

MALDIVES

Country Report: Anti-terrorism laws & policing

1. Country summary^{*}

- a. **Government:** Presidential republic
- b. **Population:** 329 000
- c. **Size:** 298 square km
- d. **Region:** South Asia

e. General

Maldives gained independence from Britain in 1965. In November 1988 Tamil mercenaries from Sri-Lanka, allegedly called in by Maldivian coup-leaders, invaded the Maldives. The Maldivian Government appealed for international help and India responded by launching a brief military campaign that restored the Government to Male.

Maldives has been ruled by President Gayoom since 1978. The President has ruled absolutely – as well as acting as head of state, he is the chief executive, the ultimate judicial authority and the supreme religious figure (Islam is the country's official religion and citizenship requires obedience to the tenets of Islam). The President appoints the cabinet, the judiciary, and a number of members of Parliament – as well as members of the Human Rights Commission, Judicial Services Commission and Police Integrity Commission.

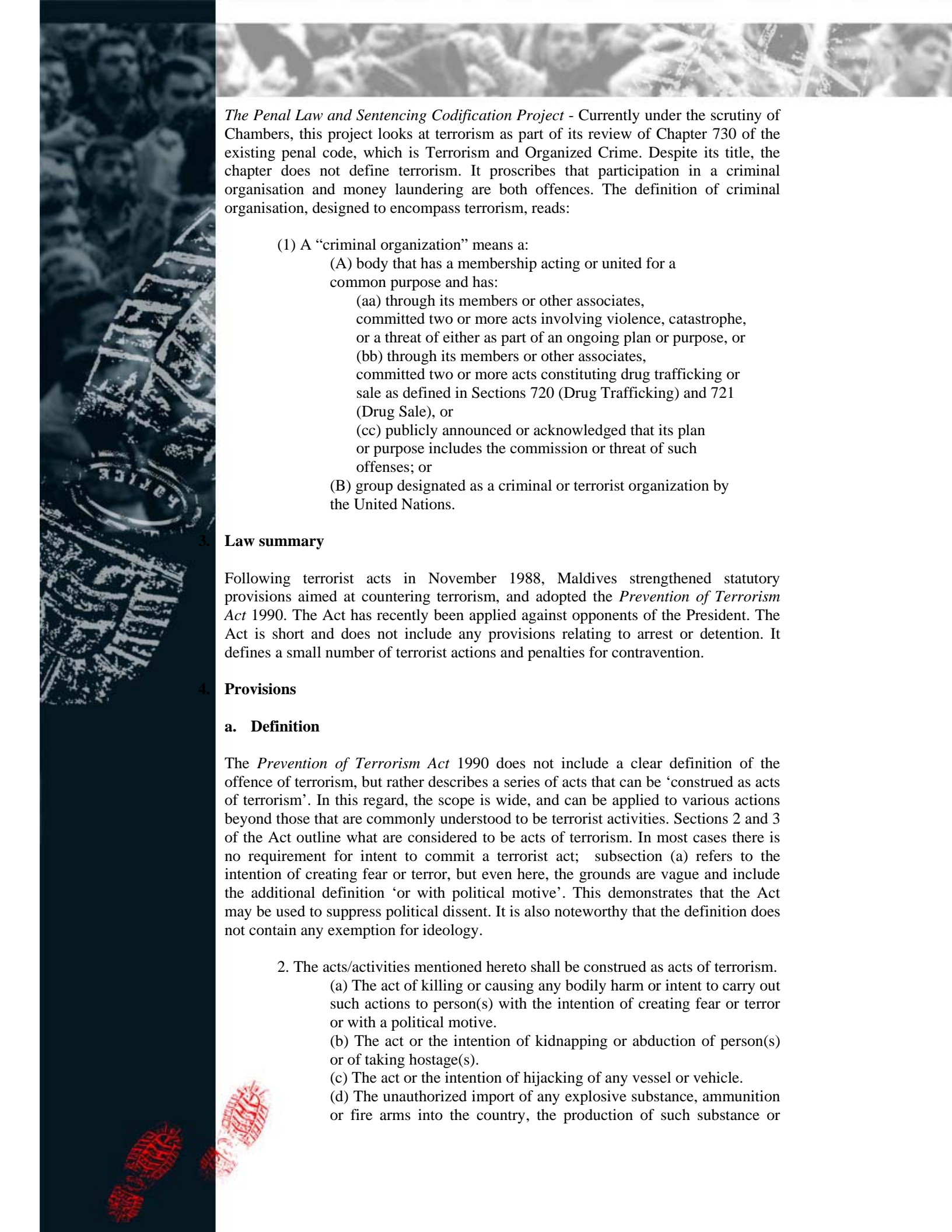
Political parties were legalised in 2005, as part of a package of reforms ahead of planned democratic, multi-party elections in 2008. In 2006, the President announced a "Roadmap for the Reform Agenda", which is the Government's plans for reform and legal and constitutional change to ready the country for elections. The Agenda included strengthening the Maldives Human Rights Commission (including a commitment to ensure compliance with the Paris Principles, the internationally accepted standards for human rights institutions), creating a Police Integrity Commission and underpinning the police organisation with legislation.

There are concerns that the timeline for reform set out in the Agenda is not being met and that a number of the reforms have not resulted in sufficiently independent, robust or transparent mechanisms.

2. Relevant legislation

Prevention of Terrorism Act 1990 - The act is brief. Its main feature is the definition of terrorism, which is extremely broad and ill-defined. Penalties for contravening the act are harsh, ranging from life imprisonment to the death penalty and imprisonment with hard labour.

^{*} Many thanks to Jude Laing for his thoughtful review of this report and his constructive suggestions.



The Penal Law and Sentencing Codification Project - Currently under the scrutiny of Chambers, this project looks at terrorism as part of its review of Chapter 730 of the existing penal code, which is Terrorism and Organized Crime. Despite its title, the chapter does not define terrorism. It proscribes that participation in a criminal organisation and money laundering are both offences. The definition of criminal organisation, designed to encompass terrorism, reads:

- (1) A “criminal organization” means a:
 - (A) body that has a membership acting or united for a common purpose and has:
 - (aa) through its members or other associates, committed two or more acts involving violence, catastrophe, or a threat of either as part of an ongoing plan or purpose, or
 - (bb) through its members or other associates, committed two or more acts constituting drug trafficking or sale as defined in Sections 720 (Drug Trafficking) and 721 (Drug Sale), or
 - (cc) publicly announced or acknowledged that its plan or purpose includes the commission or threat of such offenses; or
 - (B) group designated as a criminal or terrorist organization by the United Nations.

3. Law summary

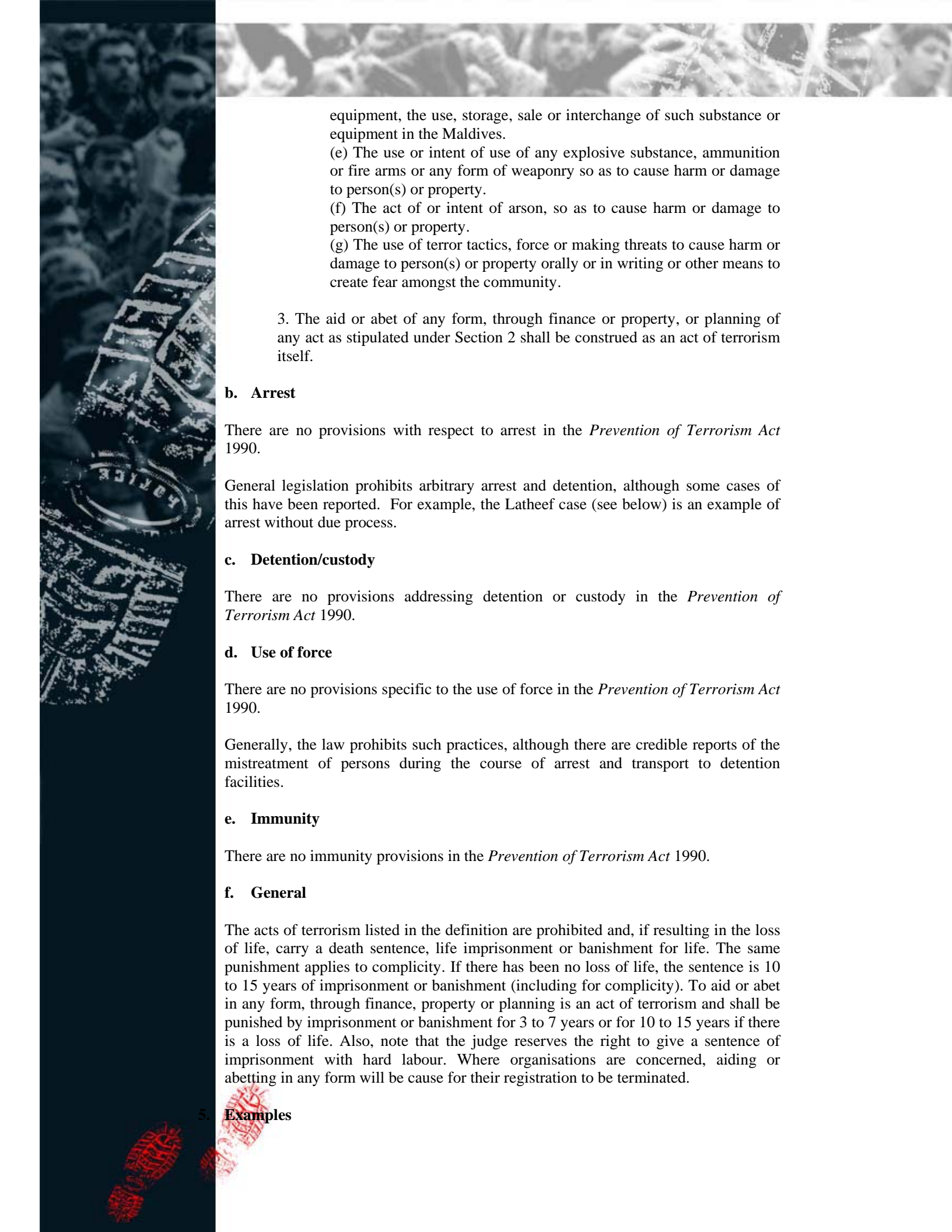
Following terrorist acts in November 1988, Maldives strengthened statutory provisions aimed at countering terrorism, and adopted the *Prevention of Terrorism Act 1990*. The Act has recently been applied against opponents of the President. The Act is short and does not include any provisions relating to arrest or detention. It defines a small number of terrorist actions and penalties for contravention.

4. Provisions

a. Definition

The *Prevention of Terrorism Act 1990* does not include a clear definition of the offence of terrorism, but rather describes a series of acts that can be ‘construed as acts of terrorism’. In this regard, the scope is wide, and can be applied to various actions beyond those that are commonly understood to be terrorist activities. Sections 2 and 3 of the Act outline what are considered to be acts of terrorism. In most cases there is no requirement for intent to commit a terrorist act; subsection (a) refers to the intention of creating fear or terror, but even here, the grounds are vague and include the additional definition ‘or with political motive’. This demonstrates that the Act may be used to suppress political dissent. It is also noteworthy that the definition does not contain any exemption for ideology.

- 2. The acts/activities mentioned hereto shall be construed as acts of terrorism.
 - (a) The act of killing or causing any bodily harm or intent to carry out such actions to person(s) with the intention of creating fear or terror or with a political motive.
 - (b) The act or the intention of kidnapping or abduction of person(s) or of taking hostage(s).
 - (c) The act or the intention of hijacking of any vessel or vehicle.
 - (d) The unauthorized import of any explosive substance, ammunition or fire arms into the country, the production of such substance or



equipment, the use, storage, sale or interchange of such substance or equipment in the Maldives.

(e) The use or intent of use of any explosive substance, ammunition or fire arms or any form of weaponry so as to cause harm or damage to person(s) or property.

(f) The act of or intent of arson, so as to cause harm or damage to person(s) or property.

(g) The use of terror tactics, force or making threats to cause harm or damage to person(s) or property orally or in writing or other means to create fear amongst the community.

3. The aid or abet of any form, through finance or property, or planning of any act as stipulated under Section 2 shall be construed as an act of terrorism itself.

b. Arrest

There are no provisions with respect to arrest in the *Prevention of Terrorism Act 1990*.

General legislation prohibits arbitrary arrest and detention, although some cases of this have been reported. For example, the Latheef case (see below) is an example of arrest without due process.

c. Detention/custody

There are no provisions addressing detention or custody in the *Prevention of Terrorism Act 1990*.

d. Use of force

There are no provisions specific to the use of force in the *Prevention of Terrorism Act 1990*.

Generally, the law prohibits such practices, although there are credible reports of the mistreatment of persons during the course of arrest and transport to detention facilities.


e. Immunity

There are no immunity provisions in the *Prevention of Terrorism Act 1990*.

f. General

The acts of terrorism listed in the definition are prohibited and, if resulting in the loss of life, carry a death sentence, life imprisonment or banishment for life. The same punishment applies to complicity. If there has been no loss of life, the sentence is 10 to 15 years of imprisonment or banishment (including for complicity). To aid or abet in any form, through finance, property or planning is an act of terrorism and shall be punished by imprisonment or banishment for 3 to 7 years or for 10 to 15 years if there is a loss of life. Also, note that the judge reserves the right to give a sentence of imprisonment with hard labour. Where organisations are concerned, aiding or abetting in any form will be cause for their registration to be terminated.

5. Examples



These examples demonstrate that anti-terrorism legislation in the Maldives has been used to suppress political dissent or opposition.

Jennifer Latheef: The Maldivian government has targeted a number of journalists, many of whom have been arrested and imprisoned. A notable case is that of Jennifer Latheef. A journalist, human rights activist, a then MDP (the major opposition party) national council member and daughter of MDP founder Mohamed Latheef, Jennifer was sentenced to 10 years in prison in October 2005. She was charged with encouraging others to commit acts of terror after participating in a demonstration in response to the death of a prison detainee.

Jennifer's detention has been linked to her outspoken opposition to the Government and President. Her arrest has also been described as an attempt by the Government to limit the activities of her father, Mohamed Latheef, a Maldivian politician living in exile in Sri Lanka where he has been engaged in a campaign of peaceful political opposition to the government of the Maldives. Jennifer Latheef was finally freed in August 2006, after having been transferred to house arrest in December 2005.

Links: <http://www.maldiviandetainees.net/individuals/5jenny.htm>
<http://news.amnesty.org/mavp/mediaclip.nsf/0/B5317D50629DF246802572220060951B>
http://www.rsf.org/article.php3?id_article=18612

Mohammed Nasheed: Mohammed Nasheed, chairperson of the opposition Maldivian Democratic Party, was placed under house arrest and charged under the *Prevention of Terrorism Act* 1990 in August 2005. He had been leading a demonstration advocating for democratic government in the Maldives. After calls for his release from the international community, he was freed from house arrest in September 2006. However, the charges against him were not dropped. Further, Nasheed's trial has proceeded in an unfair manner; he has not been informed of all of the evidence that will be used against him, and has not been given adequate time to prepare a defence.¹

Links: <http://www.minivannews.com/news/news.php?id=2729>
<http://www.maldiviandetainees.net/individuals/170anni.htm>

Ibrahim Fareed: Ibrahim Fareed has been arrested and detained a number of times by the Maldivian Government. The Government claims that Fareed is an Islamic extremist involved in terrorist activities. Many believe that the Government has made these allegations against Fareed because he is a popular Islamic scholar who opposes the current regime. Fareed has been under house arrest, in jail, and in solitary confinement. He claims to have been beaten and tortured while in detention.

Links: <http://www.minivannews.com/news/news.php?id=1212>
<http://www.amnestyusa.org/document.php?lang=e&id=80256AB9000584F680256D6E0050556C>

¹ Husnu Suood, report to the International Commission of Jurists' Panel on Counter-Terrorism and Human Rights.