

THE IMPLEMENTATION OF REHABILITATION
PROVISIONS IN THE DRUGS ACT 17/2011 OF
MALDIVES

BY

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ABSTRACT

The Drugs Act 17/2011 of the Maldives, while criminalising drug use, permits rehabilitation for both first-time and repeat offenders, including voluntary rehabilitation without criminal charges. However, since its implementation in 2011, drug offences have increased, and those seeking treatment have failed to complete the programme and return to society as law-abiding citizens. This prompts the need to evaluate the Act's implementation, with the purpose of identifying issues related to the enforcement of rehabilitation provisions under the Drugs Act 17/2011 of the Maldives, and discovering the reason for the exponential growth in numbers related to drug-related crimes in the Maldives. This research, using a qualitative doctrinal method, analysed the drug framework from two primary aspects: (1) punishment under the laws of the Maldives and (2) rehabilitation and treatment offered in the country. To analyse the first aspect, the research utilised the benchmark under Section 10 of the Constitution of the Maldives, which requires the laws to be fully compliant with Shari'ah. Any law that is in contravention would be deemed unconstitutional. Using this benchmark, the concept of punishment for drug offences was identified in Shari'ah literature, and it was established that the punishments for drug offences in the Maldives were in compliance with Shari'ah ta'zir. For the second aspect, the objectives and purposes of Shari'ah regarding rehabilitation and treatment were analysed. It showed that Shari'ah requires the provision of treatment and rehabilitation as a fundamental objective for those requiring treatment. Furthermore, analysis was conducted on conventional rehabilitation models and other modern Shari'ah-based rehabilitation models to relate them to the Maldivian rehabilitation model. It showed that the Maldives has codified in detail the rehabilitation and treatment for drug addicts, and these treatments were found to be compliant with Shari'ah. The research also focused on the Malaysian drug framework, a country similar to the Maldives. However, unlike the Maldives, Malaysia has a successful system for managing the influx of drugs and providing rehabilitative treatment with positive results. It was found that Malaysia has given priority to a community treatment and rehabilitation model, which is not found in the Maldivian drug framework. Moreover, regarding the punishments, it was found that although both countries' punishments for drug offences are fully compliant with Shari'ah, the approach to punishment for drug offences in the Maldives is much more lenient than in Malaysia. The research then focused on identifying the monitoring and rehabilitation authorities established under the drug framework of the Maldives. It was found that two key actors were established in the Maldives: the Drug Court and the National Drug Agency. Failures in the system were generally attributed to issues related to these establishments. Conflicting laws and a lack of oversight functionality in the drug framework led to multiple system failures. It was identified that most drug addicts in need of treatment were denied due to various factors, which could be addressed if the rehabilitation and treatment strategy of the Maldivian drug framework included enhanced oversight functionality and was redrafted into a positive, health-centric model to accommodate everyone needing treatment, as proposed in this research. The findings of this research will help stakeholders address the issue of enforcement failures and promote a more viable rehabilitation and treatment model that is humane, Shari'ah-compliant, and in accordance with international best practices.

خلاصة البحث

يواجه قانون المخدرات 17/2011 في جزر المالديف، المصمم لتجريم تعاطي المخدرات مع تعزيز إعادة تأهيل المجرمين، تحديات في تنفيذه. منذ بداية القانون في عام 2011، ارتفعت جرائم المخدرات، وفشل العديد من الذين يخضعون للعلاج في إعادة الاندماج في المجتمع. ويبحث هذا البحث، الذي يستخدم منهجا فقهيًا نوعيًا، في فعالية القانون، مركزًا على جانبين: العقوبة القانونية وإعادة التأهيل. وتقييم الدراسة أولاً مدى امتثال القانون للشريعة الإسلامية، وهو شرط دستوري في مالديف. وترى أن أحكام العقوبة الواردة في القانون تتماشى مع التعزيز الشرعي. ثم يدقق البحث في توافق القانون مع مبادئ الشريعة الإسلامية بشأن إعادة التأهيل، ويخلص إلى أن النموذج المالديفي يلتزم بهذه المبادئ من خلال تفصيل العلاجات لمدمني المخدرات. وبالمقارنة، تبحث الدراسة في إطار المخدرات في ماليزيا، مشيرة إلى نجاحها في إدارة قضايا المخدرات وإعادة التأهيل، وتسلسل الضوء على نهج العلاج المجتمعي الغائب في جزر المالديف. وعلى الرغم من التزام كلا البلدين بالشريعة الإسلامية في معاقبة جرائم المخدرات، إلا أن جزر المالديف تظهر تساهلاً مقارنةً بماليزيا. ويحدد البحث المسائل التشغيلية في إطار مكافحة المخدرات في مالديف، ولا سيما مع محكمة المخدرات والوكالة الوطنية للمخدرات. ويعزو التقرير الإخفاقات المنهجية إلى تضارب القوانين وعدم كفاية الرقابة. وتشير الدراسة إلى أن العديد من المدمنين يجرمون من العلاج بسبب هذه القضايا النظامية وتوصي بنموذج يركز على الصحة مع تعزيز الإشراف على إطار المخدرات في جزر المالديف. في الختام، يسلط هذا البحث الضوء على تحديات تنفيذ قانون المخدرات في جزر المالديف 17/2011 ويقترح نهجاً منقحاً لإعادة التأهيل والعلاج الفعالين. وهو يدعو إلى نموذج إنساني ومتوافق مع الشريعة الإسلامية ويتماشى مع أفضل الممارسات الدولية، بهدف مساعدة أصحاب المصلحة في معالجة أوجه القصور في القانون.

APPROVAL PAGE

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DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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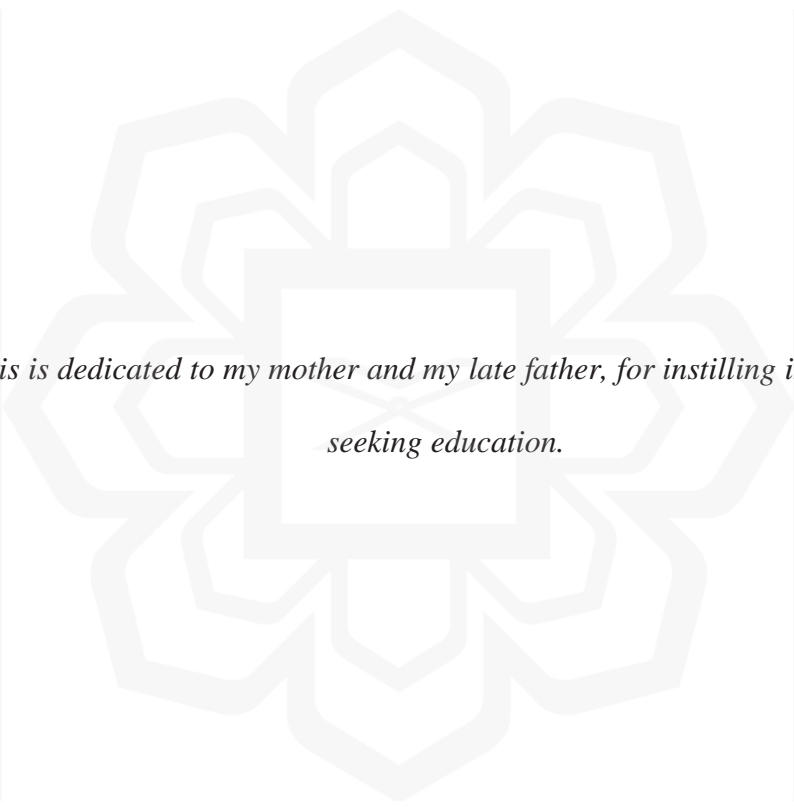
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This thesis is dedicated to my mother and my late father, for instilling in me the love for seeking education.

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STATUTES

Maldives

Conditions Regulation R27-214

Drug Court Regulation, 2014/R-26

Drugs Act 17/2011

Licensing regulations for Drug Treatment Centres 2012/R-31

Regulation Governing the Board of the National Drug Agency 2014/R-8

Regulation Stipulating Licensing for Drug Dependence Assessment and Indicative Assessment of Drug Offenders 2012/R-28

Regulation Stipulating the Licensing of Treatment Centres 2014/R-386

Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40

Regulation stipulating the procedures to be followed in collecting, transporting and testing Urine for drug testing 2012/R-26

Regulation Stipulating the Procedures to be followed in Dealing with Samples Taken for Drug Testing 2014/R-385

The Constitution of Maldives 2008

The Regulation of the Governing Board of The National Drug Control Fund 2015/R-18

Malaysia

Dangerous Drugs (Forfeiture of Property) Act 1988

Dangerous Drugs (Special Preventive Measures) Act 1985

Dangerous Drugs Act 1952

Drug Dependents (Treatment and Rehabilitation) Act 1983

National Anti-Drugs Agency Act 2004

Conventions

United Nations Declaration on the Guiding Principles of Drug Demand Reduction S-20/3, 1998

Cases

Saari bin Jusoh v. Public Prosecutor, no. J-05-121-1995, para. 20, Court of Appeal of Malaysia, 2006

Sanusi bin Ismail v. Public Prosecutor, no. D-05-125-1995, para. 9, Court of Appeal of Malaysia, 2004

Yang v. Public Prosecutor, no. J-05-64-1997, Court of Appeal of Malaysia, 2002

CHAPTER ONE

INTRODUCTION

1.1 BACKGROUND OF THE STUDY

A vast number of Maldivian youths are addicted to drugs and the number of people getting involved in drug related crimes is increasing day by day. In order to tackle this issue, the government of Maldives introduced a number of measures with the Drugs Act 17/2011, establishing a specialist Drug Court and introducing better and improved rehabilitation programs. The Drugs Act 17/2011 criminalizes the act of drug abuse, drug trafficking and peddling, and provides a harsh punishment mechanism. These punishments are based on criteria of the weight of the drugs found on their possession, and most addicts are tried for trafficking and peddling.

The main focus of the Drugs Act 17/2011 was not to criminalize those who have been victimized by this epidemic, but to rehabilitate them to bring them back as responsible and respectable members of the society. However, the rehabilitation provisions in the Drugs Act 17/2011 have not been able to lower the numbers of youth addicted to drugs in the Maldives, in fact, it keeps rising even higher.

The Drug Court formed under the Drugs Act 17/2011 has the mandate to reduce drug use, to reduce drug related offences, to reform individuals who are under the mandate of the Drug Court in order to provide them with the opportunity to return to society as law abiding citizens. However, the Drug Court deals with only a fraction of the drug offenders in Maldives. As the law only permits the Drug Court to oversee

mainly cases related to peddling and drug related criminal offenses.¹ This prevents the possibility of people who are considered by law to be traffickers even though they require certain rehabilitative treatment as lifelong drug users, or addicts.

At the moment the Drug Court of Maldives provides 6 types of treatment programs, namely, Community Reintegration Program (basic), Community Reintegration Extensive, Recovery Maintenance Program, Methadone Maintenance Treatment, Special Residential Treatment for Women and Drug Rehabilitation Centre programs.²

The treatments provided through the mandate of the Drug Court is entirely voluntary as the offenders should first accept to comply to all the obligations and conditions of the court if they wish to have the treatment or rehabilitation program made available to them,³ any refusal to accept the conditions would lead to, in most cases, imprisonment for the crime of possession. Not only these conditions inhibit an irrational refusal by those who are caught with a certain weightage of drugs to seek Drug Court as an avenue for reformative treatment but even for those who need such prefers to opt out of the therapeutic justice as it is seen dysfunctional.

The authority established by the Drugs Act 17/2011, the National Drug Agency, is seen to be a liability as it fails to address the issues it is mandated to administer. The urgent need to transform the National Drugs Agency into a monitoring agency with

¹ *Drug Court of Maldives, "Introduction to Drug Court"*, n.d.
<https://www.drugcourt.gov.mv/index.php?option=com_content&view=article&id=71&Itemid=501&lang=dhi> (accessed 15 July 2019).

² *Drug Court of Maldives, "Treatment Programs"*, n.d.
<https://www.drugcourt.gov.mv/index.php?option=com_content&view=article&id=214&Itemid=688&lang=dhi> (accessed 15 July 2019).

³ *Drug Court of Maldives, "Introduction to Drug Court"*.

guidelines and an evidence-based policy for drugs is important, it is favored to be more effective in rehabilitating and reforming individual addicts.⁴

According to the crime report prepared by the Human Rights Commission of the Maldives, the reason for the high number of drug offenders is the lack of an adequate drug rehabilitation program. The report identifies the main hurdle in achieving the objective of reducing the high number of drug offenders is the current Drugs Act 17/2011 and unless the Act is reformed it would be impossible to provide an adequate treatment program for drug addicts. The report further goes to mention that when an offender is put in prison for a crime, they suffer beating and other forms of abuse from other prisoners as well as not having the possibility of a treatment whilst also being in a place where drugs are available makes the person more attached to the drugs. According to the Human Rights Commission of Maldives' report, when the convict gets out of the prison after the mandatory sentence, he is a hardened drug addict as well as skilled in other forms of crimes as well. The report also goes on to mention in their findings that the majority of the people who are lucky enough to receive the rehabilitation treatment stay away from drugs, however due to the nature and the current design of the treatment program, when the people return back to the society for the community treatment program they find it difficult to cope due to shortages of resources and once again relapses into drugs and subsequently start committing other forms of crimes.⁵

⁴ Adyb Ali, "Substance Use and the Maldives, International Society of Substance use professionals", October 15, 2018, <<https://www.issup.net/knowledge-share/publications/2018-10/substance-use-and-maldives>> (accessed 15 July 2019).

⁵ Human Rights Commission of Maldives, *Mujuthamaugai Kuhkurun Ithuruvamundhaa Sababuthah Dhenegathumah Kurevunu Dhiraasaa Report*, Report, (Male: Human Rights Commission of Maldives, 2009).

According to the National Drugs Survey, a third of drug users spend more than Maldivian Rufiyaa 500 (approx. 32 USD) every day to buy drugs while half spend less than Maldivian Rufiyaa 500 daily and 13% of the drug users spend no money to acquire drugs.⁶

As crimes of this nature rapidly increase among the youth of the society, the downfall of any nation would not be much far. The effect of drug abuse on the economy and society will be detrimental to any country plagued with this crime. Along with drug use, all other types of crimes would undoubtedly follow.

According to a World Bank study, the Ministry of Islamic Affairs of Maldives is concerned about the level of drug use among the youth in the country. This study stated that the ministry holds the view of including a spiritual approach in the development of drug addicts would be beneficial. According to the report, the Ministry of Islamic Affairs identifies the current system does not dedicate services for spiritual education in prisons or the rehabilitation centers aside from regular prayer attendance process and the “by invitation” held workshops and seminars.⁷ Drug related crimes since the introduction of Drugs Act 17/2011 shows no decline according to the following statistics of Maldives Police Services on reported drug related crimes.⁸

⁶ United Nations Office on Drugs and Crime, *The First National Drug Use Survey in the Maldives Highlights Urgent Need for More Drug Use Prevention and Treatment*, (Male: UNODC, 2013).

⁷ Gordon Mortimore and Gerry Stimson, *A Process and Systems Evaluation of the Drug Treatment and Rehabilitation Services in the Maldives*, (South Asia: World Bank, 2010), 17.

⁸ Maldives Police Service, *Crime Statistics*, Statistics, (Male: Maldives Police Service, 2017).

Table 1.1 Drug Related Crimes Committed in Maldives

Year	Number of Cases
2011	1832
2012	2533
2013	3967
2014	3136
2015	2080
2016	2379
2017	2036
2018	2229

Source: Maldives Police Service Statistics

Table 1.2 The Types of Drug Related Offence Recidivism in Maldives

Type of Crime	Repeat Offenses	Percentage
Drug possession	5	0.9
Drug use	372	70.5
Drug use and peddling	42	8.0
Drug peddling	6	1.1
Drug Trafficking	1	0.2
Drug related other crimes	2	0.4
Drug trafficking and peddling	8	1.5
More than 3 Crimes committed mentioned above ⁹	4	0.8

Source: United Nations Prison Assessment and Proposed Rehabilitation and Reintegration of Offenders Report, 2011

⁹ United Nations, *Prison Assessment and Proposed Rehabilitation and Reintegration of Offenders Report*, (Male: United Nations Programme in the Maldives, 2011).

Table 1.3 The Types of Drugs Used in Maldives

Type of Drugs	Percentage of Usage
Heroin	69.1
Cannabis	63.3
Alcohol	47.9
Morphine	30.5
Ecstasy	7.0
Cocaine	6.8
Codeine	5.1
Other Solvents	4.0
Amphetamine	2.7
Methamphetamine	2.1
Ketamine	2.1
Eau de cologne	1.9
Mixed with more than one type of drug	60 ¹⁰

Source: United Nations Prison Assessment and Proposed Rehabilitation and Reintegration of Offenders Report, 2011

As the field of alternative forms of rehabilitative punishments for drug related crimes in Maldives is not adequately explored, this research will hopefully contribute to eliminate the gap in literature regarding the reformatory and rehabilitative alternative forms of punishments for drug related crimes in Maldives and the impact and viability of the Drugs Act 17/2011.

¹⁰ Ibid.

1.2 STATEMENT OF THE PROBLEM

Despite the Drugs Act 17/2011 criminalizing the use of drugs, the Act also provides opportunities of rehabilitation to the first-time offenders and repeat offenders. It also provides rehabilitation, without criminalizing the offender and with discretion, to addicts who seek rehabilitation on their own.¹¹ However, according to the statistics published by the Maldives Police Services, since the ratification of the Drugs Act in 2011, the number of offenders and drug abusers is seen to keep on rising.

The statistics released by the National Drugs Agency in 2016 shows that only 6.22% of the people receiving rehabilitative treatment, were able to finish the program in 2016. That year, the percentage of people for rehabilitation through the Drug Courts mandate was a staggering 87.57%, while percentage of people who requested rehabilitation on their own was just 12.43%. And, out of these people who were in rehabilitation, more than 1/4 of them failed the rehabilitation program either by relapsing or due to refusal to follow through with the program.¹²

Therefore, the enforceability of the rehabilitation provisions provided in the Drugs Act 17/2011 needs to be researched, to identify the areas of reform through the Act, in order to improve the rehabilitation mechanisms and to reach more drug addicts.

¹¹ Drugs Act 17/2011 of Maldives.

¹² National Drug Agency, *Faruvaage Thafaas Hisaabu*, Report, (Male: nda.gov.mv, 2016).

1.3 RESEARCH QUESTIONS

1. What is the view in Islam on use of drugs and its prescribed punishments?
2. How are the forms of alternative methods of reformative and rehabilitative punishment mechanisms available under *Shari'ah* and conventional international best practice and practiced in the other legal systems such as Malaysia?
3. How is the implementation of alternative forms of reformative and rehabilitative punishments for drug related crimes in contrast to imprisonment and heavy fines in Maldives?
4. What the viability of maintaining the Drugs Act 17/2011 as it is in order to effectively reduce drug related crimes whilst reforming the individual offenders?

1.4 OBJECTIVES OF THE RESEARCH

1. To identify the punishments and the view of Islam on the use of drugs.
2. To identify the alternative and reformative punishment systems that are *Shari'ah* compliant and confirms to conventional international best practice and in Malaysia.
3. To discover the adequacy of alternative forms of reformative and rehabilitative punishments for drug related crimes under the current drug framework in Maldives for drug related crimes.
4. To assess whether the current Drugs Act of Maldives would meet its purpose in the long term in maintaining the rule of law whilst reducing drug related crimes.

1.5 LITERATURE REVIEW

The researcher found that the literature available on the application and implementation of the Drugs Act 17/2011 of Maldives is lacking, however pre-Drugs Act researches conducted on the situation of the drug treatment and rehabilitation in Maldives, such as the report, “A Process and Systems Evaluation of the Drug Treatment and Rehabilitation Service in the Maldives”, prepared to evaluate, review and make recommendations on the rehabilitation services and the drug treatment available in Maldives by Gordon Mortimore and Gerry Stimson, highlights very important and vital areas of transformation for the available rehabilitation programs in Maldives. The report makes its findings and recommendations to individual stakeholders giving certain mandates for reform in regard to transform the rehabilitation service. The report also highlights when, where how and even at what stage the treatment should be first initiated under voluntary and compulsory treatment system. The findings and recommendations of this report will be vital for this research.¹³ This report is just one year prior to the enactment of the current Drugs Act 17/2011 of Maldives. The post-Drugs Act 17/2011 period is seen to be without much literature, as well as seen to be lacking statistical data in this field.

Another such study on the drug rehabilitation programs legal framework conducted by Abdul Sattar Abdul Hameed, found upon analysing exclusive data available that statistics have shown, that there is a decrease in drug related arrests until 2017 since the Drugs Act 17/2011 passed in 2011. The researcher could not conclude that this decrease in the number of drug related arrests were solely due to the fact of the newly enacted Drugs Act 17/2011 or whether it could have been the result of the

¹³ Mortimore, 15.

implementation of other relevant laws that were enacted within that time period such as the Penal Code 9/2014. Although the decrease in the number of drug related offences was not significant, Hameed found that the several other relevant laws that were being implemented at the time including the Penal Code should be evaluated to identify a correlation in the decrease. Hameed also mentioned that only 39% out of 3,976 rehabilitation orders were successfully completed. The successful completion criteria and the observation of the success rate was not identified, and the researcher thinks an observation period is necessary before concluding such a study. Hameed mentions that he found it took around 14 months¹⁴ for a prosecution to conclude in Drugs Court and the researcher shares the view that the duration is rather long considering the fact that the offender requires rehabilitation treatment as soon as possible. The study of the researcher will identify recommendations regarding the expedition of the prosecution process of the Drugs Court through the law.

According to the Drug Facts publication of National Institute of Drug Abuse, drug addiction is a chronic disease having harmful consequences, yet the compulsive and difficult to control nature of this disease leads to continuous abuse by an addict. It further mentions that people start taking drugs voluntarily and repeated use can lead to changes in the brain, and it will challenge a person's ability to resist the intense urges it creates to take drugs. The drug addiction is considered as a “relapsing” disease, as the high likelihood of resorting back to taking drugs even after years of not taking it remains due to the persistent nature of the disease. Effectiveness of the treatment depends on the changing needs of the patient and the treatment should be ongoing and should not be

¹⁴ Abdul Sattar Abdul Hameed, “Drug Rehabilitation in Maldives”, *Resource Material Series*, no. 107, (Tokyo: UNAFEI, 2019), 56-61.

considered a failure even though such a person relapses.¹⁵ It is well known from scientific research that the detoxification process takes around two weeks for most addicts, though it does not mean the functions of the body will return to normal within that time frame. It is expected to take much longer for everything in the body to return to normal; in some cases, it would take years.¹⁶ The researcher finds and believes that any legal framework should be able to look into the very nature of drug addiction as an illness which requires medical attention and rehabilitative care, sometimes lifelong care.

On the inception of drugs rehabilitation programs, Tiziana mentions that the rehabilitation programs initially were designed around treating alcoholics. It wasn't until later that these programs encompassed drug addiction recovery programs due to the hike in the use of cocaine during the 1980s. The programs varied; however, it was designed around the Minnesota Model where this treatment method was seen superior to other forms of withdrawal treatments. The Minnesota Model was in fact the brainchild of the original 12 step model of Alcoholics Anonymous. Tiziana elaborated that the main components of the Minnesota Model were based on the 12 steps program in addition to assessment of the individual on all aspects from physical to mental changes, as well as individualised therapy programs and involvement of the family of the addict. The program also focused on education and extensive outpatient support conducted through professionals in the field. Moreover, the detoxification process was not left for the individual to endure on their own, it was urged to be exclusively controlled and monitored by medical professionals. The later models developed on the 12-steps models did not let any aspect of the addict go unattended or unaddressed by

¹⁵ National Institute on Drug Abuse, "Understanding Drug Use and Addiction", June 6, 2018. <<https://www.drugabuse.gov/publications/drugfacts/understanding-drug-use-addiction>> (accessed 4 November 2018).

¹⁶ Tiziana, *Drug Addiction Stop Your Dependence*, (ePub: Tiziana M, 2017).

treatment and care support.¹⁷ According to the Committee on Opportunities in the Drug Abuse Research, Institute of Medicine's recommendations, they highlighted the fact that treatment methods are effective in relieving addicts from the 3 most serious stages from consumption, abuse and dependence. It mentions the fact that the treatment methods available are in fact, cost effective and yields positive results. The major treatment methods mentioned are "Methadone maintenance, chemical dependency programs, outpatient drug-free programs and therapeutic community programs."¹⁸

After studying extensively on individual cases of drug addicts and the effects of drugs on their families, Mariana Barnard, mentions that drug addiction has a profound effect on the family as well as the addict, as it affects every aspect of the family structure. The effects of drug and its abuse worsen over the years straining the family relationships even further. These are daily struggles the family of an addict has to face every day.¹⁹ The study of Barnard contains 182 individual interviews of families of drug addicts. This book will definitely benefit in this research to identify the commonalities in a family spectrum whilst formulating a questionnaire model. The extensive compilation on the principles of effective treatment by the National Institute on Drug Abuse 2009, contains a research based guide where it shows its findings from the initial stage of the reasons why people start using drugs to how families cope, the effects and the role of the criminal justice system and the many ways of addressing the problems faced by drug addiction through legal remedies and therapeutic means.²⁰ Though the compilation is mostly focused on the effective rehabilitation methods used across the world especially in the United States, this compilation will no doubt help this research

¹⁷ Ibid.

¹⁸ Institute of Medicine, *Pathways of Addiction: Opportunities in Drug Abuse Research*, (Washington, DC: The National Academies Press, 1996).

¹⁹ Marina Barnard, *Drug Addiction and Families*, (London: Jessica Kingsley Publishers, 2007).

²⁰ Nora Volkow, *Principles of Drug Addiction Treatment: A Research-Based Guide (2nd Ed.)*, (Gaithersburg: National Institute on Drug Abuse, 2009).

in addressing and formulating a structured questionnaire model and would act as one of the leading guidelines to follow when preparing the interview for focused groups.

The book *Alcoholism, Drug Addiction, and the Road to Recovery: Life on the Edge*, by Barry Stimmel, gives a deeper understanding on the notion on the treatment modalities in the drug rehabilitation methods. These modalities are considered to be the best available methods for treatment as it covers initial brief intervention to pharmacological therapies provided for drug addicts for their recovery. This book also highlights the sociocultural approaches for treatment in detail. The book goes on further in the field of drug treatment and its laws in place in the United States of America, giving an overview of the entire process of handling drug addicts and their way in to the rehabilitation system all the while enforcing different forms of incarcerations and alternative punishment led criminal sentences.²¹ This book will be beneficial for the research to identify the effectiveness of the current treatment methods available in the Maldivian Drugs Act 17/2011 in contrast to the international best practice.

A qualitative exploration of a Massachusetts Drug Court: How are the 10 Key Components Applied by Isabel Pires is a Master of Science in Criminal Justice thesis conducted on the 10 key components theory and its application in Massachusetts under its therapeutic jurisprudence. The study is conducted through court observation and through face-to-face interviews. The main idea lies on the effectiveness, applicability and its results of the 10 key components theory.²² This research thesis will help in identifying commonalities and effective processes in the establishment of the Drug Court of Maldives.

²¹ Barry Stimmel, *Alcoholism, Drug Addiction, and the Road to Recovery: Life on the Edge*, (New York: The Haworth Medical Press, 2002).

²² Isabel Pires, "A Qualitative Exploration of a Massachusetts Drug Court: How are the 10 key components applied", (Masters thesis, Massachusetts: Bridgewater State University, 2015).

An empirical research by the National Association of Drug Court Professionals, titled *Adult Drug Court Best Practice Standards Volume 1* is based on the successful treatment of adult drug offenders through the drug court. It contains commentaries and recommendations for the drug courts to function in its full capacity to yield results. The paper contains therapeutic treatment procedures and processes as well as the importance of equality and inclusion within the system for offenders.²³ The publication by the United Nations Office on Drugs and Crime (UNODC) on the drug abuse treatment and rehabilitation for planning and implementing effective measures shows strategic approaches in developing effective treatment and rehabilitation service methods, as well as the implementation and how viable treatment mechanisms could be integrated into treatment services. This guide also shows ways on monitoring treatment and assessing results based on outcomes.²⁴ This guide will be extremely important for this study as it contains immense resources and as the information in the guide regarding various methods utilized in different countries were pilot tested and reviewed in a number of countries. This guide will liaise the study in underlaying a logical approach for assessment and treatment services in the Maldives, whether currently in place or lacking within the system.

The technical papers of the second report of the National Commission on Marihuana and Drug Abuses, highlights important aspects in terms of treatment and rehabilitation in the American legal system. With papers published in this volume, it shows the statutory frameworks in place in 50 states and 5 territories of the country and how the criminal justice system reacted to the drugs crises through different

²³ National Association of Drug Court Professionals, *Adult Drug Court Best Practice Standards Volume I*, (Virginia: National Association of Drug Court Professionals, 2013).

²⁴ United Nations Office on Drugs and Crime, *Drug Abuse Treatment and Rehabilitation: A Practical Planning and Implementation Guide*, (Vienna: United Nations Publications, 2003).

rehabilitative mechanisms. These technical papers highlight different issues and intervention methods in place by United States and United Kingdom. The papers also present the ‘Implementation of State Treatment Legislations’ and ‘Therapeutic Justice’ model which would be important when a solution is being sought for reformation of the approach for drug related crimes through laws.²⁵ This compilation will help the research in identifying vacuums within the Maldivian Drugs Act 17/2011 and would allow to make suggestions in terms of academic research presented in the compilation.

Drug Law Reform in East and South East Asia, by Fifa Rahman and Nick Crofts, is a compilation of academic research articles based on the reformation and restructuring of the drug policies and punishment mechanisms including the *Shari’ah* perspective on rehabilitation treatment and the compulsory treatment programs in Asia. This compilation gives an overlook of the issue of drug laws and drug policies in punishment to rehabilitation of the South Asian region.²⁶ The basic principles of an effective drug dependence treatment program are delaminated in the Human Rights Watch report, Rehabilitation Required: Russia’s Human Rights Obligations to Provide Evidence-based Drug Dependence Treatment. The report shows a summarised version of numerous scientific research based on rehabilitation treatment programs conducted in various different countries in the world.²⁷ The report is very important in identifying issues within the Maldivian drugs laws and the system currently in place in terms of its effectiveness and making a prediction model for its long-term results.

²⁵ National Commission on Marihuana and Drug Abuses, *Drug Use In America: Problem in Perspective, The Technical Papers of the Second Report of the National Commission on Marihuana and Drug Abuse, Volume IV*. Report, (Washington D.C: National Commission on Marihuana and Drug Abuses, 1973).

²⁶ Fifa Rahman and Nick Croft, *Drug Law Reform in East and Southeast Asia*, (Plymouth: Lexiton Books, 2013).

²⁷ Diederik Lohman, "Rehabilitation Required: Russia’s Human Rights Obligations to Provide Evidence-based Drug Dependence Treatment", *Human Rights Watch*, July 11, 2007.

Drugs in Prison: A practitioner's guide by Steve Gravett, provides an in-depth analysis in to the effective rehabilitative treatment methods within the prisons itself. This book shows the types of rehabilitative treatments that works and those that are less effective in treating drug addiction in prisoners.²⁸ This book will help the research in developing a sound penal drugs policy through the tried and tested methods.

The First 20 Years of Drug Treatment Courts, by Arthur J. Lurigio, provides a historical view of the impact of and the effectiveness of certain types of drug courts and their reformation since 1980's. The paper looks at different models of drug courts, in particular specialised drug courts and drug treatment courts. The paper goes on to identify the negatives of the systems and its application as well as looks in to the therapeutic jurisprudence of the drug courts.²⁹ Also The Drug Court Judicial Benchbook, by Douglas b. Marlowe and William G. Meyer, is one of the best available resources in terms of establishment of drug courts, successful application of its terms and all the major types of rehabilitative and punishments made available through the therapeutic jurisdiction of these courts.³⁰ These literature helped the researcher in identifying the benefits of therapeutic jurisprudence models and the vast experience provided by these findings would help to formulate a legal solution to the rehabilitation framework of the Maldivian Drugs Act 17/2011.

Defining Drug Courts: The Key Components, by the Bureau of Justice Assistance, provides an insight on the importance and the means of having the Drug Court work with other governmental organizations and public agencies to support and

²⁸ Gravett Steve, *Drugs in Prison: A Practioner's Guide to Penal Policy and Practice in Her Majesty's Prison Service*, (Wiltshire: The Cromwell Press, 2000).

²⁹ Arthur J. Lurigio, "The First 20 Years of Drug Treatment Courts: A Brief Description of Their History and Impact", *Federal Probation: a Journal of Correctional Philosophy and Practice*, (Loyola University Chicago), vol. 72, no. 1 (2008).

³⁰ Douglas Marlowe and William Meyer, *The Drug Court Judicial Benchbook*, (Virginia: National Drug Court Institute, 2011).

enhance the effectiveness of its rehabilitative treatment programs, from court planning, implementation and in its conduct. This study provides the strategies that could be involved in having a coordinated network among the stakeholders to increase the effectiveness of the therapeutic jurisprudence of the Drug Court and asserts the benchmarks of the criminal justice system in terms of drug rehabilitation and drug offenses.³¹ Also *Drug Courts: The Second Decade*, by United States Department of Justice, an indicative research paper published on the correlation between drug courts and recidivism and its outcomes of treatment of offenders by rehabilitation is evaluated extensively from all aspects of concern.³² This paper will be important in preparing a comparison model for evaluation and would help in preparing the interview and the questionnaire for this research.

Adult Drug Court Manual: A Guide to Starting and Operating Adult Drug Courts in Massachusetts, by the Executive Office of the Trial Court, contains all the important aspects to consider from the initiation stage of a drug court to the roles of judges, prosecution and the treatment providers and law enforcement in providing a wholesome package in terms for rehabilitation of offenders as well as the operation and seamless functionality of drug courts.³³ The effects of sanctions by the drug courts and the impact of drug treatment programs by drug courts in the United States of America is presented in the *Drug Courts: A Review of the Evidence*, by Ryan S. King and Jill Pasquarella. This report contains recommendations and additional data on the criminal justice system when reformation took place by preferring alternative forms of

³¹ National Association of Drug Court Professionals, *Defining Drug Courts: The Key Components*, (Washington: U.S. Department of Justice, 2004).

³² U.S. Department of Justice, *Drug Courts: The Second Decade, Special Report*, (Washington DC: USDOJ, n.d.).

³³ Executive Office of the Trial Court, *Adult Drug Court Manual, A Guide to Starting and Operating Adult Drug Courts in Massachusetts*, (Boston: Executive Office of the Trial Court, 2015).

rehabilitative and reformatory punishments for drug related crimes and for drug addicts.³⁴

As Maldives is an Islamic country and as the Constitution of the Republic of Maldives mandates that all the laws of the country should comply to the tenets of Islam, the researcher looked into Islamic literature to identify its point of view on rehabilitation for drug addicts, the researcher found that Islam requires Muslims to be of sound mind at all times. Therefore, a drug user is considered to be someone who is not living in accordance with the prescribed ways of Islam. They are a people who would need constant care and treatment to be brought back to society. The person undertaking the task of reforming and rehabilitating these people should be a person of a patient nature, as dealing with drug addicts is often an uphill battle. Islam is the religion of hope even for the most hardened criminals. Islam urges Muslims to not despair in repentance and reformation as Allah (S.W.T) mentions in the Holy Quran: "O My servants who have transgressed against themselves [by sinning], do not despair of the mercy of Allah. Indeed, Allah forgives all sins. Indeed, it is He who is the Forgiving, the Merciful."³⁵ The modern-day variation of different drugs is considered by the consensus of scholars as khamr (intoxicants) thus rendering them all haram in accordance with the Quran. Anything that clouds sound judgment is an intoxicant and all intoxicants are prohibited in Islam.³⁶

According to the literature available in Islam, it is up for the people of the society to help these people, rehabilitate them and bring them back to the society without

³⁴ King Ryan and Jill Pasquarella, *Drug Courts: A Review of the Evidence*, (Washington DC: The Sentencing Project, 2009).

³⁵ Al Zumar: 53.

³⁶ *Islam Web*, "Consumption of Intoxicants & Drugs: An Islamic Perspective", September 9, 2012. <<http://www.islamweb.net/en/article/135424/consumption-of-intoxicants-drugs-an-islamic-perspective>> (accessed 4 November 2017).

judging them. It is important to understand the current situation they are in, and it is important that we understand their feelings and what they are going through, the health repercussions that this harmful habit has caused them and the detrimental effect it has caused to their families and the society as a whole. An avenue for rehabilitation and reformation should be made available to anyone requesting such service in a Muslim society. The encouragement required from the families and society to hold steadfast on the Islamic way of life is vital for rehabilitating such an individual. As Islam is the religion of the country and as the country is 100% Sunni Muslims, the data available on the nature of handling, rehabilitating drug offenders in shariah jurisdictions and also the legal frameworks in place in such places could be beneficial for Maldivian legal system.

It must be noted that due to insufficient literature available on the Drugs Court and the entire rehabilitation system of Maldives, as well as the insufficient statistical data provided by the government authorities, makes this field of study an area where more research is required and a field where the researcher could contribute based on international best practice. The vast literature on therapeutic jurisprudence as well as the rehabilitation legal frameworks on other jurisdictions shows that the Maldivian legal system is in fact lacking in a number of areas and Maldives could actually benefit from these sources.

It can be seen from the literature that previous research is available on the importance of having sustainable and enforceable drug rehabilitation programs. There is also research conducted on the types of rehabilitation programs and the types of punishments for drug offences. These include from the Islamic literature as well as from modern day applications. However, this research is unique in the context that it assessed the following criteria which would contribute to the current literature where there is a lacuna.

- a) Firstly, on the issue such as the types of punishments and rehabilitation which are both Islamic and international best practice compatible.
- b) Secondly, on the issue of implementing drug laws in a Islamic country like Maldives from the angle of legislature.
- c) Thirdly, on presenting a way forward based on the findings on the solutions to the drug crisis in Maldives.

This research expands on previous knowledge in literature in terms of finding a *Shari'ah* and international best practice compatible drug treatment program for Islamic societies such as Maldives.

1.6 RESEARCH METHODOLOGY

The research is a library based qualitative study. A library-based qualitative methodology was selected for this research as it was the best fit for exploring the research questions. This approach enabled addressing all the research questions and reaching the research objectives despite the constraints and limitations faced by the COVID-19 pandemic.

The main focus of data collection is from primary and secondary sources such as statutes, journals, books, newspaper articles, stakeholder press releases, Maldivian National Statistics and interviews available in the public domain by the stakeholders from the National Drug Agency and Maldivian Non-Governmental Organisations, related to relevant drug laws and its issues in Maldives. Additional data were collected from international conventions related to drug prevention rehabilitation to identify the international best practice. Further, data from primary and secondary sources of *Shari'ah*, from books and journal articles were collected to identify the Islamic

perspective on punishment and rehabilitation of drug offenders. Furthermore, as a modern democratic Islamic country similar to Maldives, additional qualitative data from the drug laws and rehabilitation programs of Malaysia were collected from relevant statutes, conventions, journals and books to identify available forms of rehabilitative and reformative punishment methods and the effectiveness of such models. Additionally, as this study aims to identify any issues of enforcement in the Drugs Act 17/2011 of Maldives regarding rehabilitation, and why the rehabilitation facilities are not working for the many people who are in dire need of it, and what needs to be done in order to reform the structure of the existing drugs rehabilitation system, the mentioned data was analyzed to draw up a realistic image for any shortcomings of the current Maldivian system of drug rehabilitation and its effectiveness, whilst also identifying Islamic and international best practices of handling drug related crimes and the forms of effective rehabilitative methods.

Using a qualitative approach, the data was analysed from primary and secondary sources of shariah, laws, regulations, cases, international conventions and other researches conducted in the relevant areas. This analysis followed a combination of primary and secondary sources to support the research. Primary sources included legislations, data from government sources, hadith, Quran, cases and international conventions. The method allowed direct, first-hand information about this topic. Further, relevant peer-reviewed literature, research papers, academic books and other investigative findings by independent monitoring agencies both local and international multi-governmental organisations as secondary sources were reviewed. These sources together helped to create a solid base of knowledge. This helped to create a solid base for the needed analysis and develop the research framework. For the validity and reliability of the data, a data triangulation method for validation and verification was

utilised. This approach included data from various sources and perspectives. By using both primary and secondary data sources, it helped reduce potential biases and inaccuracies in the research.

The development of the framework and data assessment of the research questions, a three-step approach was utilised. This involved a detailed analysis of every part of the Drugs Act, its regulations, and the procedures and guidelines from the Drugs Court of Maldives, the National Drugs Agency, and other related agencies.

- i. First, since the Maldives is a completely Islamic country, in order to understand Islam's view on drugs; included looking into the types of punishments and treatments available for addicts under Shariah.
- ii. Second, data was compared from *Shari'ah* and international best practices, including Malaysia's drug prevention system. The goal was to find a balance, creating a system that aligns with both Shariah and international standards.
- iii. Third, data was examined on the Maldives' drug framework, focusing on punishments and treatments for reform and rehabilitation. This data was compared with the earlier data to check compatibility and identify areas needing change.
- iv. Finally, with all this information, it was able to pinpoint issues with the Drugs Act of Maldives and to rationalize whether it fulfills its long-term goal of maintaining its mandate effectively.

1.7 SCOPE AND LIMITATIONS

The scope of the research will be in focus of the rehabilitative provisions provided in the current Drugs Act 17/2011 of Maldives and its impact on the Maldivian society.

When it comes to limitations relate to the research it has to be mentioned that there were several constraints faced due to the lockdown during the COVID-19 pandemic and the Maldives National Drug Agency not having a stable functional management during the research period. Therefore, limitations of collecting data related to NDA had to be supplemented from other Maldivian government sources, Human Rights Commission of Maldives reports, NGO's and from various international research interest groups reports.

1.8 CHAPTERS OF THE THESIS

Chapter 1: This is the introduction chapter which includes the background of the research and the literature review, problem statement, research questions, research objectives, research methodology and the scope and limitations.

Chapter 2: This chapter identifies the types of punishments mandated in *Shari'ah* along with alternative forms of punishment mechanisms available in *Shari'ah* for drug related crimes on the premise of recognizing effective rehabilitation and treatment methods that would be in line with the objectives of *Shari'ah* that would be fully compatible with *Quran, Sunnah* and consensus of the Islamic scholars. This chapter would also analyse the Maldivian constitution and *Shari'ah* to put forward a benchmark for the rest of the thesis to use as a guideline on any possible amendments to the current drug framework of Maldives which would be fully *Shari'ah* compliant.

Chapter 3: This chapter identifies the literature available on modern conventional rehabilitation and treatment models for drug addicts. Further, this chapter also identifies Islamic drug rehabilitation methods and analyse both models for its compliance with the benchmark set in chapter 2 of this thesis. Furthermore, in this chapter the

punishments for drug related crimes and other alternative forms of reformatory and rehabilitative punishments enforced in Malaysia will be analysed to see its effectiveness and impact on the dealing with the situation of drug abuse and drug treatment and rehabilitation.

Chapter 4: This chapter outlines punishment mechanisms and rehabilitation framework in Maldives. Accordingly, the chapter starts by going over the situation of drugs in Maldives followed by an overview of the Maldivian legal system and the punishments set under the laws. Further the establishment of the Drug Court and its procedures and mandate. These laws, procedures and mandates will be analysed against the benchmark set in chapter 2 and further suggestions and implications from this chapter is discussed in the final chapter. Furthermore, this chapter will also look into the establishment of the National Drug Agency and analysed and discussed its operations, laws and regulations surrounding the entire drug framework of the country. This chapter also contains the findings and discussions on the enforcement and the impact of the current punishment methods and the treatment for drug addicts.

Chapter 5: This chapter is the conclusion chapter which outlines the general findings of the entire thesis and provides an analysis of the entire research along with the recommendations for major findings along with recognitions for rehabilitation strategies to have a more viable drug framework that would be sustainable and would yield the most benefit for those requiring treatment for drug addiction. Furthermore, this chapter will also contain the conclusion of the thesis and provide suggestions for further research areas based on the research findings.

CHAPTER TWO

ISLAMIC VIEW ON PUNISHMENT, DRUGS AND REHABILITATION

2.1. INTRODUCTION

This chapter will identify the Islamic concept of drugs and rehabilitation. The chapter will begin with how Islam defines drugs and how drugs are classified under the traditional and in the contemporary Islam. The chapter will also look at the punishment mechanism in Islam and the justifications for punishment. Also, the correlation between the Maldivian laws and Islam will be identified in this chapter to create a benchmark for this study regarding amendments to relevant Maldivian drug laws. The higher purposes of *Shari'ah* or the *Maqasid al-Shari'ah* with regards to drugs and intoxicants will also be looked into to identify the areas where Islam focuses on laying down a law for the people to follow. Furthermore, this chapter will look into the aspects of reformation and rehabilitation of drug offenders and the approach and conditions prescribed under Islamic law.

2.2. DEFINITION OF *SHARI'AH*

Shari'ah or Islamic Law is the law of Allah (SWT). This law guides all aspects of the Muslims life from matters related to religion, governance, judicial, social or personal. In other words, *Shari'ah* does not leave anything beyond its scope. In *Shari'ah* there is solution for every possible human problem. *Shari'ah* is considered divine by Muslims

as its primary sources are the Holy Qur'an and *Sunnah* of the prophet (SAW).¹ The laws laid by these 2 primary sources are immutable and Muslims are not allowed to amend these laws. In *Shari'ah* there are also other secondary sources which are as important as the 2 primary sources. These secondary sources are *Ijma* (reasoning), *Qiyas* (analogy), *Istihab* (Presumption of continuity), *Istihsan* (public interest) and *Urf* (Customs).² Unlike the primary sources these sources of *Shari'ah* varies depending on the different factors, such as locality, period and circumstance. However, the majority of Islamic scholars are of the opinion that the result of all the mentioned sources of *Shari'ah* can be within the criteria of *Maqasid al-Shari'ah* or the purposes of *Shari'ah* law.³

3.1.1. Role of *Shari'ah* in Maldives

The Maldivian legal context with regards to *Shari'ah* is important to be analysed since the main focus of this research is to identify solutions for Maldives in terms of reforming drug laws. Maldives is a country with 100% of its population consisting of Sunni Muslims since the Constitution of the Republic of Maldives does not allow non-Muslims to be citizens of the country.⁴ The Constitution of Maldives 2008 defines Maldives as follows;

“The Maldives is a sovereign, independent, democratic Republic based on the principles of Islam.”⁵

¹ Norazmi Anas, Zuraini Yaacob, and Ahmed Fadhil Mat Dahan, "Basic Principles of Shariah: UiTM Law Foundation Student's Attitude & Perceptions", *Jurnal Intelek*, vol. 10, no. 2 (2016): 7-14.

² Aslihan Bulut. *Islamic Law*, Aurther W. Diamond Law Library Research Guides, September 9, 2020, via Columbia.edu <http://library.law.columbia.edu/guides/Islamic_law_research_guide> (accessed 2 February 2021).

³ Anas, 9.

⁴ Constitution of Republic of Maldives 2008, Chapter 1, Art 9(d)

⁵ Ibid., Art 3.

Furthermore, the constitution goes on to define the basis of all laws and state religion as Islam. It is mentioned:

“The religion of the State of the Maldives is Islam. Islam shall be the one of the basis of all the laws of the Maldives.⁶ No law contrary to any tenet of Islam shall be enacted in the Maldives.”⁷

When looking at how the Maldivian Constitution defines Islamic *Shari’ah*, it can be seen that it is defined as;

“Islamic *Shari’ah* means the Holy Qur’an and the ways preferred by the learned people within the community and followers of the *Sunnah* in relation to criminal, civil, personal and other matters found in the *Sunnah*.”⁸

Article 10 of the Constitution of Maldives clearly defines a benchmark which all the laws of Maldives should adhere to; this benchmark is the tenet of Islam. As no law can be constructed nor enforced without complying to this rule, this rule is the most fundamental element when considering Maldivian laws. The Constitution requires the parliament to repeal or amend any law that is in contravention with any tenet of Islam.⁹ Furthermore the Constitution prohibits the parliament from enacting any law which contravenes with any tenet of Islam.¹⁰ Further, in regard to judicial decisions, the Constitution declares that the judges should consider Islamic *Shari’ah* in the instances where the laws are silent.¹¹ Thus, it is important to know how ‘tenets of Islam’ is defined in the Maldivian laws and what constitutes this repugnancy clause. According to the constitution of Maldives 2008, the ‘Tenets of Islam’ are defined as follows:

“Tenet of Islam means, the Holy Qur’an and those principles of *Shari’ah* whose provenance is not in dispute from among those found in the *Sunnah* of the Noble Prophet, and those principles derived from these two foundations;”¹²

⁶ Ibid., Art 10(a).

⁷ Ibid., Art 10(b).

⁸ Ibid., Chapter III, Art 274.

⁹ Ibid., Art 70(b2).

¹⁰ Ibid., Art 70(c).

¹¹ Ibid., Chapter III, Art 142.

¹² Ibid., Art 274.

From this definition it can be construed that Tenet of Islam is defined to include the primary sources of Islam which are the Holy Qur'an and the *Sunnah* of the Prophet (SAW) and the consensus *Ijma'* (reasoning) of the scholars of Islam.

It is clear from the standpoint of the Maldivian Constitution that Islam is the basis of all laws and any law that contravenes tenets of Islam are void and unenforceable in Maldives. Furthermore, the definition given in the Constitution clears any doubts on what could be considered as Islamic or *Shari'ah* compliant in interpretation or adoption of any provision of any law in the country. Similar repugnancy clauses in varying differences in the constitutions are also found in some other Islamic countries such as Pakistan and Malaysia.¹³

3.1.2. General Punishment types in *Shari'ah*

As the scope of *Shari'ah* from its primary sources to secondary sources is vast, it is important to outline a criterion for punishment and its purposes from the consensus of the Sunni Islamic scholars. In order to do that first it must be defined what constitutes a criminal offense in Islam and their general punishments. According to *Shari'ah* the crimes and punishments are divided into 3 main categories. They are *Hudud*, *Qisas* and *Ta'zir*.¹⁴ *Diyat*, *Kaffarah* or penance are also included in the temporal punishment combination of *Shari'ah*.

¹³ Patrick Glenn, *The Cosmopolitan State*, (Oxford: Oxford University Press, 2013), 234.

¹⁴ Central Institute of Islamic Research, *Ummah: Voice of the Community, volume I.*, (Pakistan: Central Institute of Islamic Research, 1964), 22.

2.2.1.1. *Hudud Punishments*

Hudud is the plural of the word *Hadd* in Arabic. It has several meanings and most common of which means prohibition or restraint.¹⁵ It could also mean hinderance, or obstruction.¹⁶ The legal meaning in accordance with *Shari'ah* is, offenses which violates the rights of the public or in other words these specific offenses in hudud category are considered as violations against Allah (SWT). For this reason, these offenses are classified as the most grievous forms of crimes and therefore the punishments for these offenses are considered more severe than other forms of punishments in *Shari'ah*.¹⁷ The rulings for these offences are derived directly from the Holy Qur'an or from the *Sunnah* of the Prophet (SAW).¹⁸ Majority of scholars classifies 8 types of crimes as hudud offenses.¹⁹ They are:

- (a) **Theft:** The punishment for theft is amputation of limbs depending on the circumstances of the case. The punishment for theft is derived from Qur'an. As it is mentioned in the Qur'an, "As for male and female thieves, cut off their hands for what they have done- a deterrent from Allah. And Allah is Almighty, All-Wise."²⁰
- (b) **Adultery:** The punishment for adultery varies from stoning, lashes to house arrest. *Shari'ah* distinguishes adultery into 2 main classes based on the marital status of the offender. Hence, the punishment varies depending on the circumstances surrounding the offence. The punishment for adultery and

¹⁵ Etim E. Okon, "Hudud Punishments in Islamic Criminal Law", *European Scientific Journal*, vol. 10, no. 14 (2014): 228.

¹⁶ Yahaya Yunusa Bambale, *Crimes and Punishments Under Islamic Law*, (Lagos: Malthouse Press, 2003), 26.

¹⁷ Ibid., 109.

¹⁸ Okon.

¹⁹ Uzm Bil Nur Rofiah and Imam Nahe'I, *The Study of Law and Punishments In Islam: The Ideal Concept of Hudud and Its Practices*, (Jakarta: Komnas Perempuan, 2016): 77-78.

²⁰ Al-Ma'idah: 39.

fornication are mentioned in the Qur'an and Sunnah of the Prophet (S.A.W). It is mentioned in the Qur'an, "As for female and male fornicators, give each of them one hundred lashes, and do not let pity for them make you lenient in 'enforcing' the law of Allah, if you 'truly' believe in Allah and the Last Day. And let a number of believers witness their punishment."²¹ Further it is found in the Sunnah of the Prophet (S.A.W) that he said "Take from me. For Allah has a way made for them: For the married person who commits adultery with a married person is one hundred lashes, then stoning. And for the virgin who commits adultery with a virgin is one hundred lashes and banishment for a year."²²

- (c) **Intoxication:** The punishment for intoxication is 40-80 lashes. The punishment for intoxication is found in the Sunnah of the Prophet (S.A.W) where it is mentioned that the punishment for public intoxication is 80 lashes. In another instance the Prophet S.A.W) ordered a man to be punished with 2 palm branches with 40 stripes.²³
- (d) **False accusation of Zina (illegal sexual intercourse between unmarried people):** The act of defaming an innocent person by accusing them of zina (having sexual intercourse outside of marriage) is forbidden in Islam. The punishment for this offence is derived from the Qur'an. It is mentioned that "Those who accuse chaste women 'of adultery' and fail to produce four witnesses, give them eighty lashes 'each'. And do not ever accept any testimony from them-for they are indeed the rebellious."²⁴

²¹ An-Nur: 2.

²² Jami' at-Tirmidhi 1434, Book 17, Hadith 16, English Translation: vol. 3, Book 15 Hadith 1434 (Darussalam).

²³ Okon, 232.

²⁴ An-Nur: 4.

- (e) **Rebellion:** It is in the general consensus of the scholars that the punishment for rebellion is execution or banishment from the land. It is mentioned in the Qur'an- "And if two groups of believers fight each other, then make peace between them. But if one of them transgresses against the other, then fight against the transgressing group until the 'are willing to' submit to the rule of Allah. If they do so, then make peace between both 'groups' in all fairness and act justly. Surely Allah loves those who uphold justice. The believers are but one brotherhood, so make peace between your brothers. And be mindful of Allah so you may be shown mercy."²⁵
- (f) **Highway robbery:** The punishment for highway robbery is crucifixion, execution, amputation of limbs or exile. The punishment for highway robbery is mentioned in the Qur'an, "Indeed, the penalty for those who wage war against Allah and His Messenger and spread mischief in the land is death, crucifixion, cutting off their hands and feet on opposite sides, or exile from the land. This 'penalty' is a disgrace for them in this world, and they will suffer a tremendous punishment in the Hereafter. As for those who repent before you seize them, then know that Allah is All-Forgiving, Most Merciful."²⁶

It is important to note that the punishments of Hudud are immutable and cannot be changed to the discretion of the judge. According to *Shari'ah*, these punishments are fixed by Allah (SWT).²⁷ As these punishments are immutable and rather some of the punishments are corporal in nature and severe, the criteria for proving the offenses in

²⁵ Al-Hujurat: 9-10.

²⁶ Al-Mai'dah: 34-35.

²⁷ Muhammad Ata and Sid Ahmad, *The Hudud: The Hudud are the Seven Sepecific Crimes in Islamic Law and Their Mandatory Punishments*, (Petaling Jaya: Muhammad'Ata, 2017): 29.

this category is extremely strict and hudud punishment is not imposed even in the instance of the slightest doubt. As it is mentioned in the Hadith of the Prophet (SAW) “Ward off the Hudud from the Muslims as much as you all can, and if you find a way out for the person, then let them go. For it is better for the authority to err in mercy than to err in punishment.”²⁸

2.2.1.2. Qisas Punishments

Qisas or retaliatory offenses constitute murder, manslaughter, and physical injuries. The offenses in this category are classified as follows:

- (a) Intentional murder
- (b) Manslaughter
- (c) Intentional physical injuries
- (d) Unintentional physical injuries

For these offenses, the punishments vary from death, payment of *diyat* (blood money) and *kaffarah* (penance). As for intentional murder, it is considered as one of the major sins in Islam. It is mentioned in Qur'an, “... Do not take a ‘human’ life -made sacred by Allah-except with ‘legal’ right.”²⁹ Unlike hudud punishments, *qisas* punishments can be pardoned by the victim or the heirs of the victim. The other notable feature in *qisas* offenses is that blood-money could be sought from the offender to the victim or to their heirs as compensation. It is mentioned in the Qur'an, “We ordained for them in the Torah, “A life for a life, an eye for an eye, a nose for a nose, an ear for an ear, a tooth for a tooth- and for wounds equal retaliation.” But whoever waives it

²⁸ Jonathan Brown, *Stone and Hand Cutting: Understanding the Hudud and the Sharia in Islam*, (Texas: Yaqeen Institute for Islamic Research, 2017): 42.

²⁹ Al-An'am: 151.

charitably, it will be atonement for them. And those who do not judge by what Allah has revealed are ‘truly’ the wrongdoers.”³⁰

2.2.1.3. *Ta’zir Punishments*

Ta’zir offenses are the widest category amongst the three categories of offenses and punishments in *Shari’ah*. *Ta’zir* offenses are ones which the punishment is neither prescribed in the Qur’an nor in the Sunnah of the Prophet (SAW), thus giving discretionary authority of punishment to the judge. *Ta’zir* can only be given to offenses which are not classified as Hudud or Qisas.³¹ *Ta’zir* offences are sometimes seen as lesser offences compared to hudud offences.³² There are 10 general forms of punishments under *ta’zir* which are:

- (a) ***Al-Wa’z*** – Admonition: This type of punishment is used as a reminder or as a warning for minor offenses to let them know that they have committed an offence. A judge giving this punishment must be certain that a warning would suffice in reforming or preventing the offender from committing further crimes.³³
- (b) ***Al-Tawbikh*** – Reprimand: This punishment can be a word, or an action taken against the offender which is deemed proportional to the committed offense. The type of reprimand could vary for different offenses.³⁴

³⁰ Al-Ma’idah: 45.

³¹ Hajed Alotaibi, "Inconsistency in Ta’zir Punishments in Islamic Juveniles’ System", *Asian Social Science* vol.14, no. 4 (2018): 86.

³² Hosseini Seyed Mohammad, "Hadd and Ta’zir: Two Types of Punishment Against Two Groups of Offences", *Private law Studies*, vol. 39, no. 1 (2009): 87-106.

³³ Mohamed El-Awa, "The Theory of Punishment in Islamic Law – A Comparative Study", (Ph.D. thesis, London: University of London, 1972), 207.

³⁴ El-Awa, 208.

- (c) ***Al-Tahdid*** – Threat: This punishment is a warning of a punishment with the intention to cause fear on the offender where if he fails to comply then the punishment would be meted on the offender.³⁵ This could be a suspended sentence or a conditional sentence. Alternative punishment orders such as forcing someone to take rehabilitative treatment can be considered as a valid *ta'zir* punishment.
- (d) ***Al-Hajr*** - Boycott: This punishment is intended to alienate the offender from communicating and socialising with the rest of the society. It was used during the time of the prophet (S.A.W) against those who did not participate in the battle of *Tabuk*.³⁶
- (e) ***Al-Tashhir*** - Public Disclosure: This punishment is used as a name and shame approach to inform the public that the offender has committed such a crime and that he is no longer trustworthy and should not be trusted.³⁷
- (f) ***Al-Gharamah Wal-Musdarah*** - Fines and Seizure of Property: The taking of money and property from the offender as a punishment is allowed in Islam. However, there is a difference of opinion amongst the early scholars regarding the utilisation of such money in the public treasury. Modern scholars allow this type of punishments as lawful and as an acceptable form of *ta'zir* punishment.³⁸
- (g) ***Al-Habs*** - Imprisonment: The punishment of imprisonment is allowed as a *ta'zir* punishment in Islam. There are differences amongst scholars regarding the term of the prison sentence. Some scholars have discussed the

³⁵ Ibid., 208.

³⁶ Ibid., 210.

³⁷ Ibid., 211.

³⁸ Ibid., 213.

minimum and the maximum allowed duration of a definite prison sentence. There is also difference of opinion on indefinite imprisonment for offenders. The scholars who disagree with the indefinite imprisonment sets a condition that once the offender repents the term of imprisonment must end. Also, there is opinion amongst scholars that indefinite imprisonment can only be meted for those prisoners who cannot be reformed through any other form of punishment.³⁹

- (h) ***Al-Nafy*** – Banishment: This punishment was prescribed as a punishment for adultery as a hudud punishment. However, as a *ta'zir* punishment banishment can be imposed on someone for a specified period or until they reform.⁴⁰
- (i) ***Al-Jald***– Flogging: This punishment is prescribed as a *hudud* punishment; however, it can also be meted as a *ta'zir* punishment. There are differences of opinion with regards to the number of lashes, whether if it is acceptable to be meted more than the amount prescribed as a hudud punishment. Some scholars mention that as a *ta'zir* punishment the number of *ta'zir* is indeterminate and can be meted exceeding the amounts of hudud flogging.⁴¹
- (j) ***Al-Ta'zir Bil-Qatl*** - Death Penalty: This punishment as a *ta'zir* punishment is mentioned to be allowed for habitual offenders of hudud offences such as thieves and for others committing grievous felonies which requires the punishment of death in the public interest as a deterrent.⁴²

³⁹ Ibid., 217.

⁴⁰ Ibid., 219.

⁴¹ Ibid., 220.

⁴² Ibid., 227.

In terms of discretionary authority of punishment of *ta'zir*, there have been differences amongst scholars in the issue whether the discretion is authorised with limits or without any limit. Hanafis view that discretion is not absolute though the determinate authority of a punishment type rests on the judge. In this view, the judge can opt any type of punishment based on the circumstances surrounding the offence.⁴³ However, if the punishment is whipping, then the amount shall not exceed 75 lashes. The Shafi'is also concurs to the view of Hanafis. Amongst those who view that *ta'zir* is absolute are Malikis. However, they also believe and agree that there should be certain limitations which the judge should not exceed, and that this limitation should be decided by the government.⁴⁴

3.1.3. Analysis

According to Islamic criminal law, there are 3 types of punishments which are *Hudud* (fixed), *Qisas* (Retaliatory) and *Ta'zir* (Discretionary) punishments. The offences and punishments in *Hudud* and *Qisas* are fixed. However, in *ta'zir* the judge has the authority to decide on the punishment for the offender. It can be seen that intoxication is a *Hudud* offence and its punishment is fixed. However, it should be further analysed regarding the view of Islam on intoxicants and drugs other than alcohol which are available in many forms. The purpose of the analysis would be to determine what type of intoxicant constitutes under *Hudud* and what constitutes under *ta'zir*.

⁴³ Nasimah Hussin, "The Discretionary Power of the Judge in the Determination of Ta'zir Punishment", *Jurnal Undang-Undang Masyarakat*, vol. 8 (2004): 125-138.

⁴⁴ Ibid.

2.3. DRUGS AND INTOXICANTS IN ISLAM

Islamic view on drugs and other intoxicants is definitive in terms of its general consumption. As it is mentioned in the Holy Qur'an:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رِجْسٌ مِّنْ عَمَلِ الشَّيْطَانِ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

“Oh You who believe! Indeed, intoxicants, gambling, [sacrificing on] stone alters [to other than Allah], and divining arrows are but defilement from the work of Satan, so avoid it that you may be successful.”⁴⁵

Furthermore, it is mentioned that,

إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَن ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُتَّبِعُونَ

“Satan only wants to cause between you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer. So will you not desist?”⁴⁶

It is clear from these two Qur'anic verses that intoxicants are considered as acts of Satan and are prohibited in Islam. The question arises regarding the use of other forms of drugs whether in powder form or in other modes of consumption and delivery into the human body. As new novel forms of drugs are introduced through synthetic chemistry and since not all forms of narcotics are designed for purposes of intoxication, it is important to identify how Islam classifies drugs and intoxicants.

The particular word used in Qur'an for intoxicants is *Khamr* which according to Islamic scholars is a composite term, where it contains all types of intoxicants. Hence any drink that clouds the mind, veils it, and intoxicates it, is contained within this word

⁴⁵ Al-Maidah: 90.

⁴⁶ Al-Maidah: 91.

according to Al-Tabari.⁴⁷ The word *khamr* also contains the meanings such as concealment, cover and something uncertain and something which conceals the mind.⁴⁸ According to Islam in terms of effect of the substance either intoxicating or clouding ones judgement, it is narrated in the *hadith* of the Prophet (SAW) that, “The Prophet (SAW) prohibited every intoxicant and *Muftir* (every substance which slackens the mind).”⁴⁹

Historically, during the time of the Prophet (SAW), people consumed alcohol as a primary intoxicant. It wasn't until a later period that Muslims started consuming other forms of drugs for recreation. The particular drugs used for recreation were at the time predominantly used for medicinal purposes in the Islamic society.⁵⁰ However, due to the prevalent social use, the scholars had to debate on the validity of this form of consumption. It must be noted that during the time of the *imams* of four major schools of Islamic thought, this issue was not addressed by them as this issue was not profoundly widespread nor known to exist in the Muslim society.⁵¹ There was no evidence that Muslims used these drugs for recreational purposes until the 11th Century. For this reason, the issue of hard drugs was not debated among the scholars of early Islam.⁵² Records shows that the issue became serious by 6th to the early 7th Century of *hijra*.⁵³

According to Mansur, there is no evidence to show that Muslims consumed drugs such as Hemp, Henbane or Opium during the early years of Islam. However, he

⁴⁷ Mansur Ali, "Perspectives on Drug Addiction in Islamic History and Theology", *Religions*, no. 5 (2014): 912-928.

⁴⁸ Alam Zeb Khattak, "Step by Step Prohibitions of Intoxicants in Islam", *researchgate*, June 6, 2019. <https://www.researchgate.net/publication/332873799_STEP_BY_STEP_PROHIBITION_OF_INTOXICANTS_IN_ISLAM> (accessed 16 March 2020).

⁴⁹ *Awqaf.ae*, “Bad Effects of Drugs, UAE General Authority of Islamic & Endowments”, n.d. <<http://www.zhic.ae/en/Articles/ArticleDetails.aspx?Article=bad.effects.of.drugs>> (accessed 18 March 2021).

⁵⁰ Yasmin Hanani Mohd Safian, “An Analysis on Islamic Rules on Drugs”, *International Journal of Education and Research*, vol.1, no.9 (2013): 2.

⁵¹ *Ibid.*

⁵² Ali, 917.

⁵³ Safian, 2.

found that Cannabis was introduced after the formative years of Islam. At the time it was introduced for its medicinal properties by Greek physicians who came into acquaintance with Muslims. It was prescribed for assisted digestion, to bring clarity to thoughts etc.⁵⁴

It is mentioned that prominent scholars such as al-Suyuti documented on the benefits of some herbs and plants upon conducting self-experimentation.⁵⁵ Thus for medical purposes he categorised drugs into 4 classes as shown in table 2.1.

Table 2.1 Al-Suyuti's Classification of Drug

Classification	Effect on body
First degree	No effect
Second degree	Certain harmless effect, some intoxicating effect
Third degree	Non-lethal, but harmful effects
Fourth degree	Harmful, overdose could lead to death

According to the classification of medicinal use of certain drugs, early scholars were able to eliminate the more potent types of drugs from their usage in medical treatment.⁵⁶ However it must be noted the sole purpose of the early classification of drugs was for medicinal usage.

When the issue of consumption of drugs became known, some scholars of that time tried to derive a solution from the Qur'an and *Sunnah* whilst, other scholars found that a lacuna in precedent and decided to self-experiment the effect of these drugs before they made a decision on the matter since there is no clear mention of prohibition in

⁵⁴ Ali, 919.

⁵⁵ Safian, 2.

⁵⁶ Ibid., 4.

Qur'an and *Sunnah* regarding hard drugs.⁵⁷ Some scholars of that period also allowed the consumption of drugs based on their experiences with the drugs.⁵⁸

In terms of the position of classification of something as *haram* without a Qur'anic or *Sunnah* sanction on it, amongst four leading schools of Islamic thought, there were three main opinions. The first opinion is held by Hanafi and Hambali jurists; they view the original state of everything is *haram* unless there is a verse from the Qur'an making it *halal*. The second thought is held by Shafi'is and some Hanafis, this is the view of *tawaqquf* or to consider those things in a temporary suspended manner until a decision is received from Qur'an or *Sunnah*. This view does not make them haram or halal. The third view is held by majority of Hanafis, and some Maliki and Shafi'i jurists, this view is called *ibahah* (neutral) or to consider things that does not have a sanction from the Qur'an and *Sunnah* as *mubah* or permitted.⁵⁹ Upon many debates and considerations the prominent view of the scholars was received for the third opinion which is to consider anything which is not clearly prohibited to be considered *halal* until a sanction could be derived for it from Qur'an and *Sunnah*.

There was some debate amongst scholars on the usage of narcotic drugs for recreational purposes. The debate relies mainly on the permissibility based on the effect the drug has on the consumer. The jurist Imam Sufiyy al-Muzajjad, was one of the scholars who self-experimented hashish and considered it permissible for consumption as it had beneficial qualities rather than an intoxicant.⁶⁰ However this stance was challenged by other scholars of his time as self-experimentation and observation of

⁵⁷ Ali, 920.

⁵⁸ Ibid.

⁵⁹ Ammar Khasan, "The Qur'an's Prohibition of Khamr (Intoxicants): A Historical and Legal Analysis for the Sake of Contemporary Islamic Economics", *Kiyoto Bulletin of Islamic Area Studies*, vol. 9 (2016): 97-112.

⁶⁰ Safian, 4.

other jurists saw different results. These results were mostly negative effects. Also getting mixed results meant that during this period, some scholars could not give a fatwa with certainty thus leaving the issue of permissibility unresolved.⁶¹

It must be noted that scholars view that something does not only become bad when Allah (SWT) prohibits it, rather it is prohibited by Allah (SWT) because it is bad and harmful. Thus, intoxicants are prohibited because they are harmful and cause a lot of social, economic and medical harms.⁶² This view used for classification of new and contemporary issues could help scholars to determine the permissibility of something based on its harm or benefit factor. Reverting to the initial classification, the scholars can formulate through (*qiyas*) analogy that if the consumption leads to a negative harmful effect or intoxication then it is unlawful.

As it is mentioned in the Holy Qur'an:

الَّذِينَ يَتَّبِعُونَ الرَّسُولَ النَّبِيَّ الْأُمِّيَّ الَّذِي يَجِدُونَهُ مَكْتُوبًا عِنْدَهُمْ فِي التَّوْرَةِ وَالْإِنْجِيلِ يَأْمُرُهُمْ بِالْمَعْرُوفِ وَيَنْهَاهُمْ عَنِ الْمُنْكَرِ وَيُحِلُّ لَهُمُ الطَّيِّبَاتِ وَيُحَرِّمُ عَلَيْهِمُ الْخَبَائِثَ وَيَضَعُ عَنْهُمْ إِصْرَهُمْ وَالْأَغْلَالَ الَّتِي كَانَتْ عَلَيْهِمْ ۗ فَالَّذِينَ آمَنُوا بِهِ وَعَزَّرُوهُ وَنَصَرُوهُ وَاتَّبَعُوا النُّورَ الَّذِي أُنزِلَ مَعَهُ ۗ أُولَٰئِكَ هُمُ الْمُفْلِحُونَ

Those who follow the Messenger, the unlettered prophet, whom they find written [i.e., described] in what they have of the Torah and the Gospel, who enjoins upon them what is right and prohibits them from what is wrong and makes lawful for them what is good and forbids them from what is evil and relieves them of their burden and the shackles which were upon them. So they who have believed in him, honoured him, supported him and followed the light which was sent down with him - it is those who will be the successful.⁶³

Thus, the general rule when there is no evidence that whether something is forbidden in Islam, it is to revert to this verse, where it clearly talks about forbidding

⁶¹ Ibid., 5.

⁶² Khasan, 104.

⁶³ Al-A'raf: 157.

evil and allowing what is good. Though due to the unknown nature of drugs at the time, according to Safian, the majority of scholars were not in favour of giving a blanket decree on all drugs such that of (*Khamr*) alcohol. As consumption of alcohol are prohibited due to its intoxicating nature, drugs which produces intoxicating effects would be deemed under this category. However, when a certain drug does anything other than intoxication, such as acting as a poison for the consumer or impairing the consumers judgement, then the prohibition factor cannot be analogized as that of *Khamr*.⁶⁴ Thus with all these variations in effect, a common ground for drugs to be considered prohibited would be due to its addictive nature. The stance of amongst modern scholars is that there is consensus on the prohibition of alcohol in all circumstances, and consensus on prohibition of narcotic drugs for all non-necessity situations⁶⁵ such as for recreational use etc.

2.4. DRUG PUNISHMENTS IN *SHARI'AH*

This section looks into the fundamental purposes and forms of punishment in Islam, particularly in relation to drug use. The concept of punishment in Islam, known as '*uquba*', serves specific objectives like reformation, retribution, and deterrence, aimed at maintaining societal harmony. These principles, deeply rooted in *Shari'ah* law, emphasize the importance of adhering to the commandments of Allah (SWT). This section will explore the three main purposes of Islamic punishment: reformation, retribution, and deterrence, along with their significance in ensuring an orderly Islamic society.

⁶⁴ Safian, 5.

⁶⁵ Ibid., 6.

Further, it examines the traditional Islamic stance on drug punishment, shedding light on the varied interpretations across the four major schools of Islamic thought regarding the penalization of alcohol consumption and other intoxicants. Historical contexts and differing views on hudud (prescribed) punishments for alcohol and other drugs, such as opiates and hashish, are discussed, highlighting the differences in opinion among early Islamic scholars. The section also addresses the modern consensus on narcotic drugs, considering their prohibition and the appropriate application of ta'zir (discretionary) punishments for non-medical use.

This exploration provides a comprehensive understanding of how traditional and contemporary Islamic jurisprudence approaches the complex issue of drug abuse and its penal consequences.

2.4.1. Purposes of Punishment in Islam

The word used for punishment in Islam is *uquba* from the root word *aqaba*, which simply means to punish. In Islam punishments are essentially meted for those who cross the boundaries set in *Shari'ah*, thus those who commit acts which are prohibited in Islam are punished for disobeying the commandments of Allah (SWT).⁶⁶ However, it must be noted that the punishments in Islam, whether *qisas*, *ta'zir* or *hudud* are not without purpose. All punishments carry specific intents and purposes. The 3 main purposes of meting punishments are retribution, reformation and deterrence.⁶⁷

⁶⁶ Yuhanza Othman, Ida Rahayu & Ekmil Krisnawati Erlen Joni, "A Study on Syariah Whipping as Punishment for Drug Dependents in Malaysia", In *Islamic Perspectives Relating to Business, Arts, Culture and Communications*, edited by Roaimah Omar, Hasan Bahrom and Geraldine de Mello (Singapore: Springer, 2015), 475-483.

⁶⁷ El-Awa, 68.

1. Reformation: This is to ensure that the offender is rehabilitated and educated so that he would not commit such offences in the future. This also saves the society from other offenses.⁶⁸
2. Retribution: This is to ensure that the offender gets the same injury he caused to the victim.⁶⁹
3. Deterrence: This is to ensure that the public as well as the offender or future offenders would not commit further such crimes upon witnessing the severity of the punishment imposed on the offender.⁷⁰

All these aims ensure the harmony and safety within an Islamic society. What is known as *Maqasid al-Shari'ah* or the higher purposes of *Shari'ah*. This will be discussed in 2.5 of this chapter.

3.1.4. Drug Punishment in Traditional Islam

It has been previously discussed in this chapter that consumption of alcohol is considered as a major sin in Islam and also a sin with an applicable hudud punishment. The punishment for consumption of alcohol is 80 lashes as found in the *hadith* of the Prophet (SAW). However, there was an incident when the Prophet (SAW) directed someone who consumed alcohol to be given 40 stripes with 2 palm branches.⁷¹ During

⁶⁸ Meraj Ahmad Meraj, "The Concept of Crime and Punishment in Islam", *International Journal of Humanities and Social Science Research*, vol.4, no. 5 (2018): 30.

⁶⁹ Shazia Ramzan, Naseem Akhter and Aine Rubab, "Punishment from Islamic Perspectives", *FWU Journal of Social Sciences*, vol.9, no.1 (2015): 54.

⁷⁰ Ramizah Wan Muhammad & Khairunnasriah Abdul Salam, "The Concept of Retributive and Restorative Justice in Islamic Criminal Law with Reference to the Malaysian Syariah Court", *Journal of Law and Judicial System*, vol.1, no.4 (2018): 9.

⁷¹ Okon, 32.

the time of Umar (RA) the punishment for drinking was consulted by Caliph Umar (RA) and Abdur-Rahman bin Auf said the mildest for drinking wine is 80 stripes.⁷²

There is difference of opinion amongst the 4 main schools of Islamic thought regarding the amount of *hudud* punishment and also regarding the correlation between the offender's intoxicated state and the type of the drink that person consumed. According to Shafi'i school, the punishment for a free person (non-slaves) drinking wine is 40 stripes, this is the majority view of the Hanbali's as well. However, Maliki's and Hanafi's consider the punishment to be 80 stripes. There is a difference of opinion with Hanafi's when it comes to the type of the drink and state of the drinker. Hanafi's view that *hadd* punishment cannot be meted for someone who is not intoxicated. It must be noted that all schools of thought agree that drinking 'wine' is prohibited regardless of the quantity consumed and they all agree that it should be punished with the *hudud* punishment.⁷³

The question then arises regarding the applicability of *hudud* punishment for intoxicants other than alcoholic drinks, such as opiates and other drugs. There is a difference of opinion amongst major scholars of early Islam in terms of applying *hudud* punishment for drug use. There were scholars such as Ibn Taymiyya who prescribed *hudud* punishment for drinking wine for *hashish*. He believed that it is akin to consuming wine and is thus prohibited in the same manner. However, for other non-intoxicating drugs such as *banj* he prescribes *ta'zir* punishments as the drug itself does not induce intoxication. However, Shafi'is believe that drugs such as opium and *hashish* and others should not have *hadd* punishment rather a *ta'zir* punishment by *ta'dib*

⁷² Ibid.

⁷³ Olaf Kondgen, *The Codification of Islamic Criminal Law in the Sudan: Penal Codes and Supreme Court Case Law under Numayri and al-Bashir*, (Netherlands: Brill, 2017): 232.

(punishment by teaching moral values) would be applicable.⁷⁴ Al-Qarafi also holds the view that for the use of non-intoxicant drugs such as *hashish* could not constitute a *hudud* punishment.⁷⁵

From the available resources it can be seen that the early scholars did not issue a clear verdict on the use of different types of narcotic drugs due to limited knowledge regarding the effects on the user. However, the consensus of the modern scholars determines that narcotic drugs whether intoxicating or not are all prohibited and should be given a *ta'zir* punishment for non-medical use.

3.1.5. Analysis

It is seen that due to the non-existence of narcotic drugs use during the time of the prophet (SAW), there was no clear Qur'anic injunction with regards to its use. However, there were certain *hadith* which clarifies that any intoxicant is *haram* despite its quantity. Due to the lack of a clear understanding of the nature and its effects on the mind, body and society due to the use of drugs, the early scholars had a difficult time in establishing an analogy for the many different types of drugs. Some scholars even attempted to self-experiment to see the effects it had for themselves.

However, as there were a variety of drugs which had different effects on different people, those scholars who self-experimented also differed in their verdicts. Whilst some permitted some types and prohibited the use of others, the majority of the scholars abstained from giving a general verdict on all narcotic drugs. Their primary argument depended on the intoxicating effect of some drugs and if it is found to be an intoxicant then some scholars prescribed the *hudud* punishment for drinking wine.

⁷⁴ Safian, 7.

⁷⁵ Ibid.

It is the contemporary scholars that determined upon modern discovery of the detrimental effects of narcotic drugs have on a person, societies and economies that all forms of non-medical use of these drugs are prohibited and should be given a *ta'zir* punishment.

2.5. MAQASID AL-SHARI'AH, PURPOSES OF SHARI'AH AND ISLAMIC PUNISHMENT PHILOSOPHY

Maqasid al-Shari'ah can be defined as the objectives of *Shari'ah* or the purposes of the divine revelations. It was theorized as early as during the time of Caliph Umar (RA), however as a conceptual idea it was developed by Imam al-Ghazali in the 12th Century.⁷⁶ *Maqasid al-Shari'ah* is theorized with the consideration on how *Shari'ah* is revealed to best allow a person to lead their worldly lives so that they could have a better everlasting life in the hereafter⁷⁷ through Islam. As the religion of Islam is not constrained by time and place, the message and the rules are considered universal and applicable in every situation. Thus, the main purpose of *Shari'ah* is to avoid harmful acts and guide to acts which are beneficial for mankind and the purpose of *Maqasid al-Sharia'ah* is to identify harmful deeds and to reach beneficial ones.⁷⁸

Allah (SWT) mentions in the Holy Qur'an:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

And We have not sent you, [O Muḥammad], except as a mercy to the worlds.⁷⁹

⁷⁶ Azila Ahmad Sarkawi, Alias Abdullah, and Norimah Dali, "The Philosophy of Maqasid Al-Shari'ah and its Application in the Built Environment", *Journal of Built Environment, Technology and Engineering*, vol. 2 (2017): 216.

⁷⁷ Syahida Abdullah, "The Objectives of Takaful and Shariah: Towards the Achievement of Maqasid Shariah", *Journal of Human Capital Development*. vol.8, no.1. (2015): 94.

⁷⁸ Nur Kholish and et al, "The Significance of Maqasid Syariah Principles in Improving Islamic Economics and Finance", *International Journal of Innovation, Creativity and Change*, vol.13, no.3, (2020): 1344.

⁷⁹ Al Anbiya: 107.

Furthermore, it is mentioned that:

يَا أَيُّهَا النَّاسُ قَدْ جَاءَكُمْ مَوْعِظَةٌ مِنْ رَبِّكُمْ وَشِفَاءٌ لِمَا فِي الصُّدُورِ وَهُدًى وَرَحْمَةٌ لِّلْمُؤْمِنِينَ

O mankind, there has come to you instruction from your Lord and healing for what is in the breasts and guidance and mercy for the believers.⁸⁰

The purposes of the Islamic law are divided into 3 main areas.⁸¹ The first area is called Necessities (*dharurat*); this area contains the 5 elements which are considered essential to be preserved and are essential for human life. These are, Preservation of Faith, Preservation of Life, Preservation of Wealth, Preservation of Intellect and Preservation of Family. Failure in preserving any of these necessities would lead to chaos and corruption in the society. The second area is called Needs (*hajiyat*) the elements that contains in this area are considered to be less essential than Necessities. The needs are elements which alleviate hardship, however neglecting it does not completely disrupt the order of life. For example, lease and hire contracts and the sale of *salam*.⁸² The third area is identified as Luxuries (*tahsiniyat*) or beautifying purposes. These are the things related to customs and acts based on the status of the individual. Examples include the act of giving zakat, being kind in speech, wearing fine clothes, fair dealing and use of things which makes life comfortable.⁸³ It has to be noted that all these are in fact arranged in a way that each less essential area acts as a shield to protect the objectives within the Necessities area.⁸⁴ It has to be mentioned that the most important area is the Necessities area where if the essentials of it are ignored than *fasad* or conflict would prevail in the society.⁸⁵

⁸⁰ Yunus: 57.

⁸¹ Jasser Auda, *Maqasid Al-Shariah As Philosophy of Islamic Law A Systems Approach*, (London: International Institute of Islamic Thought, 2007): 2-5.

⁸² Asyraf Wajdi Dusuki and Said Bouheraoua, "Framework of Maqasid al-Shariah and Implication for Islamic Finance", *Islam and Civilization Renewal*, vol. 2, no. 2 (2010): 320-321.

⁸³ Ibid., 321.

⁸⁴ Auda., 5.

⁸⁵ Sabariah Yaakub and Nik Ab Halim Nik Abdullah, "Towards Maqasid Shariah in Sustaining the Environment Through Impactful Strategies", *International Journal of Islamic Business*, vol.5 no.1 (2020): 39.

When analysing things which are *halal* or *haram* it could be seen that it fits into the *Maqasid al-Shari'ah* paradigm. Also, even the punishments in Islam, either *hudud*, *ta'zir* or *qisas* would also comply to this standard. There should be a *Shari'ah* purpose in everything Muslims do. It is evident that a purpose is necessary for looking at the original sources of Islam. The purpose of decreeing something in *Shari'ah* is mentioned in some places of the Holy Qur'an and sometimes in the *Sunnah* of the Prophet (SAW). As it is clearly seen from this verse of the Holy Qur'an when Allah (SWT) decreed the punishment for murder:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ ۗ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنثَىٰ
بِالْأُنثَىٰ ۖ فَمَنْ عَفَىٰ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتَّبِعْهُ بِالْمَعْرُوفِ وَأَدِّءْ إِلَيْهِ بِإِحْسَنٍ ۗ إِنَّكَ
تُخَفِّفُ مِنَ رَبِّكَ ۗ وَرَحْمَةٌ مِّن رَّبِّكَ ۗ فَمَنْ أَعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ
وَلَكُمْ فِي الْقِصَاصِ حَيٰوةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ

O you who have believed, prescribed for you is legal retribution for those murdered - the free for the free, the slave for the slave, and the female for the female.¹ But whoever overlooks from his brother [i.e., the killer] anything,² then there should be a suitable follow-up and payment to him [i.e., the deceased's heir or legal representative] with good conduct. This is an alleviation from your Lord and a mercy.

But whoever transgresses after that will have a painful punishment. There is 'security of' life for you in 'the law of' retaliation, O people of reason, so that you may become mindful 'of Allah'.⁸⁶

This verse clarifies that the punishment is given as a retributory action and goes on to mention that taking this punishment would in fact save lives. If we look how the punishment is meted, we can see that the punishment is severe, and it is witnessed by people of the society. This would act as a deterrent for others from committing these types of crimes which would eventually saves lives.⁸⁷

⁸⁶ Al-Baqarah: 178-179.

⁸⁷ Muhammad Adil Khan Afridi, "Maqasid Al-Shari'ah and Preservation of Basic Rights, Under the Theme "Islam and its Perspectives on Global & Local Contemporary Challenges", *Journal of Education and Social Sciences*, vol. 4 (2016): 276.

3.1.6. Preservation of Religion

Not only Islam is the only way to achieve success in the hereafter, Islam provides a complete system which ensures worldly life is conducted in harmony and to attain the worldly ethical standards and the hereafter, Islam puts a higher level of importance to preserving religion. Since Islam is the only religion, legal system and social system which could provide worldly success and the hereafter. It calls for the preservation of religion from all influences that weakens the faith of individuals and of the whole society.⁸⁸ Anything that could prevent the practice and following the faith is therefore prohibited. It is one of the reasons clearly mentioned in the process of prohibition of *Khamr* in the Holy Qur'an.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَقْرُبُوا الصَّلَاةَ وَأَنْتُمْ سُكَرَىٰ حَتَّىٰ تَعْلَمُوا مَا تَقُولُونَ

O you who have attained faith, do not approach prayer while you are drunk so that you may know what you say.⁸⁹

As *salat* or prayer is the primary and the most important form of worship in Islam it is evident from this verse that one of the main purposes of prohibition of alcohol is to preserve the religion of Islam. Alcohol affects the individual's faith more than any other form of influence and would lead to the destruction of faith.

3.1.7. Preservation of Life

The word for life in Arabic is *Nafs*, which means soul and life. When we look at the root of this word which is *nufusa* which translates as something precious and valuable.

⁸⁸ Maryam Saeed, *Maqasid Al-Shariah and its Application in Islamic Finance*, (Pakistan:: University of Management and Technology, 2019), 3.

⁸⁹ An-Nisa: 43.

Thus, protection of life is one of the most important commandments in Islam.⁹⁰ It is forbidden in Islam to do things which would cause harm to others and ourselves. *Maqasid al-Shari'ah* gives a very high importance to protecting the lives of the society and the community. Islam prohibits killing or harming anyone without just cause⁹¹ and consuming harmful drugs which would affect the wellbeing of the person. As without life, which is a blessing bestowed by Allah, there would not be anyone to preserve or protect the religion nor would there be a society. Destruction of life directly or indirectly destroys communities and nations. The true weight of life and the importance Islam has given to preservation of life is evident in several Qur'anic verses and Prophetic *Hadiths* but the most evident of all is:

مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا

“whosoever kills a human being, except (as punishment) for murder or for spreading corruption in the land, it shall be like killing all humanity”⁹²

Deaths and harms caused directly and indirectly related to drugs and intoxicants are very well studied and documented. According to the United Nations Office of Drugs and Crime's report on Economic and Social Consequences of Drug Abuse and Illicit Trafficking, between 1973 and 1975 in Colombia there were just 17 killings per 100,000 people. This was prior to the boom of large-scale drug cultivation. However, after the introduction of the wide-scale drug cultivation in 1988 the number of killings increased to 63 per 100,000 making Colombia as the country with the highest rate of murders in the world. The report mentioned that the correlation of violence in drug prone areas

⁹⁰ Yasser Mohammed Abdel and Rahman Tarshany, “Protection of Life in Islamic Law”, *International Journal of Business, Economics and Law*, vol.9, no.5, (2016): 46.

⁹¹ *Ibid.*, 47.

⁹² *Al-Maidha*: 32.

were much higher than the correlation it found with inequality and poverty related violence.⁹³

3.1.8. Preservation of Intellect

The human intellect is given a high status in Islam. It is accepted amongst all societies that a person with a sound judgement can differentiate between what is harmful and what is beneficial.⁹⁴ It is the quality of intellect that Allah (SWT) has preferred humans above many of his other creation as mentioned in the Holy Qur'an,

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا

Indeed, We have dignified the children of Adam, carried them on land and sea, granted them good and lawful provisions, and privileged them far above many of Our creatures.⁹⁵

Furthermore, it is seen that Islam encourages Muslims to think and be rational. It encourages Muslims to expand their thinking and calls them to abstain from consuming things that would cloud their judgement and thought. Drugs and alcohol tend to numb the senses and reduce the level of shame of the consumer.⁹⁶ Consuming drugs and intoxicants are prohibited in Islam as Muslims are required to be always God conscious. It is mentioned in the Qur'an:

الَّذِينَ يَذْكُرُونَ اللَّهَ قِيَمًا وَقُعُودًا وَعَلَىٰ جُنُوبِهِمْ وَيَتَفَكَّرُونَ فِي خَلْقِ السَّمَوَاتِ وَالْأَرْضِ رَبَّنَا مَا خَلَقْتَ هَذَا بَطْلًا سُبْحَانَكَ فَقِنَا عَذَابَ النَّارِ

[They are] those who remember Allah while standing, sitting, and lying on their sides, and reflect on the creation of the heavens and the earth and

⁹³ United Nations Office on Drugs and Crime, *Economic and Social Consequences of Drug Abuse and Illicit Trafficking*, (New York: unodc.org, 1998).

⁹⁴ Mohammad Hashim Kamali, *Actualization of the Higher Purposes of Shariah*, (Kuala Lumpur: IIIT, 2020). 13.

⁹⁵ Al-Isra: 70.

⁹⁶ ICCI, *The Islamic View on the Prohibition of Alcohol*, (Dublin: The Islamic Cultural Centre of Ireland, 2012), 2-3.

pray', "Our Lord! You have not created [all of] this without purpose. Glory be to You! Protect us from the torment of the Fire."⁹⁷

It has been found in a clinical study that regular drug users have difficulty identifying emotions and showing empathy and shows abnormality in their moral processing due to the serious damage it causes on the brain. These individuals have difficulty choosing between right and wrong.⁹⁸

3.1.9. Preservation of Family

Preservation of the family is essential to have a good society. Islam considers family as the cornerstone of the society.⁹⁹ Islam encourages individuals to marry and take up a family as soon as they can. All the roles involved in the make of the family in Islam is centric on preserving the *maslahah* (interests) of the members of the family.¹⁰⁰ Thus all relationships between men and women are to be in accordance with the guidance of Islam.¹⁰¹ Having children out of wedlock and having intimate relationships without marriage is forbidden.¹⁰² The Islamic family is the start of an Islamic society.¹⁰³ Islam teaches and guides Muslims everything from finding a life-partner, marriage, etiquettes between husband and wife, child bearing, bringing up children, education and how the

⁹⁷ Al-Imran: 191.

⁹⁸ ScienceDaily, "Drug-use may hamper moral judgment: First study to suggest why cocaine, meth users might struggle to discern right from wrong", *Springer*. July 13, 2016 www.sciencedaily.com/releases/2016/07/160713114945.htm (accessed 21 April 2021).

⁹⁹ Islamic Relief, *An Islamic Perspective on Human Development*, (Birmingham: Islamic Relief Worldwide, 2014), 8.

¹⁰⁰ Mohd Suahti Mohamed Sidik, Md Noor Saper and Nurul, "The Application of Maqasid Shariah Elements in Family and Marriage Counseling", *Advances in Social Science, Education and Humanities Research*, vol. 464 (2019): 713.

¹⁰¹ Ar-Rum: 21.

¹⁰² *Dar Al-Ifta Al-Missriyyah*, "The Higher Objectives of Islamic Law", *dar-alifta.org*. n.d. <<https://www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=499&CategoryID=3>> (accessed 21 April 2021).

¹⁰³ Awang Nib Zuhairi Bin Awang Ahamad, Hadenan Bin Towpek, and Abdul Razak Bin Abul Kadir, "Family Well-Being According to the Maqasid Shariah in the Context of a Plural Society in Sarawak: A Preliminary Study", *Azka International Journal of Zakat & Social Finance*, vol. 1, no. 2 (2021): 5.

family structure should be observed in an Islamic way.¹⁰⁴ It has to be noted that all acts that are in contravention to these rules are prohibited and are given punishment. The punishment for having sexual relationships out of wedlock including fornication and adultery are prescribed *hudud* punishments. Also accusing an innocent person of *zina* is given *hudud* punishment for *gadhf*¹⁰⁵(slander of adultery).

Alcohol and drugs are detrimental to the preservation of an Islamic family. The negative effects on consumption of drugs on the family is found in various studies. According to a study conducted amongst 109 Muslim respondents in Eastleigh Nairobi, it is found that drugs impacted the members of the family with psychological, economical, emotional and physical well-being of the Islamic family. It was found that higher number of divorces and economic poverty were recorded amongst families facing drug using members within them.¹⁰⁶

3.1.10. Preservation of Property

Islam is not only focused on the hereafter; however, Islam encourages Muslims to earn and engage in business activities in life as well. Thus, preservation of property or wealth is considered an integral part within the essentials of *Shari'ah*. Without wealth, life cannot be sustained for mankind.¹⁰⁷ So Allah (SWT) has permitted seeking and gaining wealth in Islam. It is mentioned in the Holy Qur'an that,

¹⁰⁴ Ahmed Muhammad Husni, Zaini Nasohah, Amir Mohd Nor Nor and Mohd Al Adib Samuri, "Family Problems – Wife's Work – and Its' Solutions in the Light of Maqasid Shariah", *Asian Social Science*, vol. 11, no. 10 (2015): 170.

¹⁰⁵ An-Nur: 2.

¹⁰⁶ Firu Ture Gombo, "An Investigation of the Impact of Drugs and Substance Abuse on Muslim Families in Eastleigh, Nairobi County," (Masters thesis, University of Nairobi, Nairobi: University of Nairobi, 2018), 55-60.

¹⁰⁷ Achmad Firdaus and Nurizal Ismail, "Using Maslahah Performa as an Islamic Wealth Management System", (Thematic Workshop on al-Mal: Philosophy and Its Application in Islamic Perspective, Bangi Selangor: UKM-IRTI, Institute of Islamic Training Malaysia (ILIM), 2014), 3.

فَإِذَا قُضِيَتِ الصَّلَاةُ فَانْتَشِرُوا فِي الْأَرْضِ وَابْتَغُوا مِنْ فَضْلِ اللَّهِ وَاذْكُرُوا اللَّهَ كَثِيرًا لَعَلَّكُمْ تُفْلِحُونَ

Once the prayer is over, disperse throughout the land and seek the bounty of Allah. And remember Allah often so you may be successful.¹⁰⁸

Accumulating wealth is important to lead life in harmony¹⁰⁹ as well as, wealth allows to assist and aid those who are in need. It fosters good relationships within the community. Further, just as Islam requires Muslims to gain wealth only through lawful means,¹¹⁰ it prohibits gaining wealth from *haram* ways or unlawful means as these would have detrimental effects on the entire society.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

O believers! Do not devour one another's wealth illegally, but rather trade by mutual consent. And do not kill 'each other or' yourselves. Surely Allah is ever Merciful to you¹¹¹

According to the report by the United Nations Office on Drugs and Crime, drug funds infiltrates economy and the political system and endangers the very foundation of civil society. It affects every aspect of the society and leads to societal collapse and anarchy.¹¹² The funds acquired through drug trafficking and laundering as well as the amount of economic loss caused by drugs are detrimental to the cohesion of the societal wellbeing. Drug related criminal activities such as theft and property crimes were calculated at \$9,790 per drug user on average in the state of California in the early 1990s. Furthermore, it was found in that the 50% of all shoplifting and burglary in England and Wales were directly related to drugs in the year 1993.¹¹³ In the drug mired

¹⁰⁸ Al-Jumu'ah: 10.

¹⁰⁹ *Dar Al-Ifta Al-Missriyyah*, "The Higher Objectives of Islamic Law", *dar-alifta.org*. n.d. <<https://www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=499&CategoryID=3>> (accessed 21 April 2021).

¹¹⁰ Firdaus, 4.

¹¹¹ An-Nisa: 29.

¹¹² United Nations Office on Drugs and Crime, *Economic and Social Consequences of Drug Abuse and Illicit Trafficking*, (New York: unodc.org, 1998): 36-41.

¹¹³ *Ibid.*

country of Colombia in the year 2000, UNODC found vehicle thefts were at an astounding level at 83.3 out of every 100,000 individuals.¹¹⁴

For these reasons, preservation of unlawful earnings from acts such as stealing, and highway robbery are considered *hudud* crimes in *Shari'ah*. Also gambling, taking interest,¹¹⁵ buying and selling prohibited items are *haram* in Islam.¹¹⁶

3.1.11. Analysis

Maqasid al-Shari'ah or the purpose of the divine revelation tends to have a greater reason for any law set in Islam. It can be seen that the greater purposes aim to prevent individuals and the entire society from falling into chaos in this world and at the same time preventing from hellfire in the hereafter. The early and contemporary scholars have divided these divine purposes into 5 main areas where, every prohibition in Islam shows directly to correlate the continuation of human life in accordance with factors which achieves maximum benefit for the mankind. As mentioned earlier, the 5 areas are preservation of religion, life, intellect, family and property. If either of these areas were to be neglected, then the whole system would collapse. It is understood that drugs and other intoxicants such as alcohol, have a direct negative effect on every single one of these fundamental purposes. Various studies conducted over the years have proven that drugs in fact are not only harmful to the drug user, but to his family, the society, the economy and even the political system and subsequently the stability of the country.

¹¹⁴ Harrendorf Stephen and Malby Heiskanen, *International Statistics on Crime and Justice*, (Vienna, European Institute of Crime Prevention and Control, 2010): 45.

¹¹⁵ See the Prohibition of taking interest in *Al-Baqarah*: 275.

¹¹⁶ Muhammad Adil Khan Afridi, "Maqasid Al-Shari'ah and Preservation of Basic Rights, Under the Theme "Islam and its Perspectives on Global & Local Contemporary Challenges"", *Journal of Education and Social Sciences*, vol. 4 (2016): 283.

2.6. DRUG REHABILITATION AND REFORMATION IN ISLAM

This section offers a comprehensive examination of drug addiction and rehabilitation from both medical-scientific and Islamic viewpoints. Initially, it defines drugs and drug abuse in a medical and scientific context, explaining how substance abuse can impair an individual's ability to function and lead to physical and psychological dependence. This dependence, characterized by withdrawal symptoms, is recognized as drug addiction, a disease necessitating specialized treatment for recovery and social reintegration. The World Health Organization's definition of drug addiction treatment is explored, emphasizing the process of achieving the highest level of health and well-being through successive interventions. This approach aims to reduce dependency on psychoactive substances and mitigate their negative health and social impacts. Furthermore, the section delves into the various treatment methodologies adopted globally, reflecting diverse cultural, religious, political, and economic contexts.

These methods focus on reducing drug use, discouraging initial use, and minimizing adverse health and social consequences. The United Nations' guiding principles on drug demand reduction, including education, rehabilitation, counseling, and social reintegration, are highlighted as key aspects of effective treatment strategies. Additionally, the Islamic perspective on rehabilitation and reformation is discussed, underscoring Islam's prohibition of drug use to preserve the principles of *Maqasid al-Shari'ah*. Islam's emphasis on individual and community responsibility for correcting harmful behaviors and preventing avenues leading to drug abuse is examined. The section also considers studies revealing the impact of drug abuse on religious engagement, highlighting the importance of including a spiritual component in rehabilitation treatments. This comprehensive analysis provides a multifaceted

understanding of drug addiction and the approaches to rehabilitation and reformation within different cultural and Islamic frameworks.

3.1.12. Drugs, Addiction and Rehabilitation

In order to establish the requirements and a definition of drug rehabilitation we must first look at the definition of drugs and its effect on the user from a medical and scientific angle. Drugs are defined as a substance, when taken it could modify a function or functions of the individual. Drug abuse is defined as the usage of drugs for non-medical reasons in a way which could impair the abuser's ability to function effectively and may pose detrimental harms of physical, emotional or social aspects.¹¹⁷ Habitual drug abuse may lead to a point where the abuser becomes dependent on the substance and is not able to function and perform normally without it. If a drug dependent person withdraws from taking the substance, they would have physical distresses such as shakes, itching, vomiting, joint pain and such other drug withdrawal ailments. The drug dependent individual may have psychological harm such as behavioural changes and damage to the brain causing failure to its proper functioning as well.¹¹⁸ This is also known as the withdrawal syndrome. According to the World Health Organization's lexicon of Alcohol and Drug Terms, this syndrome is defined as:

“the group of symptoms of variable severity which occur on cessation or reduction of drug use after a prolonged period of use and/or in high doses. The syndrome may be accompanied by signs of both psychological and physiological disturbance.”¹¹⁹

¹¹⁷ Nirula SR, Chhetry DB, Sing GK, Nagesh S. and Shyangwa, "Role of Rehabilitation Centres in Reducing Drug Abuse Problem in a Town of Eastern Nepal", *Kathmandu University Medical Journal*, vol. 4, no. 4 (2006): 448.

¹¹⁸ Ibid.

¹¹⁹ ODCCP, *Studies on Drugs and Crime, Demand Reduction A Glossary of Terms*, (New York, United Nations Office for Drug Control and Crime Prevention, 2000):76.

The result of drug abuse or dependence of drugs is also known as drug addiction. Drug addiction is a disease which requires specialist treatment and with proper treatment individuals can recover from this disease. The treatment for drug addiction is designed to maximize personal and social functioning of the individual so that the addicts could recover from this disease and return to society. The Expert Committee on Drug Dependence of the World Health Organizations defines treatment for drug addiction as follows,

“the process that begins when psychoactive substance abusers come into contact with a health provider or any other community service and may continue through a succession of specific interventions until the highest attainable level of health and well-being is reached.”¹²⁰

This definition of treatment is further elaborated by the Secretariat of the United Nations Office on Drugs and Crime as follows:

“Essentially, by providing persons, who are experiencing problems caused by their use of psychoactive substances, with a range of treatment services and opportunities which maximize their physical, mental and social abilities, these persons can be assisted to attain the ultimate goal of freedom from drug dependence and to achieve full social reintegration... Additionally, treatment aims at reducing the dependence on psychoactive substances, as well as reducing the negative health and social consequences caused by, or associated with, the use of such substances.”¹²¹

In order to provide a proper treatment for drug addiction, different countries have adopted different approaches based on cultural, religious, political and economic prospects of the respective countries. These treatment approaches do tend to change over time yet the primary methods of treatment such as medical, rehabilitation and psychological intervention treatments focuses on reduction of drug use, discouraging initial use and reduction of social consequences and adverse health effects from

¹²⁰ WHO Expert Committee on Drug Dependence, *Thirtieth Report, WHO Technical Report Series no. 873* (Geneva: WHO, 1998), 3.

¹²¹ ODCCP, *Studies on Drugs and Crime, Demand Reduction A Glossary of Terms*, (New York: ODCCP, 2000), 72-73.

drugs.¹²² The Declaration on the Guiding Principles of Drug Demand Reduction calls on the member states of the United Nations to embrace education, rehabilitation, counselling, early intervention, public awareness, relapse prevention, social reintegration and aftercare to achieve these goals.¹²³ The key features of these strategic frameworks for rehabilitative treatments will be looked in detail in Chapter 3.

3.1.13. Islamic View on Rehabilitation and Reformation

As discussed so far in this chapter it is clear that Islam prohibits approaching drugs for Muslims for various reasons and to preserve the 5 essential elements of *Maqasid al-Shari'ah*. Islam advocates abstaining from all types of harmful acts and aims to stop the wrong before it even starts. Therefore, Islam vests the responsibility of correcting bad behaviour individually and on to the whole community. Further, Islam prohibits all avenues which might lead to these harmful practices.¹²⁴

It has been found in studies that drugs lead to a life away from the religion of Islam. In a study conducted in Jordan among those Muslims who are substance abusers who are addicted to drugs, a common theme was discovered. The study found an aversion towards religious duties among all the addicts. They failed to observe the 5 daily prayers, drifted away from religion, family and the social structures.¹²⁵ This study emphasized on the importance of including a spiritual component in the rehabilitation

¹²² United Nations Office on Drugs and Crime, *Drug Abuse Treatment and Rehabilitation a Practical Planning and Implementation Guide*, (Vienna: UNODC, 2003): II.2.

¹²³ Ibid.

¹²⁴ Mohamed Mahmood Nazar and Marican Sabitha, "Incorporating Islam in the Therapeutic Community Modality for Rehabilitation of Substance and Drug Users. A Malaysian Experience", *International Journal of Human and Health Sciences*, vol.1, no. 1 (2017): 12.

¹²⁵ Hamad Al Ghaferi, Christine Bond and Catriona Matheso, "Does the Biopsychosocial-spiritual Model of Addiction Apply in an Islamic Context? A Qualitative Study of Jordanian Addicts in Treatment", *Drug and Alcohol Dependence* vol.172 (2017): 16.

treatment.¹²⁶ However, it must be noted that there are also situations where some people become addicted to substances without their own volition, most of the time out of necessity due to some prescribed medication such as morphine for pain relief by doctors.¹²⁷

According to Islam the opportunity to return to the right path is available for everyone. As it is mentioned in multiple places in the Holy Qur'an:

وَمَنْ يَعْمَلْ سُوءًا أَوْ يَظْلِمْ نَفْسَهُ ثُمَّ يَسْتَغْفِرِ اللَّهَ يَجِدِ اللَّهَ غَفُورًا رَحِيمًا

Whoever commits evil or wrongs themselves then seeks Allah's forgiveness will certainly find Allah All-Forgiving, Most Merciful.¹²⁸

Furthermore, for those who are in the right mind seeking recovery, Islam assures that Allah (SWT) would guide them to the right path.

وَالَّذِينَ جَاهَدُوا فِينَا لَنَهْدِيَنَّهُمْ سُبُلَنَا وَإِنَّ اللَّهَ لَمَعَ الْمُحْسِنِينَ

And those who strive in Our way, We will certainly take them to Our paths, and indeed Allah is with those who are good in deeds.¹²⁹

وَلَا تَسْتَوِي الْحَسَنَةُ وَلَا السَّيِّئَةُ ۚ ادْفَعْ بِالَّتِي هِيَ أَحْسَنُ

For good and evil are never equal. Repel (evil) with that which is better, and thereupon the one between whom and you is enmity becomes like an intimate ally.¹³⁰

In an Islamic society every member of the society is responsible to rectify wrongs and helping their fellow Muslims, in their capacity to come closer to the religion of Islam and to achieve the *Maqasid al-Shari'ah*.

¹²⁶ Al Ghaferi, 17.

¹²⁷ Nazar, 12.

¹²⁸ An-Nisa: 110.

¹²⁹ Al-Ankabut: 69.

¹³⁰ Fussilat: 34.

2.6.1.1. Shari'ah Compliant Treatment and Harm Reduction

The question now arises on the view of Islam regarding someone addicted to drugs requiring medical and psychological treatment to return to society. What kind of rehabilitative treatment are allowed in Islam and what are the boundaries for treatment practices?

The importance of reducing the negative effects of withdrawal from drug abuse were recognized by Islamic scholars and they derived the harm reduction model from the 3 phases of process of the prohibition of alcohol in the Holy Qur'an. It is mentioned that these 3 phases were considerate of human nature and allowed for the gradual decrease before completely prohibiting its usage.¹³¹ As drugs and other narcotics also have a harmful effect on the user; whether psychological, physical, social or economic, the prevention from further harm from drug requires rehabilitation treatment for those who are already suffering from its effects. In other words, the intervention to stop the user from the effects of drugs is a necessity (*darurat*) in Islam. In order to achieve this goal of harm reduction 3 phases of approach are identified through the maxims of *fiqh* (Islamic Jurisprudence) as follows:

1. The Emergency Approach:

The guiding maxims in this approach are:

- a. الضرر يزال – Harm must be eliminated: This maxim declares that harm must be removed at all times and there shall not be any permissibility in harming anyone. The harm must be removed if possible before its

¹³¹ Mansur Ali, "Perspectives on Drug Addiction in Islamic History and Theology", *Religions*, no. 5 (2014): 912-928.

occurrence or even after.¹³² There are several verses in the Holy Qur'an which supports this maxim.

وَلَا تُنْسِكُوهُمْ ضِرَارًا لِّتَعْتَدُوا^ع

but do not take them back to injure them, (or) to take undue advantage; if any one does that; He wrongs his own soul.¹³³

وَلَا تُضَارُّوهُمْ لِّتَضَيُّوا عَلَيْهِمْ^ع

and do not harm them in order to oppress them.¹³⁴

لَا تُضَارُّ وَالِدَةُ بَوْلِدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ^ع

No mother should be harmed through her child, and no father through his child.¹³⁵

- b. الضرورات تبيح المحظورات – Necessity dictates exceptions: This maxim declares that performing prohibited actions are permitted if it depends on necessity. For instance, for the survival of the human it is permitted to consume forbidden food and drinks to the extent to eliminate the necessitated state. However, it must be noted that the forbidden nature of the act does not become permissible, but rather is considered as a (*Ar-Rukhsah*) concession or a leniency for the elimination of necessity.¹³⁶ There are several verses in the Holy Qur'an supporting this maxim.

¹³² Abu Al-Kallam Shafeeq Al-Qasami Al-Mudahari, “Ad-dararu Yadhalu”, May 24, 2015. <<https://www.alukah.net/sharia/0/86917/>> (accessed 25 April 2021).

¹³³ Al-Baqarah: 231.

¹³⁴ At-Talaq: 6.

¹³⁵ Al-Baqarah: 233.

¹³⁶ Abu Al-Kallam Shafeeq Al-Qasami Al-Mudahari, “Qaidah: Ad-daruraat Tubiih Al-mahdhurat”, May 3, 2015, <<https://www.alukah.net/sharia/0/85960/>> (accessed 25 April 2021).

وَقَدْ فَصَّلَ لَكُمْ مَا حَرَّمَ عَلَيْكُمْ إِلَّا مَا اضْطُرِرْتُمْ إِلَيْهِ ۗ

He hath explained to you in detail what is forbidden to you - except under compulsion of necessity?¹³⁷

إِنَّمَا حَرَّمَ عَلَيْكُمُ الْمَيْتَةَ وَالدَّمَ وَلَحْمَ الْخِنْزِيرِ وَمَا أُهْلِيَ بِهِ لَعَلَّكُمْ تَتَّقُونَ ۗ وَمَنْ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَا إِثْمَ عَلَيْهِ ۗ إِنَّ اللَّهَ عَفُورٌ رَحِيمٌ

He hath only forbidden you dead meat, and blood, and the flesh of swine, and that on which any other name hath been invoked besides that of Allah. But if one is forced by necessity, without wilful disobedience, nor transgressing due limits, - then is he guiltless. For Allah is Oft-forgiving Most Merciful.¹³⁸

فَمَنْ اضْطُرَّ فِي مَخْمَصَةٍ غَيْرَ مُتَجَانِفٍ لِإِثْمٍ ۖ فَإِنَّ اللَّهَ عَفُورٌ رَحِيمٌ

But whoever is compelled by extreme hunger—not intending to sin—then surely Allah is All-Forgiving, Most Merciful.¹³⁹

c. المشقة تجلب التيسير – If the matter is narrowed then widen its facility:

This maxim generally means that if a permitted becomes a hardship in its performance then it is allowed to widen its scope to ease the hardship. For instance, if a woman loses her guardian during a trip, then another man is allowed to assume her guardianship to protect her rights.¹⁴⁰ On the aspect of easing a hardship is mentioned in the

Qur'an that:

وَأِنْ كَانَ ذُو عُسْرَةٍ فَنَظِرَةٌ إِلَىٰ مَيْسَرَةٍ ۚ وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ ۖ إِنْ كُنْتُمْ تَعْلَمُونَ

If it is difficult for someone to repay a debt, postpone it until a time of ease. And if you waive it as an act of charity, it will be better for you, if only you knew.¹⁴¹

¹³⁷ Al-An'am: 119.

¹³⁸ Al-Baqarah: 173.

¹³⁹ Al-Maidah: 3.

¹⁴⁰ Ali Abu Albasal, "Al-qawaid Al-mutafari'a 'An Qaidah: Al-mashaqah Tajlib At-taisir", February 11, 2015, <<https://www.alukah.net/sharia/0/82414/>> (accessed 25 April 2021).

¹⁴¹ Al-Baqarah: 280.

This approach can be effectively utilized by authorities in formulating rehabilitation measures to mitigate the harm factor for drug addicts.¹⁴²

2. The Extraordinary Approach:

The guiding maxim in this approach is:

- a. الضرورة تقدر بقدرها – Necessity is measured in accordance with its true proportions: This maxim mentions that the permissibility of any forbidden act allowed due to necessity is to the extent of the elimination of that particular necessity. The permissibility will not be extended nor expanded beyond what is needed to eliminate the necessity. As soon as the necessity is eliminated the permissibility of the forbidden act will be once again forbidden and it is not permissible to continue in that act.¹⁴³ For example the allowance of having an alcoholic drink is to quench the thirst to prevent imminent death or harm. However, once the possibility of imminent death or harm is removed then it is not allowed to continue drinking as it will be a sin.

According to Abdul Razak, this approach could be utilized by relevant drug agencies in identifying the drug cases, studying and classifying them so that the drug abuse mitigation factor could be applied only to those who are genuinely in need of rehabilitation.¹⁴⁴ This proportionality approach would maximize the benefit for drug abusers from the treatment programs and minimize harmful effects of drugs.

¹⁴² Tariq Abdul Razak and Abdurezak Abdulahi Hashi, “Harm Reduction in Relation to Drug (Heroin) Addiction: A Comparative Analysis from Medical and Islamic Perspectives”, *Revelation and Science*, vol.6, no.1 (2016): 39.

¹⁴³ Muhammad Mustafa Al-Zuhaily, “Kithab Qawaid Al-fiqhiyah Wa tatbiqatuha fil madhab alarabi’ah”, n.d. <<https://al-maktaba.org/book/21786/278>> (accessed 25 April 2021).

¹⁴⁴ Abdul Razak, 40.

3. The Moral Approach:

The guiding maxims in this approach are;

- a. الضرر لا يزال بمثله – Harm must be eliminated but not by means of another harm: This maxim means that elimination of harm is necessary yet it is forbidden to eliminate harm by harming others. For example, a person dying of hunger is not allowed to steal the food of another person in a similar situation.¹⁴⁵ Another example of this maxim is that it is not allowed for someone to preserve his wealth by destroying the wealth of others. The harm should be removed without causing harm to others, or in a way the harm caused due to the action of removal of the initial harm is remedied as much as possible.¹⁴⁶
- b. يتحمل الضرر الخاص لأجل دفع الضرر العام – Specific harm is tolerated to prevent a more general harm: This maxim mentions that in order to prevent harming the public or the general population it is necessary to commit a specific harm. For example, to prevent the widescale spread of a fire, it is permissible to demolish a house in front of it. Even though in general the act of demolishing someone's house is not allowed, however in this case it is permitted to protect the houses of the entire community.¹⁴⁷

¹⁴⁵ Abu Al-Kallam Shafeeq Al-Qasami Al-Mudahari, "Al-qaidah Al-fiqhiyyah: Ad-darar La Yazal Bil-larar", May 31, 2015, <<https://www.alukah.net/sharia/0/87234/>> (accessed 25 April 2021).

¹⁴⁶ Muhammad Mustafa Al-Zuhaili, "Kithab Qawaid Al-fiqhiyyah Wa tatbiqatuha fil madhab alarabi'ah", n.d. <<https://al-maktaba.org/book/21786/278>> (accessed 25 April 2021).

¹⁴⁷ Abu Al-Kallam Shafeeq Al-Qasami Al-Mudahari, "Qaidah: Yatahamal Al-darar Al-Khaas Li'ajal Dafa'a Al-dararal'aam", June 3, 2015, <<https://www.alukah.net/sharia/0/87383/>> (accessed 25 April 2021).

- c. أخف الضررين – Choosing the lesser harm between 2 or more harms:

This maxim dictates that if one has no other choice but to choose between 2 harms in order to remove the necessity, then one should choose the lesser harm instead of the severe one.¹⁴⁸ An example of the application of this maxim is seen from the hadith of the prophet (SAW):

While we were in the mosque with Allah's Messenger (SAW), a desert Arab came and stood up and began to urinate in the mosque. The Companions of Allah's Messenger (SAW) said: Stop, stop, but the Messenger of Allah (SAW) said: Don't interrupt him; leave him alone. They left him alone, and when he finished urinating, Allah's Messenger (SAW) called him and said to him: These mosques are not the places meant for urine and filth, but are only for the remembrance of Allah, prayer and the recitation of the Qur'an, or Allah's Messenger said something like that. He (the narrator) said that he (the Holy Prophet) then gave orders to one of the people who brought a bucket of water and poured it over.¹⁴⁹

The moral approach where preferring the lesser harm over the graver one, allows the provision of drug treatment using lesser addictive drugs. These treatments can be designed with the harm reduction principle in mind where addicts could be successfully removed from the harmful addiction of a powerful drug gradually through such treatments if no other option is available or effective in treating the addict seeking rehabilitation.

3.1.14. Analysis

Islam recognises drug addiction as a disease which requires treatment and rehabilitation.

The scholars of Islam have identified the aspect of graduality from the verses of

¹⁴⁸ Abu Al-Kallam Shafeeq Al-Qasami Al-Mudahari, "Qaidah: Idhan Ta'arid Mufsidataan Ru'ii A'udhamhuma Dhararan Birtakaab Akhafhumaa", June 21, 2015. <<https://www.alukah.net/sharia/0/88230/>> (accessed 25 April 2021).

¹⁴⁹ *Sahih Muslim*, Book 2, Hadith 127.

prohibition of alcohol to approach treatment for addiction. This method of reducing harm as a consequence from withdrawal and other physical, social, psychological and other syndromes related to drugs are also recognised by the countries in the United Nations. The harm reduction approach found through the maxims of Islamic jurisprudence also align with the 5 main objectives of necessities of *Maqasid al-Shari'ah*. The approach of graduality in harm reduction is allowed in *Shari'ah* and this approach can be utilised in providing effective modern treatments for those suffering from drug addiction in Islamic societies.

2.7. CONCLUSION

In general, it is found that Maldives is an Islamic country, and the Constitution of the Republic of Maldives prohibits any law that contravenes the tenets of Islam. The Constitution of Maldives has a repugnancy clause striking down any law that is found in contravention to Islam. The Constitution of Maldives also dictates that all laws of the country should be in accordance with the Qur'an and *Sunnah* of the Prophet (SAW). Thus, the Drugs Act of Maldives (Drugs Act 17/2011) could also be further analysed from this angle to see its compatibility with *Shari'ah* in its provisions for rehabilitation and in its practical application.

With regards to the issue of drugs and early Islam, it was identified that during the early days of Islam the issue of drugs as known today were not addressed as they were not present during the time of the Prophet (SAW) and the rightly guided caliphs. The issue of drugs became widely known in the Muslim world much later on and some of the scholars of that time self-experimented the substances to derive a verdict on its

permissibility. Currently drugs and intoxicants are unanimously considered unlawful in Islam according to the scholars.

Drugs were also found to negatively affect the 5 necessities of *Maqasid al-Shari'ah* or the purposes of divine revelation which intends to preserve religion, life, intellect, property and family for the human life to survive in peace. It is found that drugs and other intoxicants are harmful and cause physical and psychological harm in addition to the negative effects it has on the society, economy, politics as well as religion. Habitual drug users who are addicted to drugs are considered as people require specialist treatment and requires support to overcome this disease. It is found in various studies that a person addicted to drugs would not be able quit the drugs at once as it would have negative effects known as withdrawal syndrome which varies on severity depending on the user.

The member countries of the United Nations have come together and agreed on the reduction of drug use through education, rehabilitation, social reintegration and aftercare. This approach for treatment for drug addiction is also found to be applicable in Islamic *Shari'ah*. Islam also recognizes the importance of providing treatment to those requiring it. Islam allows drug abusers the opportunity of forgiveness and mercy. The Islamic approach for treating drug addiction is through the framework of *Maqasid al-Shari'ah* where the essential necessities are given priority in addressing the problem. Thus, the maxims in Islamic jurisprudence related to necessity can be utilized to formulate strategies in providing effective treatment opportunities for drug addicts through legal mechanisms.

The next chapter will look into the different models of rehabilitative treatments in Islam in general and the approach of Malaysia in rehabilitating and reforming drug addicts through their legal system

CHAPTER THREE

DEVELOPMENT OF CONVENTIONAL AND ISLAMIC DRUG REHABILITATION MODELS AND THE DRUGS FRAMEWORK OF MALAYSIA

3.2. INTRODUCTION

This chapter will begin by identifying the development of rehabilitation provisions in legal systems. Different treatment models available for drug treatment will be further looked into in this chapter. The conventional treatment models would be classified into two groups between Islamic rehabilitation models and other conventional rehabilitation models. Furthermore, in this chapter, as an Islamic country and as a country with a highly developed legal system which shares Islamic and common law aspects as Maldives, the application of drug punishments and treatment models under the Malaysian laws would be identified in order to gain an insight into the various procedures implemented to mitigate drug abuse.

This chapter will help identify contrasts between conventional treatment models, Islamic rehabilitation models, Malaysian implementation mechanism on drugs as we move to the next chapter where Maldivian context on drugs will be discussed.

3.3. DEVELOPMENT OF DRUG PROHIBITION AND REHABILITATION PROVISIONS IN LEGAL SYSTEMS

In this part of this chapter, to get a better understanding of the development of laws prohibiting drugs, an overview of the use for drugs for medicinal and recreational purposes is presented.

The medicinal use of poppy is evident from the history of mankind. From Mesopotamians to Assyrians to Greeks to Romans, references to the medical use of opium are to be seen in historical literature. It is also evident that drugs were supplied for political purposes as well.¹ While opium had been used for medical purposes freely throughout history of mankind, its consequences had not been addressed until much later. Opium was used so excessively that the addiction rates for the drug were immensely high.²

This normal “use” of certain drugs changed to “abuse” of drugs through stages. Drugs like morphine and opium were utilized for everyday needs; morphine as painkillers and opium for recreational smoking. It was not the use of these drugs that were the problem. It was the people who used it. Therefore, it could be said that the prohibition of drugs initially stemmed from racial and cultural bias,³ and not because of the effects of the drugs.

While the intention of certain countries in prohibiting drugs stemmed from their need for control over sub-social classes and bias, the global issue of the adverse effects

¹ United Nations Office on Drugs and Crime, *A Century of International Drug Control*, (Vienna: UNODC, 2009), 16.

² Glenn Steiner, “Drug Use.” *Encyclopedia Britannica*, December 11, 2023. <<https://www.britannica.com/topic/drug-use>> (accessed 9 May 2021).

³ Ann Fordham, "The War on Drugs is Built on Racism. It's Time to Decolonise Drug Policies", *International Drug Policy Consortium*, June 26, 2020. <<https://idpc.net/blog/2020/06/the-war-on-drugs-is-built-on-racism-it-s-time-to-decolonise-drug-policies>> (accessed 9 May 2021).

of the excessive use of narcotics were addressed with the contribution, support and perseverance of several countries.

3.3.1. Historical development of drug prohibition

When the European colonization began, substances that altered the mind were discovered from the places the European took under their control. The cultures of those colonized included the use of these substances that provided stimulation, sedation and pain relief and this was not welcomed by the Europeans. Europeans were not familiar with everyday products such as coffee and tea. In fact, since it was those “savage” people that the Europeans had colonized that were using these substances, it was seen as a disgusting thing to do; the polar opposite reaction to the use of coffee and tea in the world today. In fact, until the 17th Century, in parts of Europe if a person was convicted of using coffee or tobacco their punishment was death.⁴

Contrary to the reaction of the Europeans, drugs in the United States of America in the 19th Century were used recreationally. It was part of their everyday life. People were not concerned about the aftermath and the consequences of the use of drugs. In the 19th Century, medical practitioners in America depended heavily on opium as an effective medicine to relieve pain.⁵ Opium was administered to wounded soldiers in the U.S. Civil War through hypodermic needles. Doctors believed that administering opium through veins with the use of hypodermic needles would eliminate developing

⁴ King County Bar Association, *Effective Drug Control- Toward a New Legal Framework, State Regulation and Control of Psychoactive Substances as a Workable Alternative to the “War on Drugs”*, Policy Project, (Seattle: King County Bar Association, 2005).

⁵ Ibid.

an addiction for the medicine since the drug would not reach the stomach. However, around 400,000 soldiers were found to be addicted to the painkilling substance; opium.⁶

The United States government did not interfere in the use and sale of drugs as it received more revenue through taxes on certain drugs. Although, in the Tariff Act of 1832, opium was exempted from all import duties in 1842 it was included in the tariff list and it was taxed at the rate of seventy-five cents per pound. Similarly, in 1862 morphine was also included in the tariff list and a tax of two dollars per pound was levied on all imported opium. In the 19th Century, the international opium traffic began to increase, and governments all over the world saw an increase in revenue.⁷

The invention of Heroin in 1898 was well received by the medical community as an “effective analgesic agent”. Bayer, the inventor of both Heroin and Aspirin, distributed free samples to doctors in the United States of America. Morphine and later Heroin and Aspirin were also used as painkillers. Cocaine, the original ingredient of the famous Coca-Cola, patented by Parke-Davis in 1890s was endorsed by the U.S. Surgeon General for medical purposes. These drugs were heavily promoted amongst Americans,⁸ and they were easily available in the forms of sodas and medicines for headaches, menstrual cramps and colds and fevers. This resulted in the widespread of addiction in the United States.

As mentioned before, the prohibition of drugs initially had nothing to do with its effects. Similar to Europe, in America, the undesirability and the need for the prohibition of drugs emerged with the association of these drugs to criminals and other sub-social classes and races. Chinese immigrants working on the American railroads

⁶ Steiner, *Drug Use*.

⁷ Quinn Thomas and McLaughlin Gerald, “The Evolution of Federal Drug Control Legislation”, *Catholic University Law Review*, vol.22 no. 3 (1973): 589-590.

⁸ King County Bar Association, *Effective Drug Control- Toward a New Legal Framework, State Regulation and Control of Psychoactive Substances as a Workable Alternative to the “War on Drugs”*.

recreationally smoked opium. This practice was soon adopted by others when the Chinese immigrants started settling in the Western States of America.⁹ The African Americans in the South of America were associated with the use of cocaine. The Mexican American and Mexican immigrants were associated with the use of Marijuana.¹⁰ Gamblers and prostitutes were associated with the use of opiates. So, eventually, opium, cocaine, and the use of such other drugs started becoming undesirable and scandalous for Americans, much like it was for the Europeans.

Initially, drug prohibition acts in America were targeted at certain people to keep them in control rather than tackling the issue of the rise in the number of addicts. In the 1870s, the first anti-opium laws were enacted, and they were targeted at the Chinese immigrants. In the 1900s the first anti-cocaine laws were enacted, and they were targeted at the African Americans in the South of America. In the 1910s and the 1920s the first anti-marijuana laws were enacted, and they were targeted at the Mexican Americans and the Mexican immigrants.¹¹

Despite the targeted laws, the number of addicts were rising in America. The Congress passed Federal laws to tackle this issue. The Pure Food and Drug Act of 1906 was enacted. This legislation prohibited the interstate shipment of mislabelled foods and drugs. If any food or drugs product contained alcohol, morphine, cocaine, heroin or any such substances they were required to be clearly listed on the label. The Congress believed that consumers would be able to make an informed decision to protect themselves from consuming any product with drugs. However, despite being informed of the products that contained drugs, the sale of these products did not decrease.¹²

⁹ Thomas, 588.

¹⁰ *Drug Policy Alliance*, "A Brief History of the Drug War," n.d. <<https://drugpolicy.org/issues/brief-history-drug-war>> (accessed 2 May 2021).

¹¹ *Ibid.*

¹² Thomas, 590.

By the 20th Century, although the international trade of opium had profited several governments, bankers and insurance agencies, they were left to deal with the social and economic costs of the increasing number of drug addicts. One of the countries that faced this difficult situation was China. This led to protests in the United Kingdom, United States of America and other western countries calling out their governments to withdraw from the trade of opium, which had adversely affected the lives of so many people. However, many governments were dependent on the revenues of the opium trade. With the rise of anti-opium activists, the first international conference on narcotic drugs was held in Shanghai in 1909, which led to the International Opium Convention of the Hague in 1912.¹³

After the first world war and the establishment of the League of Nations, the Opium Advisory Committee was established by the League of Nations to ensure the implementation of the International Opium Convention of the Hague of 1912.¹⁴ The Opium Advisory Committee found through its investigations that the world production of opium and cocaine exceeded the medical and scientific demands for them, and therefore urged member states to adopt an import/export certification scheme. This scheme would ensure that the import and export of narcotics were controlled by the relevant authorities of the importing and the exporting country. This scheme required the importer to get a separate import authorization, and the exporter to get a separate export authorization, which would specify the details of the importer and exporter and the amounts imported.¹⁵

¹³ United Nations Office on Drugs and Crime, *A Century of International Drug Control*, (Vienna: UNODC, 2009): 3.

¹⁴ *Ibid.*, 51.

¹⁵ *Ibid.*

The International Opium Convention of the Hague of 1912 was followed by the International Opium Convention of 1925 and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931. These conventions were successful in limiting the trade of psychoactive drugs such as opium and cocaine. By 1934 and 1935, the supply of opium and cocaine had finally been lowered to the level of its medical and scientific demand.¹⁶ However, this opened doors for the illegal trade of opium and cocaine.

After the second world war, and with the dissolution of the League of Nations and the emergence of the United Nations, the United Nations took on the responsibility of controlling drugs. In the meantime, several new synthetic drugs, such as methadone and Demerol, had been developed. Much like the demand for opium by the soldiers of the American Civil War, the demand for methadone and Demerol was high amongst the soldiers and civilians affected by the second world war. In 1949, the 1948 Synthetic Narcotics Protocol was enforced which put 14 new substances under international control.¹⁷

In order to limit the production and use of opium to medical and scientific purposes, the Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in and Use of Opium was established in 1953 (the 1953 Opium Protocol). This protocol allowed only seven countries of the world to produce and export opium; “Bulgaria, Greece, India, Iran, Turkey, the USSR and Yugoslavia”.¹⁸

¹⁶ Ibid., 56.

¹⁷ Ibid., 59.

¹⁸ Ibid., 60.

Due to the increased number of international legal agreements on controlling drugs and the complexities of its provisions, the Single Convention on Narcotic Drugs was adopted in 1961. This Convention compiled the provisions of the previous international legal agreements and streamlined the international drug control machinery. The Single Convention of 1961 also introduced a new obligation on the member states: the rehabilitation of drug addicts.

3.3.2. Development of drug rehabilitation in the modern world

Throughout history, the consumption of alcohol and other narcotics have been associated with the subsequent temporary loss of mental faculties and addiction. Therefore, it is believed that some sort of treatment or rehabilitation would have been utilised. Early as the 1750s, addiction was recognised by Native Americans. Members of the tribe would advise addicts in the tribe to depend on their traditions and ancestral roots to recover from alcoholism; looking up to someone greater for inspiration to get ahead of the need to consume alcohol.¹⁹ Sobriety circles enabled addicts to address their addiction, much like the Alcoholics Anonymous of today.²⁰

In the United States of America, the foundation for drug rehabilitation began from alcohol addiction. By the eighteenth century, alcohol consumption and therefore the production of it had also increased. It had become so easily accessible that it started having adverse effects on the society. Therefore, a need for a treatment for alcohol addiction became necessary. While some people suffering from alcohol addiction were

¹⁹ Ben Lesser, "History of Rehab Facilities", *DualDiagnosis.org*. February 14, 2021, <<https://dualdiagnosis.org/drug-addiction/history-rehab-facilities/>> (accessed 3 March 2022).

²⁰ Anjali Talchekar, *Timeline: History of Addiction Treatment*, (AmericanAddictionCenters, 2003).

jailed, other addicts were housed in hospitals, alms-houses and asylums. However, these addicts failed to receive any treatment.²¹

By the 19th Century, in America, amongst the European Americans the problems of drugs use were becoming noticeable. Hallucinations, delirium, hand tremors and even vomiting and loss of appetite were recognised as symptoms of alcoholism. Instead of even attempting to cure the person, the doctors managed the symptoms of drug abuse and its withdrawal by prescribing opium, as it would lessen the pain.²² But the prescription of opium and subsequently other drugs as painkillers increased the number of addicts. It was neither a solution nor an effective treatment.

There was a stigma amongst the social classes regarding the identification of alcoholism and later drug abuse as diseases. Seeking help added to the humiliation and subjected the person to judgement of the society. It was Benjamin Rush, a physician, who identified alcoholism as a mental health condition; the cause of it having been the loss of control over drinking and the effective cure of it was absolute abstinence. He advocated that alcoholism should be treated medically along with religious and moral instructions; a holistic approach. The physical consequences of alcoholism were also being identified by physicians; such as damages to the “liver, stomach, muscle” and the nerve tissues. This discovery led to the establishment of the American Association for the Cure of Inebriation (AACI). It was the AACI that argued that instead of punishing or criminalising substance abuse, it should be recognised as a disease and treated as

²¹ Alana Henninger and Hung-En Sung, "History of Substance Abuse Treatment", In *Encyclopedia of Criminology and Criminal Justice*, by Gerber Bruinsma, & David Weisburd, 2257-2258, (New York: Springer, 2014).

²² Miroslav Horak, "A Brief History of Drug Abuse, Addiction Concepts and Community Treatment", (Human and Social Sciences at the Common Conference. Brno: HASSAC, 2013), 157.

such. Through inebriate homes alcoholics began to receive treatments such as inpatient treatment, detoxification stays and outpatient services, along with shelter.²³

As a result of the changing perspective recognising alcoholism as a disease, the first alcohol rehab centre in America, the New York State Inebriate Asylum was opened in 1864.²⁴ It was also followed by the introduction of many ‘miracle cures’ which promised successful treatment of alcoholism by taking the miracle cure for a short period of time. However, these miracle cures included alcohol, opium, morphine and cocaine. These miracle cures also boasted achieving recovery earlier than recovering in institutions. These miracle cures were easily accessible as well.²⁵ Therefore, addicts were able to maintain their addiction in a controlled manner instead of overcoming the addiction entirely.

With the passage of legislations criminalising and limiting the possession of certain narcotics, it became impossible for doctors to keep prescribing narcotics for the purposes of detoxification. Such legislations also required addicts to seek mandatory treatment in psychiatric hospitals. However, legislations criminalising the possession of certain narcotics filled jails and federal penitentiaries with addicts who actually needed treatment and rehabilitation. Instead of providing these addicts with opportunities to overcome the addiction, they were put in confinement with other criminals; which created the possibility of them becoming hard criminals.²⁶

²³ Henninger, 2258.

²⁴ Thomas Pegram, “Drunkard’s Refuge: The Lessons of the New York State Inebriate Asylum (review)”, *Bulletin of the History of Medicine, Johns Hopkins University Press*, vol.79, no.3, (2005): 580.

²⁵ Henninger, 2261.

²⁶ Ibid.

Throughout the years, the perspective of viewing addiction to drugs and alcohol as a criminal act has begun to change once again. It is now being viewed as a disease that could be treated through forms of rehabilitation.

The downside of use and abuse of drugs and alcohol had been identified throughout the history of mankind. However, in earlier times, narcotics were used in limited occasion; for religious or customary purposes. Certain narcotics started being used recreationally in later times resulting in the rise of the number of addicts. Initially, to address the rising number of addicts, the first step was to limit the supply of drugs. But many governments were generating revenues through the sale of narcotics and the goal was difficult to achieve. However, international efforts to limit the supply of narcotics was somewhat successful.

Addiction to alcohol and drugs had been identified as a disease before it had been criminalised. Treatments for detoxification and rehabilitation are experimental and keeps evolving overtime.

However, due to increasing number of addicts, governments gradually passed laws to criminalise the possession and use of drugs. The intention of the enactment of legislations to prohibit drugs in America was not right, therefore many people are subjected to the unlawful profiling by the authorities and the problem still remains. They are also not given adequate opportunities for much needed rehabilitation.

3.4. REHABILITATIVE TREATMENT MODELS

This section discusses the widespread challenges posed by the abuse of psychoactive substances, including opioids, cocaine, stimulants, hallucinogens, cannabis, and alcohol, which impact individuals, families, and societies globally. It emphasizes the

importance of countries adopting a comprehensive strategic framework and well-defined public policy to effectively address this issue through rehabilitation and other forms of treatment. The benefits of such a framework include clear strategies tailored to the nature of the drug problem and the specific actions needed to mitigate it, along with expected outcomes.

3.4.1. Overview

The problems faced with individuals, families and societies through the abuse of psychoactive substances such as opioids, cocaine, stimulants, hallucinogens, cannabis and alcohol are visible from all the countries. Most of the time the best approach of a country would be to utilise a comprehensive strategic framework along with a well-defined public policy on addressing this issue. The benefits of having a well-established strategic framework is beneficial in more than one way.²⁷ Such a framework should contain clear and concise strategies with regard to the nature of the drug problem as well as the actions the country is willing to take to tackle the issue. Additionally, such a framework should contain the expected results.

The United Nations Office of Drugs and Crime (UNODC) prepared a practical planning and implementation guide for Drug Abuse Treatment and Rehabilitation. This guide was prepared to be applicable in various national and cultural contexts. The guide was tested and reviewed in various countries of Central America, South America, East Africa, the Middle East, South Asia and South-East Asia. It is specifically designed as a practical resource for communities which lacks provisions for treatments for drug abuse problems as well as communities in which such treatment programmes are in

²⁷ United Nations Office on Drugs and Crime. *Drug Abuse Treatment and Rehabilitation a Practical Planning and Implementation Guide* (Vienna, UNODC, 2003), II.I.

need of further development. As this is a practical guide, it is not compulsory to comply with it. However, it provides a structure for the development of treatment methods, its evaluations and its effective implementation.²⁸

According to the United Nations Office of Drugs and Crime report on Practical Implementation of Drug Treatment and Rehabilitation Guide, there are 2 main components a country should develop within their drug master plan in order to address the issue:

- a) Public Policy – The public policy must contain the treatment responses the country is willing to take at a local, regional or national level. The public policy must also include the planning process to develop the strategic framework.²⁹
- b) National Drug Policy – The purpose of a national drug policy is to identify the commitment of the country towards achieving certain goals in a given frame of timeline. The policy will be a guide on the expected outcomes of short-term and long-term policies in order to tackle the problem. It identifies the main strategies the government would take to either eliminate or minimise the harms of drug abuse. The three primary elements of this policy would include;
 - i. Demand Reduction – A preventive approach to identify and support individuals on reducing harmful use of drugs through social awareness and opportunity for recovery for addicts. As defined by United Nations Demand Reduction, Glossary of Terms demand reduction is;

²⁸ Ibid., II.I-I.2.

²⁹ Ibid., II.2.

“Essentially, by providing persons, who are experiencing problems caused by their use of psychoactive substances, with a range of treatment services and opportunities which maximize their physical, mental and social abilities, these persons can be assisted to attain the ultimate goal of freedom from drug dependence and to achieve full social reintegration. Treatment services and opportunities can include detoxification, substitution/ maintenance therapy and / or psychosocial therapies and counselling. Additionally, treatment aims at reducing the dependence on psychoactive substances, as well as reducing the negative health and social consequences caused by, or associated with, the use of such substances.”³⁰

This approach will also include the reduction of first use cases such as the introduction to drugs either by experimentation, socialising and coping with stress or trauma related matters, through health and law enforcement resources.³¹

- ii. Supply Reduction – This strategy is aimed at restricting the availability and accessibility to narcotic drugs to prevent abuse. The strategy will include control mechanisms identifying precursors and mandating regulatory measures such as, border control, age restrictions, pharmaceutical issues through real-time monitoring of prescription medications.³²
- iii. Harm Reduction – A multifaceted response to minimise the harm caused by drugs acknowledging the harms of drug abuse on individual health, society and economy.³³

A national drug strategy should also contain approaches to drive cooperation between different sectors of the government and private institutions in responding to the problem of drugs and how the government would collaborate with parties in this issue. A national drug policy acts as an umbrella which contains the drug strategy and

³⁰ United Nations, *Demand Reduction, A Glossary of Terms*, (New York: United Nations, 2000), 73.

³¹ Department of Health, *National Drug Strategy 2017-2026*, (Canberra: Commonwealth of Australia, 2017): 8.

³² *Ibid.*, 12.

³³ *Ibid.*, 5.

the national drug action plan which would contain the programs, projects and activities based on the need for the country. Though the intrinsic components may be similar in application, the national drug policy differs from country to countries based on their individual circumstances.³⁴

3.4.2. Drug Treatment Under Contemporary Models

The World Health Organisation Expert Committee on Drug Dependence defines treatment as:

“the process that begins when psychoactive substance abusers come into contact with a health provider or any other community service, and may continue through a succession of specific interventions until the highest attainable level of health and well-being is reached”³⁵

As such, it must be noted that treatment models differ from country to country based on their different cultural, religious, economic, political and various other factors. However, the guiding principle of a treatment model is defined through a UN convention. The Declaration on the Guiding Principles of Drug Demand Reduction adopted by the General Assembly of the UN, offers a holistic approach requiring the commitment of communities and the governments at the highest level to address the complexities of substance abuse.³⁶

- “(a) There shall be a balanced approach between demand reduction and supply reduction, each reinforcing the other, in an integrated approach to solving the drug problem;
- (b) Demand reduction policies shall:
 - (i) Aim at preventing the use of drugs and at reducing the adverse consequences of drug abuse;

³⁴ James F. Mack, *How to Develop a National Drug Policy, A Guide for Policymakers, Practitioners, and Stakeholders*, (Washington DC: CICAD, 2009). 9.

³⁵ WHO Expert Committee on Drug Dependence, *Thirtieth Report, WHO Technical Report Series no. 873* (Geneva: WHO, 1998). 3.

³⁶ Hamid Ghodse, "Guiding Principles of Drug Demand Reduction: An International Response", *The British Journal of Psychiatry*, vol. 75, no. 4 (1999): 310-312.

- (ii) Provide for and encourage active and coordinated participation of individuals at the community level, both generally and in situations of particular risk, by virtue, for example, of their geographical location, economic conditions or relatively large addict populations.
- (iii) Be sensitive to both culture and gender;
- (iv) Contribute towards developing and sustaining supportive environments.”³⁷

A comprehensive drug framework should encompass the following areas:

1. Identifying areas of drug prevention;
2. Programmes to discourage initial use;
3. Focus on reduction of negative health and social consequences of drug abuse;
4. Conducting public awareness programmes;
5. Adoption of early intervention measures;
6. Counselling services;
7. Treatment programmes;
8. Rehabilitation services;
9. Relapse prevention mechanisms;
10. Social reintegration and aftercare services;
11. Provision of early help and accessibility to services for all those in need
12. Educational programmes;
13. Ability to embrace information.³⁸

According to the UN resolution, in order to identify the emerging trends, these programs should actively be able to address the nature and magnitude of the drug related issues within that respective populace. Furthermore, these assessments should be

³⁷ United Nations Declaration on the Guiding Principles of Drug Demand Reduction S-20/3, 1998. Art 8.

³⁸ Ibid.

undertaken comprehensively and systematically in a continuous manner. The identification of trends should acknowledge the indicators, procedures and results of past programmes and scientific strategies and advancements in the field must be realised. It is imperative to encompass this comprehensive and multidisciplinary approach in order to effectively provide demand reduction programmes.³⁹

3.4.3. Rehabilitation Models

The rehabilitation models that uses a theoretical approach to treatment are considered as Intensive Outpatient Treatment (IOT) programs is looked in this part. The selection of the treatment programs for this part will be the main IOT's of western world for drug and substance treatment.

3.4.3.1. The 12-Step Program

The 12-step program was founded by Bill Wilson in 1935 in the United States of America. The program revealed around the idea of having intercession from a spiritual or a higher power to help escape from the effects of addiction. There are variations of the 12-step program, but the 2 main ones are the Alcoholics Anonymous (AA) and the Narcotics Anonymous (NA).⁴⁰ The 12 key steps of the program are as follows:

1. Admission of powerlessness over alcohol and as a result admitting that life has become unmanageable.
2. A power greater than us can restore life back to sanity.

³⁹ Ibid., Art 9.

⁴⁰ Matt Gonzales, "12-Step Programs", February 26, 2020, <<https://www.drugrehab.com/recovery/12-step-programs/>> (accessed 14 June 2021).

3. Decision to submit to the will of a God as we understand the God.
4. Making a searching and fearless moral inventory of ourselves.
5. Admitting to ourselves, another human and to God the nature of our wrongs.
6. Declaring readiness for God to remove the defects of our character.
7. Asking God to remove our mistakes.
8. Making a list of people we have harmed and declare readiness to rectify and make amends to them all.
9. Making direct amends to those people whenever possible.
10. Prompt admission of any wrong and maintain continuous personal inventory.
11. Seek through prayer and meditation to understand our knowledge and God consciousness.
12. After increasing our spiritual awareness, carrying the message to other alcoholics and keep practicing these principles throughout our life.⁴¹

Even though the 12-step program contains religious and spiritual involvement of a 'higher power', it is primarily not considered as a religious movement, rather agnostics and other non-religious patients have often found the program beneficial. Furthermore, research has shown the compatibility of the 12-step program with other evidence-based treatment approaches such as psychotherapy.⁴² The effectiveness of the 12-step program is identified in multiple studies, however the 12-step program together with another treatment program is known to show much more effective in abstinence

⁴¹ Mansur Ali, "Perspectives on Drug Addiction in Islamic History and Theology", *Religions*, no. 5 (2014): 912-928.

⁴² Gonzales.

from substance than following a single regime.⁴³ It has to be noted that despite its effectiveness since it is deeply dependent on the compliance of the patient, it would be very difficult to keep track of the patients compliance without proper and strict mechanisms which the 12-step program itself does not contain.⁴⁴ The program is entirely voluntary and in some instances the program is recommended by a drug court or as part of a treatment option of another model of rehabilitation or therapy program.

3.4.3.2. The Matrix Model

The Matrix Model was developed in 1980's by the Matrix Institute on Addictions. The reason for having to develop the Matrix model was to address the cocaine epidemic in the Southern California region during that time. The Matrix model has been proven by studies to be effective in treatment with significant reduction in drug and alcohol abuse and has shown to improve psychological indicators;⁴⁵ and since has gained popularity within the treatment community. The Matrix model is a flexible treatment model which can incorporate any number or any method of treatment models within it to further eliminate any form of substance abuse and addiction issues.

The Matrix model is divided into 2 main parts; the first part includes the treatment or addiction therapy and the second part involves around the recovery of the patient. The first part may involve any form of addiction therapy such as 12-step programs, combined session, drug education, family and group therapy.⁴⁶ The second

⁴³ Maureen Hillhouse, "Drug Treatment and 12-Step Program Participation", *Journal of Substance Abuse Treatment*, vol. 18, no. 1 (2000): 65-74.

⁴⁴ Center for Substance Abuse Treatment, *Substance Abuse: Clinical Issues in Intensive Outpatient Treatment*, Treatment Improvement Protocol (TIP) Series, no. 47, (Rockville: Substance Abuse and Mental Health Services Administration (US), 2006).

⁴⁵ R. A. Rawson and et al, "An Intensive Outpatient Approach for Cocaine Abuse Treatment. The Matrix Model", *Journal of Substance Abuse and Treatment*, vol.12 no. 2 (1995): 117-127.

⁴⁶ *National Institute on Drug Abuse*, "The Matrix Model (Stimulants)," June 1, 2020.

part is divided into 4 main areas; they are, early recovery, family education, relapse prevention and social support. The other feature of the Matrix model is that it expects to keep the patients in check during the period of treatment through continuous urine testing to monitor drug and alcohol use.⁴⁷ Furthermore as the Matrix model demands a structured content with schedule and supervision, the program would require professional and trained staff to maintain the cohesiveness of the model throughout.⁴⁸

3.4.3.3. Cognitive Behavioral Therapy

Cognitive-Behavioral Therapy (CBT) is based on a theory that emotion and behavior are an effect of learning and these emotions and behaviors can be modified through learning new ways. The patients are taught techniques to recognize and reduce the risk of relapse and maintaining abstinence through the CBT approach. Furthermore, they are taught on new coping mechanisms and problem-solving skills. Cognitive-Behavioral Therapy can be integrated with other programs, such as the 12-step program, to increase its efficacy. The downside to the CBT model is that those with low cognitive skills may require alternative approaches to achieve the full benefits of the program. The other aspect is that since CBT is developed as an individual treatment model, the social or group counselling approach is not utilized in this model.⁴⁹

It can be seen that these rehabilitation models offer a spectrum of approaches, each with its unique strengths and limitations. The 12-Step Program's spiritual

<<https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/evidence-based-approaches-to-drug-addiction-treatment/behavioral-therapies/>> (accessed 15 July 2021).

⁴⁷ Dan Wagener, "What is the Matrix Model of Addiction Treatment and How Does it Work, American Addiction Centers", *National Rehabs Directory*, April 14, 2020. <<https://rehabs.com/what-matrix-model/>> (accessed 20 July 2021).

⁴⁸ Center for Substance Abuse Treatment, *Substance Abuse: Clinical Issues in Intensive Outpatient Treatment*, Treatment Improvement Protocol (TIP) Series, no. 47, (Rockville: Substance Abuse and Mental Health Services Administration United States, 2006).

⁴⁹ Ibid.

approach, the structured and versatile nature of the Matrix Model, and the individualized focus of CBT provide a comprehensive toolkit for addressing drug addiction. The choice of model depends on individual patient needs, cognitive abilities, and personal preferences, highlighting the necessity for a personalized approach in substance abuse treatment.

3.4.4. Islamic Rehabilitation Models

The unique approaches of Islamic rehabilitation models tailored for addressing drug addiction will be discussed in this section. It explores how these models integrate spiritual, psychological, and social elements based on Islamic teachings and principles. The discussion will cover various Islamic-based treatment methodologies, their effectiveness, and how they align with the broader goals of *Maqasid al-Shari'ah* (the objectives of Islamic law) in promoting holistic healing and recovery. By examining these models, the chapter aims to provide a comprehensive understanding of how Islamic principles are applied in the context of rehabilitating individuals affected by drug addiction.

3.4.4.1. The Millati Model

The Millati Islami (MI) model or the path of peace model is a program of rehabilitation founded in the United States of America by Muslims for Muslims suffering from drug and substance addiction. The program is modelled after the famous 12-step program of Alcoholics Anonymous (AA) and the Narcotics Anonymous (NA). Since AA and NA are stemmed from evangelical sources of Christianity and, where in some instances, it includes embracing concepts that are completely in contravention to the teachings of

Islam, the MI model does not incorporate all of the concepts and variations of these two models. However, there are similarities between MI and AA/NA:⁵⁰

1. Admission of neglect of spiritual self and as a result that the life has become unmanageable.
2. Only Allah (SWT) can restore the life back to sanity.
3. Decision to submit to the will of Allah (SWT).
4. Making a searching and fearless moral inventory of ourselves.
5. Admitting to Allah (SWT) and ourselves, the nature of our wrongs.
6. Seek Allah (SWT) for guidance and removal of our defects of character and declaring our will and readiness to change.
7. Asking Allah (SWT) to remove our mistakes.
8. Making list of people we have harmed and declare readiness to rectify and make amends to them all.
9. Making direct amends to those people whenever possible.
10. Prompt admission of any wrong and maintain continuous personal inventory.
11. Seek through *Salaat* (prayer), *Iqraa* (recitation of religious text) and improvement of *Taqwa* (God consciousness) and *Ihsan* (belief that Allah (SWT) is aware of everything we do, even if we do not see Allah (SWT)).
12. After increasing our faith and *Taqwa*, then carrying the message to others and keep practicing these principles throughout our life.⁵¹

The primary difference between the Millati Islami model and the 12-steps program is the fact that MI model focuses on the wrongs committed by the believer

⁵⁰ Ali, 918.

⁵¹ Ibid., 919.

upon neglecting the rightful place deserved to Allah (SWT) in his life. The only way the addict could recover and come back to the society is upon the admission of his wrongs and seeking repentance and guidance from Allah (SWT). The mindset of the believer shall be that only Allah (SWT) can rectify his wrongs, accept his repentance and change his life for the better. This is achieved through prayer and continuously remembering Allah (SWT) and keeping in check all these important aspects throughout his life. The MI model also encourages the person to carry the message of the program to the humanity so that they could be salvaged from the destructive nature of drugs and alcohol.

3.4.4.2. Islamic Integrated Model

This treatment model is a community-based model in which Islamic principles are included in the detoxification and rehabilitation of the patients along with inclusivity of the families and the community of the patients. The program requires those seeking treatment to stay in the facility for the duration of treatment. Once an addict is admitted to the facility they are assessed and then the detoxification process would begin. The rehabilitation is followed by the completion of the detoxification. The duration of the rehabilitation is not fixed for a certain period of time as it may vary depending on the commitment of the patient which could be from a few months to several years.⁵²

There are 3 main stages in the process of provision of service to patients in this model. The first stage is the assessment stage where the patient is screened to identify the nature and the characteristics of the patient and a treatment plan is finalized for that

⁵² Sawpheeayah Nima and Yupa Somboon, "The Islamic Integrated Model for Drug Addict Treatment and Rehabilitation on Kratom Use Among Muslim Adolescents: A Case Study in Krabi Province, Thailand", *Journal of Business and Economics*, vol.10, no. 5 (2019): 479-487.

person. In this stage, the patient and their guardians are given an overview of the schedule they must follow in the treatment centre. Then, a screening is conducted to identify the extent of the addiction and dependence on drugs and other important information, such as risky behaviors and aggressiveness of the patient and self-harm potential including suicide risk, would be screened. The screening process is followed by a religious information and treatment plan for the patient, where the patient is given hope that Islam accepts the repentance for those mistakes, and they could recover and get back to the society as normal people. The patients are also encouraged to perform the obligatory prayers and the importance of keeping a healthy state of mind and other aspects of Islam. Furthermore, family counselling and one-on-one counselling is provided to understand the root of the patients addiction and how Islam would help in their recovery.⁵³

The second stage involves the detoxification process. This process would address the withdrawal symptoms under a licensed physician. Further support and encouragement are also made available in the detoxification process. The detoxification process also involves intensive religious classes and training of patients on Islamic principles. The training and classes are based on Qur'an and *Sunnah* and other faith related concepts where the patients would gradually learn to build goals and associate life goals with the objective of achieving the afterlife. The program is designed to support and help the patients to deal with their emotions and on the importance of maintaining Islamic values in their lives. The program and training also have an accountability purpose where the patients are held accountable for the 5 daily prayers and attending other religious sermons and classes conducted by the facility.⁵⁴

⁵³ Ibid.

⁵⁴ Ibid.

The third stage of the process is the rehabilitation. This process is based on the continuous observation of the Islamic religious practice and application of these principles in the lives of the patients throughout. The patients are also encouraged to share their personal experiences in the recovery program with other patients and help them to come to the correct path.⁵⁵

3.4.4.3. Psycho-Spiritual Therapy

This method of therapy is focused on the *Taqwa* (God Consciousness) aspect by concentrating on the recommendations of Qur'an and applied in psychotherapy of the patient's recovery from drug use. This therapy suggests that Qur'an is the solution to all human suffering and harm; and observance of the commandments of Qur'an would relieve the stress and harms of life.⁵⁶ The main components derived from the Qur'an related to *Taqwa* are identified as follows:

- a) Trust in Allah (SWT)
- b) Repentance
- c) Patience and tolerance
- d) Prayer
- e) Forgiveness
- f) Thanking Allah
- g) Giving Zakat
- h) Satisfaction with the provisions of Allah and all his decrees⁵⁷

⁵⁵ Ibid.

⁵⁶ Taherah Seghatoleslam Hussain Habil and et al, "Achieving a Spiritual Therapy Standard for Drug Dependency in Malaysia, from an Islamic Perspective: Brief Review Article", *Iranian Journal of Public Health*, vol.44, no.1 (2015): 22-27.

⁵⁷ Ibid.

The program also acts as an ad-hoc therapy model that can be integrated into other therapies such as Cognitive Behavioral Therapy (CBT), Methadone treatment models such as the Methadone Maintenance Treatment (MMT) and others applicable.⁵⁸

3.4.5. Analysis

When looking at the types of rehabilitation and treatment models in both the western world including the models in the United States of America and the Islamic world, clear connections are evident. The most salient identification is the reason that the most infamous western therapy model involves the concept of a 'higher power' in dealing with alleviating and abstinence of issues related to drugs. The method of involving God is the main focal point in the Islamic treatment model as well. Both the models require other intensive outpatient treatment approaches as supplementary models to further complement and to enhance the effectiveness of the therapy and treatment. Apart from these treatment programs the National Drug Policy and Public Policy of the country must go hand in hand to reduce demand, supply and harms caused by drugs. As it is seen that countries have benefited from employing a comprehensive strategic framework paired with clear public policy. For instance, the UNODC Guide is a comprehensive guideline developed with various national and cultural contexts and has been tested worldwide, providing a structure for developing and implementing treatment and evaluation methods. It can be seen that a prospective drug framework should thus include strategies based on the nature and possible actions and future outcomes expected. This multi-faceted approach will provide a balance between demand and supply reduction strategies, cultural sensitivities and will be modelled for

⁵⁸ Ibid.

the specific target county. The model should be a dynamic model which could be changed to adopt emerging trends and the specific needs of the population.

3.5. MALAYSIAN APPROACH TOWARDS DRUGS AND DRUG REHABILITATION

This section will look into Malaysia's distinctive strategies and policies in addressing drug abuse and drug treatment. It examines the country's legal framework, prevention methods, and rehabilitation programs, highlighting how Malaysia's cultural, social, and legal contexts shape its approach to this complex issue. The discussion will include an analysis of the effectiveness of these methods, the challenges faced, and the integration of both modern and traditional practices in combating drug addiction. Through this exploration, the section aims to provide an insightful overview of Malaysia's multifaceted approach towards drug-related challenges.

3.5.1. Drug Issues in Malaysia

Despite drugs not being produced in Malaysia, due to its location, Malaysia is still unable to fully declare victory on its war on drugs. Malaysia is situated close to the “Golden Triangle”. The Golden Triangle is the name given to the area where the borders of Thailand, Laos and Myanmar meet. The Golden Triangle is famous for its drug production; it produces heroin, lab-produced crystal meth and other synthetic narcotics. This has become the gateway for the supply of drugs in the region, including Malaysia and subsequently the world.⁵⁹

⁵⁹ Vong Poh Fah, (2004) “Drug Abuse and its Prevention in Malaysia”, *Resource Material Series*, no.64, (2004): 108.

In the recent years, Malaysia is no longer preferred to be utilised to traffic drugs to Europe and Australia. It is because of the harsh drug laws of Malaysia. However, it has not stopped the flow of drugs into Malaysia, where there is still a demand for it.

According to Chandra Segaran Subramaniam, Malaysia has faced “four drug waves”. The first of which was during the 19th Century, when laborers were brought in from China and India to develop tin mines and rubber plantations by the colonial British Master, when Malaysia was colonised by the British. The Chinese and the Indian laborers brought with them their habits of opium smoking and marijuana. Although opium smoking is no longer practiced in Malaysia, the abuse of marijuana still remains from its first wave of drugs. The second and third waves of drugs in Malaysia saw the change from depressant drugs to stimulant drugs; from marijuana, morphine and heroin to ecstasy, amphetamine and yaba pills produced and supplied from the Golden Triangle. The fourth wave is recent, due to development of New Psychoactive Substances (NPS) in the world.

While there are about 300 types of NPS in the worldwide market, 20 types have been found in Malaysia. Since these are newly produced drugs, the problem Malaysia faces is that its Poisons Act 1952 only allows authorities to take action against seven of the NPS out of the 20 found in Malaysia.⁶⁰

⁶⁰ Chandra Segaran Subramaniam, "Drug Laws in Malaysia: Whether the Drugs Laws Have Been Effective in Curbing the Drug Menace in Malaysia", *United Nations Asia and Far East Institute for the Prevention of Crime and the treatment of offenders*, no. 106 (2018): 44-45.

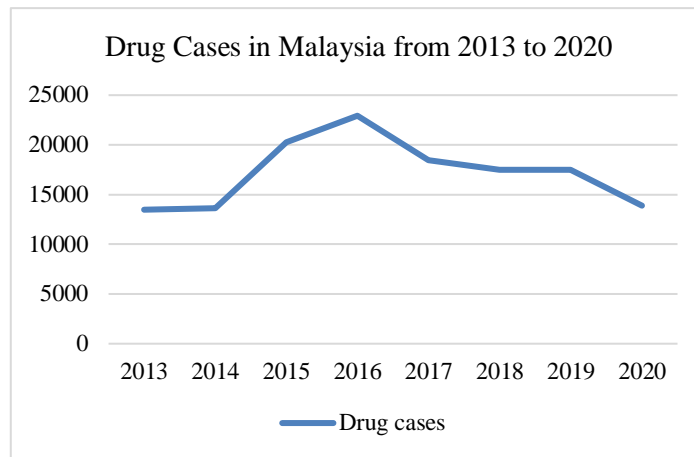


Figure 3.1 Drug Cases in Malaysia from 2013 to 2020⁶¹

Even though the abuse of drugs and the crimes related drugs has overwhelmed the nearby countries, Malaysia has been able to tackle the issue to a significant degree; it is not as bad as it is in their neighbouring countries. According to the most recent statistics it has been found that the issue of drugs related cases is in decline in Malaysia. To tackle the issue further, Malaysia has enacted four main legislations.

3.5.2. Legal approach towards drugs in Malaysia

As mentioned before, there are four legislations enacted in Malaysia regarding drugs, punishments and rehabilitation.

(a) The Dangerous Drugs Act 1952 [Act 234]

The main legislation regarding drugs in Malaysia is the Dangerous Drugs Act of 1952. This Act regulates and provides punishments for various drug offences such as drug trafficking, manufacturing, possession and its abuse. The Act defines dangerous drugs

⁶¹ Statista, “New Cases of Drug Abuse In Malaysia from 2013 to 2020”, Statista, Crime and Law Enforcement, Statista Research Department, August 23, 2021. <<https://www.statista.com/statistics/971203/new-drug-abuse-cases-malaysia/>> (accessed 20 January, 2022).

as “any drug or substance which is for the time being comprised in the First Schedule”⁶²; these consists of and is not limited to raw opium, coca leaves, poppy-straw, cannabis, amphetamine, heroin, ketamine, methadone etc.⁶³ Through this Act, Drug Enforcement Officers are appointed.⁶⁴ Penalties such as the death penalty, life imprisonment, imprisonment, whippings and fines are prescribed for drug related offences in this Act. For example, in Section 39B of the Act, any person who is found guilty of trafficking a dangerous drug or offering or aiding in the purpose of trafficking dangerous drugs will be given a death sentence.⁶⁵ Whereas in Section 39A of the Act, any person convicted of an offence against the Act, would face an imprisonment sentence of two to five years or for life, depending on the amount and the type of drugs. For example, any person found guilty of an offence against this Act where the offence is not punishable with death and where the subject matter of the offence is 5 grams or more in weight of heroin, will be sentenced with imprisonment for life or for a term of less than five years and will also be punished with whipping of not less than ten strokes.⁶⁶

Recently in 2021, it has been commented that the Dangerous Drugs Act of 1952 requires to be amended. When the Act was enacted heroin was the most common drug that was smuggled into Malaysia, however times have changed. And nowadays, stimulants such as Methamphetamine are the most common drug seized from drug abusers. Therefore, the Malaysian Police had reportedly submitted a proposal to the Malaysian Home Ministry to lower the weight of drugs that can be charged under Section 39B of the Dangerous Drugs Act of 1952. Currently the weight allocated is 15g for heroin and 50g for Methamphetamine for offenders to be given death penalty or life

⁶² Dangerous Drugs Act 1952 (Malaysia).

⁶³ *Ibid.*, s 2.

⁶⁴ *Ibid.*, Schedule 1.

⁶⁵ *Ibid.*, s 39B.

⁶⁶ *Ibid.*, s 39A.

imprisonment. The Malaysian Police also requested that Drug Traffickers to be charged under the Anti-Money Laundering and Anti-Terrorism Financing Act of 2001 as well. They believe that such amendments could enable the police to eliminate the abuse of drugs, such as cocaine, cannabis, raw opium, coca leaves, amphetamines, methamphetamines, etc., and drugs offences more effectively.⁶⁷

According to Justice Audit Malaysia, by February 2012 around 41% of all convicted in prisons were in prison under the Dangerous Drugs Act 1952 totaling around 18% of all prisoners in Malaysia. This shows that Section 15 (1) of the Dangerous Drugs Act 1952 continued to take effective action on possession of drugs for personal use. The figures published by Justice Audit Malaysia shows a staggering effectiveness in punitive punishment on possession of drugs for personal use.⁶⁸ This is due to the fact that the amount of drugs mentioned in Section 12 (2) of the Dangerous Drugs Act 1952 considered an amount unusually low for drug trafficking rather meant that the offenders caught were addicts who used drugs for personal use. Thus, having a maximum sentence of life imprisonment under Section 39A (2) of the Dangerous Drugs Act 1952 actually caught more drug addicts rather than drug traffickers.⁶⁹ For instance, the weight of possession of the drug heroin under subsection 39A (2) is between 5 grams to 14.9 grams. This is a very wide range where drug addicts who have no intention of trafficking could be convicted for drug trafficking with a life imprisonment punishment.⁷⁰ The problem with the Dangerous Drugs Act 1952 having this wide scope has had a massive impact on the entire criminal justice system, where precious time and

⁶⁷ Bernama, "Dangerous Drugs Act 1952 Needs Improvements", *New Strait Times*, October 2, 2021. <https://www.nst.com.my/news/nation/2021/10/732994/dangerous-drugs-act-1952-needs-improvements> (accessed 5 March, 2022).

⁶⁸ *Justice Audit Malaysia*, "Justice Audit Malaysia, - Drug Crime," n.d. <http://malaysia.justiceaudit.org/?page_id=16#>.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

resources have been spent on investigating, arresting, prosecuting and punishing drug addicts found in possession of drugs for personal use.⁷¹

(b) Dangerous Drugs (Special Preventive Measures) Act 1985 [Act 316]

This legislation was introduced for preventive purposes. Therefore, the Dangerous Drugs (Special Preventive Measures) Act 1985 provides law enforcement agencies the power to detain a person without trial for alleged drug trafficking activities for a specified period of time. Also, with this Act, under Section 4, the detained person loses their right to refuse to answer questions that might incriminate them under Section 112 (2) of the Civil Procedure Code and is required to answer all questions relating to the case.⁷²

(c) Dangerous Drugs (Forfeiture of Property) Act 1988 [Act 340]

The Dangerous Drugs (Forfeiture of Property) Act 1988 was enacted to stop the organizing and carrying out trafficking of dangerous drugs, including importation and exportation of such drugs into Malaysia, and spreading dependence on dangerous drugs among various classes of Malaysians and causing widespread detriment to public health, security, safety and morals and acquiring property by trafficking dangerous drugs and utilizing such properties for trafficking of dangerous drugs.⁷³

⁷¹ Ibid.

⁷² Dangerous Drugs (Special Preventive Measures) Act 1985, s. 4.

⁷³ Dangerous Drugs (Forfeiture of Property) Act 1988.

(d) Drug Dependents (Treatment and Rehabilitation) Act 1983 [Act 283]

The Drug Dependents (Treatment and Rehabilitation) Act 1983 was enacted to enable the provision of treatment and rehabilitation for people dependent of drugs and issues related to drugs. This Act defines a “drug dependent” person as “a person who through the use of any dangerous drug undergoes a psychic and sometimes physical state which is characterized by behavioural and other responses including the compulsion to take the drug on a continuous or periodic basis in order to experience its psychic effect and to avoid the discomfort of its absence”.⁷⁴ This Act allows the drug dependent person to under-go treatment and rehabilitation under a court order for a period of two years.⁷⁵ It also allows a person dependent on drugs to seek treatment and rehabilitation by applying to a Rehabilitation Officer.⁷⁶

This Act requires the Minister charged with the responsibility of internal security to establish rehabilitation centres for the residence, treatment and rehabilitation of people dependent on drugs who are required to reside in such a place under the Act.⁷⁷

Since 2017, the cases of drug dependents are investigated and enforced by the National Anti-Drug Agency (NADA) in the Ministry of Home Affairs. Through Cure & Care 1Malaysia Clinic, NADA has made treatment and rehabilitation for dependents on drugs and people undergoing drug related problems more accessible. Unlike court ordered mandatory drug rehabilitation centres, the process of which requires the individual to be arrested, court orders for their treatment and rehabilitation as well as legal implications, Cure & Care 1Malaysia Clinic allows seeking treatment and

⁷⁴ Drug Dependents (Treatment and Rehabilitation) Act 1983.

⁷⁵ *Ibid.*, s 6.

⁷⁶ *Ibid.*, s 8.

⁷⁷ *Ibid.*, s 10.

rehabilitation on a voluntary basis. It has been recognised as the best practice to be followed in the whole region.⁷⁸

According to Justice Audit Malaysia, upon analyzing the data from Malaysian judiciary and drug enforcement agencies found that there is a significant increase in drug related offences within the county.⁷⁹ The findings published by them showed that the legal system in Malaysia is diverting towards alternative methods in addressing the issue of drugs from criminalizing it as an offence to a rehabilitation and treatment model. The impact of shifting towards a treatment model is seen to be promising as there is seen a 25.7% drop in the rate of relapse by addicts upon treatment.⁸⁰

3.5.2.1. Types of Punishment for Drug Offences in Malaysia

This section provides an overview of the various types of punishments imposed for drug offences in Malaysia. It will explore the legal framework governing drug-related crimes, detailing the specific penalties ranging from fines and rehabilitation programs to imprisonment and, in severe cases, capital punishment. The discussion aims to shed light on how the Malaysian legal system categorizes and responds to different levels of drug offences, reflecting the country's strict stance on drug control and its commitment to upholding public health and safety.

⁷⁸ Subramaniam, 45.

⁷⁹ *Justice Audit Malaysia*.

⁸⁰ *Ibid.*

(a) Death Penalty

One of the main reasons drug lords started to avoid utilising Malaysia to supply drugs to other neighbouring countries, is its punishment for drug trafficking, which is the death penalty. Up until 15th March 2018, anyone found guilty of drug trafficking in Malaysia was punished with the mandatory death penalty under Section 39B of the Dangerous Drugs Act of 1952. However, this provision was later amended to provide the Judge with the discretionary power to either impose a sentence which consisted of life imprisonment and not less than 15 strokes or the death penalty. This amendment allows the accused drug trafficker to cooperate with the law enforcement agencies in order to avoid the death penalty. It is imperative to prove beyond reasonable doubt that the accused drug trafficker had indeed assisted the law enforcement agencies in disrupting the trafficking of drugs either in or outside of Malaysia.⁸¹

The new amendment to the article 39B (2A) allowing discretion to the judges when considering death penalty for drug offences requires them to consider other mitigating factors. The discretionary authority given to the judges is wide and they are expected to consider the socio-economic status and past criminal history as well as other mitigating factors and circumstances of the offender. Section 39B (2A) of the Dangerous Drugs Act ('DDA'), mentions as follows:

“Court must be satisfied that:

- (a) the accused was not buying or selling the dangerous drugs at the time of arrest;

⁸¹ Ministry of Home Affairs, “Malaysia Country Report on Drug Issues 2019”, (2019), 2nd Meeting of the AIPA Advisory Council on Dangerous Drugs 12-15 March 2019, Chiang Mai, Thailand, 4, <<https://www.parliament.go.th/ewtadmin/ewt/aipa2019/download/>>. 2nd Meeting of the AIPA Advisory Council on Dangerous Drugs 12-15 March 2019, Chiang Mai: AIPA, 2019.

- (b) there was no involvement of an agent provocateur in the case;
- or
- (c) the role of accused was limited to transporting, carrying, sending or delivering dangerous drugs; and
- (d) the accused ‘assisted an enforcement agency in disrupting drug trafficking activities within or outside Malaysia.’”

The Dangerous Drugs Act 1952 only levies death penalty for offences under Sections 39A and 39B of the Act. According to the Dangerous Drugs Act of Malaysia, art. 39B, 1952, Drug trafficking not resulting in death is punishable by death.⁸² However it has to be noted that for a drug trafficking case in Malaysia to be allowed death penalty, it is based on a very strict legal arrangement where only in cases where there is absolute, corroborated proof of the actual event of a drug transaction would be considered for this punishment.⁸³

Yet, due to the wording of the amendment there has been found some inconsistencies in application by the judges. The issue was addressed in the case *Public Prosecutor v Mehrdad Rahmati Yadollah (Iran) & Anor*, by Judge Lee Swee Seng; in his dissenting judgement he noted that the amendment is often misinterpreted by the judges thinking that all these conditions should be met for the discretion to be applicable.⁸⁴ The issue of interpreting the amendment was further elaborated in *Public Prosecutor v Brits Shaun* [2019] MLJU 916, by Moho Radzi bin Abdul Hamid JC, mentioning that ‘Paragraphs (a), (b) or (c) are to be read disjunctively and then read

⁸² Dangerous Drugs Act of Malaysia, Art 39B, 1952, revised 1980.

⁸³ Saari bin Jusoh v. Public Prosecutor, no. J-05-121-1995, para. 20, Court of Appeal of Malaysia, 2006; Sanusi bin Ismail v. Public Prosecutor, no. D-05-125-1995, para. 9, Court of Appeal of Malaysia, 2004; Yang v. Public Prosecutor, no. J-05-64-1997, Court of Appeal of Malaysia, 2002.

⁸⁴ Sara Kowal, Dobby Chew and Mai Sato, (2021) “Discretion in Law but Not in Practice: Malaysia’s Dangerous Drugs Act”, *ELEOS, Monash University*, July 19, 2021, <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/discretion-in-law-but-not-in-practice-malysias-dangerous-drugs-act> (accessed 1 March 2022).

conjunctively with paragraph (d).’ Furthermore, it has been found that the mitigating factors and the defenses provided for those prosecuted for drug trafficking has led to acquittals, for instance, from the 66 cases where the defendant relied on the ‘innocent carrier’ defense, only 10 were acquitted.⁸⁵

(b) Detainment and Monitoring of Movements

Under the Dangerous Drugs (Special Preventive Measures) Act of 1985, the enforcement agencies are given the power to forgo the process of a court of law and detain a person accused of drug trafficking for up to two years. The law enforcement agency is allowed to detain any individual accused of any drug related offence for 60 days. After this 60 day detention period, the Malaysian Home Ministry has the discretion to detain the person for two years or to restrict the person for two years and monitor his movements by strapping the person with an electronic monitoring device.⁸⁶ Since the passing of this Act, the number of people given a detainment order under this law was 183 in the year 1986. However, the number increased to 382 people by the year 1989. Furthermore, just in the year 1989 alone, 4,242 people were detained in rehabilitation centres and 7,649 people were getting rehabilitation treatment in prisons, while a further 12,854 people were under supervision orders. By 2003 those detained under this act were at 830 and those detained without trial in accordance with this law was at 2,110.⁸⁷

⁸⁵ Ibid.

⁸⁶ Subramaniam, 44-45.

⁸⁷ Yusramizza Binti Md Isa, “Harm Reduction in the Context of Drug Use in Malaysia: A Critical Analysis of its Justification and its Compatibility with the Criminal Justice Approach”, (Ph.D thesis, Lancaster University, 2015), 49.

(c) Freezing and Forfeiting of Assets

Under the Dangerous Drugs (Forfeiture of Property) Act of 1988, the law enforcement authorities are given the power to trace, freeze and forfeit the assets of drug traffickers⁸⁸ unless proven by the drug trafficker that the assets were gained through legal means.⁸⁹ These laws were passed mainly as a compliance measure since Malaysia has signed all of the UN drug conventions.⁹⁰ Statistics from the year 1988 and 1989 shows a significant increase in the value of property related to drug trafficking seized under this Act went from MYR610,442,21 to MYR727,646.25 in this short time span. And by 2003 the value of forfeited property were at MYR1,633,407.78.⁹¹ It should also be mentioned that upon the enactment of the National Anti-Drugs Agency Act 2004, the enforcement powers were extended to the National Anti-Drugs Agency, where they were allowed to forfeit property along with other enforcement related activity provided under every drugs act.⁹²

(d) Imprisonment, Fines and Whipping

Under the Dangerous Drugs Act of 1952, an imprisonment sentence of 3 to 5 years is levied as a punishment for drug offences such as importation and exportation of raw opium, coca leaves, poppy straw and cannabis.⁹³

The Dangerous Drugs Act of 1952 also levies fines along with imprisonment sentences. Possession, custody or control of any raw opium, coca leaves, poppy straws

⁸⁸ Dangerous Drugs (Forfeiture of Property) Act 1988 (Sections 10(5), 25, 26, 27, 32 and 33).

⁸⁹ Subramaniam, 44-45.

⁹⁰ Md Isa, 49-52.

⁹¹ Ibid., 49.

⁹² National Anti-Drugs Agency Act 2004, Malaysia, s 6.

⁹³ Dangerous Drugs Act 1952, s 4 and 5.

or cannabis or the seeds of the plants from which they may be obtained directly or indirectly⁹⁴ is fined of an amount not exceeding twenty thousand ringgits or imprisonment up to 5 years or both. Similar punishment is levied for importing or exporting or having in possession, custody or control or manufacturing or selling or dealing of any prepared opium.⁹⁵

However, the Dangerous Drugs Act of 1952 also levies imprisonment for life along with lashes. For offences such as planting or cultivating of certain plants from which raw opium, coca leaves, poppy-straws or cannabis may be obtained either directly or indirectly or allowing another person to do so,⁹⁶ the punishment levied is imprisonment for life and whipping of up to 6 strokes.

Table 3.1 Possession Offences and Punishments Under Dangerous Drugs Act of 1952

Offence	Imprisonment	Fines	Imprisonment and Fine, other punishments	Section
Possession of raw opium, coca leaves, poppy straw and cannabis, or the seeds of the plants	Not more than 5 years	Not less than MYR 20,000	Either or Both Applicable	6
Possession of Prepared opium	Not more than 5 years	Not less than MYR 20,000	Either or Both Applicable	9(1)(b)
Possession of: 2g<5g heroin or morphine or monoacetylmorphines or a mixture of any of them; 5g<15g cocaine; 20g<50g cannabis or cannabis resin or a mixture of them; 100g<250g raw or prepared opium or a mixture of them; 250g<750g coca leaves; 5g<30g 2-Amino-1-(2, 5-dimethoxy-4-methyl)	Not less than 2 years not more than 5 years		Not less than 3 whippings not more than 9 strokes	39A(1)

⁹⁴ Ibid., s 6.

⁹⁵ Ibid., s 9.

⁹⁶ Ibid., s 6B.

<p>phenylpropane or Amphetamine or 2, 5-Dimethoxyamphetamine (DMA) or Dimethoxybromoamphetamine (DOB) or 2, 5-Dimethoxy-4-ethylamphetamine (DOET) or Methamphetamine or 5-Methoxy-3, 4-Methylenedioxyamphetamine (MMDA) or Methylenedioxyamphetamine (MDA) or N-ethyl MDA or N-hydroxy MDA or N-methyl-1 (3, 4-methylenedioxyphenyl)-2-butamine or Methylenedioxymethamphetamine (MDMA) or Paramethoxyamphetamine (PMA) or 3, 4, 5-Trimethoxyamphetamine (3, 4, 5-TMA) or a mixture of any of them.</p>				
<p>Possession of other dangerous drugs listed in Part III, IV & V of the First Schedule</p>	<p>Not more than 5 years</p>	<p>Not more than MYR 100,000</p>	<p>Either or both</p>	<p>12(2)</p>
<p>Possession of a prescribed amount of certain drugs: Possession of: 5g> heroin or morphine or monoacetylmorphines or a mixture of any of them; 15g> cocaine; 50g> cannabis or cannabis resin or a mixture of them; 250g> raw or prepared opium or a mixture of them; 750g>coca leaves; 30g>2-Amino-1-(2, 5-dimethoxy-4-methyl) phenylpropane or Amphetamine or 2, 5-Dimethoxyamphetamine (DMA) or Dimethoxybromoamphetamine (DOB) or 2, 5-Dimethoxy-4-ethylamphetamine (DOET) or Methamphetamine or 5-Methoxy-3, 4-Methylenedioxyamphetamine</p>	<p>Not less than 2 years (or imprisonment for life)</p>		<p>Whipping not more than 10 strokes</p>	<p>39A(2)</p>

(MMDA) or Methylenedioxyamphetamine (MDA) or N-ethyl MDA or N-hydroxy MDA or N- methyl-1 (3, 4- methylenedioxyphenyl)-2- butamine or Methylenedioxymethampheta mine (MDMA) or Paramethoxyamphetamine (PMA) or 3, 4, 5- Trimethoxyamphetamine (3, 4, 5-TMA) or a mixture of any of them.				
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3.5.2.2. Treatment Models in Malaysia

Currently there are two types of treatments available for drug abusers; court mandated treatment and rehabilitation and voluntary treatment.

One of the main reasons for court ordered mandatory treatment and rehabilitation is the high possibility of drug abusers not volunteering for treatment and rehabilitation if it was left for their choice. Therefore, under the Drug Dependents (Treatment and Rehabilitation) Act 1983, rehabilitation officers are given the power to arrest any suspected person and subject them to a medical examination to determine whether they are a drug abuser or not. If they are found to be a drug abuser, the rehabilitation officer is required to apply to the relevant court for an order to detain the drug abuser at a rehabilitation centre for mandatory treatment and rehabilitation. This mandatory treatment and rehabilitation are for two years. Following this treatment, the person has to undergo another two years of aftercare.⁹⁷

The Malaysian government began a pilot substitution therapy programme in 2003, and needle and syringe exchange programmes in 2004 piloted in three sites of

⁹⁷ Fah, 112.

Malaysia. Along with having to tend to the drug abusing problem, the Malaysian government also had to tend to the problem of the rising number of people who were HIV positive as a result of the syringe utilised to inject drugs. By 2010, over 18000 drug abusers who injected drugs received sterile injecting equipment from the 240 service delivery sites in Malaysia. This was one of Malaysia's harm reduction programs.⁹⁸

The Malaysian government has been contributing to harm reduction measures. This support from the government had enabled methadone maintenance therapy services and opioid substitution therapy as well. With the introduction of harm reduction programmes in 2005, the number of people sent to treatment and rehabilitation centres under court orders had decreased.⁹⁹

Despite its initial approach to treatment and rehabilitation, Malaysia has shifted its court ordered mandatory treatment and rehabilitation to a voluntary choice of the drug abuser. This was mainly due to the recognition of drug use as a health issue.¹⁰⁰ Studies had found that the mandatory treatment and rehabilitation programmes had failed as there were numerous cases of drug relapse after being released from the treatment centre. It was found that the centres were only keeping the drug abuser from abusing drugs and not providing the necessary cure for them to go forward in life.¹⁰¹

Since this shift in the perception of abusing drugs as a health issue, Anti-Drugs Agency made it one of their priorities to replace mandatory treatment and rehabilitation centres with Malaysia Cure and Care Clinics. These Clinics allowed drug abusers and their families to come to the clinics on their own without going through the legal process

⁹⁸ Pascal Tanguay, *Policy Responses to Drug Issues in Malaysia*, (London: International Drug Policy Consortium Briefing Paper, 2011).

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Siti Zulaikha Mustapha, Nor Hafizah Mohamed Harith and Hardev Karu Latchimanan, "Outpatients Perspective: Do Cure and Care 1Malaysia (C&C1M) Clinic Sungai Besi is Effective or Not?", *Journal of Administrative Science*, vol.14, no.3 (2017).

and without having it being mandatory. These free clinics provided services that were accessible, without conditions demanding the drug abuser of completion of the program. The main point was to make treatment and rehabilitation accessible, voluntary, and to allow drug abusers to set their own targets. They were also ensured confidentiality which would provide them with a sense of integrity. The Ministry of Home Affairs and the Anti-Drugs Agency recognizes that for treatment and rehabilitation of drug abusers there is not one specific approach but numerous approaches to be explored.¹⁰²

One other objective of the Anti-Drugs Agency is to put more responsibility on the community justice structures, which includes community supervision. This would mean that when a person is placed under community supervision, the person will be supervised under the care of an Anti-Drugs Agency officer in a community setting for two years. Within these two years, people under community supervision are required to do monthly urine tests. If their urine tests come back positive, the Anti-Drugs Agency officer is required to increase interventions such as counselling and peer support. However, if the urine test comes back positive a third time, the person is sent to compulsory drug treatment or to prison.¹⁰³

It can be seen that Malaysia is at the forefront of the fight against drugs since the 19th Century. Having located in the region known as the Golden Triangle, Malaysia has passed 4 separate legislations regarding drugs and narcotics. The laws are concerned not only in reducing the trafficking and the usage of drugs but also, they are focused on treatment and rehabilitation of addicts. Corporal punishment and death penalty are meted for drug trafficking and forfeiture of assets, imprisonment and other punishments are allowed in the Malaysian laws. The two main types of rehabilitation options

¹⁰² Tanguay.

¹⁰³ Ibid.

available for Malaysians are the court mandated option and the voluntary option to seek treatment for rehabilitation. Malaysia has introduced harm reduction programs and have found those programs to be effective in treatment of addicts. Malaysia now identifies the drugs issue as a health issue. Thus, care and treatment is now the number one priority for drug addicts in Malaysia.

3.6. CONCLUSION

It has been found in this chapter that there are different types of drug rehabilitation models and treatment methods practiced in the world. As the chapter focused on identifying the main types of these methods in the western world and in the Islamic world; A general overview of both the models found that involving psycho-spiritual nature of treatment to the other forms of clinical therapies are found to be more effective in treating drug addicts. The chapter also identified on the inclusiveness of families and the members of the societies in the therapies of drug addicts and on the importance of provision of information and education. The chapter then went on to identify the policy aspect of drugs and its prevention and treatment. The chapter identified that according to the United Nations and the international best practice, the best approach is to have the government drug policy focused on a well-defined public policy as well as a separate drug policy to identify the commitment of the country towards achieving the goals of the national policy in the long-term and short-term. The policy should also aim not only at demand reduction for the drugs, rather it should also focus on the supply and harm reduction elements of drugs. This method of a comprehensive legislation can be found when looking at the legislations of Malaysia. The country despite having situated in a major drug producing region has promoted effective methods to tackle the issue of

drugs, whilst at the same time, providing effective and competent drug rehabilitation and therapy for addicts.

The next chapter of the thesis will look at the situation of drugs and narcotics in Maldives and the legislation for drugs and its implementation. Data from this chapter will be used to identify areas of lacuna in the Maldivian context related to drug abuse and its treatment and legislation.



CHAPTER FOUR

MALDIVIAN LEGAL FRAMEWORK ON DRUGS AND REHABILITATION

4.1. INTRODUCTION

This chapter will identify the legal system of Maldives as well as the mechanisms put in place to address the situation of drugs in the country. Firstly, this chapter will look into the situation of drugs in Maldives in general and then look into an overview of the Maldivian legal system and how it is created. Secondly, the scope, mandate and procedures of the Drug Court and how they apply their mandate to rehabilitate and provide treatment to drug dependents will be identified. Thirdly, on the legal approach towards drugs by analysing the Drugs Act 17/2011 will be detailed.

This chapter also will identify the approach taken by the Drugs Act 17/2011 in criminalising and its punishment mechanism and also will identify its take on the treatment of drug dependents. In addition to looking into the established enforcement and social agency known as the National Drugs Agency and its legal mandate in enforcing the guidelines provided under the Drugs Act 17/2011. The chapter will also identify the scope of the specialist Drugs Court and the National Drugs Agency and all affiliated rehabilitation programs provided along with a further examination on the situation of drugs and the challenges faced by the legal system in addressing the issue.

4.2 SITUATION OF DRUGS IN MALDIVES

According to media reports published by *Adhadhu* news, the Maldives is falling into a deep drug crisis. When it comes to drugs there is no difference between young and old. From children aged 10 and elderly people above the age of 50 are voluntarily and involuntarily submerged into this void.¹ There is also no difference between women and men. Even children are involved in the illicit drug related offences. In one instance the Maldives Police Service have said that a minor was questioned 354 times in various cases from January 2019 to December 2021. During the three years, he was questioned regarding various drug-related cases, including two cases of drug trafficking, 16 cases of drug abuse and 35 cases of drug possession. There are 53 drug cases pending on this child of just 14 years of age.² New information disclosed by the police to the journalists in a special event showed the extent of drug use in the country. This information has not been previously disclosed to journalists by any government authorities. According to the journalists present at the event, the police reported that the drug problem is not going to be improved in the near future.³ All forms of drugs are available in the Maldives and it is available at a lower price. According to the statistics published (figure 4.1) by the Maldives Police Service the main form of drugs seized were cocaine, cannabis and heroin, with heroin evidently being the most popular.

¹ Fathmath Ajfan, “Masthuge Haalathu Bossunlaafai Nizaam Harudhanaakurun noongotheh nei,” *Adhadhu*, March 1, 2022, <https://adhadhu.com/Article/21902> (accessed 7 June 2022).

² *Ibid.*

³ *Ibid.*

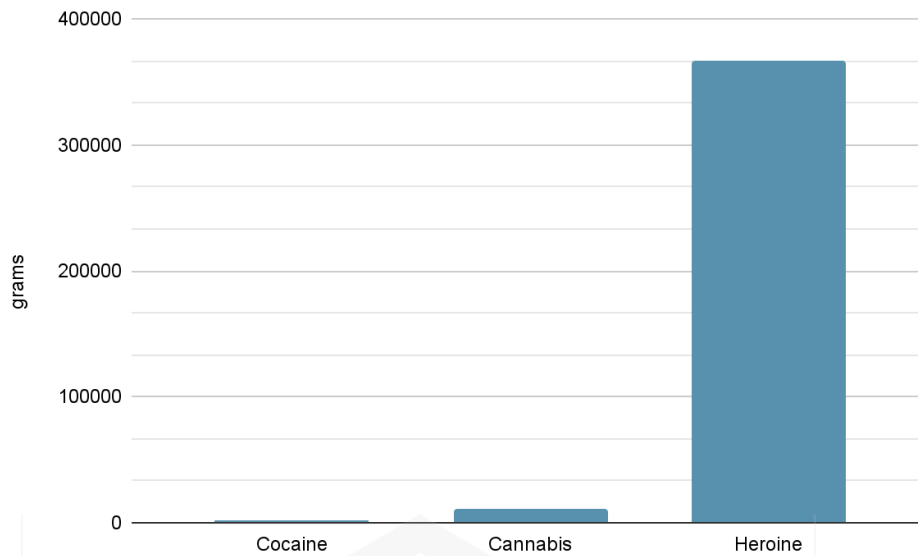


Figure 4.1 Drugs Seized by Police in Quarter 4 of 2021

In the fourth quarter of 2021, a total of 105 drug related cases were sent to the Prosecutor General's Office for prosecution. It is mentioned in the police report that during this quarter 2,306 grams of Cannabis, 10,823 grams of Cocaine, 367,000 grams of Heroin were seized during police operations between October 1, 2021 and December 31, 2021. A total of 192 people was detained for drug related offences during this quarter.⁴ It has been found in a survey conducted by the government that more than a quarter of the people who participated spend close to \$1000 (one thousand US dollars) a month to acquire drugs in the country.⁵

There are cafés specifically designed so that addicts can take drugs. The police estimate that daily patrons of these drug cafés to be around 1118 people and 1250 individuals were identified as frequent drug café users. The police also informed the journalists that 70% of the inmate population are imprisoned on drug related crimes as a result a person who enters prison for theft or violence is seen to be leaving the prison

⁴ Maldives Police Service, *Crime Statistics - Q4, 2021, 2022*, Report, (Male': Maldives Police Service, 2022).

⁵ Asima Nizar, "Masthuvaathakethi Gannan Mahehge Machah 15000 Rufiyaa Heydhakurey", *Mihaaru News*, October 2021, 2021, <https://mihaaru.com/news/99464> (accessed 3 June 2022).

as a drug addict.⁶ Since the 11 years of having a new Drugs Act 17/2011, the prison treatment and recovery system is not fully established.

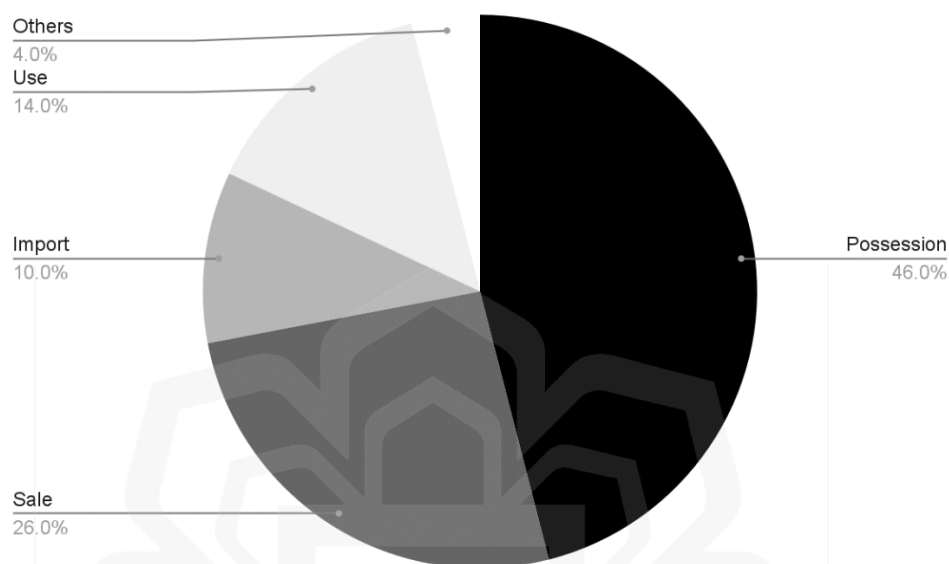


Figure 4.2 Drug Cases Logged at Police Service

According to national statistics on drug related cases logged by type for the year 2020, it can be seen that almost half of the cases were found to be drug possession related and a quarter was for sale purposes. Cases related to use were at 14%.⁷ According to the Maldives Police Service statistics on reported incidents for the years 2017 to 2021 it can be seen that drug related offences remain high in the country. In fact, theft and drug crimes are the main criminal incidents reported in each of these years.⁸

⁶ Ajfan.

⁷ National Bureau of Statistics, *Drug Statistics 2021*, Report, (Male: National Bureau of Statistics, 2021).

⁸ Maldives Police Service, *Reported Incidents 2021*, Report, (Male: Maldives Police Service, 2021).

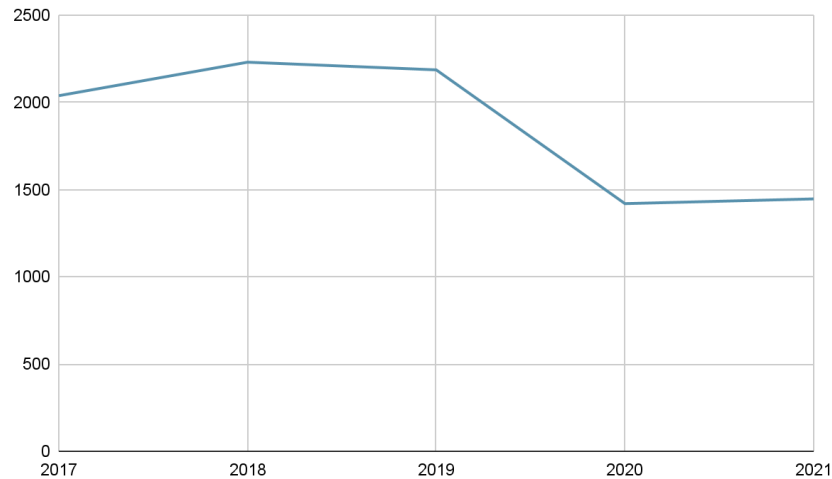


Figure 4.3 Drug Related Crimes Reported to Police (2017-2021)

By September 2021 there were 3000 drug dependents registered to receive treatment and rehabilitation.⁹ Surveys conducted by the UN between 2011 and 2012 has shown that the number of victims to drugs is 30,000 and this number is currently double due to given bare minimum treatment.¹⁰ According to the report published by the United Nations Working Group on Arbitrary Detention upon visiting Maldives in 2021 it is found that, Maldives has a very high rate of drug abuse, yet with the progressive Drugs Act 17/2011 in its approach to treatment of addicts as a health issue the actual approach to drugs offences remains punitive. As a result of this, a large number of people are imprisoned who could otherwise receive effective treatment.¹¹

⁹ Shafna Hussain, “Masthuvaathakethi Beynunkuraa Meehun Nafsaanee Faruvaahoadhun Ithuruvance”, *Dhauru.com*, 15 September 2021, <https://dhauru.com/C7T4L> (accessed 7 June 2022).

¹⁰ *MFR*, “The National Drug Agency, Woefully Inefficient”, *Maldives Financial Review*, November 4, 2021, <<https://mfr.mv/policy/the-national-drug-agency-woefully-inefficient>> (accessed 7 June 2022).

¹¹ *Ibid.*

4.3 MALDIVIAN LEGAL SYSTEM

The Maldivian legal system is derived from the separation of powers articles in the Constitution of the Republic of Maldives where the legal system or the judiciary is given complete independence to conduct their affairs on the same level as the other 2 branches of the government,¹² namely the parliament and the executive power.¹³ The judiciary is based on a hierarchical system which separates the courts in the country to 3 hierarchical levels. On the highest level is the apex court known as the Supreme Court and on the second level is the first instance of appeal known as the High Court. Then on the third level is the first instance courts.¹⁴ These courts are further divided into 2 tiers. The first tier of the third level is known as the superior courts; namely the Criminal Court, the Family Court, the Civil Court, the Juvenile Court and the Drug Court. The second tier of the third level are the magistrate courts. These courts are assigned to each individual populated island of the archipelago.¹⁵ There are 194 magistrate courts in the country.

According to the Maldivian Constitution, the courts are not allowed to promulgate or pass any laws, rather the law-making mandate is exclusively vested on to the parliament of the country.¹⁶ The courts could however interpret laws at their behest as the countries legal system is based on a combination of English common law and *Shari'ah*.¹⁷ The decisions of the courts are not allowed to be questioned by anyone and enforcement of the court decisions is to be enforced by the executive power. The

¹² The Constitution of Maldives 2008, Art 141.

¹³ Mohamed Ibrahim and Md. Ershadul Karim, *Research Guide on Legal System and Research of Maldives*, (New York: Global Law & Justice, Hauser Global Law School, 2013).

¹⁴ Transparency Maldives, *Maldives Governance Updates, October 2015 Report*, (Male: Transparency Maldives, 2015).

¹⁵ USAID, *Maldives Rule of Law Assessment – Aisa Emerging Opportunities – Final Report*, (Washington DC: USAID, 2019).

¹⁶ Constitution of Maldives 2008, Art 70.

¹⁷ Ibrahim.

institutions of the executive branch that performs the enforcement function are the Maldives Police Service and the Department of Penitentiary and Rehabilitation Service. Furthermore, with regards to specific mandates given to specific courts such as the Drug Court, the enforcement could be carried out by different government authorities such as the National Drug Agency.

It is important to identify that as the Maldives is an archipelago of 1200 islands each separated by the ocean, the courts and its jurisdictional mandates is limited to those specific jurisdictions. However, the courts' rulings will be upheld and enforced everywhere in the country. One of the reasons to mention this is to point out the fact that, as the courts of appeal i.e. the Supreme Court and the High Court and all the other superior courts are based in the capital city of Malé and some court mandated requirements are based and can only be fulfilled within the capital city. When it comes to major issues such as drugs, those seeking remedy from one of these courts is required to visit the capital island for any such audience. This contending factor produces a problem to anyone not living in the capital city.

4.4 THE DRUGS ACT 17/2011

The Drugs Act 17/2011 was introduced and came into force in 2011 with a wider mandate and scope than the previous Drugs Act 17/77, which was enacted in 1977. The current Drugs Act 17/2011 is based on 2 main motivations. Firstly, the law recognises the criminal nature of the drugs which introduced new models of criminalisation and punishment for traffickers, peddlers and drug addicts. Secondly, the law introduces new enforcement bodies for the rehabilitation and reintroduction of drug addicts back to

society.¹⁸ These bodies include 2 oversight bodies which are the National Drug Council and the National Drugs Agency. Furthermore, a new court is introduced specifically to address the situation of drugs, this court is the Drug Court of Maldives.

There are several objectives mentioned in the Chapter 1, Section 1 Article (a) of the Drugs Act 17/2011, for the reasons why introducing a comprehensive drug law is needed. According to the Act, one of the purposes of introducing such a law is to reduce dependency on drugs by addicts and to identify new addicts at an early stage and to find ways to take them off of drugs in the most effective way possible.¹⁹ The Drugs Act 17/2011 also recognises that drug dependents or those who are addicted to drugs are physically and mentally dependent on it and therefore it is important not to initially criminalise these people, but rather provide them with care through a legally regulated framework.²⁰ Therefore, one of the main purposes of the Act is providing drug addicts or drug dependents with a much-needed care and rehabilitative treatment. It has to be noted that the Drugs Act 17/2011 is not silent on the aspect of drug related offences such as trafficking and peddling of drugs and for this reason there is a specific objective in tackling drug related offences²¹ and bringing those who break the law in terms with drug abuse with a maximum punishment term of life imprisonment to up to MVR10,000,000 (Ten Million Maldivian Rufiyaa) fines.²²

¹⁸ Drugs Act 17/2011 of Maldives, Chapter 1, s 1 Art (a).

¹⁹ Ibid., s 2, Art b.

²⁰ Ibid., s 2, Art c,d.

²¹ Ibid., s 2, Art e.

²² Ibid., s 103, Art c.

4.4.1 Substances, Offences and Punishments

Part V of the Drugs Act 17/2011 sets out the substances, offences and the punishments related to drugs. The law recognises 5 types of drugs for the purpose of substance criminalisation. These are:

1. Diamorphine
2. Cannabis: any part of a plant of the genus cannabis or any part of such plant, by whatever name it is called.²³
3. Schedule 1 drug: any substance or product specified in Schedule 1 of the Drugs Act 17/2011 or any such substance or product.²⁴ There are 139 drugs listed in Schedule 1 in accordance with the UN Single Convention on Narcotic Drugs 1961 and in accordance with the 1971 Convention on Psychotropic Substances Schedule.
4. Schedule 2 drug: any drug specified in Schedule 2 of the Drugs Act 17/2011 as a specified drug or anything that contains such specified drug.²⁵ This schedule is primarily based on drugs for medicinal purposes. Currently there are 114 medicinal drugs listed in Schedule 2 in accordance with the U.N. Single Convention on Narcotic Drugs 1961 and in accordance with the 1971 Convention on Psychotropic Substances Schedule.
5. Schedule 3 precursor substance: any equipment, material or substance specified in Schedule 3 of the Drugs Act 17/2011 as an equipment, material or substance used in the manufacture or preparation of a Schedule 1 drug or a Schedule 2

²³ Ibid., s 188 (c).

²⁴ Ibid., (q).

²⁵ Ibid., (r).

drug.²⁶ Currently there are 24 specific items listed in this Schedule which are chemical based and have the potential to produce precursor substances.

Table 4.1 Offenses and Punishment in Drugs Act 17/2011

Section	Offence	Punishment
103 (a), 106 (a), 109 (a), 110 (a), 111 (a)	Trafficking, Manufacturing Importing or Exporting of diamorphine or cannabis or Schedule 1 drugs	Life imprisonment with a fine between MVR 100,000 to MVR 10,000,000 fine
103 (b), 106 (b), 109 (b), 110 (b), 111 (b)	Attempt, abet or taking part in trafficking or importing or exporting or manufacturing of diamorphine or cannabis or Schedule 1 drugs	18 years imprisonment with MVR 75,000 to MVR 7,500,000 fine
104 (a), 107 (a)	Peddling diamorphine or cannabis	Imprisonment between 5 to 10 years with a fine between MVR 15,000 to MVR 250,000
104 (b), 107 (b)	Attempt, abet or taking part in peddling diamorphine or cannabis	Imprisonment between 3 to 7 years with a fine between MVRz10,000 to MVR 150,000
105 (a), 108 (a)	Dealing in diamorphine or cannabis	15 years imprisonment with a fine between MVR 25,000 to MVR 500,000
105 (b), 108 (b)	Attempt, abet or taking part in dealing diamorphine or cannabis	7 years imprisonment with a fine between MVR 15,000 to MVR 250,000
112 (a), 113 (a), 114 (a), 119 (a)(1), 120 (a)	Use of diamorphine or cannabis or schedule 1 drug or Consensual administration of Schedule 2 drug or Alteration of prescription for a Schedule 2 drug	3 years imprisonment
115 (a)(i)	Consensual administration of Schedule 1 drug	5 years imprisonment
115 (a)(ii)	Non-consensual administration of Schedule 1 drug	10 years imprisonment

²⁶ Ibid., (s).

116 (a)	Trafficking Schedule 2 drugs	Between 5 to 10 years imprisonment with a fine between MVR 50,000 to MVR 100,000
116 (b), 117 (b), 118 (b)	Abetting or taking part in trafficking Schedule 2 drugs or attempting to import or export of Schedule 2 drugs or Abetting or taking part in manufacturing Schedule 2 drugs	Between 7 to 11 years imprisonment with a fine between MVR 35,000 to MVR 750,000
117 (a), 118 (a)	Import and export of Schedule 2 drugs or Manufacturing Schedule 2 drugs	Between 5 to 10 years imprisonment with a fine between MVR 50,000 to MVR 1,000,000
119 (a)(2)	non-consensual administration of Schedule 2 drug	7 years imprisonment
121 (a)	Use of any substance not being Schedule 1 or 2 or anything other than alcohol	1 year imprisonment
122 (a)	Manufacture, prepare, possession, supply, deliver, give, import or exports any Schedule 3 precursor substance	Between 3 to 5 years imprisonment

The offences mentioned in the law can be categorised into 9 main sections connected to a presumption clause in the Act, which is defined as:

1. Trafficking offences: trafficking is defined as dealing of drugs by a person who is not a peddler whilst carrying out one of the acts mentioned in Section 142 of the Act.²⁷ Under section 142 there are 11 specific ways the prosecution could establish presumption that a person is a drug trafficker. These include proving that the person has made financial transaction with the intention to buy or sell drugs, importing and exporting or transporting,

²⁷ Ibid., s 17.

manufacturing or possession of the specified amount considered for trafficking etc.²⁸

2. Peddling offences: Peddling is specifically defined in the law as dealing of drugs by a drug dependent person to sustain this habit.
3. Dealing offences
4. Import and export offences
5. Manufacturing offences
6. Usage offences
7. Administration of drugs offences
8. Failure to comply orders offences
9. Failure to prove offences.

It has to be noted that despite having multiple overlaps by a person of committing any of the above-mentioned categories of offences except failure to comply orders and failure to prove offences, the interpretation of applicability of punishment could change based on the presumption clause.

Table 4.2 Application of Presumption Clause in Drugs Act 17/2011

Substance	Amount in Grams	Drug Dependent	Not Drug Dependent
Diamorphine	2 or less	Possession for the purpose of using unless proven any 2 acts stated in Section 142 then presumption will revert to trafficking	Possession for the purpose of dealing unless proven any 2 acts stated in Section 142 then presumption will revert to trafficking
	More than 2 less than 4	Possession for the purpose of paddling unless proven any 2 acts stated in Section 142 then presumption	Possession for the purpose of dealing unless proven any 2 acts stated in Section 142 then

²⁸ Ibid., s 142 (a,b,c,d,e,f,g,h,i,j,k).

		will revert to trafficking	presumption will revert to trafficking
	More than 4	Possession for the purpose of trafficking	Possession for the purpose of trafficking
Cannabis	5 or less	Possession for the purpose of using unless proven any 2 acts stated in Section 142 then presumption will revert to paddling	Possession for the purpose of dealing unless proven any 2 acts stated in Section 142 then presumption will revert to trafficking
	5 or less than 14	Possession for the purpose of paddling unless proven any 2 acts stated in Section 142 then presumption will revert to trafficking	Possession for the purpose of dealing unless proven any 2 acts stated in Section 142 then presumption will revert to trafficking
	More than 14	Possession for the purpose of trafficking	Possession for the purpose of trafficking
Schedule 1 drug other than diamorphine or cannabis	1 or less	Possession for the purpose of using	Possession for the purpose of trafficking
Schedule 2 drug	Any dosage	Possession for the purpose of trafficking	Possession for the purpose of trafficking

According to the Drugs Act 17/2011, the presumption differs between those who are dependent on drugs and those who are not dependents. This means that having the same amount of a drug listed in Schedule 1 of the Drugs Act would have different presumptions which would let a drug dependent to have recourse to rehabilitative treatment and having their sentence suspended whilst a non-drug dependent person could be tried for dealing or even trafficking under these same circumstances.²⁹ The other noticeable component is that for each presumption to make an allowance, section 142 of the Drugs Act acts as a determining factor.³⁰ Additionally, the weight is

²⁹ Ibid., s 134.

³⁰ Ibid., s 134, Art (b, d).

determined not primarily on the purity of the content, but it is rather based on the total weight of the admixture, if it is in a mixed form.³¹ Likewise the weight of drugs found in possession of two or more people will be considered under the law as each individual having the entirety of the amount of drugs on their possession.³² In regard to the presumption based on the premise where the drug is found, it is mentioned that unless proven otherwise, any person escaping from the premise will be presumed to be a drug user.³³

Furthermore, any goods or wealth found on a person suspected of drug peddling, dealing or trafficking will be presumed to have accumulated any goods or wealth illicitly unless proven otherwise³⁴ and forfeiture of the wealth by the authorities based on this presumption. The burden of proving otherwise is on to the suspect. This is contrary to any other criminal proceedings where the burden of proof is on the prosecution rather than the defendant.

It has to be noted that any goods or wealth forfeited would be transferred to the National Fund for Drug Control. According to the NFDC regulation, the governing board of the fund will be responsible for the operation of the fund specified in the regulation. Any spending from the fund will be carried out in accordance with the Public Finance Act and other regulations including the funds collected by the state under the Drugs Act including funds from the auction of goods taken by the state; and funds donated by various parties to the fight against drugs.³⁵ The funds will be utilized by the NFDC for efforts to combat drug trafficking; improving treatment services for drug

³¹ Ibid., s 139.

³² Ibid., s 144.

³³ Ibid., s 145, Art b.

³⁴ Ibid., s 155, Art a.

³⁵ The Regulation of the Governing Board of The National Drug Control Fund 2015/R-18 Part 2, s 19.

addicts; and to achieve the objectives of the Drugs Act 17/2011.³⁶ The board of NFDC is also allowed to decide on new fund usage terms based on its own initiative.³⁷

4.5 THE DRUG COURT

The purpose of establishing a drug court in Maldives is to decrease the people dependent on drugs and to provide a means for rehabilitation and reintegration into the society as law abiding citizens.³⁸ The court was established in accordance with Article 30 of the Drugs Act 17/2011.³⁹

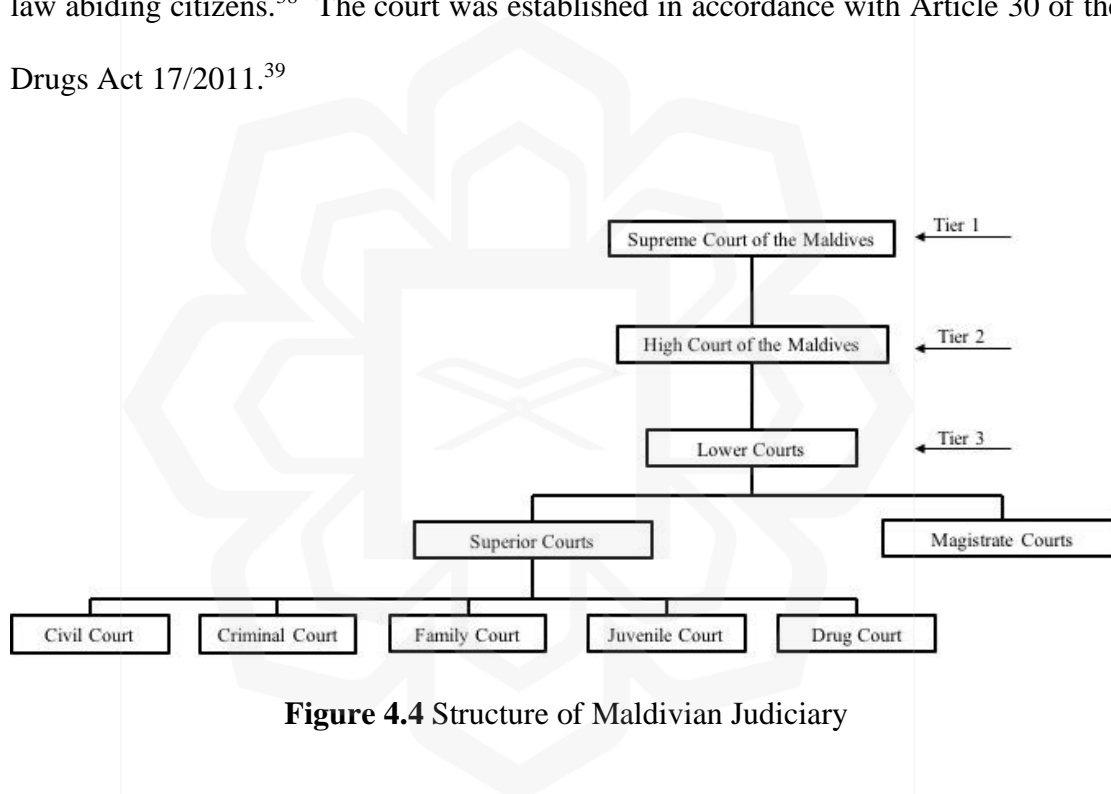


Figure 4.4 Structure of Maldivian Judiciary

As depicted in figure above, the Maldivian court system is a three-tier system; the highest and the first tier being the Supreme Court of the Maldives followed by the second tier which is the High Court of the Maldives. The third tier is the lower courts which consists of the Superior Courts and the Magistrate Courts.⁴⁰ The drug court is

³⁶ Ibid., Part 2, s 20.

³⁷ Ibid., s 21.

³⁸ Drug Court Regulation, 2014/R-26, s 9.

³⁹ Drugs Act 17/2011, s 30.

⁴⁰ Constitution of the Republic of Maldives 2008; s 141 (a), Sections 52 and 53, Judicature Act of Maldives, 22/2010.

classified as a superior court along with civil court, criminal court, family court and juvenile court.⁴¹ However, there are minor differences in the conduct of the drug courts proceedings from other superior courts. Any particular case in concern with the court would have to meet a certain criteria to be considered for trial.⁴² The primary condition consists of two parts; the first part is that the defendant should have to confess to committing a drug related offence and the second part is that they would have to agree to any terms and conditions set forth by the drugs court, in terms of provision of any rehabilitation treatment. The mandate of the drug court prevails over 3 categories of people.⁴³ They are:

1. Drug dependents (drug addicts);
2. Drug peddlers;
3. Drug offenders (namely those who get involved in various criminal activities due to their dependency on drugs)

Drug offenders imprisoned prior to the enactment of the Drugs Act 17/2011. For the above-mentioned 3 categories of individuals, the drug court will only be able to extend its mandate only if their conditions are within the prescribed terms mentioned under 35 of the Drugs Act.⁴⁴ It has to be noted that despite being an independent court with its own separate mandate, the mandate is shared by other courts in the Maldivian judicial system such as the Criminal Court and magistrate courts.⁴⁵

⁴¹ Drugs Act 17/2011, s 30 Art C.

⁴² Drug Court Regulation, 2014/R-26, s 9.

⁴³ Drugs Act 17/2011, s 35.

⁴⁴ Drug Court of Maldives, *Drug Court Ge Ihtisaas*, (Male: Drug Court of Maldives, 2012).

⁴⁵ Drugs Act 17/2011, s 33-37.

4.5.1 The Drug Courts' Mandate

As aforementioned, according to section 35 of the Drugs Act 17/2011 the drug court is given the mandate over 3 categories of people. However, even if anyone who fits within the mentioned 3 categories, if they are charged with or are serving a sentence related to murder, act of terrorism, an offence under Child Sexual Offenders (Special Provisions) Act 12/2009, drug trafficking, rape or aiding or abetting the commission of any of these offences they would not be considered within the mandate of the Drug Court.⁴⁶ Also, the individuals mentioned under the mandate of Drug Court would have to meet conditions related to a general criterion and a special criterion.

Under the general criteria firstly, the person requesting for the drug courts services should be a drug addict and secondly, the person should confess to any charges of drugs brought against him. Thirdly, the person should not be someone with drug charges brought against him in any other court other than the Drug Court and finally the person should meet the conditions for any treatment program provided by the drug court.⁴⁷

As for the special criteria, the section of special criteria is separated into 2 categories. The first category is for those who are drug peddlers and the second category is for those who are addicted to drugs and are tried for committing criminal offences under the influence of drugs. For both these special criteria categories the general criteria should be met. However, those addicts who commit criminal offences under the influence of drugs should meet an additional 3 conditions.⁴⁸ The first condition is that the person should be addicted to narcotics and should be found committing a criminal

⁴⁶ Ibid., s 36 Art a,b,c,d,e and f.

⁴⁷ Drug Court of Maldives, *Drug Court Ge Ihtisaas*, (Male: Drug Court of Maldives, 2012).

⁴⁸ Ibid.

act whilst under the influence of drugs. The second condition is that the charges brought against that person should not be a charge under section 36 of the Drugs Act 17/2011. The third condition is that in the event if the person is found guilty of the crime, the maximum punishment should not exceed 10 years imprisonment sentence or a banishment punishment.

This section further extends to cover those who are currently serving sentences for a criminal offence. The coverage identifies 3 conditions to be met to determine if they would be under the mandate of Drug Court. The first condition is that the person should be serving a sentence for the crime of drug usage, drug peddling or attempted peddling of drugs.⁴⁹ The second condition is that in the event if the person is serving consecutive sentences and if the current sentence is not for an offence related to use of drugs or drug peddling or attempted peddling, the following sentence should be one of that nature. The third criteria are that the offence should not be of any crime mentioned under section 36 of the Drugs Act 17/2011.

Accordingly, the Drug Court could also conduct hearings on cases related to other criminal offences such as theft, battery, burglary and others. The only condition is that the defendant must have committed the offence whilst under the influence of drugs.⁵⁰

⁴⁹ Ibid.

⁵⁰ Ibid.

4.5.2 The Court Procedure

The procedure for Drug Court involves 7 stages starting from submission of the case to the court and ending once the drug addict is returned back to society upon completion of the rehabilitation program.⁵¹

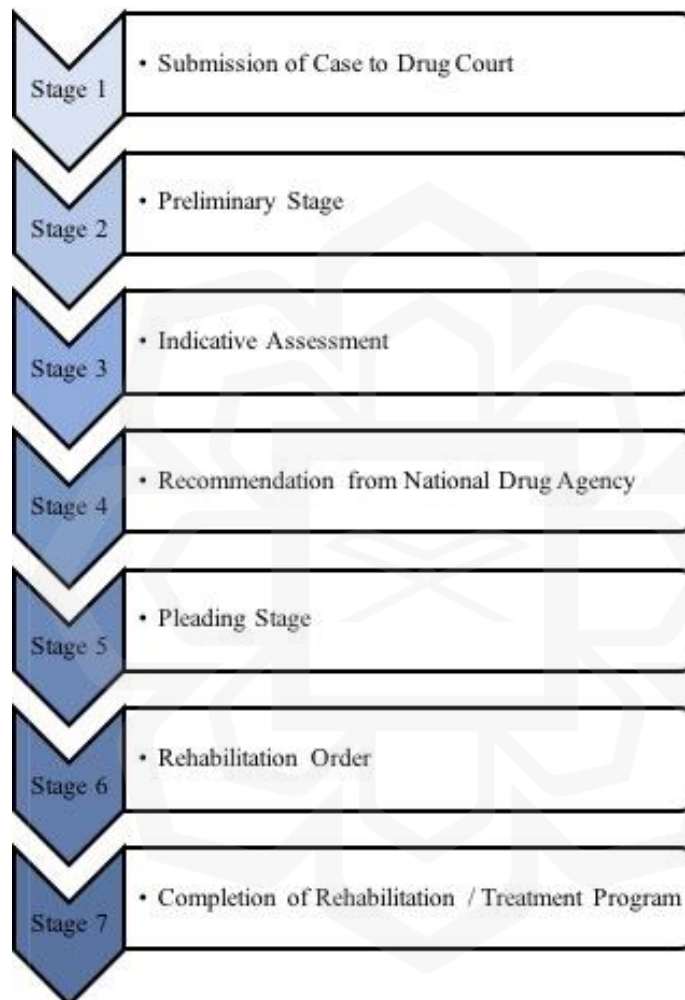


Figure 4.5 The Seven Stages of Drug Court Procedure

Stage one is the initial stage for any Drug Court case to be tried. The Drug court allows case submission by the Prosecutor General's office and the National Drugs Agency (NDA). It has to be noted here that in other criminal related offences tried in

⁵¹ Drug Court of Maldives, *Drug Court Ge Marhalaathah*, (Male: Drug Court of Maldives, 2012).

any other court in Maldives exclusively accepts cases brought by the Prosecutor General. However, the Drug Court does allow the National Drug Agency to submit cases and conduct hearings based on their submission.⁵²

Stage two is the preliminary stage, during which a preliminary hearing is conducted along with the indicative assessment. The primary purpose of having a preliminary hearing is to inform the defendant of his legal rights and of the information regarding the treatment program provided by the court. It has to be noted that the preliminary stage sets the course of the entirety of the defendants' course with the Drug Court in accordance with the law. During this stage the Drug Court will ensure that the defendant is willing to accept the conditions and terms put forward by the court.⁵³ In the instance where the defendant is not willing to accept the conditions and terms in full, then the case will be removed from the mandate of the Drugs Court and forwarded to Criminal Court or any other court with a mandate to try criminal cases.

4.5.3 Indicative Assessment

This is stage three of the Court Procedure indicated in Figure 4.5. The Drugs Court will order the National Drugs Agency to conduct an indicative assessment on the defendant.

The indicative assessment would look into the extent to which the person is addicted to drugs and would assess the type of treatment to be given. The assessment can only be conducted by an authorised person by the National Drug Agency. For this assessment the law requires the person to attend a meeting and answer questions in a truthful manner.⁵⁴ The person is also required to disclose any mental or physical issues

⁵² Ibid.

⁵³ Conditions Regulation R27-214, s 3 Art A.

⁵⁴ Drug Court of Maldives, *Indicative Assessment*. Report, (Male: Drug Court of Maldives, 2012).

they may be having during this interview. In the event the person provides false information or requests the NDA to prepare the assessment in a particular way, then the person will be removed from the assessment process. Even though the person does not have any choice to seek a particular method of assessment from the NDA, the person would have the right to talk about the assessment in front of a judge of the Drug Court.⁵⁵

The Drug Court can authorise the NDA to conduct the assessment on those currently serving sentences in prisons or those who are charged and not yet imprisoned. The primary role of the Drug Court during the Indicative Assessment process would be to bring the person to agree to the terms and conditions of this assessment by NDA. Upon successful completion of the assessment, the court can decide in either of the following three ways:

1. To incarcerate the person in a Drug Offender Remand Centre;⁵⁶
2. To release the person under bail;
3. To release the offender under a conditional release.⁵⁷

In the event if the NDA's indicative assessment shows that the person is not addicted to drugs, then the Drug Court will forward the case to a different court with a mandate to try drug related cases. Furthermore, if the person's mental capacity does not allow for a particular treatment provided by the NDA or if the person is found to be 'inclined' to commit further violence due to a mental deficiency, then these types of people would not be offered treatment by the Drug Court.⁵⁸

During stage four, if the National Drugs Agency recommends that the defendant needs rehabilitation or treatment, then the Drug Court will conduct a hearing for the

⁵⁵ Drug Court of Maldives, *Drug Court Ge Marhalaathah*, (Male: Drug Court of Maldives, 2012).

⁵⁶ Drug Court Regulation, 2014/R-26, s 59 Art A.

⁵⁷ Drug Court of Maldives, *Drug Court Ge Marhalaathah*.

⁵⁸ Drugs Act 17/2011, s 64 Art (a)(b).

defendant. In the event if the National Drug Agency's indicative assessment finds that the defendant should not be provided with rehabilitation or treatment, then the case will be removed from the Drug Courts mandate and would be forwarded to another court, namely Criminal Court.⁵⁹

4.5.4 Pleading Stage

Stage five is the hearing stage where the defendant will be given the option to plead on the charges brought against them. If the defendant pleads guilty to the charges during the Drug Court hearing, then the court will find the defendant guilty of the crime. In this instance, the Drug Court will order the enforcement agencies to suspend the enforcement of the sentence. However, if the defendant either pleads not guilty or does not accept the terms of the treatment programs, then the case will be removed from the Drug Courts mandate and would be forwarded to another relevant court.⁶⁰

4.5.5 Rehabilitation Order

In stage six, the Drug Court issues a rehabilitation order. Upon the defendant pleading guilty and accepting the terms and conditions of the treatment provided, the Drug Court will issue a rehabilitation order containing specifics of the rehabilitation. The order would include everything the defendant should do during the treatment period, the schedule for Drug Court visits and the number of times the person should visit as well as the number times and specifics of dates for the person to provide urine samples for analysis.⁶¹ Depending on the nature of the case, an additional requirement from the

⁵⁹ Drug Court of Maldives, *Drug Court Ge Marhalaathah*.

⁶⁰ Ibid.

⁶¹ Drug Court of Maldives, *Rehabilitation Amuru*. Document, (Male: Drug Court of Maldives, 2012).

defendant is the acceptance of compensation for the victim. In these types of cases, this requirement of compensation must be accepted prior to the Drug Court providing any form of treatment program to the defendant.⁶²

There are 5 specific conditions that the offender would not be able to renege at any time during the rehabilitation order. These conditions are:

1. To not commit any further criminal offence for the duration of the court order;
2. To comply with all orders from the rehabilitation centre;
3. To regularly attend the court;
4. To not leave the island where the rehabilitation centre is located without prior approval from the Drug Court;
5. In the event the persons address is changed, to inform the rehabilitation centre and Drug Court within 3 days.⁶³

If the person fails to comply with the rehabilitation order, then considering the extent of the violation, that person could either be removed from the rehabilitation program entirely and the court would issue an enforcement order of his sentence such as imprisonment or issuance of fines.

The person does have the right to inform the Drug Court if they are not satisfied with the conditions of the rehabilitation order and the court has the full authority to change any condition they want. The Drug Court could also issue leniencies based on the person or based on their progress with the rehabilitation treatment.⁶⁴ These leniencies include to reduce urine sample submission periods or to reduce the number

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Drugs Act 17/2011, s 77.

of times a person is expected to attend certain court assigned places or to reduce durations for any particular community service conditions.⁶⁵

Stage seven is the completion of treatment or rehabilitation program. Upon successful completion of the program the person will be allowed back into the society and the suspended sentence will be rescinded allowing the person to be free of the initial punishment sentence.⁶⁶

There are 2 main sentences issued from the Drug Court during the court process. The first sentence is to complete the drug rehabilitation or treatment program and to halt any pending penal punishments and the second sentence will be delivered upon completion of the first sentence. When the person successfully completes the drug rehabilitation or treatment program as prescribed in the first sentence, the court would sentence the person to return to the society as a law-abiding citizen.⁶⁷ The Drug Court has the discretion to issue the second sentence with conditions or without any conditions depending on how the person conducted themselves during the rehabilitation program.⁶⁸

Table 4.3 Cases Dealt by Drug Court 2010-2020⁶⁹

Years	2012	2013	2014	2015	2016	2017	2018	2019	2020
Drug Court Cases	97	465	677	1271	1302	1612	1514	791	465

⁶⁵ Drug Court of Maldives, *Rehabilitation Amuru*.

⁶⁶ Drug Court of Maldives, *Drug Court Ge Marhalaathah*.

⁶⁷ Drug Court of Maldives, *Rehabilitation Amuru*, (Male: Drug Court of Maldives, 2012).

⁶⁸ Ibid.

⁶⁹ National Bureau of Statistics, *Cases Dealt by Judicial Courts in Male' and Islands, 2010-2020*. Report, (Male: National Bureau of Statistics, 2021).

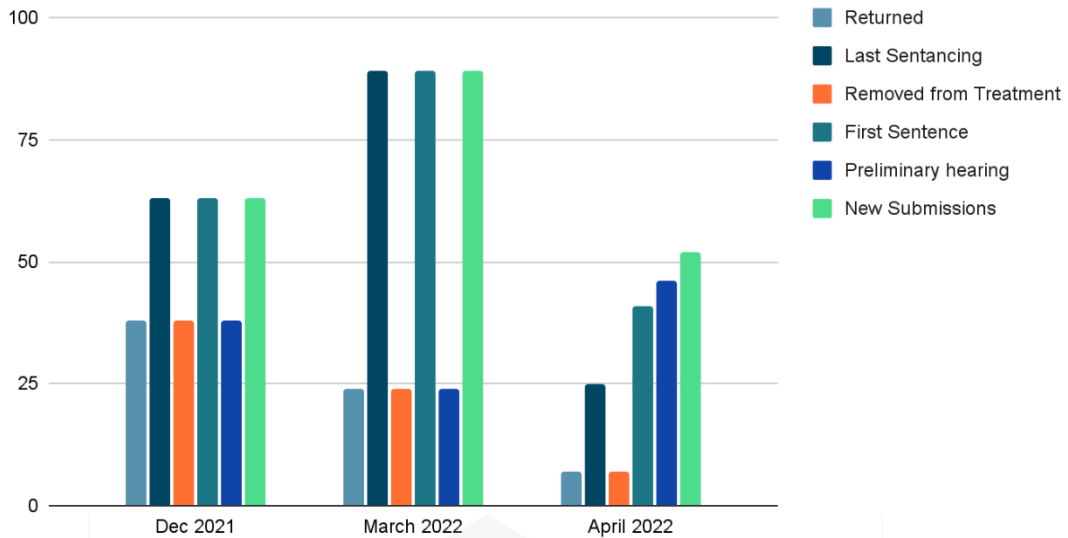


Figure 4.6 Drug Court Statistics 2021-2022

According to the Drug Court statistics published on its considered cases, it can be seen that in December 2021, the Drug Court returned or sent back 38 cases from a total of 63 case submissions from authorities. Further in this month, the court removed 38 drug dependents from treatment. A total of 63 people was given the last sentence upon completion of the treatment program. In March 2022 it can be seen that out of 89 new submissions for treatment, 24 cases were returned by the court and 24 drug dependents were removed from treatment. However, 89 people were given the last sentence in this month. Looking at the latest published statistics from the month of April 2022, where it can be seen that 52 new cases were submitted and 7 were returned. In this month 25 people were given the last sentence and 7 drug dependents were removed from the treatment program.⁷⁰ Furthermore, it has been reported in Edition.mv that a considerable number of drug dependents were found to be discontinuing their treatment programs on their own.⁷¹

⁷⁰ *Drug Court of Maldives*, “Drug Court Statistics 2022”, <<http://www.drugcourt.gov.mv>> (accessed 5 June 2022).

⁷¹ Shahudha Mohamed, “Maldives to Establish Detox Centre in Capital Malé Area”, *The Edition*, April 6, 2020, <https://edition.mv/news/15966> (accessed 1 March 2022)

4.5.6 Conflict with Fundamental Constitutional Rights

It has to be noted that despite the fact that the defendant could only rely on the mandate of the Drug Court if he pleads guilty and agrees on the terms of the treatment program, the defendant does not have the right to conduct the hearings with a lawyer of their choosing. The other notable issue related to the Drug Courts' mandate is the conflict with the fundamental rights provided under the Constitution of Maldives. According to the rights of the accused Section 51 Article [c] "everyone charged with an offence has the right to not be compelled to testify" and Section 52 which states that "no confession shall be admissible in evidence unless made in court by an accused who is in a sound state of mind". No statement or evidence must be obtained from any source by compulsion or by unlawful means and such statement or evidence is inadmissible in evidence. Furthermore, Section 55 of the Constitution states that no person shall be imprisoned on the ground for non-fulfilment of a contractual obligation. All these fundamental rights are seen to be violated if the defendant is seeking the Drug Court to provide him with any form of drug related treatment.

Firstly, the aforementioned rights are violated in the instance where the Drug Court requires a drug dependent person to confess to the charges brought against him if he wants Drug Court mandated treatment otherwise on refusal to confess the treatment will not be provided to him by the court and secondly those rights are violated where the Drug Court punishes the defendant on non-fulfilment of the terms and conditions set forth by the court for his rehabilitation program. According to the 2nd amendment brought to the Conditional Requirements Regulation 2014/R-27, Section 6 (a) of the regulation is amended to remove the person from the treatment program. This amendment takes the fundamental right of seeking much needed treatment for the drug addict perhaps at a time where he requires the treatment the most. Furthermore, an

amendment brought to Section 9 (a) of the Conditional Requirements Regulation identifies any request for a criminal charge by an investigation authority to the Prosecutor General to be considered as if the person had committed an additional crime. Here it has to be noted that in this instance there are many instances where the Prosecutor General does not bring upon charges based on the request of an investigation authority and even in the instances where the defendant is charged in a court of law, there is the possibility of not finding the defendant not guilty. However, the Drug Court is inconsiderate of these legal implications as they find anyone with a request to charge to be as someone who committed a crime. Furthermore, with regards to the rehabilitation order, it is considered under section 79 Article (b) of the Drugs Act 17/2011, to be an order which cannot be appealed to a higher court. As any order from any court is appealable to a higher court, the Drugs Act 17/2011 specifically prevents appeal with regards to rehabilitation orders from Drug Court. It has also been found that people who were no longer dependent on drugs and have started families and fully settled in life were sent to prison to serve their original sentences for failing to meet the demands required by the authorities.⁷²

4.5.7 Treatment Programs Prescribed by The Drug Court

There are 6 types of treatment programs prescribed by the Drug Court for drug dependent individuals. The list provides additional details on the types of classes and activities that will be conducted within each type of program in detail. The available programs mentioned are:

⁷² OHCHR, *Working Group on Arbitrary Detention: Preliminary Findings from its visit to Maldives (29 November to 9 December 2021)*, (Male: United Nations Human Rights, Office of the High Commissioner, 2021).

1. Community Reintegration Program (Basic): The community reintegration program is conducted to familiarize the person seeking drug treatment with the community after completing a residential treatment.⁷³ The main purpose of the program is to let the patient apply what they learnt during the drug rehabilitation treatment to the reintegrate back into the society, and to assist in the challenges faced while completing treatment in the community. The other purpose of bringing the patient to complete treatment in the society is to make the person more responsible and reduce the chance of relapsing. The duration of the program is 3 months.⁷⁴ The program is further subdivided into 3 sessions with each session lasting for 1 month. During the first month the patient is to attend 18 classes that include 4 classes related to Islamic education and the remaining classes dealing with stress, coping mechanisms, confidence and trust building, health, relationships and drug education and addiction process. During the first month all receiving treatment are required to come to a location determined by NDA for signature and to provide urine samples once every week. During this month the patient is also required to attend to the Drug Court once a week for signing.⁷⁵ The first month also requires a minimum of attending 4 counselling sessions and any other NDA mandated classes or seminars.

The completion of the session requirements of the first month will be considered once the patient completes all the program components and

⁷³ Drug Court of Maldives, *Drug Rehabilitation Centre Treatment Program Faruvaage Program Ge Thafseelu*, (Male: Drug Court of Maldives, 2014): 1.

⁷⁴ Ibid.

⁷⁵ Drug Court of Maldives, *Faruvaage Program Ge Thafseelu, Community Reintegration Program Basic. Report*, (Male: Drug Court of Maldives, 2014).

once the urine is negative upon testing.⁷⁶ The second month of the program requires the patient to complete 8 seminars. These seminars include 3 Islamic seminars and seminars on financial management, healthy lifestyle, career development, emotional management and family responsibility.⁷⁷ During the second month the patient is also required to provide urine samples at minimum 3 times and would have to attend the NDA signing every Sunday, Tuesday and Thursday of the week and also visit the Drug Court once every 2 weeks to sign. Furthermore, the patient should also take 4 counselling sessions at minimum and attend any offered classes and sessions by the NDA.⁷⁸

Successful completion of this program with a negative urine result will allow the patient to join the third month of the program. The third month does not contain any specific classes for the patients; however, they are required to attend any programs offered during this month by NDA. Also, just like the second month they would have to attend the signing process by NDA and provide signature 1 time at the Drug Court. There is a minimum requirement of taking at least 3 counselling sessions and they would have to provide urine samples at minimum 3 times during the course of 1 month. Upon successful completion of third month, they will be released back to the community.⁷⁹

2. Community Reintegration Program (Extensive): The purpose of the Community Reintegration Extensive Program is to provide treatment to

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

those who do not have a major problem with drug abuse. The program is divided into two main phases.⁸⁰ In the first phase, classes and skills classes will be required to be completed. The second phase will be carried out for the purposes of monitoring. The purpose of the classes to be completed in the first phase is to provide those who complete their treatment with the necessary information, skills, religious and daily knowledge. The purpose of the second phase is to stop drug abuse and monitor the patient in the community for a longer duration.⁸¹

The duration of the program is 6 months.⁸² There are 4 phases in this treatment program with each phase lasting for a duration of 1 month. The classes conducted during the first month is the same as the basic community reintegration program. However, the patients would have to attend to sign 20 times at the NDA and once every week at the Drug Court and provide urine at least once a week and attend a minimum of 4 counselling sessions.⁸³ The patients are required to attend any additional classes and seminars conducted by the NDA during this month. Upon successful completion they will be able to start the second phase of the program. During this month they would have to attend to sign 12 times at the NDA and attend a minimum of 4 counselling sessions and provide urine at minimum 3 times. They would also have to attend the Drug Court once every 2 weeks to sign. The second phase of this program is based on

⁸⁰ Drug Court of Maldives, *Faruvaage Program Ge Thafseelu, Community Reintegration Program Extensive*, (Male: Drug Court of Maldives, 2014).

⁸¹ Ibid.

⁸² Drug Court of Maldives, *Drug Rehabilitation Centre Treatment Program Faruvaage Program Ge Thafseelu, 2*.

⁸³ Drug Court of Maldives, *Faruvaage Program Ge Thafseelu, Community Reintegration Program Extensive*.

the same seminars provided in the second month of the basic community reintegration program.⁸⁴

Upon successful completion of stage two, they will be transferred to stage three. During this stage they will continue with the same signing process as in stage 2 and would have to attend a minimum of 3 counselling sessions.⁸⁵ Upon successful completion of stage three, the patients will move to the final stage of the program where the signing is decreased to 2 times a week at the NDA and to once a month at the Drug Court. However, they would have to provide urine samples once every week.⁸⁶ It has to be noted that there is no mandatory requirement to take counselling sessions during this stage.

3. Recovery Maintenance Program: Some of the drug users who complete their treatment are employed during the treatment period. The purpose of the recovery maintenance program is to introduce a treatment program for those who are employed and to provide assistance that will make it easier for those who complete treatment and to prioritise the needs of those seeking treatment.⁸⁷ The main purpose of the program is to provide assistance to those who work responsibly in their lives and to ensure that they do not abuse drugs, and that they are responsible and beneficial to the community. One of the objectives of the recovery maintenance program is to provide long-term assistance to stay away from drugs. The duration of

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid., 3.

the program is 3 months.⁸⁸ During the first month the patient would have to attend 4 classes on drug education, complying to law, Islamic studies and job seeking and job retention.

The patient is also required to attend an NDA assigned place to sign and provide urine once every week.⁸⁹ Upon successful completion of the first stage they will move to stage two. In the second month they would have to take 2 life skills classes and 2 relapse prevention classes.⁹⁰ They would also have to provide signature and urine samples at least once a week. When stage 2 is completed they will start the last stage where they would have to provide signature and urine samples once a week for one month.⁹¹

4. Methadone Maintenance Treatment: Methadone Maintenance Treatment (MMT) program is an opioid substitution therapy program. This is a treatment to reduce the harm caused to those who have been addicted to opioids, especially those who use opioids through intravenous injections, and to prevent the spread of the disease in the community. The program consists of two main parts. The first part is the medical component and the second part is the psychosocial component. The medical component includes methadone maintenance treatment where the patient will take medical consultations and daily doses. The psychosocial component includes classes and counselling sessions for patients. The duration of the program is 20 months.⁹²

⁸⁸ Drug Court of Maldives, *Recovery Maintenance Program 2014, Faruwaage Program Ge Thafseelu*, Report, (Male: Drug Court of Maldives, 2014).

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid.

The program is subdivided into 7 stages. The first stage is for 2 weeks where no classes will be conducted, rather the patients will have to consult a doctor and are to take the required doses every day for 14 days. The patients will also have to attend at least 1 counselling session and provide urine one time during the first stage.⁹³ Upon successful completion of the first stage the second stage will begin. This stage is a 6-week program where 5 classes will be required to be attended by the patients. The classes provide methadone information, withdrawal and cravings, drug education and impact of other drugs on methadone. They would also have to attend to sign for the entire duration of the 42 days and consult with a doctor at least once a week. Further they would also have to take a minimum of 3 counselling sessions during this stage. Urine samples will be collected 2 times prior to completion of this stage. The third stage is a 3-month program where the patients are required to attend 19 classes.⁹⁴ It consists of 6 Islamic sessions and other sessions regarding health and wellbeing of the patient. The patient is also required to take methadone dose every day during this stage and to have consultations on given days along with a minimum of 3 counselling sessions. The patient's urine samples will be collected and tested at least 6 times during this stage. Once this stage is completed the fourth stage of the program will begin. This is a 3-month program as well, with 12 classes to attend. The classes include 5 Islamic classes and wellbeing and relationship building classes. The fourth stage

⁹³ Ibid.

⁹⁴ Ibid.

also requires the patients to take methadone dose every day for the duration of the program and to consult a doctor on given days.⁹⁵

There is a requirement to have at least 3 counselling sessions and to provide urine samples for testing 6 times within the 3-month period. After completion of this stage the fifth stage will begin. This is a 3-month program where the patient is required to consult a doctor on given days and are required to take methadone doses every day for the duration of the program. There is a requirement to attend 2 counselling sessions and to provide a minimum of 6 urine samples. During this stage the patient is required to attend 30 Narcotics Anonymous meetings and any other classes or seminars conducted by the program.⁹⁶ Once this stage is completed the sixth stage will begin. The duration of the sixth stage is 3 months where the patient is required to take methadone dose for the entirety of the program and would have to consult a doctor on given days.

There is a minimum requirement of attending 3 counselling sessions and to provide urine samples at least 6 times. Similarly to the fifth stage, the patient is to attend 30 Narcotics Anonymous meetings and any other classes and sessions conducted by the program. Upon completion of the sixth stage the final stage will begin.⁹⁷ The program for the final stage is for a duration of 6 months where the patient is required to consult a doctor on given dates and to take a methadone dose every day for 6 months. There are 2 counselling sessions and the patient is required to provide urine

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

samples at least once a month and should attend 30 Narcotics Anonymous meetings and any other classes or sessions conducted for the program.⁹⁸

5. Special Residential Treatment Program For Women: The special residential treatment program for women is carried out in the treatment centre after exclusion from society. The program includes classes and counselling sessions to be completed.⁹⁹ This program is subdivided into 4 stages. The first stage is for a duration of 30 days where there are 4 Quran classes and 4 Islamic classes and a total of 12 classes on peace and values.¹⁰⁰ The patients are required to provide 1 urine sample for testing and would have to attend all additional residential programs and classes conducted. After the first stage, the second stage of the program is for another 30 days where the program schedule is the same as the first stage.¹⁰¹ Then there is stage 3 where the program is the same just like stage 1 and 2. Stage 4 is also the same.
6. Drug Rehabilitation Centre Treatment Program: The program is conducted at the treatment centre after the patient is removed from the community. The program includes classes and counselling sessions to be completed. The duration of the program is 121 days. However, due to the difficulties faced during the completion of the program, the centre will increase the number of days.¹⁰² This program is subdivided into 7 stages.

⁹⁸ Drug Court of Maldives, *Methadone Maintenance Treatment Program 2014, Faruvaage Program Ge Thafseelu*, Report, (Male: Drug Court of Maldives, 2014).

⁹⁹ Drug Court of Maldives, *Drug Rehabilitation Centre Treatment Program Faruvaage Program Ge Thafseelu*, 6.

¹⁰⁰ Drug Court of Maldives, *Drug Rehabilitation Program for Women Faruvaage Program Ge Thafseelu*, (Male: Drug Court of Maldives, 2014).

¹⁰¹ Ibid.

¹⁰² Drug Court of Maldives, *Drug Rehabilitation Centre Treatment Program Faruvaage Program Ge Thafseelu*, (Male: Drug Court of Maldives, 2014): 5.

The first stage is called the 'intake' stage and the duration is 14 days. During the first week the patients would have to attend 2 Quran classes and 3 peace classes. The second week of the program also provides the same class plans as the first week.¹⁰³ The patients are also required to provide urine samples for testing at least once during this stage and attend any other seminars and workshops conducted for the program. Upon completion, the second stage known as the 'New Member' stage will begin. This stage is for a duration of 21 days where they would have to take a total of 12 classes. There are 4 Quran classes and other classes related to stress management and self-improvement.¹⁰⁴

The patients are also required to provide urine samples at least once during this stage. Upon completion, the third stage will begin. This stage is called the 'Crew' stage and is set for a duration of 14 days where 3 Quran classes along with another 6 classes related to anger management and communication skills are required to be attended by the patients. The patients are required to provide a urine sample for testing during this stage. Upon completion, the fourth stage will begin. This stage is called the 'Random' stage.¹⁰⁵ The duration is for a period of 14 days with 4 Quran classes and 6 stress management and assertiveness class required to be attended by the patients. They should provide 1 urine sample for testing during this stage. The fifth stage is called "Heads" and the duration is for 14 days where 2 Quran classes will be conducted in addition to 8 problem solving, relapse prevention and value songs and poems classes.

¹⁰³ Ibid.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

The patient is required to provide 1 urine sample during this stage.¹⁰⁶ The sixth stage known as the ‘Coordinators’ stage is for a duration of 14 days where patients are required to attend 2 Quran classes along with an additional 8 classes on relationship building and recovery support. The patients are also required to provide 1 urine sample for testing during this stage. The final stage of the program is called the ‘Re-entry’¹⁰⁷ and is conducted for a period of 1 month where there is a total of 44 classes on trust building, self-respect and relapse prevention. The patients are also required to provide 1 urine sample for testing during this stage.¹⁰⁸ It has to be noted that for stages 1, 2 and 3, the Drug Court attendance requirement is 1 time for signing and the same for those in stages 4, 5 and 6.

4.6 ENFORCEMENT AND SOCIAL AGENCIES

There are 2 institutional frameworks established under the virtue of the Drugs Act 17/2011. These institutions are the National Drug Control Council (NDCC) and the National Drug Agency (NDA).

4.6.1 The National Drug Control Council (NDCC)

The National Drug Control Council is established by the president of Maldives under the virtue of the Drugs Act 17/2011.¹⁰⁹ The objectives of the NDCC is to assist the

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Drugs Act 17/2011, s 21, Art (a).

president in formulating drug related policies related to the prevention of drug usage and finding ways to implement the rehabilitation programs for drug dependent people. The NDCC is made up of 12 members all including the Vice President, Attorney General, Commissioner General of Customs, Controller of Immigration and Emigration, Chief of Defence Force, Prosecutor General and 4 other government ministers.¹¹⁰ The NDCC derives its powers from the Drugs Act 17/2011 which provides them with an advisory, oversight and research role in its mandate.¹¹¹

4.6.2 The National Drug Agency (NDA)

The National Drug Agency is established by virtue of the Drugs Act 17/2011 to implement all the related drug policies advised by the National Drug Council to the President.¹¹² The board of the National Drug Agency is composed of 10 members appointed by the president. Amongst these 10 members 1 member is from a non-governmental organisation working towards the prevention of drug abuse.¹¹³ Once the president makes a decision to implement any NDCC policy, then the task would be for the National Drug Agency to carry them out.¹¹⁴ There are 8 specific items included in the mandate of the National Drug Agency. They are:

- a. Implementing measures to prevent the use of drugs and its peddling and trafficking;¹¹⁵

¹¹⁰ Ibid., s 23.

¹¹¹ Ibid., s 22, Art (a).

¹¹² Ibid., s 26, Art (a).

¹¹³ Ibid., s 29, Art (b).

¹¹⁴ Ibid., s 26, Art (a).

¹¹⁵ Ibid., s 27, Art (a).

- b. Identifying drug related crimes and acts related with drug dependency and its health implications due to extended usage of drugs on individuals and to formulate and implement policies to address the issue;¹¹⁶
- c. To oversee whether the drug related policies of the government are implemented according to plan;¹¹⁷
- d. Monitoring the extent of implementation of the programs to fight drug abuse and coordinate work with relevant government agencies in combating drugs;¹¹⁸
- e. To strive in provision of helping drug dependent people return back to society as law abiding citizens upon completion of reintegration programs;¹¹⁹
- f. To coordinate and work in tandem with private sector in a concerted manner in the prevention of drug abuse;¹²⁰
- g. To coordinate with all relevant agencies in the prevention and misuse of drugs;¹²¹
- h. Work to obtain aid and benefits from local agencies and collaborate with international agencies and share information and expertise between parties.¹²²

¹¹⁶ Ibid., s 27, Art (b).

¹¹⁷ Ibid., s 27, Art (c).

¹¹⁸ Ibid., s 27, Art (d).

¹¹⁹ Ibid., s 27, Art (e).

¹²⁰ Ibid., s 27, Art (f).

¹²¹ Ibid., s 27, Art (g).

¹²² Ibid., s 27, Art (h).

4.6.3 Treatment Programs Under Regulation 2012/R-40

According to the Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40 there are currently guidelines for 8 different treatment centre programs.

1. Detoxification Centre Program: The detoxification program is conducted for those who are dependent on drugs for a duration between 3-4 weeks.¹²³ The treatment is provided inhouse to ensure that the effect of drugs on the body and mind of the dependent is completely removed.¹²⁴ The program is to be conducted under specialist medical professionals.¹²⁵ The program mainly involves removing the effect of drugs from the body through best available medical treatment and providing information to the dependents on the ways they could stay off drugs to encourage them on staying clean.¹²⁶ The detoxification would provide their services to anyone coming to the centre upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of detoxification treatment by the assessment of NDA.¹²⁷ The detoxification centre is to provide their services 24 hours a day on every day of the week.¹²⁸
2. Drug Treatment and Rehabilitation Centre programs: The basis of drug treatment and rehabilitation centre programs lies on the importance of providing inhouse medical care and treatment for those who are dependent on drugs.¹²⁹ The programs of these centres would have to focus on changing the lives of those seeking treatment through various methods.

¹²³ Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40, Annex 1, s 1.

¹²⁴ Ibid., Annex 1, s 1.

¹²⁵ Ibid., Annex 1, s 2(1).

¹²⁶ Ibid., Annex 1, s 2(2).

¹²⁷ Ibid., Annex 1, s 3.

¹²⁸ Ibid., Annex 1, s 6.

¹²⁹ Ibid., Annex 2, s 1.

These methods would help them to stay away from drugs and help them cope with the withdrawal symptoms from being addicted.¹³⁰ These centres will also provide detoxification treatment programs along with psychosocial treatment and reintegration programs.¹³¹ The minimum duration for a first-time patient is for a minimum period of 3 months,¹³² however, based on the assessment, the program could be extended on a need basis. The treatment programs from a drug treatment and rehabilitation centre would be provided to anyone upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of treatment by the assessment of NDA.¹³³ The regulation states that 13 specific areas must be addressed in the treatment programs conducted in these centres. These areas are:

- a. Medical services: anyone requiring medical and psychological care should be provided with medical and psychological care.¹³⁴
- b. Providing healthy food and providing information on the benefits of eating health. Also providing the residents of the facility with healthy food.¹³⁵
- c. Religious and spiritual care: improving affinity for religion in the minds of the residents and also giving time and opportunity for daily prayers.¹³⁶

¹³⁰ Ibid., Annex 2, s 2.

¹³¹ Ibid., Annex 2, s 2(3,4).

¹³² Ibid., Annex 2, s 3(b).

¹³³ Ibid., Annex 2, s 3(a).

¹³⁴ Ibid., Annex 2, s 4(a) 1.

¹³⁵ Ibid., Annex 2, s 4(a) 2.

¹³⁶ Ibid., Annex 2, s 4(a) 3.

- d. Providing information on the detrimental effects of using drugs: conducting classes and seminars for residents.¹³⁷
- e. Family services: improving family relations for those who are ready to reintegrate back to society upon completion of the rehabilitation program and also for those who have estranged relationships with their families¹³⁸.
- f. Sports and entertainment: conduct different sports and activities during free time.¹³⁹
- g. Psychological care: providing individual, family and group counselling sessions.¹⁴⁰
- h. Legal assistance: providing legal assistance through partners for those residents facing legal problems.¹⁴¹
- i. Work skills: training with work related skills to enable residents to earn an income upon completion of the rehabilitation program.¹⁴²
- j. Life skills: teaching regarding handling difficulties of life and how to overcome those issues.¹⁴³
- k. Relapse prevention: identifying first time usage reasons and teaching how to face them in life.¹⁴⁴
- l. Aftercare information: increase interest in after care programs and provide information about after care.¹⁴⁵

¹³⁷ Ibid., Annex 2, s 4(a) 4.

¹³⁸ Ibid., Annex 2, s 4(a) 5.

¹³⁹ Ibid., Annex 2, s 4(a) 6.

¹⁴⁰ Ibid., Annex 2, s 4(a) 7.

¹⁴¹ Ibid., Annex 2, s 4(a) 8.

¹⁴² Ibid., Annex 2, s 4(a) 9.

¹⁴³ Ibid., Annex 2, s 4(a) 10.

¹⁴⁴ Ibid., Annex 2, s 4(a) 11.

¹⁴⁵ Ibid., Annex 2, s 4(a) 12.

m. Employment assistance.¹⁴⁶

3. Treatment and Rehabilitation Centres for Children: Drug treatment and rehabilitation centres for children are for those who are under the age of 18 where they are treated to protect them from the menace of drugs while keeping them separate from adults. These specialist centres are designed to help them cope with the difficulties they face while working on getting treatment and rehabilitation for drugs.¹⁴⁷ These centres will provide in house treatment and rehabilitation services along with detoxification service.¹⁴⁸ Additionally, the children will be provided with psychosocial treatment¹⁴⁹ and the programs conducted in these centres will aim to help the children reintegrate back into society.¹⁵⁰ The treatment programs from a drug treatment and rehabilitation centre for children would be provided to anyone upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of treatment by the assessment of NDA in addition to the age of the drug dependent to be under the age of 18.¹⁵¹ There are 13 specific programs to be conducted in these treatment centres which align with the programs with the Drug Treatment and Rehabilitation Centres for Adults. The only different option available from these centres is the opportunity for education. These centres will provide children with education opportunities¹⁵² instead of employment opportunities.

¹⁴⁶ Ibid., Annex 2, s 4(a) 13.

¹⁴⁷ Ibid., Annex 3, s 1.

¹⁴⁸ Ibid., Annex 3, s 2, Art (1).

¹⁴⁹ Ibid., Annex 3, s 2, Art (3).

¹⁵⁰ Ibid., Annex 3, s 2, Art (4).

¹⁵¹ Ibid., Annex 3, s 2, Art (3).

¹⁵² Ibid., Annex 3, s 2, Art (5)13.

4. Drug Treatment and Rehabilitation Centres for Women: These centres are specifically designed to provide treatment and care for females who are dependent on drugs. These centres will provide detoxification services along with rehabilitation and psychosocial care. The centres will also provide reintegration programs for women.¹⁵³ The facilities are available for inhouse treatment. The treatment programs from a drug treatment and rehabilitation centre for women would be provided to anyone upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of treatment by the assessment of NDA in addition to the condition that the treatment seeking party should be a woman.¹⁵⁴ The duration of inhouse treatment is allocated to be not for a duration less than 3 months for any new resident despite the type of treatment they require.¹⁵⁵ The programs conducted in these centres are the same for those programs conducted at Drug Treatment and Rehabilitation Centres.¹⁵⁶
5. Halfway Houses: These centres are designed as a normal home providing the residents to experience life in the society whilst getting their care.¹⁵⁷ The halfway houses are mainly for those drug dependent people upon completion of their rehabilitation treatment and prior to reintegration to society.¹⁵⁸ These centres will provide 24-hour inhouse care services and the programs conducted in these places are the same as the programs

¹⁵³ Ibid., Annex 4, s 3, Art (1,2).

¹⁵⁴ Ibid., Annex 4, s 3, Art (3).

¹⁵⁵ Ibid., Annex 4, s 3, Art (4).

¹⁵⁶ Ibid., Annex 4, s 3, Art (5).

¹⁵⁷ Ibid., Annex 5, s 5, Art (1).

¹⁵⁸ Ibid., Annex 5, s 5, Art (6).

conducted in Drug Treatment and Rehabilitation Centres¹⁵⁹ except the aftercare service program.

6. Drug Offender Remand Centres: For those drug dependent people who are under police custody after being accused of drug usage and drug peddling would receive their rehabilitation and other drug related treatment in these 24-hour operated¹⁶⁰ remand centres.¹⁶¹ Remand centres are only operated by the government and licences for operation is not issued to private parties.¹⁶² The remand centres would primarily focus on providing basic care for the inmates during their detention period.¹⁶³ The centres would also provide detoxification and psychosocial support during their stay. One of the aims of keeping drug dependent inmates at a special remand centre, is to facilitate the police in bringing those accused of crimes to court and other NDA required programs on time.¹⁶⁴
7. Opioid Substitution Therapy (OST) Programs: These are programs conducted at specialist centres for those who are dependent on opioids, especially for those who use intravenous means of injecting opioids in their bodies.¹⁶⁵ The purpose of the program is to prevent and minimise the harm on drug dependents and on to the society in general. There are 3 specific types of opioid substitution therapies allowed in Maldives. These are:

¹⁵⁹ Ibid., Annex 5, s 5, Art (5).

¹⁶⁰ Ibid., Annex 6, s 3, Art (a).

¹⁶¹ Ibid., Annex 6, s 1, Art (a).

¹⁶² Ibid., Annex 6, s 1, Art (b).

¹⁶³ Ibid., Annex 6, s 2, Art (2).

¹⁶⁴ Ibid., Annex 6, s 2, Art (4,5).

¹⁶⁵ Ibid., Annex 7, s 1.

- a. Methadone;¹⁶⁶
- b. Buprenorphine;¹⁶⁷
- c. Naloxone and Buprenorphine.¹⁶⁸

The OST providing centres are to provide services and treatments that include OST treatment, conducting psychosocial and social classes and seminars and individual and group counselling services.¹⁶⁹ The duration of the treatment is determined on a case to case basis by medical professionals. It has to be noted that OST program centres are not required to conduct inhouse treatment programs for drug dependents.¹⁷⁰ The treatment programs from OST centre would be provided to anyone upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of treatment by the assessment of NDA.¹⁷¹ Furthermore, the OST program centres are also required to conduct the specific programs required for Drug Rehabilitation and Treatment Centres, except providing healthy food and providing information on the benefits of eating healthy, sports and entertainment, aftercare, employment assistance and work skills.¹⁷²

8. Community Service Centres: These centres provide after care services for those who complete the detoxification, residential treatment and halfway house programs.¹⁷³ The primary purpose of the community service centre is only to provide after care services to those who are released into the society helping them through their reintegration process.¹⁷⁴ The duration for the after care services provided is to be for a duration of a minimum 3

¹⁶⁶ Ibid., Annex 7, s 2, Art 1.

¹⁶⁷ Ibid., Annex 7, s 2, Art 2.

¹⁶⁸ Ibid., Annex 7, s 2, Art 3.

¹⁶⁹ Ibid., Annex 7, s 3, Art 1,2,3.

¹⁷⁰ Ibid., Annex 7, s 5.

¹⁷¹ Ibid., Annex 7, s 4, Art 1,2.

¹⁷² Ibid., Annex 7, s 1.

¹⁷³ Ibid., Annex 8, s 2.

¹⁷⁴ Ibid., Annex 8, s 6.

months.¹⁷⁵ The programs conducted in the community service centre will depend on the aftercare needed for the patient.¹⁷⁶ However, the programs conducted in Drug Rehabilitation and Treatment Centres are to be provided at the aftercare centres as well.¹⁷⁷ The treatment programs from Community Service Centre would be provided to anyone upon an order from the Drug Court and anyone who seeks treatment voluntarily and is found to be requiring of treatment by the assessment of NDA.¹⁷⁸

It has to be noted that in 2021, the Deputy Minister of Health Mr. Shamau Shareef reiterated that in order to provide the drug dependents with treatment, there should be major reforms brought to the drug treatment and rehabilitation programs. He mentioned that within the last 10 years there has been no assessment on the drug situation conducted in Maldives. With regards to the treatment provided, he mentioned that the only types of treatment services available are the inhouse treatment, community treatment and methadone treatment. He mentioned that there has been no significant change in how the treatment is delivered, thus those who are recovering from addiction are unable to cope in the society. It is found that re-integration treatment is not available, and the government expects to provide this service by the end of 2022.¹⁷⁹ According to an interview given by a member of NDA, Abdul Hameed mentioned that there has to be mechanisms established to provide easy access to treatment for the youth. He mentioned that the NDA is working on creating a national standard of care for treatment of drug dependents. He also mentioned that NDA does have a wait list for those seeking their services. He also mentioned the lack of treatment facilities in the islands and the

¹⁷⁵ Ibid., Annex 8, s 4, Art (a).

¹⁷⁶ Ibid., Annex 8, s 4, Art (b).

¹⁷⁷ Ibid., Annex 8, s 5.

¹⁷⁸ Ibid., Annex 8, s 3.

¹⁷⁹ Tohira Azhaar, "Masthuvaathaketheege Faruvaage Nizaamah Bodethi Badhalu Takeh annaane", *raajje.mv*, October 20, 2021, <https://raajje.mv/108186> (accessed 1 March 2022).

problems faced by those court mandated drug dependents for having to travel to the capital city for mandatory signing, urine sampling and required rehabilitation services.¹⁸⁰

An interview conducted by the Maldives Financial Review in 2021 has revealed that despite the law requiring detoxification and rehabilitation centres, inclusive community treatment and remand centres and half-way housing facilities, in reality what the NDA has done is provide the bare minimum with inadequate construction and not following standard operating procedures. In fact, it is revealed that progress records of those receiving treatment are not kept. The treatment and rehabilitation centres are run as a detention centre and not as rehabilitation centric as it should. The lack of counsellors, and vocational and educational classes not being conducted is another issue. Furthermore, without any regard to the condition of the patient, the NDA groups them together and provides the same treatment for everyone. Unsupervised diagnosing and issuance of prescriptions has been causing more harm than good to the victims. The patients are made to sign documents that mention they had completed counselling and classes, however in reality these patients were not provided with the required counselling, classes and educational programs. With regards to the board of NDA, it is mentioned in the Maldivian Financial Review in 2021 that instead of ministers representing themselves, the board is represented by ministry representatives. The NDA has done almost nothing to rehabilitate and reintroduce the drug dependent clients back into the community. As a result, a number of deaths due to drug abuse which could have been avoided is caused by the lack of attention from the NDA.¹⁸¹

¹⁸⁰ Areeba, "Easy Access to Drug Rehabilitation Services is Vital: NDA", *The Times of Addu*, April 2021, 2021, <https://timesofaddu.com/2021/04/03/easy-access-to-drug-rehabilitation-services-is-vital-nda/> (accessed 1 March 2022).

¹⁸¹ *MFR*, "The National Drug Agency, Woefully Inefficient", *Maldives Financial Review*, November 4, 2021, <<https://mfr.mv/policy/the-national-drug-agency-woefully-inefficient>> (accessed 7 June 2022).

During a visit to the Drug Treatment and Rehabilitation Centre operated by the NDA, by the members of the United Nations Working Group on Arbitrary Detention found that 90% of the residents of this facility were sent by Drug Court and there were those who were exempt from rehabilitative treatment under the Drugs Act 17/201 in the centre. These individuals were detained for substance abuse even though they were found in possession or consumption of alcohol. The waitlist for seeking admission for treatment at the Drug Treatment and Rehabilitation Centre was longer for males, leading to relapse and having their suspended sentences reactivated.¹⁸²

4.6.3.1 Analysis

The Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40 provides guidelines for 9 different treatment centre programs. However, it is seen that despite having a detailed regulation gazetted the NDA is not enforcing its legally mandated obligations in accordance with the law. This is mentioned publicly by the an official in an interview given to Mihaaru News on 26th June 2022. According the publication, the official informed that there is no use to spend money on an agency like NDA as it has fully halted the most intrinsic rehabilitation and care services required of them.¹⁸³ The only function of the centre in Male' is to take signatures from those who need to provide daily signing and taking urine samples. In the publication, it is mentioned that in the recent years the board of the agency has changed 2 times and to this day there is no CEO appointed to the Agency.¹⁸⁴ The required specialist treatment

¹⁸² OHCHR, *Working Group on Arbitrary Detention: Preliminary Findings from its visit to Maldives, (29 November to 9 December 2021)*, (Male: United Nations Human Rights, Office of the High Commissioner, 2021).

¹⁸³ Asima Nizar, "NDA Ge Beynumeh Nei, Drugs Faruwaa Huttifa", *Mihaaru News*, June 26, 2022, <https://mihaaru.com/report/109917> (accessed 5 August 2022).

¹⁸⁴ Ibid.

centres are still not fully established and due to this reason, there are ensuing problems such as the number of drug dependents who have completed the assessment and are waiting for a placement in the facility are increasing by the day.¹⁸⁵ This is something which could otherwise be prevented.

4.6.4 Required Regulations for the Enforcement Under Drugs Act 17/2011

In accordance with the Drugs Act 17/2011, the NDA has published several regulations for the operation of drug rehabilitation treatment centres.

1. Regulation Stipulating the Procedures to be followed in Collecting, Transporting and Testing urine for Drug Testing (2012/R-26): This regulation which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 6th May 2012 within the time period mentioned in the law. This regulation defines the sample taking process with regards to urine collection from the drug accused and drug dependents. The regulation specifies the collection and testing procedures and the procedures for authorities to act in the instance where the accused refused to provide a urine sample on request.¹⁸⁶
2. Regulation Stipulating Licensing for Drug Dependence Assessment and Indicative Assessment of Drug Offenders (2012/R-28): This regulation which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 10th May

¹⁸⁵ Ibid.

¹⁸⁶ Regulation Stipulating the Procedures to be Followed in Collecting, Transporting and Testing Urine for Drug Testing 2012/R-26, s 2, Art 3.

2012 within the time period mentioned in the law. The purpose of this regulation is to establish the qualifications and the procedures in licensing Drug Dependence Assessment and Indicative Assessment service providers.¹⁸⁷

3. Licensing Regulation for Drug Treatment Centres (2012/R-31): This regulation which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 10th May 2012, within the time period mentioned in the law. This regulation provides the rules on how the National Drug Agency would provide licenses for treatment centres. The regulation allows the treatment centres to be operated by private individuals, non-governmental organisations and other registered companies.¹⁸⁸ The regulation also allows 7 types of rehabilitation centres to be operated by private individuals. These are detoxification centres, drug treatment and rehabilitation centres, drug treatment centres for children, drug treatment centres for women, halfway houses, drug offender remand centres, opioid substitution therapy programs and other types of programs.¹⁸⁹ The regulation also allows the treatment centres to conduct programs in 3 languages which are Dhivehi, English and Arabic.¹⁹⁰
4. Regulation Stipulating the Operation of Drug Treatment Centres (2012/R-40): This regulation which is required also by section 50 of the Drugs Act

¹⁸⁷ Regulation Stipulating Licensing for Drug Dependence Assessment and Indicative Assessment of Drug Offenders 2012/R-28.

¹⁸⁸ Application Form for a License to Establish a Treatment Centre Under Article 49 of the Drugs Act, Licensing Regulations for Drug Treatment Centres 2012/R-31, Annex 1, 1.

¹⁸⁹ Ibid., Annex 1, 2, 2.

¹⁹⁰ Ibid., Annex 1, 2.

17/2011 to be published by the NDA from 3 months of its establishment was published on 20th September 2012, after a 6 month delay from the time period mentioned in the law. This regulation is the main regulation concerning the operation and the procedures of the treatment and services provided in each type of facility for drug rehabilitation in Maldives. The regulation contains all the details necessary for the operation and conduct of the facilities from the staffing arrangements to operating times and how a drug dependent could seek services from the facility.¹⁹¹

5. Regulation Governing the Board of the National Drug Agency (2014/R-8): This regulation which is required under section 28, Article (e) of the Drugs Act 17/2011 to be published for the establishment of the National Drug Agency was published on 30th January 2014, after 1 year 10 months and 1 day from the announcement of establishment of the NDA. This regulation contains the composition and the procedures of the NDA's board along with the responsibilities of the board members.¹⁹²
6. Regulation Stipulating the Procedures to be Followed in Dealing with Samples Taken for Drug Testing (2014/R-385): This regulation, which is required under section 161, Article (c) was published on 16th November 2014, after 2 years 7 months and 18 days from the prescribed duration in the law. The regulation defines the conditions under which a person can be asked by the police to provide a urine sample for drug testing, and the

¹⁹¹ Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40.

¹⁹² Regulation Governing the Board of the National Drug Agency 2014/R-8.

procedures to be followed in transporting and testing samples after obtaining samples.¹⁹³

7. Regulation Stipulating the Licensing of Treatment Centres (2014/R-386):
This regulation which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 16th November 2014, after a delay of 2 years 7 months and 18 days from the prescribed duration in the law. This regulation defines the procedure on issuing licence to treatment centres in Maldives.¹⁹⁴
8. Regulation Stipulating the Operation of Treatment Centres (2012/R-387):
This regulation which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 16th November 2014, after a delay of 2 years 7 months and 18 days from the prescribed duration in the law. The regulation spelt out the policies for the establishment and operation of treatment centres, the standards required to be maintained in such centres, and other standards to be followed in the operation of such centres.¹⁹⁵

4.6.5 Drug Rehabilitation and Treatment Centres

According to the Drugs Act 17/2011 within 18 months from coming into force of the law, the National Drug Agency is given the task to set up 6 treatment centres for the treatment and rehabilitation of drug addicts.¹⁹⁶ These centres are:

¹⁹³ Regulation Stipulating the Procedures to be followed in Dealing with Samples Taken for Drug Testing 2014/R-385.

¹⁹⁴ Regulation Stipulating the Licensing of Treatment Centres 2014/R-386, s 1.

¹⁹⁵ Regulation Stipulating the Operation of Treatment Centres 2012/R-387, s 1, Art (a).

¹⁹⁶ Drugs Act 17/2011, s 47, Art (a).

1. Centre for detoxification: The purpose of the detoxification centres is designed to conduct programs under the supervision of health care providers to protect a drug user from drug abuse. This centre will primarily assess the drug dependent on how much that person is dependent on drugs and the extent of influence the drugs have taken on that person's senses, mind and body. Thus, the detoxification centre will try to conduct programs to alleviate the dependency and influence of drugs from the users' body.¹⁹⁷
2. Drug treatment and rehabilitation centre: Drug treatment and rehabilitation centres are designed to help drug users overcome the difficulties they face while working on drug treatment. These centres provide inhouse treatment facilities by placing emphasis on the support and care they would need whilst going through withdrawal symptoms.¹⁹⁸
3. Drug treatment and rehabilitation centre for children: These drug treatment and rehabilitation centres for children are for any drug dependent person under the age of 18. The services of these centres are designed to help children under the age of 18 cope with the difficulties they face while working on drugs by treating them separately from adults through various programs.¹⁹⁹
4. Drug treatment and rehabilitation centre for women: These centres focus only on women who are dependent on drugs and would provide all the services and care provided in any other drug rehabilitation centre.²⁰⁰

¹⁹⁷ Ibid., s 48.

¹⁹⁸ Ibid.

¹⁹⁹ Ibid., s 48, Art (c).

²⁰⁰ Ibid., s 48, Art (d).

5. Halfway house: The halfway houses are based on a model of integrating drug dependents after treatment into the general society. The halfway houses are designed on the concept on how drug users live within a family to bring them back into society, where drug addicts can also be provided with necessary treatment.²⁰¹
6. Drug Offender Remand Centre: The Drug Offender Remand Centre is designed to provide basic treatment to those arrested for drug use and peddling whilst they are in custody.²⁰²

Further, according to the Drugs Act 17/2011, the National Drug Agency is to publish all the regulations related to the establishment and operation of drug rehabilitation and treatment centres. The law requires the NDA to provide all the regulatory details of standards of procedure and operation of these facilities.²⁰³ Along with the standard of operating procedure and the delimitation of the qualifications and professions of the staff for each of the centres,²⁰⁴ the law also states that in all facilities where counselling is provided, the NDA should specifically ensure that it should be Islamic Behavioural counselling.²⁰⁵

Furthermore, the law also states that the centres should be increased depending on the number of individuals seeking treatment.²⁰⁶ It has to be noted that even though the government takes the initiative in providing necessary infrastructure and services for the treatment and rehabilitation of drug dependent people, the law allows the National Drug Agency to authorise private parties to establish and operate drug

²⁰¹ Ibid., s 48, Art (e).

²⁰² Ibid., s 48, Art (f).

²⁰³ Ibid., s 50.

²⁰⁴ Ibid., s 51.

²⁰⁵ Ibid.

²⁰⁶ Ibid., s 47, Art (b).

treatment centres in Maldives.²⁰⁷ The National Drug Agency is to monitor all drug treatment and rehabilitation facilities in the country twice every year and to publish a report on their findings.²⁰⁸ Furthermore, the Drug Court is also in accordance with the Drugs Act 17/2011 to review and monitor all treatment programs to see its compliance with the law and whether they are conducted in accordance with the court rehabilitation order.²⁰⁹

4.6.5.1 Analysis

According to a publication by the Public Service Media, it mentioned that by 2021 the government has established 5 types of centres. These include 2 Drug Treatment and Rehabilitation centres, a half-way house, Drug Treatment and Detoxification Centre, and 3 Drug Detoxification and Community Rehabilitation Centres²¹⁰ and a Community Service Centre. As the law required the NDA to establish 6 separate establishments within 18 months of the enactment of the law, not being able to establish all the facilities according to the law can be seen as a failure to fully comply with the Drugs Act 17/2011, as there are still requirements for women and children's facilities to be established within 18 months of the establishment of NDA.

It has to be noted that these treatment centres are located in just 6 islands out of the 185 inhabited islands in the country. This isolated nature of centres is mentioned by the United Nations Working Group on Arbitrary Detention where they mentioned in their report that some have failed the requirements of the Drug Court due to the fact that

²⁰⁷ Ibid., s 47, Art (c).

²⁰⁸ Ibid., s 52, Art (c).

²⁰⁹ Ibid., s 95.

²¹⁰ PSM News, "NDA Allows Private Contractors to Operate Drug Rehabilitation Centres", *PSM NEWS*, April 13, 2021, <https://psmnews.mv/en/84574> (accessed 10 June 2021).

they would have to report to a facility in the capital city. The high cost of staying in the capital city is relatively high compared to other islands and it causes a real problem for those coming from other islands seeking rehabilitation and treatment.²¹¹ The issue of high cost of coming to the capital city just to provide the urine sample and for treatment was also mentioned by the member of NDA Mr. Abdul Hameed, to the local newspaper the Times of Addu.²¹²

4.6.6 Seeking Treatment Locally Within Maldives

The Drugs Act 17/2011 is very flexible in its provision of treatment and rehabilitation opportunities for drug dependent people. However, there are exceptions to seeking treatment, the primary exception is for those who fail from the indicative assessment after it shows a mental suffering which could prevent or restrict that person from actively participating in the program. Also, if the persons temperament is violent due to a mental condition or have any medical illness or disorder from actively taking part in the provided particular treatment program,²¹³ those individuals will not be allowed seeking rehabilitative treatment under the Drugs Act 17/2011.

For those who requests treatment in Maldives on their own volition, the law identifies three instances of seeking rehabilitative treatment. The first instance is seeking treatment by a drug dependent minor under the age of 18 years. These individuals are not allowed to come forward without a parent to seek treatment. The

²¹¹ OHCHR, Working Group on Arbitrary Detention: Preliminary Findings from its Visit to Maldives, (29 November to 9 December 2021), 2021, United Nations Human Rights, Office of the High Commissioner, (accessed 7 June 2022).

²¹² Areeba, "Easy Access To Drug Rehabilitation Services is Vital: NDA", *The Times of Addu*, April 2021, 2021, <https://timesofaddu.com/2021/04/03/easy-access-to-drug-rehabilitation-services-is-vital-nda/> (accessed 1 March 2022).

²¹³ Drugs Act 17/2011, s 64, Art (c).

parent of the minor should apply on behalf of the child, upon which the treatment will be provided in accordance with the regulation.²¹⁴ Those who are 18 and above are allowed to voluntarily request for treatment without parental consent. However, it should be mentioned that there are specific documents the person should sign, provide and pass in order to receive the treatment.²¹⁵ The first such document is a document issued by a state institution empowered by law to investigate criminal offences that no person has been accused of a crime other than drug abuse, and that a court has jurisdiction to investigate such cases.²¹⁶ The second document is a document which informs after an indicative assessment, that if the drug dependent person is not placed in a treatment facility, they or others in the community are aware of the risk of being threatened by them.²¹⁷ The other document is based on after conducting an assessment by a person authorized to conduct an indicative assessment in accordance with the regulations made by the National Drug Agency under the Act, that they must know from the document of the centre that they have been assigned a treatment program to be involved on the basis of that assessment.²¹⁸ Further a document from the treatment facility should be provided that they have the facilities required for the treatment for the seeking person²¹⁹ and the final document is that the volunteer must provide evidence that a rehabilitation order against a person has not been postponed due to lack of space at the centre for treatment.²²⁰

It has to be noted that those individuals who voluntarily requests for treatment are allowed to acquire treatment without having them criminally culpable. The law

²¹⁴ Ibid., s 89, Art (a and b).

²¹⁵ Ibid., s 90.

²¹⁶ Ibid., s 90, Art (a).

²¹⁷ Ibid., s 90, Art (b).

²¹⁸ Ibid., s 90, Art (c).

²¹⁹ Ibid., s 90.

²²⁰ Ibid., s 90.

provides immunity from prosecution to anyone willingly requesting rehabilitative treatment barring the extent of the persons criminal activities does not go beyond using drugs.²²¹ With regards to this model the United Nations Working Group on Arbitrary Detention mentioned that the current model of either choosing prison or rehabilitation is not based on a positive health centric model. The people in this circumstance choose rehabilitation only to avoid going to prison.²²²

4.6.7 Seeking Treatment Abroad Outside of Maldives

Drug dependent people are also allowed to seek rehabilitative treatment in a facility other than Maldives. Regarding this the law specifies the conditions of the treatment facility they are seeking to register with. A person who has been ordered to be rehabilitated by the Drug Court can participate in a program conducted in a foreign treatment centre in the Maldives and apply to the National Drug Agency for treatment.²²³ In this instance the proposal upon receipt is to be forwarded by the National Drug Agency to the Drug Court for the permission to participate in a program conducted by the Maldives at a foreign treatment centre.²²⁴ The Drug Court will review the application and the court will grant permission if the particular conditions are met by the foreign treatment centre. The Drug Court can also make additional conditions and requirements.²²⁵ The main conditions for a foreign treatment centre are mentioned in the law as; firstly the centre requested by the applicant to go is a treatment centre permitted by the National Drug Agency and that the treatment program selected by the

²²¹ Ibid., s 92.

²²² OHCHR, *Working Group on Arbitrary Detention: Preliminary Findings from its Visit to Maldives (29 November to 9 December 2021)*, (Male: United Nations Human Rights, Office of the High Commissioner, 2021).

²²³ Drugs Act 17/2011, s 99, Art (a).

²²⁴ Ibid., s 99, Art (b).

²²⁵ Ibid., s 99, Art (c).

centre is approved by the National Drug Agency.²²⁶ Secondly, the centre is required to have an agreement with the National Drug Agency to cooperate, share information and report to the agency on those seeking treatment at the centre.²²⁷ In addition, there are conditions such as the drug dependent should declare whether they are able to bear the expenses incurred during the stay to participate in the treatment program of the foreign treatment centre.²²⁸

The drug dependent seeking rehabilitative treatment abroad should also be someone without a criminal offence in another court and that they were not sentenced for a criminal offence that had not been completed, except for a sentence withheld by the Drug Court.²²⁹ Additionally, the National Drug Agency is to inform the Drug Court of the progress of the individual during the rehabilitation program in a foreign centre. Furthermore, a list of all NDA accredited foreign rehabilitation centres should be published and accordingly revised at least once a year.²³⁰ However, it has to be noted that an accredited foreign rehabilitation centres list published by the NDA contains only 5 treatment centres in India.²³¹

4.6.8 Seeking Treatment in Detention Facilities

According to the Drugs Act 17/2011, anyone arrested for the offences of drug use or drug peddling by the Maldives Police Service, is a drug dependent individual requiring treatment. The offender under custody should be detained in a Drug Offender Remand Centre and they are not to be held in custody in any other detention facility.²³² On 2nd

²²⁶ Ibid., s 99, Art (c 1 and 2).

²²⁷ Ibid., s 99, Art (c 3).

²²⁸ Ibid., s 99, Art (c 4).

²²⁹ Ibid., s 99, Art (c 5 and 6).

²³⁰ Ibid., s 99, Art (d and e).

²³¹ National Drug Agency, Announcement No: (IUL)434-PDER/434/2019/185, Gazette.gov.mv.

²³² Drugs Act 17/2011, s 101, Art (a).

June 2016, a drug offender remand centre was established by the NDA. The capacity of the centre is 80 inmates and is established in the island of K. Maafushi.²³³

Despite the law requiring rehabilitation and treatment for drug dependent people in detention centres the government has failed to provide such services to date. However, in 2022 the government announced that they have started an inmate rehabilitation service for those serving their sentences in a prison in the island of K.Maafushi.²³⁴

It has been found in the United Nations Working Group on Arbitrary Detention report that police custodial, remand centres and prison facilities lacked medical care within the facilities. As there are detainees experiencing withdrawal symptoms whilst being detained in these facilities, they provide painkillers for withdrawal symptoms. The reports recommended that authorities ensure that provision of in-house detoxification treatment is available for those detained.²³⁵

4.7 CONCLUSION

In general, it is found that Maldives is facing a gruelling problem with narcotics and drugs. The numbers are seen to be on the rise when it comes to drug related problems reported each year to the Maldives Police Service. It has been found that the police service is unable to stop the inflow of drugs and other narcotics as well as to put those behind these crimes to justice in a seamless manner. This is the same with all the

²³³ Drug Offender Remand Centre Ai Behey, National Drug Agency, gazette.gov.mv.

²³⁴ Aminath Yusreen Ahmed, "Maafushi Jalugai Furathama Faharah Qaidheennah Drug Rehabilitation Program Fashaifi," *Prisonstory*, 23 February 2022, 2022, <<https://prisonstory.mv/5607>> (accessed 1 March 2022).

²³⁵ OHCHR, *Working Group on Arbitrary Detention: Preliminary Findings from its visit to Maldives, (29 November to 9 December 2021)*, (Male: United Nations Human Rights, Office of the High Commissioner, 2021).

government authorities mandated with the prevention of drugs. The number of drug dependents are also on the rise each year. For this reason, 12 years ago the government of Maldives implemented a new drug law known as the Drugs Act 17/2011 with a wider scope that would enable to address every imaginable situation in criminalising and punishing offenders.

The Drugs Act 17/2011 recognises that drug dependents should be provided with care and additional support from within the government as well as from the community, for this reason the law has included many provisions regarding required treatment and rehabilitative care for those who are dependent on drugs and even has mentioned on the establishment of different care facilities to help rehabilitate them. The tasks mandated under were handed over to the judiciary and a social agency under Article 30 and Section 26 Article [a] of the Drugs Act 17/2011. On the judicial side, the Drug Court was given the task of conducting hearings on relevant drug dependency cases and identify those who are in need of rehabilitative care. On the social side a new government agency was established for the purposes of ensuring the delivery of care and treatment mandated under the Drugs Act 17/2011. Thus, under the Drugs Act 17/2011 a specified timeframe was given to the Drug Court and National Drug Agency to prepare and establish the rehabilitation facilities and all the regulations related to the operation of those facilities along with additional regulations required for the functioning of the Drugs Act.

It has to be noted that both the Drug Court and National Drug Agency has implemented most of the required paperwork such as publishing the relevant regulations and guidelines. However, from an implementation point of view both the actors are seen to be failing behind due to lack of oversight and enforcement of rules and regulations. The failures and delays are mostly seen on the side of the NDA as they have declared

their failure to meet the mandated deadlines and having found to be failed to enforce their legal mandate in its full potential.

The next chapter will be the analysis of the findings, recommendation, the discussion of further suggestions and implications as well as the conclusion chapter of this thesis.



CHAPTER FIVE

RESEARCH FINDINGS, RECOMMENDATIONS AND CONCLUDING ANALYSIS

5.1 INTRODUCTION

This chapter provides a comprehensive summary of the key findings presented in the previous sections of the thesis, offering a clear and consolidated view of the research outcomes. It will include an overview of the data collected during the research process, providing a foundation for the conclusions drawn. This section is designed to encapsulate the core insights and discoveries, ensuring that the essence of the extensive research is communicated effectively and succinctly.

Additionally, the chapter will present a series of recommendations based on the findings, focusing on rehabilitation and treatment strategies. These suggestions are aimed at enhancing current practices and informing future approaches in the field. The chapter will also highlight areas that warrant further research, pointing out new directions and opportunities for continued exploration. Concluding the research, this part will reflect on the overall journey of the study, encapsulating its contributions and implications in the broader context of the enforcement of the Drugs Act 17/2011 of Maldives.

5.2 ANALYSIS OF RESEARCH FINDINGS AND RECOMMENDATIONS

This section presents a thorough analysis of the research findings related to the complex issue of drug abuse, legal frameworks, and rehabilitation strategies in the Maldives. This section focuses on the current state of drug abuse in both Maldives and

Malaysia, offering a comparative view that sheds light on unique challenges and similarities. It also examines the constitutional benchmarks of the Maldives with an emphasis on the integration of *Shari'ah* compliant laws. Additionally, the section delves into the Islamic perspective on punishment and rehabilitation, providing insights into how these principles are applied within the legal systems. A comparative study of the Islamic rehabilitation models and conventional rehabilitation models is also conducted, highlighting various treatment methodologies and their cultural relevance.

Furthermore, a more focused analysis of the legal approaches towards drugs in the Maldives, exploring the specific punishment models and treatment strategies employed by these nations. This includes an evaluation of the effectiveness of drug courts in the Maldives and the role of the National Drugs Agency in drug control and rehabilitation efforts. Moreover, the section uncovers critical findings related to the challenges and shortcomings in the enforcement of drug rehabilitation and treatment laws in the Maldives. Concluding this comprehensive analysis, the section offers well-considered recommendations for future rehabilitation and treatment strategies, aiming to enhance the efficacy of drug-related interventions and policies in the Maldives. This final part synthesizes the research into actionable insights, aimed at informing and guiding policy-making and practical applications in the realm of drug rehabilitation and treatment.

5.2.1. Situation of Drug Abuse in Maldives and Malaysia

Finding 1: With regards to the issue of drug abuse in Malaysia, it is found in the research that the country is still unable to fully declare victory on the war on drugs. The main factors found were the geographic location of the country being in the golden triangle famously known for its production of drugs such as heroin, crystal meth and

other synthetic narcotics. The golden triangle is the region bordering between Thailand, Laos and Myanmar. As a result, Malaysia is in the supply tracks of these dangerous drugs. However, in this study it has found that in the recent years, Malaysia is no longer used as a trafficking destination for drugs to the world. The main reason is found to be its strict drug laws with harsher punishments.

Whereas, with regards to the issue of drug abuse in Maldives, it is found that there is a significant increase in the abuse of drugs including use and trafficking in Maldives (*Chapter 4, Figure 4.1*). It is found that the issues related to drugs in Maldives is an issue with no end in sight. It is estimated that the number of drug victims in the country to be 30,000 and the United Nations estimate the number to be doubled due to the bare minimum treatment provided in the country. Accordingly, it has been found that on average a drug user in Maldives spends up to \$1000 US dollars to purchase drugs. Despite the enactment of a progressive Drugs Act in 2011, the failure in preventing the Maldivian drug situation is found to be due to lack of enforcement of drug laws and lack of effective treatment for the offenders (*Chapter 4*).

The findings of this research show that between the two countries of Malaysia and Maldives, the situation of the Maldivian drug cases is worsened due to the failure of enforcing the laws and having a mechanism in place to oversee the proper functioning of the authorities in charge.

Recommendation: Expand the mandate of border control agencies and review legislation to increase oversight and accountability of related agencies to prevent drug trafficking and its circulation in the country. Regular auditing and review of border agencies and its procedures through parliamentary effort would increase transparency and improve the agencies competency in the long-term. This would also improve the accountability and would help minimising misconduct by individual border control

agents. Also, in order to prevent inbound drug trafficking from the borders, measures have to be included by enacting stricter laws with severe penalties such as the ones found in countries such as Malaysia. Additionally, resources should be allocated to border control agencies and the law enforcement to identify drugs at the borders and to intercept them. Further, proper training should be provided to these parties. Furthermore, Maldives should increase its corporation with international stakeholders to combat the issue of drugs through intelligence sharing and harmonising the laws and procedures so that multinational joint effort could be utilised in its maximum to tackle the issue of drug trafficking. With regards to the circulation and peddling of drugs in the Maldives, effort should be made to give more resources to the law enforcement agencies to identify and intercept the drug peddlers in the community. Focus should also be given to bring awareness to the general public on the issue of the dangers of drugs and its harm. Initiatives at a national level which would incorporate every aspect of the society including schools, offices, community outreach programs should be mandated to be conducted by the laws and regulations to minimise the circulation of drugs and its use in the Maldivian society and to combat the issue of drug in every aspect.

5.2.2. Constitutional Benchmark of the Maldives and the Requirement for *Shari'ah* Compliant Laws

Finding 2: It is found in the research that the Constitution of the Republic of Maldives 2008 identifies two objectives in the enactment of the laws in the country. First and foremost, the Constitution sets a benchmark where it establishes the Maldives as a Republic based on the principles of Islam; and further reiterates that no law contrary to any tenet of Islam shall be enacted in Maldives. Based on this, it is found that any

direction of critique should be on this objective and thus further analysis was conducted on the constitutional definition of ‘Tenets of Islam’ and ‘*Shari’ah*’. It is found that *Shari’ah* is interpreted under the Constitution of Maldives as the Holy Qur’an and the ways preferred by the learned people within the community and the followers of *Sunnah* in relation to criminal, civil, personal and other matters found in the *Sunnah*. Additionally, the tenets of Islam are identified as the Holy Qur’an and those principles of *Shari’ah* whose provenance is not in dispute from among those found in the *Sunnah* of the noble Prophet, and those principles from these two foundations. It is found that these would then include all the primary sources of the Islam along with the consensus and reasoning of the scholars of Islam.

5.2.3. View of *Shari’ah* on Punishment and Rehabilitation

Finding 3: It is found in this research that there are primarily 3 primary types of punishments recognised under *Shari’ah*; these are *Hudud*, *Qisas* and *Ta’zir*. Additionally, in the temporal punishment category there are *Diyat* and penance as approved punishments (*see section 2.2.2.2*). It is found that in the 8 types of *Hudud* applicable punishments intoxication is identified as an offence with a punishment of flogging 80 lashes on the offender. As *Hudud* punishments are immutable it was found that this punishment should be in any Islamic penal code. It is also found that intoxication is the punishment for the offence of intoxication through an alcoholic medium. However, it is found in this study that some drugs and other modern synthetic narcotics and drugs does not fall under this category as they are not used as an intoxicant. It is found in this research that early scholars of Islam had a difference of opinion on the nature of these drugs and some have abstained from issuing a *fatwa*

because of its lack of information on these drugs. However, in the later years it is the consensus of the scholars that all forms of drugs are *haram* and thus should be penalised.

Therefore, for these drug offences the only option available is considered to be *Ta'zir* or discretionary punishments under *Shari'ah*. These punishments range from a simple admonition to death penalty based on the severity of the offence. However, it should be noted that these punishments are entirely up to the discretion of the judge or the ruler of the Islamic society.

Furthermore, it is found in this study that any punishment in Islamic law does not come without a purpose. These purposes are rooted in the Islamic doctrines and should be ensured to be followed under any Islamic society. There are 3 primary intents and purposes of punishments to be found under *Shari'ah*. They are, reformation, retribution and deterrence (*see section 2.4.1*). These values are also known as *Maqasid al-Shari'ah*. The role of these purposes is to preserve the essential 5 elements for human life. These are found to be; the preservation of faith, preservation of soul, preservation of wealth, preservation of mind, preservation of offspring and preservation of honour. It is found that under Islamic view, any failure in establishing any of these essential elements would lead to chaos and corruption in the society. It is found in this study that drugs have a negative effect towards these preserved elements, so the offenders must be punished. However, it is found that these essentials should be observed in every aspect of the Islamic society including in punishing offenders.

Looking further into the punishment and rehabilitation aspect under *Shari'ah* for drug abusers, it is found that Islam guarantees a way for every individual to return to the right path. This allows the offenders to receive rehabilitative treatment and return to the society as law abiding citizens. Hence, harm reduction and recovery are identified as essential elements to any drug punishment under *Shari'ah*. Based on the phases of

process of the prohibition of alcohol in the Qur'an, it can be established that human nature should be considered for any type of dependent vice. It is found that there are 3 phases for harm reduction through the maxims of Islamic jurisprudence. The first maxim is that harm must be eliminated. This is known as the emergency approach. The emergency approach also consists of the maxim of widening the facility for a matter that is narrowed. In order to relieve a person from hardship this approach can be used. This approach allows the maxim of performing prohibited actions if it depends on necessity. The second approach is found to be the extraordinary approach. This approach allows the permissibility of any forbidden act due to necessity to the extent of eliminating that particular necessity. It is found that this approach is considered as one of the basis for including proportionate treatment methods to mitigate and minimise the harmful effect on drugs on drug addicts. The third approach is known as the Moral Approach, where it identifies maxims such as harm must be eliminated but not by means of another harm and a specific harm is tolerated to prevent a more general harm and choosing the lesser harm between 2 or more harms. It is found that this approach could be utilised in the provision of drug treatment with a lesser addictive drug if no other option is available.

It is found in this study that Islam recognises drugs and addiction as a disease that requires treatment and thus have considered the harm reduction approaches identified and recognised under international laws.

5.2.4. Islamic Rehabilitation Model and Conventional Rehabilitation Models

Finding 4: In the conventional rehabilitation model it is found that the primary approach to the elimination of drugs is based on 2 policies in their respective drug master plans.

These policies are identified by the United Nations Office of Drugs and Crime in its report on practical implementation of drug treatment and rehabilitation guide. The first policy is found to be public policy where it must identify the treatment programs they would undertake at a local, regional or national level. The policy should also include the planning process of developing these strategic frameworks. The second policy is the national drug policy (*see Section 3.3.1*). This policy is used to identify the commitment of a particular country to achieve their goals in a given timeframe. This timeframe will include long-term and short-term goals and policies to prevent the abuse of narcotic drugs. It is found that in the National Drugs Policy there are 3 additional components. These components would address the issue of drugs directly. The first component is the Demand Reduction component where addicts are identified, and support is provided to them along with awareness programs. It is found that this policy is the first instance approach where those who are introduced to drugs are identified before they get involved too much. This component would work with health and law enforcement agencies. The second component is the Supply Reduction strategy. It is found that in this component the control mechanisms are put in place to regulate pharmaceutical drugs and control the flow of illegal narcotics drugs. This component will include additional border control agencies. The third component is the Harm Reduction component. This component is found to be the main face in tackling the effect of drugs and providing much needed health, social and economic guidance to drug users and the society as a whole. It is also found that these policy measures differ from country to country based on the need and status of drug abuse, cultural, religious, economic and political nature of the country. However, the primary policies would be similar (*see Section 3.3.1*).

It is found that the Declaration on the Guiding Principles of Drug Demand Reduction, provides a holistic approach requiring the commitment of communities as well as the governments at the highest level in establishing these policies. It should be noted that this convention is adopted by the General Assembly of the UN. The convention identifies an ideal drug framework to be able to identify areas of drug prevention, programs to discourage initial use, focusing on reduction of negative health and social consequences of drug abuse as well as adoption of early intervention methods, public awareness programs, drug treatment programs, rehabilitation services, relapse prevention mechanism and social reintegration and aftercare services.

When identifying the rehabilitation models currently made available in the western world, it is found that a theoretical approach to treatment is used. The most well-known is the Intensive Outpatient Treatment programs, also known as IOTs. One of the most famous IOT for drug rehabilitation is called the 12-step program. This program was founded in the United States of America in 1935. The primary steps of the 12-step program involve the inclusion of a spiritual involvement known as a 'higher power' or god. This approach asks the patients to submit to the will of the higher power and ask forgiveness among other steps. This approach is found to be rather successful even among those who do not subscribe to a particular faith. It is also found that since the effectiveness of this approach is deeply dependent on the patient on adhering to the 12 steps of the program, the monitoring of progress will be hindered (*see Section 3.3.3*).

In this study it has been found that an IOT known as the Matrix model is also widely used since its development in the 1980's. It is found that this model is a hybrid model with 2 parts, of the first part a therapy model such as the 12-steps program with an additional combination of drug education, family and group therapy is given to the patient followed by the second part where it is found that 4 main areas are addressed in

the recovery process of the patient. These areas are early recovery, family education, relapse prevention and social support. It is found that this model is much more effective than the 12-steps program alone, as it has shown to improve the psychological indicators of the substance abusers in a much effective manner. The other notable finding of this approach is that it involves continuous checking-in with the patients by testing their urine samples to see that they are on track. Unlike the 12-steps program the Matrix model requires professional assistance and a cohesive model structure to conduct successfully.

The other notable IOT found in this study is the CBT or the Cognitive-Behavioural Therapy approach used in drug rehabilitation and treatment. The model is based on the theory that emotion and behaviours could be modified through education and learning methods. It is found that in this model the patients are taught on the techniques to recognise and reduce the risk of relapse as well as taught on the ways to maintain their abstinence from drugs. This model could also be paired with the aforementioned 12-step program. However, it is found that the CBT method could not be uniformly applicable to all patients and thus would have to be changed based on the cognitive ability of each individual.

Secondly, when identifying the rehabilitation approaches considered under the Islamic models there are some clear connections found between the western approaches and the Islamic models. It is found that the Millati Model, known for its 12-steps in helping the recovery and rehabilitation, is directly modelled after the original 12-step program of the Alcoholics Anonymous and Narcotics Anonymous. It is also found that despite being modelled after the 12-step program, the Millati Model incorporates Islamic values and primarily focusing on the wrongs committed by the believer upon neglecting the rightful place deserved to Allah (SWT). It is found that in the Millati

Model the only way to return to society for a drug addict is to repent and mend his ways and seeking guidance from Allah (SWT).

The other Islamic model of treatment identified in this study is the Islamic Integrated Model. This model can be seen as an offshoot of the Matrix model as this model is also a community-based model with focus on 3 stages of treatment starting from the initial screening and advice to seeking treatment at a facility followed by an intensive rehabilitation program. Throughout all these treatments the continuous observation of Islamic religious practice and application of Islamic principles in their lives are required.

It has also been found in this study that an Islamic treatment model called the Psycho-Spiritual Therapy model is also available for drug addicts. This model is very much like the Cognitive Behavioural therapy with an additional focus on being observant and mindful to the commandments in the Qur'an in order to relieve stress and harms of life. It has been found that this treatment model could also be used alongside other treatment models as an ad-hoc model (*see Section 3.3.4.3*).

Overall, it is found that the conventional models of treatments in the west and the Islamic models of treatment are theoretically approaching the rehabilitation of drug users in the same manner and Islam does not prevent the utilisation of any type of helpful means to relieve the patients from a greater risk, such as the use of methadone treatment, if no better alternative is available. Furthermore, it is found that Islamic treatment models are compliant with the Harm Reduction model of treatment recommended and adopted by the United Nations (*see Chapter 3*).

5.2.5. Malaysian and Maldivian Legal Approach Towards Drugs

Finding 5: In the approach towards tackling the issue of drugs in Malaysia, this study has found that there are 4 key legislations enacted by the parliament. The first one is the Dangerous Drugs Act 1952. This legislation regulates and criminalises various drug offenses such as drug trafficking, manufacturing, possession and use. This legislation contains punishments from death penalty, life imprisonment, whipping to fines for offences committed under this Act. The other legislation in place in Malaysia is the Dangerous Drugs (Special Preventive Measures) Act 1985. This legislation is found to contain the powers to law enforcement agencies in detaining traffickers and others suspected of drug related activities. One of the most notable features of this Act is that it prevents the right from refusing to answer questions asked by the enforcement agencies if that person is detained and questioned on a matter related to drugs. The third legislation is the Dangerous Drugs (Forfeiture of Property) Act 1988. This is found to be a special legislation to stop organised trafficking of drugs into and through Malaysia. The legislation also criminalises the circulation of dangerous drugs in the society and also deals with the issue of acquiring and utilising property through drugs. The fourth legislation is the Drug Dependents (Treatment and Rehabilitation) Act 1983. This legislation allows for the respective authorities to detain suspected drug users and subject them to medical examination to determine whether they are drug addicts.

Secondly, looking at the legal aspect of Maldives in terms of drug prevention laws, it is found that Maldives has enacted 2 laws that addresses the drug problem. The first law is the Penal Code of Maldives and the second law is the Drugs Act 17/2011. The Drugs Act 17/2011 is the key piece of legislation dealing with the problem of drugs and drug rehabilitation. The Penal Code is used to punish drug offenders such as

traffickers and those failing to successfully complete the mandatory rehabilitation provided under the Drugs Act 17/2011.

It is found that the Drugs Act 17/2011 recognises both drugs as a criminal activity as well as an offence where those needing treatment and rehabilitation should be provided with such care. The law introduced new enforcement agencies for the purpose of rehabilitating addicts. Furthermore, 2 additional oversight bodies were created known as the National Drugs Council and the National Drugs Agency. It has also introduced a new specialist judicial court just specifically for the issue of drugs known as the Drugs Court of Maldives. It is found that the primary purpose of having such a comprehensive legislation addressing the situation of drugs in the country is to provide an avenue to reduce dependency on drugs by addicts and to act as an early intervention mechanism for those getting introduced to substance abuse. Even though the Drugs Act 17/2011 criminalises drug abuse, it seeks to provide an approach of treatment and rehabilitation in the first instance for any offender rather than sending the person to prison.

As previously mentioned, the establishment of the Drugs Court of Maldives under the Act is a significant milestone in the war on drugs in the country. Section 35 of the Drugs Act 17/2011 provides a mandate over 4 categories of people. These people are those addicted to drugs and at the same time willing to enter into a confession plea deal along with not having any further drug related charges against that person. Drug peddlers and those currently serving sentences in prison are allowed under the mandate of the Drug Court for treatment. It is found that the Drugs Court could have hearings related to other offences such as theft, burglary and others if that offence was committed by someone under the influence of drugs.

5.2.6. Drug Punishment Models in Malaysia and Maldives

Finding 6: Looking at the drug punishment model in Malaysia, it is found that 6 different types of punishments are available for the use and trafficking of drugs. These punishments are as follows:

- a) **Death Penalty:** it has been found that until 2018, a mandatory punishment of death penalty was given to those found guilty of trafficking drugs into Malaysia. This punishment is recognised under section 39b of the Dangerous Drugs Act 1952. This punishment was later amended to give the judge discretion on whether to issue a life imprisonment sentence and 15 strokes of whipping or the death penalty. It is found that the purpose of this mitigation is to allow the trafficker to cooperate with the authorities to disrupt the trafficking rings.
- b) **Detainment and Monitoring of Movements:** it has been found that under the Dangerous Drugs (Special Preventive Measures) Act of 1985, the authorities were allowed to detain people accused of trafficking drugs up to 2 years without a court process. Furthermore, this Act also allows the law enforcement agencies to detain any individual suspected of a drug offence for 60 days. After the 60-day period the home ministry can extend the duration of his detainment up to 2 years or require the person to wear a monitoring device.
- c) **Freezing and Forfeiting of Assets:** it is found that under the Dangerous Drugs (Forfeiture of Property) Act of 1988, the authorities are allowed to freeze or forfeit the assets of drug traffickers. In these instances, the burden

of proof lies on the suspect to prove that the asset is acquired through lawful means.

- d) **Imprisonment, fine and whipping:** Under the Dangerous Drugs Act 1952, the punishment of imprisonment ranging from a few years to life is allowed. Furthermore, it is mentioned that fines and whipping could be given as legal punishments for drug related offences.

Secondly, looking at the punishment aspect under the Maldivian laws, it is found that there are 3 types of punishments under the Drugs Act 17/2011. These are:

- a) **Imprisonment:** the maximum imprisonment term for drug offenses could range from a few years to a maximum of life imprisonment.
- b) **Fines:** it is found that for drug offences the fines could range from MVR50,000 to MVR10,000,000 depending on the type of the drug offence committed.
- c) **Forfeiture of Assets:** the law allows for the forfeiture of assets acquired through drug related activities.

It is found in this research that the punishments mentioned in the laws in Maldives and Malaysia are not in contravention with the rules of *Shari'ah* and thus are considered to be *ta'zir* punishments. However, the Maldivian punishment mechanism for drug related offences are considerably more lenient overall.

Recommendation: Harsher punishments could be considered for drug trafficking related offenses in the Maldives. It has to be noted that since Maldives has a moratorium on the implementation of death penalty, the life imprisonment punishment along with severe fines could be reviewed and additional detainment and movement control aspects could be considered for prime actors akin to the Malaysian approach. This

recommendation is based on the factors found in this research on Malaysia that enforcement of harsher punishments are effective in deterring drug offences.

5.2.7. Drug Treatment Models in Malaysia and Maldives

Finding 7: The treatment models in Malaysia; this research found that there are 2 primary forms of treatments available in Malaysia. The first one is a court mandated one and the second one is a voluntary treatment model. It is found that the court mandated treatment is guaranteed under the Drug Dependents (Treatment and Rehabilitation) Act 1983. This Act gives the authority to enforcement agencies to detain suspects and test them for drug dependence. In the event that the suspect is found to be a drug dependent then the case is submitted to a relevant court to process the rehabilitation order. Under this order the suspect will be referred to a rehabilitation centre for mandatory treatment and rehabilitation. The duration of this treatment is 2 years followed by an additional 2 year of undergoing aftercare. However, it has been found that these mandatory treatment does not work too well for the benefit of the patient and thus current Malaysian approach has been shifted since, to voluntary care, where a number of care clinics were established to which the drug dependents and their families could come without having a fear of legal repercussions. These clinics provide free services and allows the dependent to manage their own goals and targets in the treatment process. It has also found that Malaysia has introduced new pilot programs such as substitution therapy and needle and syringe exchange programs. It has been found that the Malaysian approach towards the drug treatment and rehabilitation is aimed at promoting harm reduction programs in the country (*see Section 3.4.3.2*). As a result, it is found that the number of people sent for mandatory rehabilitation under court orders have decreased since 2005. Furthermore, it is found that the adoption of a

community-based rehabilitation program under the supervision of community with peer support and counselling is found to be rather effective in the provision of care and treatment for drug addicts.

Secondly, looking at the findings on the drug rehabilitation programs in Maldives, it is found that there are 6 types of treatment programs prescribed under the Drugs Act 17/2011. These programs are allowed to be approached either voluntarily or through a Drug Court mandatory order. The first type of treatment program is the Drug Rehabilitation Centre Treatment Program. This program is also available under a special classification for female drug dependents. The duration of the program is 121 days. During the program the dependents are to take extensive Islamic educational programs including Qur'an classes along with other counselling and special treatment regimes. Further, the Community Reintegration Program (Basic) is provided to the patient upon successful completion of a residential treatment program.

The purpose of this treatment is to allow the dependent to apply what he learned during the residential treatment in the community. The duration of this program is 3 months and his activities are closely monitored through-out the duration. The dependent is to attend counselling sessions and Islamic seminars and financial, health, career, emotional management and family responsibility programs. They would also have to provide a urine sample weekly. The other rehabilitation program is known as the Community Reintegration Program (Extensive). This program is for those who do not have a major dependency on drugs. The program is divided into 2 parts where in the first part, the dependent would have to attend classes and the second part will be the monitoring phase. The duration of this program is 6 months. It is found that an employment centric treatment model is also available under the law. It is called the Recovery Maintenance Program.

In this program the dependents are allowed to take job opportunities whilst at the same time complying with the rules and regulations of the treatment they are seeking. This will include weekly educational, Islamic studies and job seeking and job retention classes. It is found that the law identifies Methadone Maintenance Treatment programs to be conducted for those requiring opioid substitution therapy. This treatment is focused on reducing the harm caused to the drug addicts through supplying intravenous injection. It is found that this treatment contains a medical aspect along with a psychological aspect for the patients. The duration of this program is 20 months according to the needs of the patient.

Additionally, it is found that according to the law 6 types of rehabilitation and treatment centres should be established by the National Drug Agency. These include a centre for detoxification, a drug treatment and rehabilitation centre, a drug treatment and rehabilitation centre for children, a drug treatment and rehabilitation centre for women, a halfway house and a drug offender remand centre. It is found in this research that the NDA has since established 5 types of centres by 2021 and have not yet established a centre for women and children as required by the Act.

Based on the data available it is found that the treatment models in both Malaysia and Maldives are compliant with *Shari'ah*. It is also found that Maldives have codified all the treatment and rehabilitation models along with the structure of the programs in great detail.

Recommendation: Despite Maldives having codified all the treatment and rehabilitation models down to every possible program which would be conducted on a daily basis at the centres, it is important to review the regulations to incorporate oversight functionality to ensure proper implementation of these programs accordingly.

5.2.8. Findings Related to Failures of Enforcement of Drug Rehabilitation and Treatment Laws in Maldives

Finding 8: It is found that Maldives does have a comprehensive legislation in place to address the issue of drugs in the country, the Drugs Act 17/2011. This Act does recognise the criminal nature and the dependent nature where addicts would require treatment. However, it is found that most of those requiring treatment are still serving prison sentences and are unable to get the full benefit of the law due to shortcomings in the area of proper enforcement of the law.

Recommendation: The primary oversight body for the proper functioning and enforcement of the drug legislation, the National Drug Council, should review its membership to include members from the public, NGO's, legislative, judicial and media services rather than its current formation of just government ministers and heads of security and border agencies. This will increase the accountability and improve the overall oversight of the National Drug Agency and Drug Court.

5.2.9. Findings Related to Drug Court in Maldives

Finding 9.1: It is found that the Drug Court established under the Drugs Act 17/2011 is located in the capital city of Male'. Thus, preventing those requiring the services of the court from accessing it as travel to the capital city is expensive and difficult. It should be noted that there are over 200 inhabited islands in the country and having one court in one specific island does not ensure the full application of law fairly on all citizens. Furthermore, since the Drug Court and other criminal courts in the country

have the same mandate on punishing drug offenders, much needed treatment is delayed for dependents in case where a hearing is conducted in a different court.

Recommendation: To improve the reachability of the mandate of the Drug Court, consideration should be given to allow anyone seeking treatment in any inhabited island to access justice and treatment from where they are located. As there are other magistrate courts in all inhabited islands, the Drug Court sessions could be delegated to magistrate courts to ensure no-one is denied services of the court due to the location they reside. Additionally, consideration must be on the dual hearings conducted by both the Criminal Court and the Drug Court to specify procedures that would not inhibit the treatment procedure for those seeking treatment.

Finding 9.2: it is found that as the Drug Court requires drug dependents to accept all the terms and conditions they set forth before they hear any individual case, in the event if the dependent refuses to a term or a condition the case is referred to Criminal Court for trial. In this instance if the dependent is found guilty and sentenced to prison, that dependent would not be able to access the much-needed treatment and rehabilitation under the Drugs Act 17/2011. This criterion prevents seeking rehabilitation for those who require treatment but refuses to confess to the charges brought against them, as they are not allowed for a treatment program by the Drugs Court.

It has to be noted that the refusal of the Drugs court with regards to a rehabilitation order is also prevented from appealing to High Court to overturn the court's decision further exacerbating the situation for the defendant, the drug dependant are not able to have a lawyer represent them in Drugs Court.

Furthermore, in this study it is also found that the defendants having to confess to the charges brought against them or otherwise preventing them from getting much

need treatment and rehabilitation from the Drugs Court is in contravention with the constitutional rights of the person and the prevention of representation by a lawyer and appealing to High Court is in contravention with the fundamental constitutional rights of the person (*see Section 4.5.6*).

Finding 9.3: It is found that by December 2021, from the 63 cases submitted by authorities for drug dependents, 38 cases were returned or sent back by the Drugs Court. This absolute authority given to the Drugs Court to decide on treatment opportunity to addicts, preventing a possibility of seeking treatment through the court is a violation of fundamental human rights and in contravention with the constitutional rights of individuals of Maldives.

Recommendation: The study identified that the Maldivian drug laws and regulations for treatment and rehabilitation are not based on a positive health centric model, rather it is found that the treatment is available upon confession to possession of drugs which would open the avenue for any treatment option under the Drugs Act 17/2011. For this reason, the rehabilitation paradigm in legislation must be changed to allow treatment without confession to an offense and also to continue receiving proper drug treatment for those addicts serving prison sentences. Furthermore, the removal of drug addicts from treatment due to different reasons such as failure to show up for a urine test and such provisions in the legislation should be reviewed to ensure all addicts would get treatment without subject to complete removal from the program.

5.2.10. Findings Related to The National Drugs Agency in Maldives

Finding 10.1: It is found that those found to be mentally unfit by the NDA's drug indicative assessment will not be offered treatment by the Drugs Court. This prevents

those who require special treatment for drug related addictions from getting the much-needed treatment opportunities.

Recommendation: Those with mental disabilities requiring drug treatment should not be turned away from receiving the treatment. Thus, special proposals specific for such cases should be put forward to incentivise and to include within current and new treatment facilities to accommodate people requiring special assistance. It has to be noted that the current drug framework of Maldives does not have individualised treatment programs for those with mental disabilities and special needs individuals. To tackle this issue, the drug law should be amended to include treatment plans for these people tailored for their specific needs. Consideration should be given to ensure no one is left behind when it comes to drug rehabilitation and treatment. The government should also ensure that specialist treatment professionals and social workers are included in the rehabilitation centres. Furthermore, community and social care support system should be established through the laws so that ongoing care could be ensured for everyone even after they are released from the rehabilitation facility. Additionally, regular assessments by the community, families, NGO's and other relevant government bodies; of the NDA run rehabilitation facilities and treatment centres would help to improve the treatment provided of the maximum effectiveness possible.

Finding 10.2: It is found that the mandate given to the National Drug Agency in establishing treatment and rehabilitation centres is not fully completed despite the Drugs Act of 2011 specifying a deadline of 18 months from the enforcement of the law. This is found to be a violation of enforcement of the mandate of the NDA under the statute.

Recommendation: Failures to adhere to the statutes by the NDA and other agencies could be prevented by including accountability stipulations in the law. The law should include ways to address such issues and oversight functions to ensure the laws are

implemented in its full potential. Thus, as previously mentioned, the laws should be amended to make the members of the NDA board accountable for non-compliance. There should be an investigation avenue in the law for non-compliance by NDA, with mechanisms in place to identify and address the main causes of failures or shortcomings. Furthermore, within the NDA regulation and laws, there should be ways to address disciplinary action including and not limited to legal action against those employees who are found to be in violation of the laws. Additionally, increased oversight with additional authority to oversight bodies will allow regular audits and ensuring the enforceability of the laws in its full potential. Further, other non-governmental actors, advocacy groups and civil society should be allowed to conduct independent reviews and publish reports to ensure transparency in both the conduct of the NDA as well as the oversight bodies.

Finding 10.3: It is found that out of the 185 inhabited islands the treatment centres are located in just 6 islands of the country. Due to issues related to geography of the country and each island being separated by the sea and due to the lack of sustainable and consistent transportation means between the islands, the issues related to having to stay in the capital city or a different island for extended drug related treatment which is guaranteed under the law is in practice not afforded equally to all citizens.

Recommendation: Additional drug treatment centres should be built in different regions of the country and community-based treatment models should be encouraged and incorporated in all areas of the country.

Finding 10.4: It is found that the only treatment services available in the facilities are inhouse treatment, community treatment and methadone treatment. Additionally:

- (a) Re-integration treatment is not yet available in Maldives.

- (b) There are no mechanisms in place to provide easy access to treatment for youth.
- (c) There are no progress reports kept in accordance with the regulations and the rehabilitation centres are run as detention centres and there is a lack of counsellors.
- (d) Those seeking treatment in the facilities are asked to sign documents of receiving counselling despite receiving any.
- (e) Vocational and educational classes are not conducted in accordance with the regulations.
- (f) A lot of avoidable deaths due to drug abuse were caused by the failure of NDA to rehabilitate and reintroduce drug dependents back into society.
- (g) It is found that no significant changes are seen in the treatment delivered to those recovering from addiction and unable to cope in the society.

Finding 10.5: It is found that the Regulation Stipulating the Operation of Drug Treatment Centres 2012/R-40 provides guidelines for 9 different treatment centre programs. However, it is seen that despite having a detailed regulation gazetted, the NDA is not enforcing its legally mandated obligations in accordance with the law. The required specialist treatment centres are still not fully established and due to this reason, there are ensuing problems which could otherwise be prevented. It is also found that Regulation Stipulating the Operation of Treatment Centres (2012/R-387) which is required by section 50 of the Drugs Act 17/2011 to be published by the NDA from 3 months of its establishment was published on 16th November 2014, after a delay of 2 years 7 months and 18 days from the prescribed duration in the law. The regulation spelt out the policies for the establishment and operation of treatment centres, the standards

required to be maintained in such centres, and other standards to be followed in the operation of such centres. It has to be noted that those individuals who voluntarily requests for treatment are allowed to acquire treatment without having them criminally culpable. The law provides immunity from prosecution to anyone willingly requesting for rehabilitative treatment, barring the extent of the persons criminal activities does not go beyond using drugs. With regards to this model the United Nations Working Group on Arbitrary Detention mentioned that the current model of either choosing prison or rehabilitation is not based on a positive health centric model. The people in this circumstance choose rehabilitation only to avoid going to prison. It has been found in the United Nations Working Group on Arbitrary Detention report that police custodial, remand centres and prison facilities lacked medical care within the facilities. As there are detainees experiencing withdrawal symptoms whilst being detained in these facilities, they provide painkillers for withdrawal symptoms. The reports recommended that authorities ensure that provision of in-house detoxification treatment is available for those detained.

Recommendation: The programs conducted in the drug rehabilitation centres should provide regular monthly access to other government NGO's and other interest groups such as private, multigovernmental, independent agencies and NGO's as a check-and-balance measure to check the quality of the services of the programs conducted at rehabilitation facilities. And their recommendations should be rectified so that the effective and full implementation of the regulation and the laws are ensured. Furthermore, regulations should address shortcomings of rehabilitation facility service providers to maintain accountability.

5.2.11. Suggestions For Rehabilitation and Treatment Strategy

To ensure effectiveness of the rehabilitation and the treatment programs the involvement of the community should be increased and the community should be engaged through education and awareness. This would require long-term strategic planning and involvement of the government and the non-governmental organisations (NGO) with the members of the general community including immediate family members of the drug addicts.

5.2.12. Additional Recognitions On The Findings

It is found in this study that Maldives does not have alternative treatment facilities other than the ones established by the government where rehabilitation and treatment programs could be conducted for the drug addicts and the option for seeking treatment abroad from an accredited rehabilitation facility are limited to just 5 centres in India.

Therefore, the option to seek drug addiction rehabilitation and treatment from non-governmental facilities and abroad should be expanded as Maldives is currently facing a drug epidemic and is unable to host all those persons requiring treatment in the few established treatment centres in the country.

5.3 CONCLUSION

This study shows that the legal framework related to drug abuse and treatment in Maldives has failed to perform in its envisioned projection due to being unable to fully enforce the laws accordingly by the agencies created under the law. The oversight mechanism for the proper functioning of the regulatory authorities as well as the drug

treatment and prevention agencies in its current form has not provided their mandated tasks in accordance with the laws and regulations. There are a number of shortcomings by the drug agencies with regards to meeting the deadlines mandated by the law for the establishment of specific treatment facilities and promulgation of regulations. The few treatment facilities available for treatment are not functioning in accordance with the laws due to management failures and staff shortages. Further, the Drugs Court established and located in the capital city of Male' and the National Drug Agency being in the capital city poses a great difficulty to drug addicts to receive the court mandated treatment without having to leave their islands and staying for prolonged periods at the most expensive island in Maldives without knowing whether they would qualify for a treatment or not. Additionally, as treatments available under the Drugs Act is subjected to the confession of a crime and as the Drugs Court or the National Drug Agency could withhold treatment to a specific individual based on a subjective criteria and send the addicted person to prison, preventing the addict from receiving any form of rehabilitation and treatment in this instance. As a result, a vast number of addicts are without access to proper treatment in Maldives.

The study also shows that the punishments assigned for drug offenses and the rehabilitation forms provided in Maldives are in accordance with the Islamic benchmark and international best practice based on the conventions and declarations of the United Nations, and the punishment provisions are comparatively more lenient than that in Malaysia and the treatment regulations are all codified in extensive detail. However, in enforcement it is shown that Maldivian drug punishment and rehabilitation does not conform to the purposes and objectives of *Shari'ah*, international best practice nor to the Drugs Act 17/2011 of Maldives.

This study identified that Maldivian drug laws and rehabilitation are not based on a positive health centric model and thus needs major reforms on legislation to allow treatment to those requiring rehabilitation in a much more accountable and community-based model where all seeking treatment should be included without restriction. Further, for the improvement of the overall oversight functionality of government agencies should be considered to ensure inclusion from all stakeholders rather than just cabinet ministers and state appointed officials to enable proper border-control measures as well as the functioning of NDA and Drugs Court to comply with rehabilitation laws and regulations. It is also required that the laws related to drugs should be revised regularly by the parliament and regular reforms are also required for a sustainable drug framework in Maldives.

This thesis concludes that despite Maldives Drugs Act 17/2011 provides drug addicts a prospect of adequate rehabilitation it is not effective in deterring drug addicts from committing drugs related crimes, and reform them to return to society as law abiding citizens due to its ineffective enforcement mechanisms.

5.2.13. Future Research

Future research could be conducted based on the premise of this study, in the areas related to the provision of rehabilitation and treatment for drug addicts convicted of offenses under the Penal Code of Maldives.

Building upon the foundation established by this study, holds significant potential in exploring the provision of rehabilitation and treatment for drug addicts who have been convicted under the Penal Code of Maldives. Such research is crucial for several reasons. Firstly, it would offer a deeper understanding of the effectiveness of

current rehabilitation methods and treatments within the legal framework of the Maldives. This is particularly important in assessing how these methods impact recidivism rates among convicted drug offenders and their successful reintegration into society.

Moreover, future studies could identify gaps and challenges in the existing system, providing insights into areas that require improvement or innovative approaches. This includes exploring the adequacy of resources allocated for rehabilitation, the suitability of treatment programs for different types of drug addictions, and the overall alignment of these programs with international best practices. Additionally, such research could delve into the sociocultural aspects of drug abuse in the Maldives, considering how societal attitudes and stigma might affect the rehabilitation process.

Investigating these dimensions would not only contribute to the academic field but also aid policymakers and practitioners in developing more effective, humane, and sustainable strategies for dealing with drug-related offenses. It could lead to policy reforms that balance punitive measures with rehabilitative care, ultimately contributing to the reduction of drug abuse and its associated social and economic costs in the Maldives.

REFERENCES

- Achmad Firdaus., & Nurizal Ismail. (2014). Using Maslahah Performa as an Islamic wealth management system. *Thematic Workshop on al-Mal: Philosophy and Its Application in Islamic Perspective* (p. 3). Bangi Selangor: UKM-IRTI, Institute of Islamic Training Malaysia (ILIM).
- Ahmad Muhammad Husni., Zaini Nasohah., Amir Husin Mohd Nor., & Mohd Al Adib Samuri. (2015). Family problems – wife’s work – and its solutions in the light of Maqasid Shari'ah. *Asian Social Science*, 11(10), 170.
- Alam Zeb Khattak. (2019, June 6). *Step by step prohibitions of intoxicants in Islam*. Retrieved March 16, 2020, from researchgate: https://www.researchgate.net/publication/332873799_STEP_BY_STEP_PROHIBITION_OF_INTOXICANTS_IN_ISLAM
- Ali Abu Albasal. (2015, February 11). *Al-qawaid al-mutfari'a 'an qaidah: al-mashaqah tajlib at-taisir*. Retrieved April 25, 2021, from <https://www.alukah.net/sharia/0/82414/>
- Ali Adyb. (2018, October 15). *Substance use and the maldives, international society of substance use professionals*. Retrieved July 15, 2019, from <https://www.issup.net/knowledge-share/publications/2018-10/substance-use-and-maldives>
- Aminath Yusreen Ahmed. (2022, February 2022). *Maafushi jalugai furathama faharah qaidheennah drug rehabilitation program fashai fi*. Retrieved March 1, 2022, from <https://prisonsstory.mv/5607>
- Areeba. (2021, April 2021). *Easy access to drug rehabilitation services is vital: NDA*. Retrieved March 2022, 1, from The Times of Addu: <https://timesofaddu.com/2021/04/03/easy-access-to-drug-rehabilitation-services-is-vital-nda/>
- Asima Nizar. (2021, October 2021). *Masthuvaathakethi gannan mahehge machah 15000 rufiyaa heydhakurey*. Retrieved June 2022, 3, from Mihaaru News: <https://mihaaru.com/news/99464>
- Asima Nizar. (2022, June 26). *NDA ge beynumeh nei, Drugs faruwaa huttifa*. Retrieved August 5, 2022, from Mihaaru News: <https://mihaaru.com/report/109917>
- Awang Nib Zuhairi Bin Awang Ahamad, Hadenan Bin Towpek, & Abdul Razak Bin Abul Kadir. (2021). Family well-being according to the maqasid shariah in the context of a plural society in Sarawak: A preliminary study. *Azka International Journal of Zakat & Social Finance*, 1(2), 5.

- Awqaf.ae. (n.d.). *Bad effects of drugs, UAE general authority of islamic & endowments*. Retrieved March 18, 2021, from <http://www.zhic.ae/en/Articles/ArticleDetails.aspx?Article=bad.effects.of.drugs>
- Azila Ahmad Sarkawi, Alias Abdullah, & Norimah Dali. (2017). The philosophy of Maqasid Al-Shari'ah and its application in the built environment. *Journal of Built Environment, Technology and Engineering*, 2, 216.
- Bambale, Y. Y. (2003). *Crimes and punishments under Islamic law*. Lagos: Malthouse Press.
- Barnard, M. (2007). *Drug addiction and families*. London: Jessica Kingsley Publishers.
- Bernamea. (2021, October 2). *Dangerous drugs act 1952 needs improvements*. Retrieved March 5, 2022, from New Strait Times: <https://www.nst.com.my/news/nation/2021/10/732994/dangerous-drugs-act-1952-needs-improvements>
- Brown, J. (2017). *Stone and hand cutting: Understanding the Hudud and the Sharia in Islam*. Texas: Yaqeen Institute for Islamic Research.
- Bulut, A. (2020, September 9). *Islamic law*. (A. W. Guides, Producer, & Columbia University Law School) Retrieved February 2, 2021, from Aurther W. Diamond Law Library Research Guides: http://library.law.columbia.edu/guides/Islamic_law_research_guide
- Center for Substance Abuse Treatment. (2006). *Substance abuse: Clinical issues in intensive outpatient treatment*. Rockville: Substance Abuse and Mental Health Services Administration (US).
- Central Institute of Islamic Research. (1964). *Ummah: Voice of the community, Volume 1*. Pakistan: Central Institute of Islamic Research.
- Dar Al-Ifta Al-Missriyyah. (n.d.). *The higher objectives of Islamic law*. Retrieved April 21, 2021, from dar-alifta.org: <https://www.dar-alifta.org/Foreign/ViewArticle.aspx?ID=499&CategoryID=3>
- Department of Health. (2017). *National drug strategy 2017-2026*. Canberra: Commonwealth of Australia.
- Drug Court of Maldives. (2012). *Drug court ge ihtisaas*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2012). *Drug court ge marhalaathah*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2012). *Indicative assessment*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2012). *Rehabilitation amuru*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2014). *Faruvaage program ge thafseelu, community reintegration program basic*. Male: Drug Court of Maldives.

- Drug Court of Maldives. (2014). *Community reintegration program extensive, faruvaage program ge thafseelu*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2014). *Drug rehabilitation centre treatment program faruvaage program ge thafseelu*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2014). *Drug rehabilitation program for women faruvaage program ge thafseelu*. Male: Drug Court of Maldives .
- Drug Court of Maldives. (2014). *Faruvaage program ge thafseelu, community reintegration program extensive*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2014). *Methadone maintenance treatment program 2014, faruvaage program ge thafseelu*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2014). *Recovery maintenance program 2014, faruvaage program ge thafseelu*. Male: Drug Court of Maldives.
- Drug Court of Maldives. (2022). *Drug court statistics*. Retrieved June 5, 2022, from <http://www.drugcourt.gov.mv>
- Drug Court of Maldives. (n.d.). *Introduction to drug court*. Retrieved July 15, 2019, from http://www.drugcourt.gov.mv/index.php?option=com_content&view=article&id=71&Itemid=501&lang=dhi
- Drug Policy Alliance. (n.d.). *A brief history of the drug war*. Retrieved May 2, 2021, from <https://drugpolicy.org/issues/brief-history-drug-war>
- Dusuki, A., & Bouheraoua, S. (2010). Framework of maqasid al-shariah and implication for islamic finance. , *Islam and Civilization Renewal*, 2(2), 320-321.
- Executive Office of the Trial Court. (2015). *Adult drug court manual, a guide to starting and operating adult drug courts in Massachusetts*. Boston: Executive Office of the Trial Court.
- Fah, V. (2004, October). Drug abuse and its prevention in Malaysia. *Resource Material Series No.64, United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders*, pp. 108,.
- Fathimath Ajfan. (2022, March 1). *Masthuge haalathu bossunlaafai nizaam harudhanaakurun noongotheh nei*. Retrieved June 7, 2022, from <https://adhadhu.com/Article/21902>
- Fifa Rahman., & Croft, N. (2013). *Drug law reform in East and Southeast Asia*. Plymouth: Lexiton Books.
- Fordham, A. (2020, June 26). *The war on drugs is built on racism. It's time to decolonise drug policies*. Retrieved May 9, 2021, from International Drug Policy Consortium: <https://idpc.net/blog/2020/06/the-war-on-drugs-is-built-on-racism-it-s-time-to-decolonise-drug-policies>

- Ghodse, H. (1999). Guiding principles of drug demand reduction: An international response. *The British journal of psychiatry: The Journal of mental science*, 310-312.
- Glenn, P. (2013). *The cosmopolitan state*. Oxford: Oxford University Press.
- Gombo, F. (2018). *An investigation of the impact of drugs and substance abuse on Muslim families in Eastleigh, Nairobi County*. University of Nairobi. Nairobi: University of Nairobi.
- Gonzales, M. (2020, February 26). *12-step programs*. Retrieved June 14, 2021, from <https://www.drugrehab.com/recovery/12-step-programs/>
- Gravett, S. (2000). *Drugs in prison: A practioner's guide to penal policy and practice in her majesty's prison service*. Wiltshire: The Cromwell Press.
- Hajed Alotaibi. (2018). Inconsistency in ta'zir punishments in islamic juveniles' system. *Asian Social Science*, 14(4), 86.
- Hamid Al Ghaferi., Bond, C., & Matheso, C. (2017). Does the Biopsychosocial-spiritual model of addiction apply in an Islamic context? A qualitative study of Jordanian addicts in treatment. *Drug and Alcohol Dependence*, 172, 14-20.
- Henninger, A., & Sung, H.-E. (2014). History of substance abuse treatment. In G. Bruinsma, & D. Weisburd, *Encyclopedia of Criminology and Criminal Justice* (pp. 2257-2258). New York: Springer. Retrieved from https://www.researchgate.net/publication/258821350_History_of_Substance_Abuse_Treatment
- Hillhouse, M. (2000). Drug treatment and 12-step program participation. *Journal of Substance Abuse Treatment*, 18(1), 65-74.
- Horak, M. (2013). A brief history of drug abuse, addiction concepts and community treatment. *Human and Social Sciences at the Common Conference* (pp. 158-160). Brno: HASSAC.
- Human Rights Commission of Maldives. (2009). *Mujuthamaugai kuhkurun ithuruvamundhaa sababuthah dhenegathumah kurevunu dhiraasaa report*. Male: Human Rights Commission of Maldives.
- ICCI. (2012). *The Islamic view on the prohibition of alcohol*. Dublin: The Islamic Cultural Centre of Ireland.
- Institute of Medicine. (1996). *Pathways of addiction: Opportunities in drug abuse research*. Washington, DC: The National Academies Press.
- Islam Web. (2012, September 9). *Consumption of intoxicants & drugs: An Islamic perspective*. Retrieved November 4, 2017, from <http://www.islamweb.net/en/article/135424/consumption-of-intoxicants-drugs-an-islamic-perspective>

- Islamic Relief. (2014). *An Islamic perspective on human development*. Birmingham: Islamic Relief Worldwide.
- Jassir Auda. (2007). *Maqasid Al-Shari'ah as philosophy of islamic law a systems approach*. London: International Institute of Islamic Thought.
- Justice Audit Malaysia. (n.d.). *Justice audit Malaysia, - Drug crime*. Retrieved from http://malaysia.justiceaudit.org/?page_id=16#
- Khashan Ammar. (2016). The Qur'an's prohibition of Khamr (Intoxicants): A historical and legal analysis or the sake of contemporary Islamic economics. *Kiyoto Bulletin of Islamic Area Studies*, 9, 97-112.
- Kholish, I. N., Purwanto, M. R., Supriadi, Mukharrom, T., & Marazi, H. (2020). The significance of Maqasid Syariah principles in improving Islamic economics and finance. *International Journal of Innovation, Creativity and Change*, 13(3), 1344.
- King County Bar Association. (2005). *Effective drug control- Toward a new legal framework, state regulation and control of psychoactive substances as a workable alternative to the "War on drugs"*. Seattle: King County Bar Association.
- King, R. S. (2009). *Drug courts: a review of the evidence*. Washington DC: The Sentencing Project.
- Kondgen, O. (2017). *The codification of Islamic criminal law in the Sudan: Penal codes and supreme court case law under Numayri and al-Bashir*. Leiden: Brill.
- Kowal, S., Chew, D., & Sato, M. (2021, July 19). *Discretion in law but not in practice: Malaysia's dangerous drugs act*. Retrieved from ELEOS, Monash University: <https://www.monash.edu/law/research/eleos/blog/eleos-justice-blog-posts/discretion-in-law-but-not-in-practice-malaysias-dangerous-drugs-act>
- Lesser, B. (2021, February 14). *History of rehab facilities*. Retrieved March 3, 2022, from DualDiagnosis.org: <https://dualdiagnosis.org/drug-addiction/history-rehab-facilities/>
- Lohman, D. (2007, July 11). Rehabilitation required: Russia's human rights obligations to provide evidence-based drug dependence treatment. *Human Rights Watch*, 19(7(D)).
- Lurigio, A. J. (2008). The first 20 years of drug treatment courts: A brief description of their history and impact. *Federal Probation: a Journal of correctional philosophy and practice*, 72(1).
- Mack, J. F. (2009). *How to develop a national drug policy - A guide for policymakers, practioners and stakeholders*. Miami: Inter-American Drug Abuse Control Commission.
- Maldives Police Service. (2017). *Crime statistics*. Male: Maldives Police Service.

- Maldives Police Service. (2021). *Reported incidents 2021*. Male: Maldives Police Service.
- Maldives Police Service. (2022). *Crime statistics - Q4, 2021, 2022*. Male: Maldives Police Service.
- Mansur Ali. (2014). Perspectives on drug addiction in Islamic history and theology. *Religions*(5), 912-928.
- Marlowe, D., & Meyer, W. (2011). *The drug court judicial benchbook*. Virginia: National Drug Court Institute.
- Maryam Saeed. (2019). *Maqasid Al-Shariah and its application in Islamic finance*. Pakistan: University of Management and Technology.
- Meraj, M. A. (2018). The concept of crime and punishment in Islam. *International Journal of Humanities and Social Science Research*, 4(5), 30.
- MFR. (2021, November 4). *The national drug agency, woefully inefficient*. Retrieved June 7, 2022, from Maldives Financial Review: <https://mfr.mv/policy/the-national-drug-agency-woefully-inefficient>
- Ministry of Home Affairs. (2019). *Malaysia country report on drug issues 2019*”, (2019), 2nd Meeting of the AIPA Advisory Council on Dangerous Drugs 12-15 March 2019, Chiang Mai, Thailand, 4, <<https://www.parliament.go.th/ewtadmin/ewt/aipa2019/download/>. 2nd Meeting of the AIPA Advisory Council on Dangerous Drugs 12-15 March 2019. Chiang Mai: AIPA.
- Mohamed Ata Alsid. (2017). *The hudud: The hudud are the seven sepecific crimes in islamic law and their mandatory punishments*. Petaling Jaya: Muhammad' Ata.
- Mohamed El-Awa. (1972). *The theory of punishment in Islamic law – A comparative study*. London: University of London.
- Mohamed Ibrahim, & MD Ershadul Karim. (2013). *Research guide on legal system and research of maldives*. New York: Global Law & Justice, Hauser Global Law School.
- Mohamed Mahmood Nazar., & Marican Sabitha. (2017). Incorporating Islam in the therapeutic community modality for rehabilitation of substance and drug users. A Malaysian experience. *International Journal of Human and Health Sciences*, 1(1), 12.
- Mohamed Mustafa Al-Zuhaily. (n.d.). *Kithab qawaid al-fiqhiyah wa tatbiqatuha fil madhab alarabi'ah*. Retrieved April 25, 2021, from <https://al-maktaba.org/book/21786/278>
- Mohammad Hashim Kamali. (2020). *Acutalization of the higher purposes of Shariah*. Kuala Lumpur: IIIT.

- Mohammad Hosseini Seyed. (2009). Hadd and ta'zir: two types of punishment against two groups of offences. *Private law Studies*, 39(1), 87-106.
- Mohd Suahti Mohamed Sidik, Md Noor Saper, & Nurul. (2019). The application of maqasid shariah elements in family and marriage counseling. *Advances in Social Science, Education and Humanities Research*, 464, 713.
- Mortimore, G., & Stimson, G. (2010). *A process and systems evaluation of the drug treatment and rehabilitation services in the Maldives*. Male: Ministry of Health and Family, Maldives.
- Mortimore, G., & Stimson, G. (2010). *A process and systems evaluation of the drug treatment and rehabilitation services in the Maldives*. South Asia: World Bank.
- Muhammad Adil Khan Afridi. (2016). Maqasid al-shari'ah and preservation of basic rights, under the theme "Islam and its perspectives on global & local contemporary challenges. *Journal of Education and Social Sciences*, 4, 276.
- Nasimah Hussin. (2004). The discretionary power of the judge in the determination of ta'zir punishment. *Jurnal Undang-Undang Masyarakat*, 8, 125-138.
- National Association of Drug Court Professionals. (2004). *Defining drug courts: the key components*. Washington: U.S. Department of Justice.
- National Association of Drug Court Professionals. (2013). *Adult drug court best practice standards volume 1*. Virginia: National Association of Drug Court Professionals.
- National Bureau of Statistics. (2021). *Cases dealt by judicial courts in Male' and islands, 2010-2020*. Male: National Bureau of Statistics.
- National Bureau of Statistics. (2021). *Drug statistics 2021*. Male: National Bureau of Statistics.
- National Commission on Marihuana and Drug Abuses. (1973). *Drug use in america: problem in perspective, the technical papers of the second report of the national commission on marihuana and drug abuse, volume iv*. Washington D.C: National Commission on Marihuana and Drug Abuses.
- National Drug Agency. (2016). *Faruvaage thafaas hisaabu*. Male: nda.gov.mv.
- National Drug Agency. (n.d.). *Drug offender remand centre ai behey*. Male: Gazette.gov.mv.
- NIDA. (2018, June 6). *Understanding drug use and addiction*. Retrieved November 4, 2018, from <https://www.drugabuse.gov/publications/drugfacts/understanding-drug-use-addiction>
- NIDA. (2020, June 1). *The matrix model (stimulants)*. Retrieved July 2021, 15, from <https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/evidence-based-approaches-to-drug-addiction-treatment/behavioral-therapies/>

- Nirula SR, Chhetry DB, Sing GK, Nagesh S, & Shyangwa. (2006). Role of rehabilitation centres in reducing drug abuse problem in a town of eastern Nepal. *Kathmandu University Medical Journal*, 4(4), 448.
- Norazmi Anas., Zuriani Yaacob., & Ahmad Fadhil Mat Dahan. (2016). Basic principles of Shari'ah: UiTM law foundation student's attitude & perceptions. *Jurnal Intelek*, 10(2), 7-14.
- Nur Rofiah, & Uzm Bil Nahe'l. (2016). *The study of law and punishments in Islam: the ideal concept of hudud and its practices*. Jakarta: Komnas Perempuan.
- ODCCP. (2000). *Studies on drugs and crime, demand reduction a glossary of terms*. New York: United Nations Office for Drug Control and Crime Prevention.
- OHCHR. (2021). *Working group on arbitrary detention: preliminary findings from its visit to Maldives (29 November to 9 December 2021)*. Male: United Nations Human Rights - Office of the High Commissioner .
- Okon, E. E. (2014). Hudud punishments in islamic criminal law. *European Scientific Journal*, 10(14), 32.
- Pegram, T. R. (2005). "Drunkard's refuge: the lessons of the New York state inebriate asylum (review). *Bulletin of the History of Medicine, Johns Hopkins University Press*, 79(3), 580.
- Pires, I. (2015). *A qualitative exploration of a massachusetts drug court: how are the 10 key components applied*. Massachusetts: Bridgewater State University.
- PSM News. (2021, April 13). *NDA allows private contractors to operate drug rehabilitation centres*. Retrieved June 10, 2021, from PSM News: <https://psmnews.mv/en/84574>
- Quinn, T. M., & Mclaughlin, G. T. (1973). The evolution of federal drug control legislation. *Catholic University Law Review*, 22(3), 589-590.
- Ramizah Wan Muhammad, & Khairunnasriah Abdul Salam. (2018). The concept of retributive and restorative justice in islamic criminal law with reference to the Malaysian Syariah Court. *Journal of Law and Judicial System*, 1(4), 9.
- Rawson, R. A., Shoptaw, S. J., Obert, J. L., McCann, M. J., Hasson, A. L., Marinelli-Casey, P. J., . . . Ling, W. (1995). An intensive outpatient approach for cocaine abuse treatment. The Matrix model. *Journal of Substance Abuse and Treatment*, 12(2), 117-127.
- Sabariah Yaakub, & Nik Ab Halim Nik Abdullah. (2020). Towards Maqasid Shariah in sustaining the environment through impactful strategies. *International Journal of Islamic Business*, 5(1), 39.
- Sawpheedya, N., & Yupa, S. (2019). The Islamic integrated model for drug addict treatment and rehabilitation on Kratom use among Muslim adolescents: A case study in Krabi province, Thailand. *Journal of Business and Economics*, 10(5), 479-487.

- ScienceDaily. (2016, July 16). *Drug-use may hamper moral judgment: First study to suggest why cocaine, meth users might struggle to discern right from wrong*. Retrieved April 21, 2021, from Springer: www.sciencedaily.com/releases/2016/07/160713114945.htm
- Shafna Hussain. (2021, September 15). *Masthuvaathakethi beynunkuraa meehun nafsaanee faruvaahoadhun ithuruvanee*. Retrieved June 7, 2022, from Dhauru.com: <https://dhauru.com/C7T4L>
- Shahudha Mohamed. (2020, April 6). *Maldives to establish detox centre in capital malé area*. Retrieved March 1, 2022, from The Edition: <https://edition.mv/news/15966>
- Shazia Ramzan, Naseem Akhter, & Aine Rubab. (2015). Punishment from Islamic perspectives. *FWU Journal of Social Sciences*, 9(1), 54.
- Siti Zulaikha Mustapha, Nor Hafizah Mohamed Harith, & Hardev Karu Latchimanan. (2017). Outpatients perspective: Do cure and care 1Malaysia (C&C1M) Clinic Sungai Besi is Effective or Not? *Journal of Administrative Science*, Vol.14, Issue.3., 14(3), 1-16.
- Statista. (2021, August 23). *New cases of drug abuse in Malaysia from 2013 to 2020, Statsita, Crime and Law Enforcement, Statista Research Department*. Retrieved January 20, 2022, from <https://www.statista.com/statistics/971203/new-drug-abuse-cases-malaysia/>
- Stefan, H., Heiskanen, M., & Malby, S. (2010). *International statistics on crime and justice*. Vienna: European Institute of Crime Prevention and Control.
- Steiner, G. W. (2019, December 11). *Drug use*. Retrieved from Encyclopedia Britannica: <https://www.britannica.com/topic/drug-use>
- Stimmel, B. (2002). *Alcoholism, drug addiction, and the road to recovery: Life on the edge*. New York: The Haworth Medical Press.
- Subramaniam, C. S. (2018). Drug laws in Malaysia: whether the drugs laws have been effective in curbing the drug menace in Malaysia. *United Nations Asia and Far East Institute for the Prevention of Crime and the treatment of offenders*(106), 44-45.
- Syahida Abdullah. (2015). The objectives of Takaful and Shariah: Towards the achievement of Maqasid Shariah. *Journal of Human Capital Development*, 8(1), 94.
- Taherah Seghatoleslam Hussain Habil, Ahmad Hatim, Rusdi Rashid, Abolfazl Ardakan, & Farid Esmaeili Motlaq. (2015). Achieving a spiritual therapy standard for drug dependency in Malaysia, from an Islamic perspective: Brief review article. *Iranian Journal of Public Health*, 44(1), 22-27.
- Tanguay, P. (2011). *Policy responses to drug issues in Malaysia*. London: International Drug Policy Consortium Briefing Paper.

- Tariq Abdul Razak, & Abdurezak Abdulahi Hashi. (2016). Harm reduction in relation to drug (Heroin) addiction: A comparative analysis from medical and Islamic perspectives. *Revelation and Science*, 6(1), 39.
- Thohira Azhaar. (2021, October 20). *Masthuvaathaketheege faruvaage nizaamah bodethi badhalu taken annaane*. Retrieved March 1, 2022, from raajje.mv: <https://raajje.mv/108186>
- Thomas, S. (n.d.). *Timeline: History of addiction treatment*. Retrieved from recovery.org: <https://www.recovery.org/drug-treatment/history/>
- Tirmidhi. (n.d.). *Jami' at-Tirmidhi - Book 17, Hadith 16, english translation book 15 Hadith 1434* (Vol. 3). Darussalam.
- Tiziana, M. (2017). *Drug addiction stop your dependence*. Epub: Tiziana M.
- Transparency Maldives. (2015). *Maldives governance updates, October 2015 Report*. Male: Transparency Maldives.
- U.S. Department of Justice. (2006). *Drug courts: The second decade, special report, Washington DC*. Washington DC: National Institute of Justice (NIJ).
- UN Office for Drug Control and Crime Prevention. (2000). *Demand reduction, a glossary of terms*. New York: UN Office for Drug Control and Crime Prevention.
- United Nations Office on Drugs and Crime. (2003). *Drug abuse treatment and rehabilitation: A practical planning and implementation guide*. Vienna: United Nations Publications.
- United Nations Office on Drugs and Crime. (2009). *A century of international drug control*", https://www.unodc.org/documents/data-and-analysis/Studies/100_Years_of_Drug_Control.pdf,. Vienna: UNODC.
- United Nations. (2011). *Prison assessment and proposed rehabilitation and reintegration of offenders report*. Male: United Nations Programme in the Maldives.
- UNODC. (1998). *Economic and Social consequences of drug abuse and illicit trafficking*. Vienna: UNODC. Retrieved April 12, 2021
- UNODC. (2003). *Drug abuse treatment and rehabilitation a practical planning and implementation guide*. Vienna: UNODC.
- UNODC. (2013). *The first national drug use survey in the Maldives highlights urgent need for more drug use prevention and treatment*. Vienna: UNODC.
- USAID. (2019). *Maldives rule of law assessment – Aisa emerging opportunities – final report*. Washington DC.: USAID.
- Volkow, N. D. (2009). *Principles of drug addiction treatment: A research-based guide (2nd Ed.)*. Gaithersburg: National Institute on Drug Abuse.

- Wagener, D. (2020, April 14). *What is the matrix model of addiction treatment and how does it work, American addiction centers*. Retrieved July 2021, 20, from National Rehabs directory: <https://rehabs.com/what-matrix-model/>
- WHO. (1998). *Thirtieth report, WHO technical report series no. 873*. (Geneva, WHO). 3: WHO Expert Committee on Drug Dependence.
- Yasmin Hanani Mohd Safian. (2013). An analysis on Islamic rules on drugs. *International Journal of Education and Research*, 1(9), 2.
- Yasser Mohammed Abdel, & Rahman Tarshany. (2016). Protection of life in Islamic law. , *International Journal of Business, Economics and Law*, 9(5), 46.
- Yuhanza Othman, Ida Rahayu, & Eknil Krisnawati Erlen. (2015). A study on Syariah whipping as punishment for drug dependents in Malaysia. *Islamic perspectives relating to business, arts, culture and communication: Proceedings of the 1st ICIBACC 2014* (pp. 475-483). Singapore: Springer.
- Yusramizza Binti Md Isa. (2015). *Harm reduction in the context of drug use in Malaysia: A critical analysis of its justification and its compatibility with the criminal justice approach*. Lancaster University, Law School,. Lancaster: Lancaster University.