity leave, are also entitled to all the rights (as in, employed status) and benefits granted under the employment such as the right to promotion. It is also stated, that maternity leave should not be the cause of lessening of the rights conferred by the employment agreement or in calculating the duration of employment for due promotion. (art.43 of Employment Act)

Art. 43(d) states that a female employee *shall be duly paid* her wages on the same day salary payments are made in the normal course of business even while the employee is on maternity leave.

A further leave of 28 days (additional to 60 days of maternity leave) shall be granted to an employee where a licensed medical practitioner certifies of the employee’s inability to return to work either due to the ill-health of the mother or the baby. Such leave can be granted prior to the estimated date of delivery or after delivery. The employer has the discretion not to pay the employee for the duration of any such leave. Moreover, according to Art. 45 “Break to attend to child”- upon return to work after completion of maternity leave, the employee shall be entitled to two daily breaks of 30 minutes each to attend to the needs of the child. No deductions from pay shall be made for such breaks and an employee is entitled to such breaks until the child is of 1 year of age.

3.6 Leave for Mothers and Fathers

Upon expiry of Maternity Leave, the mother or father of the newborn child make take unpaid leave for a maximum period of 1 year. Such leave may be allocated between both parents on their preference if both mother and father work for the same employer.

Male employees are granted to 3 days of paid leave on the occasion of the birth of the child²⁴, moreover, art. 49 stands that each employee is entitled to 5 days of paid leave on the occasion of circumcision of the child.

3.7 Financing of Social Security System

The financing of Social Security System in the Maldives as in every country is complex and requires fair amount of investments. Social Security Schemes of the Maldives funded *mainly* from the state’s budget- by subsidies.

Social Assistance schemes funded from subsidies of the state. However, some schemes have mixed financing. Thus, Disaster Relief Assistance financed through international development partners with governmental support of the Maldives, it applies especially for the most reconstruction projects, permanent housing for the people, whose houses were destroyed or damaged during Asian Tsunami in 2014.

Social Insurance programs mainly financed from contributions. For instance, Retirement Pension scheme is financed from equal contributions of the employer and employee, which is 7.5% of monthly basic salary of the employee and matching amount from the employer. Other pension schemes- Civil Service Pension and Government Provident Fund are financed from the Republic’s budget. Health Insurance Scheme funded both from the state- for vulnerable groups of population and from fixed contributions of enrolled members, furthermore, additional Health Insurance “Madhana Plus” is also funded from Republic’s budget and from additional contributions alongside the regular membership fees. The Labor Market Program funded by Asian Development Bank in partnership with Maldivian government (Understanding Gender in Maldives, 2016).

Pay-as-you-go method almost in not applicable in the Maldives, the only social security scheme using this approach is Civil Service Pension Scheme, however as it was mentioned above, the latter is being replaced by new Retirement Pension Scheme (Republic of Maldives, 2012).

According to available data, social security indicator amounted to 3.5% of the GDP. Social Assistance programs take the largest part of the national social security budget- more than 52%, same time Social Insurance schemes amounted up to 47%, on Labor Market Program only 1% of budget is spent. The largest social security scheme in terms of financials spent is the Old Age Basic Pension Scheme-

311 million Rf (20 187 000 USD), on the second place is Health Insurance Scheme with 78 million Rf spent (5 064 174 USD)

4 Summary

After ratification of a new Constitution in 2008, the Maldivian judicial system entered the phase of transformation. It establishes the separation of powers of the state (National Bureau of Statistics Ministry of Finance and Treasury). According to the Constitution, the judicial power is vested in the Supreme Court, the High Court and Trial Courts, stabled according to law. Constitution is based on 6 principles: protection of fundamental rights and freedoms, separation of powers, sovereignty, supreme power of Constitution, free and fair elections, judicial independence.

The Supreme Court is the highest authority in judicial system in the Maldives. According to the art.144, judges are independent and always should apply the law, however if in case that “law is silent”, judges *should apply the rules of Sharia*. The judicial

system of the Maldives is strictly criticized, as in Asian Center for Human Rights, devoted to UN ECOSOC stands that Justice system is based on Islamic Law, there is no separation of judiciary from the executive, the lack of competent lawyers and judges, lack of proportionality between crime and punishment, lack of speedy trial, no "habeas corpus", torture in custody.

In short, judiciary system consists of Supreme Court, high Court and Superior Courts in Male. Superior Courts are divided to: Civil Courts, Criminal Courts, Family Courts and Juvenile Courts, the Drug Court (Study on Decentralization Process on Maldives, 2013). As the lowest level of the judicial hierarchy, Magistrate Courts are presented, which are subordinate courts. Magistrate courts are located in the administrative divisions of the atolls (in each inhabited island).

The cases related to social security issues are devoted to Civil Courts, in case if the issue is out of jurisdiction scope of atoll's Magistrate.

5 Conclusions

In the past, the social security programs were "ad hoc", with very limited policies of regulation of implementation, it was regulated by separated governmental groups with absolute lack of coordination. There were only few guidelines on programs targeting, and as following, the programs did not reach to the poor categories of population. There was no clear definition of social protection as well. The current social security policy aims to strengthen the social protection system of the country. As following, the minimum social protection floor for the Maldives was developed by the Ministry of Health and Family. There were slightly positive changes in legal frameworks too- the adoption of Maldives Pension Act in 2009, the Disability Act in 2009, Employment Act in 2008. Due the implementation of current pension system, it shows that the new system is much stronger than previous one- the old scheme applied only to civil servants, also if the compulsory requirement of 20 years of service was not meet, applicant was not covered by the scheme. The current scheme is targeting all groups of population, irrespective of their employment sector. Even though, the Maldives have achieved positive results, Health Insurance system is still not targeting all the groups of population, also schemes such Sickness Leave from work and Maternity Leave are not entitled to national social security system, but provided only by employer.

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