



Human Rights Commission of the Maldives
Male', Maldives

Unofficial English Translation

ANTI-TORTURE ACT 2013

Law No. 13/2013

This is the unofficial translation of the original document in Dhivehi. In the event of conflict between this translation and the Dhivehi version of this document, the latter shall prevail. Therefore, it is advised that both the Dhivehi version of this document and this translation be read concurrently.

Anti-Torture Act 2013

CHAPTER ONE

Introduction

Introduction and Citation

1. (a) This Act seeks to prescribe the main policies and procedures related to prohibition and prevention of torture in the Maldives, prohibition and prevention of cruel, inhuman or degrading treatment or punishment, and to declare the actions of offenders and perpetrators of such acts as criminal offences and to stipulate the penal procedures to punish them.
- (b) This Act shall be cited as the “Anti-Torture Act 2013”.

CHAPTER TWO

Objective

Purpose

2. The purpose of the Act is to achieve the following objectives.
 - (a) To declare that freedom from torture shall be an absolute right for everyone in the Maldives.
 - (b) To declare the offense of torture, by its nature, a separate criminal offense in the Maldives, and to prescribe its punishment in this Act, and to establish links between this Act with other criminal offences and other criminal laws.
 - (c) To recognise that every human being, by virtue of being human, is endowed with human dignity, and that such human dignity



shall be respected by all, in all circumstances, and that human dignity shall be afforded legal safety and protection.

- (d) To ensure that the inherent human rights of every human being are fully respected by everyone, in all circumstances.
- (e) To ensure that persons accused of offenses, detained on charges of offenses and those serving sentences shall enjoy their human rights with certainty, in all circumstances.
- (f) To ensure that no act of torture or cruel, inhuman or degrading treatment shall be inflicted on a person, even when a person is detained for the purpose of an investigation, or for the purpose of a judicial order, or the execution of a sentence, under the custody of a public servant, an employee of the State officially and unofficially representing the State, or a person who is influenced by a public servant.
- (g) To affirm that detention of persons in clandestine locations, the detention of persons in solitary confinement so that they cannot communicate with any other human being, and the detention of persons in places which may be considered as environments in which the practice of torture may be carried out indiscriminately, are prohibited in the Maldives.
- (h) To introduce the detailed legal framework necessary to ensure full compliance with the principles, as stipulated in Article 54 of the Constitution that no person shall be subjected to cruel, inhuman or degrading treatment or punishment or to torture.
- (i) To fully comply with the provisions of treaties, agreements, resolutions and protocols which the Maldives has ratified or is a party to, among those treaties, agreements, resolutions and protocols prohibiting torture and other cruel, inhuman or degrading treatment, including the International Covenant on Civil and Political Rights, the International Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as Article 93(b) of the Constitution states that Maldivian citizens shall only be required to act in compliance with treaties ratified by the State as provided for in a law enacted by the People's Majlis.

- (j) To facilitate that all interactions with the torture victims are carried out respectfully, and granting them with the opportunity to partake in legal proceedings, while prioritising their safety and security throughout this process.
- (k) To facilitate the torture victim with avenues to receive fair compensation for the harm endured.

CHAPTER THREE

Status of the Law

Torture as a separate criminal offence

- 3. (a) Under this Act, the act of torture shall be deemed to be a separate criminal offence.
- (b) Although what is defined in this Act as an act of torture is included in another law as another offence, for the purpose of this Act, it shall only be treated as an act of torture. And such an act shall be prosecuted and punished under this Act.

Relationship to the Penal Code

- 4. In the prosecution of an offence under the Penal Code of the Maldives or any other law, if in the commission of that offence an act described as an act of torture under this Act is observed, a separate prosecution shall be brought under this Act.

Inadmissibility of evidence

- 5. (a) If any statement or confession to an offence, or admission to an action invoked as evidence to a court of the Maldives, is a statement, confession or admission given as a result of an act of torture, it shall, as per the Article 52 of the Constitution, be deemed to be unlawfully obtained evidence. And, that cannot be used at any stage of the trial against a person who is brought before a court accused of committing an offence.
- (b) Notwithstanding the provision of subsection (a) of this Article, if the person accused of an offence makes a statement in the trial that a public servant or a person at the behest of a public servant has committed an act of torture or cruel, inhuman or degrading treatment against the accused as evidence or as part of the evidence submitted to prove the accusation, a statement,



confession or admission, which may have been obtained illegally, can be presented to the trial. And, in that case, if such materials are invoked as evidence, such materials shall also be accepted as evidence by the court.

- Invalidation** 6. If any Article of this Act is determined by a competent court to be unconstitutional, even if such an Article is omitted from the Act, the remaining Article of this Act shall remain in force.
- Amendment or Invalidation** 7. Any law or regulation or order or rule inconsistent with this Act shall, upon the commencement of this Act, become invalid to the extent that it is inconsistent with this Act. Or the law or regulation or order or rule is deemed to be amended to the extent provided for in this Act.
- Supremacy of this Act** 8. Notwithstanding any contrary provision in any other law, the rules applicable to any law or regulation or order or rule relating to an act of torture defined as a criminal offense under this Act, shall be subject to the same principles stipulated in this Act.

CHAPTER FOUR

Glossary of Concepts

- Basis of Concepts** 9. The expressions set out in Articles 10 to 15 of this Act are the main concepts on which this Act is based. Those concepts are defined in those sections for the purpose of maintaining the integrity of this Act and facilitating the achievement of the purpose of this Act to the fullest extent possible. Every Article of this Act shall be read in such a manner as not to restrict those concepts, and in a manner to revive and uphold those concepts.
- Torture** 10. (a) "Torture" is defined as an act, or deed, of a public servant, or by the instigation of, or with the consent of, or with the acquiescence of the public servant, or by private individuals, carried out in order to inflict pain or suffering, whether physically or mentally, with the intent of achieving any of the following purposes.
- (1) To obtain information or a confession from the person or any other third party; or

- (2) To impose on a person a punishment not prescribed by law, for something the person has done or is alleged to have done, or for something done by another third party or is alleged to have done by another third party; or
- (3) To intimidate a person or to embarrass a person in relation to something the person has done or is alleged to have done, or for something done by another third party or is alleged to have done by another third party; or
- (4) To intimidate or embarrass another third party in connection with something a person has done or is alleged to have done; or
- (5) To discriminate between two persons, of any kind, on the basis of a premise which is not permitted by law.

(b) Notwithstanding the provisions of subsection (a) of this Article, the infliction of, or the feeling of, pain in the course of a legally permissible punishment, given to a person in accordance with the law, shall not be deemed as torture for the purpose of this Act.

(c) Where the word "torture" or the phrase "act of torture" is used in this Act, unless otherwise specified, it includes physical torture, mental torture, cruel, inhuman or degrading treatment or punishment, within the meaning of the word, or the meaning of the phrase.

(d) Where the phrase "tortured person" or "victim of torture" is used in this Act, it means the person being subjected to physical torture or mental torture or cruel, inhuman treatment, the person subjected to such treatment, the person subjected to degrading punishment and the person being subjected to such punishment, as included in the meaning of the phrase.

**Cruel, Inhuman,
Degrading
Treatment**

11. "Cruel, inhuman, degrading treatment" means the commission of an act, not included in the acts of torture described in Articles 13 and 14 of this Act, to a person in the custody of a private individual or public servant, by the public servant, or by the instigation of, or with the consent of, or with the acquiescence of the public servant, by doing so, cause the person extreme pain, or erode the person's willpower, or convince the person's lack of human dignity, whatsoever.

Type of Torture

12. For the purposes of this Act, the act of torture falls into two categories. They are, torture of physical nature or "physical torture" and torture of mental nature or "mental torture".

Physical Torture

13. (a) "Physical Torture" means any act, or any deed, committed against a person in the custody of anyone or in the custody of a public servant, by the public servant, or at the instigation of, or with the consent of, or with the acquiescence of the public servant, which causes pain or suffering, or causes fatigue, or weakness, or prevents the whole body or a part of the body from normal functioning, as a result of a physical act or by the material treatment of the tortured person.
- (b) The following are, by their nature, considered physical torture. However, the definition of physical torture is not limited to those. Other actions of a similar kind, too, are included in the definition of physical torture.
- (1) Systematic beating or hitting.
 - (2) Head-butting in a particular place, in a certain way.
 - (3) Punching the body, or kicking.
 - (4) Butt-stroking with a gun, or striking with a truncheon, or striking with a stick, or striking with a plastic pipe, or striking with a stone, or striking with a chair, or striking with a wood plank, or striking with any other hard object.
 - (5) Jumping up on the stomach, or kicking on the stomach.
 - (6) Hitting the genitalia.
 - (7) Striking the body with a heated iron or any other hot object.
 - (8) Delaying meals and drinks, or neglecting timely nourishment, or feeding food that is rotten, or force-feeding, or feeding items that are unsuitable for human consumption.
 - (9) Forcibly or coercively feeding or swallowing or rubbing one's own faeces or another's faeces on one's body and possessions.

- (10) Applying electric shock.
- (11) Touching the body with lighted cigarettes.
- (12) Pouring or spraying hot oil on the body.
- (13) Pouring or spraying acid on the body.
- (14) Applying pepper on an open sore or wound on the body, or applying salt, or applying chemical substances of such a nature as to further irritate the wound or the sore or to make the part more inflamed, or to hurt the sore in other ways.
- (15) Submersion of the head in water or pouring water on the head and face while being held upside down.
- (16) Being tied in a manner that immobilises or stresses the body.
- (17) Being tied to assume a fixed bodily position.
- (18) Being suspended vertically, or at an incline.
- (19) Committing a sexual act.
- (20) Sexual intercourse.
- (21) Committing an act considered as debauchery.
- (22) Giving electric shock to a genital organ.
- (23) Inserting foreign bodies into a genital organ.
- (24) Insert something into the anus.
- (25) Enveloping to induce suffocation.
- (26) Pulling out fingernails, or extraction of teeth, or pulling off hair, or shaving hair.
- (27) Mutilation or cutting or chopping off any organ or part of the body.
- (28) Exposure to intense heat or extreme cold.
- (29) Immersion in ice cold water.

- (30) Asphyxiation by placing a plastic bag over the head and face.
- (31) Administering medications that affect a person's cognition, or consciousness, or memory.
- (32) Administering a specific medication to induce signs and symptoms typically associated with a particular disease that may not be felt otherwise.
- (33) Placing or restraining in a way that involves a controlled drip of a specific amount of water onto the head.

Mental Torture

- 14. (a) "Mental Torture" means any act, or deed, committed against a person in the custody of anyone, or in the custody of a public servant, by the public servant, or at the instigation of, or with the consent of, or with the acquiescence of the public servant, which causes to disturb the mind of the person, or to disturb the person's sanity, or to intimidate the person, or to coerce the person to do something, or to make the person feel humiliated, or to demean and shame the person.
- (b) The following are, by their nature, considered mental torture. However, the definition of mental torture is not limited to those. Other actions of a similar kind, too, are included in the definition of mental torture.
 - (1) Blindfolding.
 - (2) Threatening to harm or maltreat a family member or a relative.
 - (3) Solitary confinement and isolation in a manner devoid of human interaction or sight of others.
 - (4) Detaining in a clandestine detention centre, other than the registered detention centres.
 - (5) Prolonged interrogation, without any interruption.
 - (6) Placing among and compelling to walk in front of others, in order to embarrass in front of others, or to instigate and coerce to perform various acts in front of others.

- (7) Unscheduled transfers to a centre or place other than the centre of detention, without prior notice or without prior arrangement, creating a sense that the person is to be subjected to torture.
- (8) Maltreating a family member or close relative.
- (9) Inflicting physical torture witnessed by a family member, or friend, or relative or other third party.
- (10) Sleep deprivation, or denial of rest.
- (11) Stripping naked in the public, or in front of any others.
- (12) Head-shaving.
- (13) Humiliating by putting various marks on the body.
- (14) Prohibition of speaking with a family member or a lawyer.

**Method of
Determining
Cruel, Inhuman or
Degrading
Treatment**

- 15. (a) "Cruel, inhuman or degrading treatment" means any act or deed, other than the acts of torture referred to in Articles 13 and 14 of this Act, committed intentionally, by a private individual or public servant, or by the instigation of, or with the consent of, or with the acquiescence of the public servant, to a person under their care, anything that causes the person to feel pain, or shame, or humiliation.
- (b) A particular act shall be determined to be a cruel, inhuman, or degrading treatment by taking into account all considerations and attributes involved in the case.
- (c) In determining whether a particular act constitutes cruel, inhuman or degrading treatment under subsection (b) of this Article, the manner in which it occurred, the circumstances, the duration, the time, the length of time involved in the act, the physical and mental factors confronted by the person, the person's gender, age, and the medical condition shall be considered.

CHAPTER FIVE

Freedom from torture

Being an absolute right

16. (a) Everyone in the Maldives has the absolute right, at all circumstances, to be free from torture, cruel, inhuman treatments, and degrading punishments.
- (b) The country being in a state of war, or the country being in a situation of potential war, or the country being in political unrest, or increased crime in the country, or the country being in a state of emergency, cannot be used as an excuse for, nor is it a defence, for committing torture, cruel, inhuman treatment, or degrading punishment against a person.
- (c) It is neither an excuse nor a defence to claim as a reason that a person committed an act of torture or an act of cruel, inhuman or degrading treatment or punishment against another person, to claim that the act was committed as part of the job, at the instigation of someone who is a higher authority, with the belief that the person would lose the job if the act was not carried out, or was unaware of the illegality of the act.

Publicisation of detention centres

17. (a) Within a maximum of 15 (fifteen) days from the enactment of this Act, the Minister shall, through a public proclamation, publicise the custodial facilities intended to hold criminal suspects in custody during the investigation period, remand and pre-trial facilities intended to hold persons in custody after the completion of the investigation and pending the commencement of trial, facilities intended to hold persons in custody until the end of the trial, facilities intended to detain juveniles, prison facilities intended to keep persons serving their sentence, rehabilitation centres, mental health facilities, centres for persons with disabilities, and facilities in the Maldives intended for detoxification detention.
- (b) Having publicised the custodial facilities intended to hold criminal suspects in custody during the investigation period, remand and pre-trial facilities intended to hold persons in custody after the completion of the investigation and pending the commencement of trial, facilities intended to hold persons in custody until the end of the trial, facilities intended to detain juveniles, prison facilities intended to keep persons serving

their sentence, rehabilitation centres, mental health facilities, centres for persons with disabilities, and facilities in the Maldives intended for detoxification detention, as per subsection (a) of this Article, the Minister shall, within a maximum of 7 (seven) days of the declaration, prepare and submit to the Commission a report containing the following details.

- (1) The name of each place, the island where it is located and the address of the place.
 - (2) The names, addresses and ages of the persons in custody at each of those places, the length of time they have been incarcerated, the length of time they are expected to remain in custody, and the reason for their incarceration, up to the date of the filing of the report.
- (c) The report submitted by the Minister to the Commission under subsection (b) of this Article shall be submitted to the Commission once every 3 (three) months, within the elapse of 10 (ten) days of the end of each three months, after the first submission of the report, and whenever requested by the Commission.
- (d) Under subsection (c) of this Article, the report so submitted every three months shall indicate if there have been any changes to those places, or the numbers or details of detainees in any of the places, so as to ascertain any such change.

**Ensuring the
Right to Complain**

18. This Act guarantees the right of the victim of torture to lodge a complaint to the Commission about the torture endured. This Act also guarantees the person the following rights, associated with the right to complain about the torture. And, the following rights as defined in this Act shall be guaranteed to the person and enforced by all the relevant institutions of the State.
- (a) Upon submission of a complaint to the Commission, the Commission shall conduct and conclude an impartial investigation at a reasonable speed.
 - (b) The complainant shall be provided with the basic facilities necessary to lodge a complaint from the place of detention, and, upon lodging a complaint, it shall be fully investigated and concluded within 3 (three) months from the date of lodging the complaint. And, the complainant shall be informed of the

progress of the investigation within a maximum of 2 (two) months from the date of lodging the complaint. And, the complainant shall be provided with the investigation report of the case within 14 (fourteen) days of the conclusion of the investigation.

- (c) If the investigation report of the complaint indicates that an act of torture has indeed occurred against the complainant, the Commission shall refer the case to the Prosecutor General within 14 (fourteen) days after the conclusion of the investigation, to prosecute a person or a group of persons deemed by the Commission to be responsible for that act of torture.
- (d) Within a maximum of 30 (thirty) days of receipt of the case referred by the Commission to the Prosecutor General, the Prosecutor General shall decide whether or not to submit the case to trial.
- (e) If the Prosecutor General considers that the case referred by the Commission should be submitted to trial, all necessary preparations for such shall be completed within a maximum of 90 (ninety) days from receipt of the case referred by the Commission, and shall file charges against those individuals identified by the Prosecutor General to be charged in the case, before the end of that period.
- (f) If the Prosecutor General does not consider the merit of the case referred by the Commission for trial, the Prosecutor General shall notify the Commission, in writing, of the reasons for that decision within a maximum of 60 (sixty) days of receipt of the case referred by the Commission.
- (g) To ensure that the torture victim is not subjected to further threat or intimidation for filing a complaint, or for submitting evidence relating to the complaint, the competent State authorities shall provide adequate protection to the victim, to the legal counsel and to the family members.
- (h) The court and other competent authorities of the State shall deal with the torture victim in such a manner that the person does not suffer any further embarrassment, or further pain, or further intimidation and coercion in the process of filing the complaint,

presenting evidence relating to the complaint and giving various statements at trial.

- (i) To comply with such orders, if the court orders the torture victim to be presented in court, or released from custody, or to obtain a document relating to the person from a public institution.
- (j) In respect of the complaint filed by the torture victim, the person and the person providing assistance shall receive the necessary assistance from the Commission, the Prosecutor General and the Maldives Police Service to bring the case to trial.
- (k) Until a judicial verdict is rendered on the complaint filed by the victim of torture, the Commission shall continue to monitor the manner in which the complaint is being dealt with by the State agencies, and shall keep the torture victim informed of the information received by the Commission.
- (l) Complaints submitted by detainees under this Article shall not be inspected or read by the detaining authority.

CHAPTER SIX

Healthcare

Consultation with Doctors

19. (a) Where a detainee's period of detention exceeds 24 (twenty-four) hours, after the 24 (twenty-four) hours have elapsed, the detainee has the right, whenever the detainee so desires, to request the detaining authority, to consult a doctor working at a place other than the place where the person is detained to check the person's health condition. And, the detainee shall be informed of this right.
- (b) If a detainee requests for a doctor's consultation in accordance with subsection (a) of this Article, the detaining authority shall arrange the same within 24 (twenty-seven) hours from the time of the request.

- (c) During the first 24 (twenty-four) hours after release from custody, the detained person has the right to request the detaining authority, to consult a doctor working at a place other than the place where the person was detained, to check the person's health condition.
- (d) If the detainee requests the detaining authority during the first 24 (twenty-four) hours after release from custody, to consult a doctor working at a place other than the place where the person was detained to check the person's health condition, in accordance with subsection (c) of this Article, the detaining authority shall make such arrangements within 24 (twenty-four) hours from the time of the request.
- (e) The cost of consulting a doctor under subsection (a) of this Article or subsection (c) of this Article shall be borne by the person. However, if the Commission is satisfied that the person cannot afford such an expense, the expenses incurred for the medical examination shall be borne by the State. The Commission shall establish a mechanism to provide such assistance within 24 (twenty-four) hours, in cases where the State is required to provide such expenses. For the purposes of this Article, such costs shall be borne by either the current detaining authority or the preceding detaining authority.

**Rules Related to
Medical Reports**

- 20. (a) The medical report prepared after a detainee has been consulted by a doctor while in custody, or after been released from custody, must be a report signed by the doctor who examined the person.
- (b) A copy of the medical report referred to in subsection (a) of this Article shall be included in the person's custody file. And, the report shall also be available for inspection by the Commission or any other competent legal authority of the State, if it is so required.
- (c) The medical report mentioned in subsection (a) of this Article shall include the following by the doctor who examined the person.
 - (1) Name, address, age and the national identity card number of the detainee.

- (2) Closest judicial guardian or who is the closest legal guardian of the detainee.
- (3) Name and address of the person who accompanied the detainee to the doctor.
- (4) If the person has a wound or pain or suffering or illness or a health condition, the doctor's evaluation as to their cause of origin.
- (5) The nature and diagnosis of any wound or pain or suffering or illness or health condition the person has.
- (6) The estimated time period of the injury or pain or suffering or illness or health condition.
- (7) How, in what manner, and because of what, it is believed to be the reason for the wound or pain or suffering or illness or health condition.
- (8) The date, time and type and nature of the treatment the person received.
- (9) The diagnosis, observations made, and the medical prognosis derived from those observations.

CHAPTER SEVEN

Criminal Offense and Penalty

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| Criminal Offense of Torture | 21. The commission of an act defined in this Act as physical torture, or mental torture or cruel, inhuman or degrading treatment or punishment, or the infliction of such on a person, is, in all circumstances, a criminal offence under this Act. |
| Criminal Offense of Detention in a | 22. Detention of a person in a place other than a publicly proclaimed place of detention under this Act, solitary confinement of a person so |



Place other than a Detention Centre

that they cannot communicate with any other human being, detention of a person so that he does not know where he is detained, and detention of persons in places which may be considered as environments in which the practice of torture may be carried out indiscriminately, is a criminal offence under this Act.

Punishment

23. (a) If, during the course of the offense of torture described in this Act, any of the following have been committed against the victim of torture, the punishment for the offense shall be imprisonment for a term of 25 (twenty-five) years.
- (1) Murder.
 - (2) Causing derangement due to rape, or infertility, or memory loss.
- (b) If, during the course of the offense of torture described in this Act, any of the following is committed against the victim of torture, the punishment for the offense shall be imprisonment for a term of between 15 (fifteen) and 25 (twenty-five) years.
- (1) Mutilation of a body part.
 - (2) Rape.
 - (3) Committing an act of sexual assault.
 - (4) The sexual act or intercourse was committed against a child.
- (c) If, during the course of the offense of torture described in this Act, any of the following is committed against the victim of torture, the punishment for the offense shall be imprisonment for a term of between 15 (fifteen) and 20 (twenty) years.
- (1) Causing derangement due to mental torture.
 - (2) Causing amnesia due to mental torture.
 - (3) Causing to have suicidal thoughts and, occasionally, attempting to do so.
 - (4) Becoming difficult to lead a normal life because of the shame, humiliation and cruelty endured.

- (d) If, during the course of the offense of torture described in this Act, any of the following is committed against the victim of torture, the punishment for the offense shall be imprisonment for a term of between 10 (ten) and 15 (fifteen) years.
- (1) Loss of speech.
 - (2) Loss of hearing.
 - (3) Loss of the sense of taste.
 - (4) Loss of vision.
 - (5) Encountering a degree of dysfunction that hinders the normal function of a bodily organ.
 - (6) Inability to straighten the spine.
 - (7) Inability to perform *ruk'u* [bowing down].
 - (8) Inability to perform *sujud* [prostration].
- (e) The punishment for the offense of torture other than those stated in subsections (a), (b), (c) and (d) of this Article shall be imprisonment for a term of between 7 (seven) and 10 (ten) years.
- (f) If the victim of torture had to seek medical treatment for more than 90 (ninety) days due to a medical condition suffered as a result of the offense of torture described in this Act, other than those stated in subsections (a), (b), (c), (d) and (e) of this Article, the punishment for the offense shall be imprisonment for a term of 5 (five) years.
- (g) The punishment for a person who commits any of the following, other than those stated in subsections (a), (b), (c), and (d) of this Article, shall be imprisonment for a term between 1 (one) year and 3 (three) years.
- (1) Committing cruel, inhuman or degrading treatment.
 - (2) Establishing, operating or managing detention centres other than the publicly proclaimed detention centres.

- (3) Failure to submit the report, by the required date, mandated to be submitted under Article 17(b) of this Act in respect of detention centres.

CHAPTER EIGHT

Criminal Liability

Aiding and Abetting

24. In addition to the person who committed the act of torture against a person, the person who participated in the act and the person who assisted in the commission of the act shall be considered as a person who has committed the act of torture. And, such person shall be guilty of the offense of torture.

Instigation to Torture

25. If a soldier, or a policeman, or a person in a law enforcement agency, or a person in a relevant government agency, or a person in a State institution orders a subordinate to commit an act of torture against a person for any purpose, the person who gave the order shall also be deemed to have committed the act of torture. And, such person shall be guilty of the offense of torture.

Negligence and Dereliction of Duty

26. When an act of torture is committed against a person by a member of an army unit, or a member of a police unit, or a member of a unit of any other law enforcement agency, under the following circumstances, the persons in that unit or the person who is directly in-charge of that unit shall also be deemed to have committed the act of torture. And, such person shall be guilty of the offense of torture.
- (a) Intentionally refraining from taking any required measures to cease, prohibit, or prevent the action, while being aware of the situation; or
- (b) With the knowledge of the existence of an environment in which torture can take place, negligence in doing what is necessary to cease or to prevent the act of torture, and that the person or persons who committed the act of torture could do so because of that negligence, or due to the omission of necessary action, or because the person did what was not supposed to do; or

- (c) The act of torture is deemed to have occurred, or was facilitated, or was directly caused by the person's direct negligence.

**Non-performance
of Responsibilities**

- 27. When a public servant, depending on the time and circumstances, believes, on the basis of reasonable evidence, that an act of torture has occurred or is occurring or is inevitable to occur, and, if the scope of the person's responsibility includes taking necessary measures to prevent it, or has not tried to stop the act although if the person had wanted, the act could have been stopped, such a person will also be deemed as a perpetrator of the act of torture. And, such person shall be guilty of the offense of torture.

**Accomplices to the
Offense**

- 28. In the following circumstances, the following persons shall be deemed to have aided in the commission of the act of torture.
 - (a) Receiving a share of the benefits received by the beneficiaries of an act of torture against a person.
 - (b) Having received part of such a benefit, if persons involved in torturing a person or aiding the torture of a person have received any benefits as a result of torturing a person or aiding the torture of a person.
 - (c) Attempted to destroy or conceal any instrument used to commit the act of torture, after an act of torture has been committed.
 - (d) Any attempt to obscure or depict an act of torture as if it did not occur.
 - (e) Assisted in concealing an act of torture, in violation of the duties expected of a public servant.

CHAPTER NINE

Redress and Reparation

Compensation

- 29. Where the commission of an act of torture defined in this Act has been proven in a court, and the person or persons responsible for the act has been determined by a judgement of the court, based on that

judgement, the victim of torture has the right to be compensated, in accordance with the provisions of this Act.

**Awarding
compensation**

30. As a direct consequence of the action of torture, the victim of torture is eligible for two main forms of compensations, under this Act, for the damage suffered. They are:

- (a) Economic compensation;
- (b) Non-economic compensation.

**Economic
Compensation**

31. As economic compensation, the victim of torture can be awarded the following types of compensation.

- (a) Compensation for monetary damage caused due to torture.
- (b) Being a person who was employed, compensation equivalent to the salary for the past duration of the inability to work, directly resulting from the torture, or compensation equivalent to the salary for the future period of inability to be employed, as a direct consequence of the torture.
- (c) Compensation for medical expenses incurred in receiving treatment for the torture and recovery from the torture, or for medical expenses incurred in connection with the torture received, or for medical treatment that is required in the future in connection with the torture.
- (d) Legal costs incurred in the case.

**Non-economic
Compensation.**

32. The following types of compensation can be awarded as non-economic compensation.

- (a) Compensation for physical damage to the body as a result of torture.
- (b) Compensation for damage caused by the loss of an organ due to torture.
- (c) Compensation for damage caused by dysfunction of an organ due to torture.
- (d) Compensation for the disruption to normal life caused as a result of the loss of an organ or dysfunction of an organ due to torture.

- (e) Compensation for any future pain or suffering caused by the torture.
- (f) Compensation for damage caused by the challenges in getting employment or performing employment, in such a situation, due to a disability cause by the torture.
- (g) Compensation for damage caused by the mental effects of the torture.

**The amount of
Compensation**

33. (a) In awarding compensation under this Act, the court shall determine the nature of the compensation and to what extent it shall be awarded to the victim of torture based on the merits of the case, in accordance with criteria to be determined by the court in reference to this Article.
- (b) In order to maintain justice in the case, the court may determine in one of the following ways to award compensation for the matters specified in this Act.
- (1) Awarding compensation for all claims.
 - (2) Awarding compensation for some of the claims, as determined by the court.
 - (3) If the case involves a situation similar to that encountered in a previously awarded compensation case, awarding compensation similar to the compensation awarded in the previous case.

CHAPTER TEN

Rehabilitation and Education

**Psychological,
Social
Rehabilitation and
Support for
Victims of Torture**

34. (a) Within a maximum of 1 (one) year from the date of entry into force of this Act, the Government's ministry mandated with the implementation of health policies, the Attorney General's Office and the Commission shall develop and publish programmes required to provide victims of torture in the



Maldives proper rehabilitation, and to enable them to lead a dignified life again.

- (b) The programmes referred to in subsection (a) of this Article shall be formulated for them and for their families.
- (c) Efforts shall also be made to seek the full participation of civil society human rights organisations in the formulation of the programmes referred to in subsection (a) of this Article.
- (d) The procedures for implementing the programmes referred to in subsection (a) of this Article shall be established in such a manner that the civil society have a role in the implementation of such programmes.

**Psychological,
Social
Rehabilitation and
Support to
Perpetrators of
Torture**

35. The authorities referred to in Article 34 of this Act, in accordance with the said procedures, shall also establish and implement programmes targeting the perpetrators of torture, to enable them to reintegrate into society and to expunge the nature of violence from them.

**Education and
Awareness**

36. (a) This Act makes it mandatory for relevant State institutions to include information and training components about the unacceptable culture of torture, cruel treatments, inhuman treatments and degrading punishments, the reasons for prohibition of those acts, and information about the efforts against those acts, in all programmes conducted in the Maldives for training the military, training the police, training the people in law enforcement sector, training health workers, training civil servants, training of staff who interact with patients in rehabilitation treatment centres, mental health centres, special needs centres and detoxification centres, and in all training programmes for persons charged with detention of people, interrogation of people in detention, and any other responsibility to interact with people in detention.
- (b) This Act makes it mandatory for the Commission and relevant State institutions to include information and training on the importance of respect for human rights, respect for human dignity and freedom from torture, at an age-appropriate level, in elementary schools, in primary schools, in secondary schools, and in programmes in higher education institutions.

CHAPTER ELEVEN

Monitoring Implementation

Monitoring Implementation

37. (a) The Commission shall ensure that the mandated functions required under this Act are being carried out accordingly and that the measures being taken by various State agencies and institutions under this Act are being taken in accordance with the provisions of this Act.
- (b) The Commission shall submit a report to the President of the Republic and the Parliament before the end of July of each year on the activities carried out under subsection (a) of this Article. The Commission shall also, after submitting the report to them, disseminate it publicly.

CHAPTER TWELVE

Universal Jurisdiction

Granting General Jurisdiction

38. Where an act described in this Act as physical torture, mental torture, cruel, inhuman or degrading treatment or punishment is alleged to have been committed, under the following circumstances, this Act empowers the Commission, the courts of the Maldives and other relevant institutions of the Maldives to take the necessary action under this Act and, to the relevant extent, other laws of the Maldives, in respect of the person alleged to have committed the act.
- (a) The offense is alleged to have been committed within the territory of the Maldives; or
- (b) The offense is alleged to have been committed in a vessel registered in the Maldives; or
- (c) The person accused of committing the offense, regardless of the country in which it took place, is a citizen of the Maldives; or
- (d) The victim of torture is a citizen of the Maldives; or

- (e) The person accused of committing the offense is a foreigner in the Maldives, and cannot be deported or repatriated to a third country, as under Article 42 of this Act.

**Jurisdiction Over
an Act Committed
in Another
Country**

39. (a) When a person who is suspected of committing, in another country, an act of physical torture, or mental torture, or cruel, inhuman or degrading treatment or punishment as described in this Act, is believed to be in the territory of the Maldives, and, if the Commission, based on the information available to the authorities of the Maldives and as they reasonably believe that the person must be arrested and detained, or prevented from leaving the country, or ensured the person's detention until the measures provided for in this Act are taken, the Commission shall have the power to undertake such actions and to request the Police to do the whatever is required of the Police, in accordance with the law.
- (b) In accordance with subsection (a) of this Article, whenever the Commission requests the Police, the Police shall have the power to proceed with the matter under the Police Act, this Act, and other relevant laws of the Maldives.
- (c) Any action taken under subsections (a) and (b) of this Article shall be taken to the extent that the person is required to be deported to the country or to the country where the person is suspected to have committed the alleged offense, or to the extent required to prosecute the person in the Maldives under this Act.
- (d) When an action is taken against a person under this Article, the person shall be given an opportunity to communicate with the authorities of the country of origin, or, if the person does not belong to a particular country, the country of ordinary residence, or of the country where the person is believed to have committed the act of torture. And, such a person shall be assisted by the relevant authorities of the Maldives in this regard.
- (e) When action is taken against a person under this Article, it is for the local authorities to inform the authorities of the country to which the person belongs, or if the person is not from any particular country, to the authorities of the country in which the person is ordinarily residing, and to the authorities of the



country where the person is suspected to have committed the alleged act of torture.

Jurisdiction Due to Non-Acceptance

40. (a) Where the country to which the person is to be deported or repatriated under Article 39 of this Act refuses to take or receive the person, the competent authorities shall have jurisdiction under this Act to act in the same manner as they would act against a person accused of committing the offense under this Act in the territory of the Maldives.
- (b) In the case referred to in subsection (a) of this Article, the person shall also be entitled to the rights and opportunities guaranteed to others in that case under the Constitution, and other laws of the Maldives, and this Act.

Extradition Jurisdiction

41. (a) Where the Maldives has an extradition treaty with another State, the acts defined as an offense under this Act shall be included in the offenses for which the extradition treaty applies. And, when this Act comes into force, if the acts declared to be an offense under this Act are not included as offenses agreed upon as extraditable offenses, in any of the extradition treaties that the Maldives is a party to, the competent authorities of the Maldives shall make necessary efforts to include such an act in such agreements.
- (b) If the extradition of a criminal to another country, in relation to a particular offense, requires a specific and relevant treaty with that State, and if such a State is a party to the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, even in the absence of such a treaty between the Maldives and the said State, the provisions of the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment to be treated as such a treaty between the two States, as afforded under this Article of this Act.

Non-refoulement

42. (a) If a person in the Maldives is deported to another country or is returned to the country of origin, the Act does not permit sending the person to that country if the State authorities, on the basis of sufficient evidence, have substantial grounds for believing that the person would be in danger of being subjected to torture.

- (b) For the purposes of subsection (a) of this Article, the relevant State agencies are the Ministry of Foreign Affairs, the Ministry of Home Affairs, the Attorney General’s Office, the Human Rights Commission, the Department of Immigration and Emigration, and the government ministry in charge of looking after the affairs of the migrants at the time.
- (c) While subsection (a) of this Article provides that it must be determined on the basis of sufficient evidence if there is a risk of torture against the person, if a person in the Maldives is deported to another country or returned to the country of origin, if there is evidence to believe that the country has a consistent pattern of gross, flagrant or mass violations of human rights, such a person shall be considered to be at risk of torture.
- (d) While a foreigner deported under this Article is being detained in the Maldives, the Commission shall formulate regulations specifying the manner in which such person shall be treated and the nature of protection afforded to such a person.

CHAPTER THIRTEEN

General Principles

Exemption from Clemency

- 43. (a) No person who has been sentenced under this Act for an act of torture shall be eligible to amnesty or pardon under Act No. 2/2010 (Clemency Act).
- (b) With the entry into force of this Act, the offenses mentioned in this Act shall be deemed to have been added to the list of non-pardonable offenses contained in Article 5(a) of Act No. 2/2010 (Clemency Act).

Special Responsibilities of the Commission

- 44. (a) Notwithstanding other provisions in another law, in addition to the powers conferred upon the Commission under Act No. 6/2006 (Human Rights Commission Act), and the roles and responsibilities assigned to it by the Act, this Act empowers the Commission to work against torture, cruel acts, inhuman acts, and degrading punishments in the Maldives, to take necessary measures to prevent such acts in the Maldives, and to take direct



and indirect measures to prevent acts designated as offenses under this Act from taking place in the Maldives.

- (b) This Article of this Act empowers the Commission to exercise the powers necessary to carry out the matters referred to in subsection (a) of this Article, the power to take such actions as may be necessary to facilitate the carrying out of such actions.
- (c) For the purposes of this Article, for the purpose of this Act, for the purpose of the conventions that the Maldives is party to, *inter alia*, the Convention Against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the Commission is defined by this Act as the National Preventive Mechanism established in the Maldives to prohibit and prevent any act of torture, and other cruel, inhuman or degrading treatment or punishment in the Maldives, and include the said responsibility as part of the responsibility of the Commission, and to dispense of this responsibility this Article of the Act empowers the Commission to exercise whatever it needs to do in order to carry out its duties and responsibilities, and the power to do all that may facilitate it to undertake such duties.

Budget

- 45. (a) When preparing the budget of the Commission in the subsequent years following the entry into force of this Act, the Commission shall allocate such an amount as it deems appropriate to carry out the provisions of this Act.
- (b) For the remainder of the year in which this Act comes into force, the Commission shall prepare a budget as it deems appropriate for the implementation of this Act, submit it to the designated Government ministry for implementation of fiscal policies, and after any amendment is made to the budget by the Ministry, the Minister in charge of the administration of the Ministry shall submit the budget to the Parliament. And, upon the approval of the budget by the Parliament, the Parliament and the said Ministry shall deem that the change has been made in the relevant proportion of the State Budget in force at the time of the entry into force of this Act.

Developing and Enforcing Regulations

- 46. (a) The Commission shall, in collaboration with the Attorney General's Office and the civil society organisations working in the area of human rights, develop and enforce regulations necessary for the Commission to carry out its responsibilities

under this Act. The Minister shall develop and enforce the regulations necessary for the performance of the responsibilities of the Minister under this Act. The Courts shall develop and enforce the rules necessary for the performance of their duties under this Act.

- (b) Those who are required to develop the regulations under the Act must make them public within a maximum period of 6 (six) months from the date of ratification of this Act.

Enforcement of the Act

- 47. This Act shall come into force on the day after 3 (three) months have elapsed from the date of passing, ratification and publication of this Act in the Government's Gazette.

Interpretation

- 48. Unless the context otherwise requires as used in this Act, the following phrases and words have the meanings given below in relation to them.

- (a) "Public servant" means all soldiers of the Maldives National Defence Force, all policemen of the Maldives Police Service, all employees of the Maldives Civil Service, all persons employed in agencies, institutions and offices established by the Constitution or law; all persons appointed under the powers conferred on the President of the Republic by the Constitution, and all persons who are entrusted with any of the official responsibilities of the Government of the Maldives or the Maldivian State, individually and collectively.
- (b) "State of war" means a situation in which, on the basis of the procedures followed by the armed forces in the Maldives National Defence Force, or on the basis of the procedures followed by the police in the Maldives Police Service, or on the basis of the operational procedures followed by a law enforcement agency, or on the basis of the procedures followed by any other State agency working for the safety and security of the Maldivian State and its people, the State is taking measures permitted by domestic law and international treaties to which the State is a party, in order to combat the enemies of the State, or prevent their actions, or neutralise their power.
- (c) "Victim of Torture" means a person who suffers any physical or mental injury or harm or pain as a result of an act of torture or a cruel, inhuman or degrading treatment defined in this Act. Or

the person who is inflicted with pain, and, as such, including those who were tortured and who had been tortured.

- (d) "Compensation" means the amount of money awarded through the courts, as valued in financial terms in accordance with this Act, to the victim of torture for the damages suffered as a direct result of the act of torture.
- (e) "Minister" means the Minister, if under the same Ministry, responsible for the police service and the management of detention centres. And if the two responsibilities are vested in two ministries, to the Minister, in proportion to the minister of each ministry.
- (f) "Commission" means the Human Rights Commission of the Maldives.
- (g) "Torture" means an act inclusive of physical torture, mental torture, and cruel, inhuman or degrading treatment or punishment.
- (h) "Vessel" means a sea transport vessel, a road transport vehicle and an air transport vehicle.
- (i) "Court" means the Criminal Court in Male', if in relation to a prosecution brought by the Prosecutor General in connection with a complaint of torture. If in the case of compensation for damage caused by an act of torture, the Civil Court in Male'.