

MALDIVES PENAL CODE

A TRANSLATION

Translator's Note

This is a reasonably accurate translation of the Maldives Penal Code originally found in the Maldivian Language, Dhivehi. Every effort has been made to maintain the style and format of the Dhivehi original. The reader may expect certain inconvenient defects in this Translation which may be attributable to corresponding defects in text, format and style of the Dhivehi original. However, where it is absolutely essential or justifiable for the purposes of this Translation, certain departures from the Dhivehi text and style will be made without compromising the substance or spirit of the relevant Dhivehi provision.

PENAL CODE

Act Number 1/81

27/1/1381 H.

Enacting Provision

Whereas it is seen imperative by the State of the Maldives and the People's Majlis¹ to have a Penal Code for the purposes of establishing and maintaining public tranquility, public order and justice within the jurisdiction to which the Constitution of the Maldives applies, it is hereby enacted as follows by the People's Majlis on 27th Muharram 1381 H², directing the State to abide by this Law and to enforce it within the jurisdiction of the Maldives from 5th Safar 1381 H³.

CHAPTER 1

General Explanations

Title

1. This Law shall be cited as the "Penal Code of the Maldives". This Law shall have effect in respect of the State of the Maldives, its territorial jurisdiction and every living being, tree, land, sea and every other living creature within that jurisdiction.

Applicability

2. Except as may be provided in *Shari'ah*⁴ or in any other Law for the time being in force, punishments prescribed in this Law shall be applicable within the jurisdiction specified in Section 1.

¹ This is a reference to the Maldives Legislature. [Translator's Own Note]

² This date is according to the Islamic Calendar that commences from Prophet Muhammad's migration from Mecca to Medina and the corresponding Gregorian Calendar reference is not provided in the section. [Translator's Own Note]

³ Refer to Note 2

⁴ Reference is made to the Islamic Law

- Committing Offences Outside the Maldives
3. Every person on whom Maldives Law is applicable, whether he was outside the territory of the Maldives or within the jurisdiction specified in Section 1 at the time of contravening the law, shall be punished as if such offence was committed within the Maldives. Further, his trial shall be conducted in the Maldives.
- Persons exempt from the application of this Law
4. Persons to whom the State has agreed to grant immunity under a foreign treaty; foreign dignitaries of the State; and ambassadors of foreign countries resident in the Maldives shall be exempt from the application of this Law. Representatives of various foreign institutions whom the State has granted immunity in that respect shall further be exempt from the application of this Law.
- Foreign Nationals who Commit an Offence under this Law
5. Where a foreign national arrives in the Maldives after committing an offence overseas and where the Government of the country in which such person is domiciled has not requested for his extradition, the Maldivian State shall have the competence on allegation of that offence, to arrest or detain him or deport him from the Maldives or to do everything that is possible to expel him from the Maldives where it is expedient for the purposes of preserving the interests of the Maldivian people or a section thereof.
- Offender under 10 Years of Age
6. Where a person under 10 years of age is found guilty under this Law, he shall not be subjected to the full punishment prescribed for the relevant offence in this Law. And it is more desired that his act be not regarded in every possible measure as an offence.

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| Offender under 16
Years of Age | 7. Except in respect of offences relating to the religion of Islam or homicide, the Judge shall have the discretion to mitigate the punishment in respect of every other offence committed by a person under 16 years of age who is found guilty under this Law. |
| Document | 8. The word “Document” in this Law shall mean to include any matter expressed or described upon any substance by means of letters, figures or marks and is intended to be used or which may be used as evidence of that matter.

Note: It is immaterial by what means or upon what substance the letters, figures or marks are formed. And items not intended for use as evidence are included within this definition if such item may be likely to be used as evidence. . |
| Offence
Constituting of
Several Acts | 9. Where there is an intention or an attempt to commit an offence and where such offence is completed or attempted to be completed by one act or several acts, all such acts shall be constituted as one offence. |
| Several Persons
Committing an act
to cause Hurt or
which is likely to
cause Hurt | 10. Where an offence is committed by more than one person with the intention to cause hurt to a person or where it is known that such act is likely to cause hurt to a person, each of them shall be guilty of that offence. |
| Offence
Constituting
Several Acts by
Several Persons | 11. Where an offence is committed by several acts committed by several persons, each of them who committed that act or a part of it with the intention to commit that act shall be guilty of that offence. However where several persons are involved, in the commission of the act in different degrees, the Judge shall have the discretion to vary their punishment based upon the extent of their involvement. |

- Abetment in an offence
12. “Abetment” in an offence occurs when there is:
- a. Advising or instigating in any manner to commit an offence or referring directly or indirectly to any such act;
 - b. Conspiring to commit an offence and committing an act for the purpose of taking part in the commission of an offence;
 - c. Aiding in any manner in the commission of an offence.
- Aiding in the Commission of an Offence
13. A person shall be guilty in respect of “aiding” in the commission of an offence where he takes part in the conspiracy to commit that offence or where having knowledge of the design to commit that offence facilitates or does an act that facilitates its commission.
- Commission of an Offence in the presence of Person who Aids or Abets
14. Where an offence is committed in the presence of an offender mentioned in section 12 and section 13 and does not commit an act that constitutes that offence or does not commit an act that facilitates escape of the offender, he shall be guilty under section 12 and section 13. And where he commits an act that constitutes that offence or an act that facilitates escape of the offenders, he shall be deemed to have committed that offence himself.
15. Except where a *Hadd*⁵ punishment is prescribed in Islamic Shari’ah, every offence mentioned in this Act shall be punishable with the punishment provided in this Law.

⁵ *Hadd* or *Hudud* refers to offences created by the Holy Qur’an and for which punishment is prescribed in the Holy Qur’an itself or in the Tradition of the Prophet. There are seven such offences in Islamic Shari’ah.

(Section 17 is repealed by Law Number 18/76.⁶)

16. In calculating fractions of terms of punishment, imprisonment for life or exile for life shall be considered as imprisonment or exile for 25 years. No punishment given under this Law for a single offence shall exceed 25 years.
18. Where “rigorous punishment” is ordered under this Law the Judge shall have the discretion to direct “solitary confinement” for a part of the term of that punishment. That direction shall be subject to the following proportions:
 - a. Where the period of rigorous punishment is 3 months, solitary confinement shall be 1 month;
 - b. Where rigorous punishment is for a period between 3 months and 1 year, solitary confinement shall be for 2 months;
 - c. Where rigorous punishment is for a period between 1 year and 2 years, solitary confinement shall be for 3 months.
19. Periods of solitary confinement as specified in sections 18 (a), (b), and (c) are maximum periods prescribed for such confinement.
20. Nothing is an offence which is done by a person in good faith believing that he is bound by law to do it.
21. Where special circumstances intervene, it shall be within the competence of the People’s Majlis to enact temporary penal legislation contrary to this Law. Temporary legislation refers to enactments which continue in effect for an uninterrupted period of one year. Such legislation may be renewed as provided in this section.

⁶ This is according to Gregorian Calendar

(Section 22 is repealed by Law Number 30/71.⁷)

23. Nothing is an offence which is done by accident or misfortune and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.
24. Nothing is an offence which is done by a person who at the time of doing it is by reason of being in a certain state of mind, is incapable of knowing the nature of the act or that it may be contrary to law. This provision shall not be applicable to a person who creates that state of mind on his own volition or with his consent or by doing an act with knowledge that it will or may be likely to cause that state of mind.
25. An act committed under sudden impulse in defence of “one’s own self” shall not be an offence except where that act results in the death of a person.
Note: “One’s own self” shall mean the life of one’s own, that of his parents, his children, and that of dependents and relatives whose legal guardianship is attributed to him by religion.
26. Whoever abets the commission of an offence punishable with death, imprisonment for life or exile for life under this Law shall be punished with imprisonment or exile between 5 years and 12 years or shall be subject to a fine between Mrf. 3,000.00 and Mrf. 10,000.00. Where the act of abetment results in grievous hurt being caused to to a person, his term of punishment can be extended up to a period of 18 years or the fine may be increased up to an amount of Mrf. 15,000.00.

⁷ Do

27. Whoever conspires to commit an offence punishable with death, imprisonment for life, exile for life or rigorous imprisonment not exceeding a period of 4 years under this Law but has not committed any act in pursuance of that conspiracy shall be found guilty only in respect of its abetment.
28. In this Law :
- a. “State” shall mean the Cabinet existing in accordance with the Constitution, People’s Majlis and collectively all agencies that are entrusted with the administration of those entities. This definition shall also include all property belonging to the State.
 - b. “Government” shall mean the agency entrusted in accordance with the Constitution with the function of administering the affairs of the Maldives.
 - c. “President” shall mean the person who is elected as permitted by the Constitution of the Maldives to the highest office of governance. In enforcing this Law it shall also include a reference to his spouse, children and property.
 - d. “Him” or “Person” where it occurs shall include in its definition women, men and young or adult human beings. Where a term denotes a singular meaning it shall also include its plural form. Where a term denotes a plural meaning it shall also include its singular form. This definition shall also refer to clubs, companies, organizations and similar associations.

- e. “Judge” shall mean the person ultimately responsible to determine or pronounce the punishment in respect of an offence for the purposes of administering justice in accordance with law.
- f. “Moveable Property” shall mean every form of property except those that are attached to or fastened to the land.
- g. “Hurt” shall mean any injury or loss caused in contravention of the law to a person’s body, his mind, his person, his reputation, his name or his property.
- h. “Local Law” shall mean laws that are applicable in respect of a single atoll, an island or a region.
- i. “Life” shall mean unless provided to the contrary the source of life bestowed by God upon various living beings.
- j. “Animals” shall refer to all living beings except humans.
- k. “Conveyance” shall mean any thing that conveys or is made for the transportation by sea, land or air, of human beings or property.
- l. “Unlawful assistance” or “Unreasonable assistance” shall mean any assistance that is provided to an offender or someone accused of having committed an offence that prevents or resists his arrest. This term includes providing shelter, food, drink, money, weapons or any form of help that facilitates his movement from one place to the other.

- m. “Counterfeit” shall mean causing or participating in act to cause one thing to resemble another intending by means of that resemblance to practice deception or knowing it to be likely that deception will thereby be practiced.

Note: It is not essential to counterfeiting that the resemblance should be exact. When a person causes one thing to resemble another and the resemblance is such that a person might be deceived thereby it shall be presumed until the contrary is proved that the person so causing the one thing to resemble the other did intend by means of that resemblance to practice deception or knew it to be likely that deception would thereby be practiced.

- n. “Offence” shall mean the commission or omission of an act for which there is a punishment provided by Law.
- o. “Jail” shall mean a facility where offenders are confined as punishment in respect of offenses prescribed by Law or *Shari’ah*.
- p. “Confinement” shall mean confinement in a jail in such manner that it restrains one’s freedom as punishment for an offence prescribed by Law or *Shari’ah*.
- q. “Rigorous imprisonment” shall mean confinement of the offender in a manner that increases the hardship of the jail term based upon the nature of the offence committed by him by subjecting the offender to special arrangements in the jail.

- r. “House detention” shall mean confinement of a person in a residence or a dwelling as punishment which restricts his movement outside that residence or dwelling.
- s. “Exile” shall mean confinement of a person to an inhabited island other than the island in which he is domiciled for a certain period of time while restricting his movement to any other inhabited place and his personal freedom or part thereof.
- t. “Fine” shall mean what is acquired from a person within a certain period as a punishment and in proportion to the offence .
- u. “Grievous hurt” shall mean permanent injury or loss caused in contravention of *Shari’ah* or Law to a person’s body, one of his organs or senses or his property or a permanent disability to carry out his occupation.
- v. “Punishment” shall mean penalty prescribed in law for offences determined by law.

Acts against the State and Disharmony

- 29. Whoever attempts to commit or participates in or facilitates the commission of an act against the State shall be punished with imprisonment for life or exile for life or imprisonment or exile for a period between 10 years and 15 years.
- 30. Whoever conspires to unlawfully use weapons (that could cause grievous hurt to the body of a person) to remove the President from office or to overthrow the Government shall

be punished with imprisonment for life or exile for life and the Judge shall have the discretion to direct a fraction of the term to include rigorous imprisonment.

31. Whoever unlawfully makes weapons (of war) to remove the President from office or to commit an act against the State shall be punished with exile for life or imprisonment for life with rigorous imprisonment for a period not exceeding 5 years.
32. Whoever conceals the existence of a design to commit an unlawful act against the President or the State shall be punished with imprisonment or exile for a period between 5 years and 10 years or subjected to a fine between Mrf. 5,000.00 and Mrf. 10,000.00.
33. All forms of rebellion or insurrections shall be included within the provisions of section 29, 30, 31 and 32.
34. Whoever conspires to cause injury to the life of the President in contravention of Law or *Shari'ah* shall be punished with imprisonment or exile between a period between 5 years and 12 years. Whoever abets in that offence shall also be subjected to the same punishment.
35. Whoever conceals the existence of a design to cause injury to the life of the president in contravention of Law or *Shari'ah* or who assists in such conspiracy shall be punished with imprisonment or exile or house detention for a period between 4 years and 8 years.
36. Whoever causes hurt to the life of the President in contravention of Law or *Shari'ah* shall be death.
37. Whoever while within or outside the Maldives commits an act that can cause detriment to the Government of the

Maldives, its independence or sovereignty or cause a part of the Maldives in terms of territory or population to be divested from the jurisdiction of the Government of the Maldives shall be death.

Whoever abets in this offence shall also be subjected to the same punishment.

However the person who facilitates the commission of this offence or conceals the design to commit this offence shall be punished with imprisonment or exile for a period between 10 years and 15 years.

38. a. It shall be an offence for a Maldivian or a foreign national within the territory of the Maldives to excite by written or oral representation, any enmity contempt, or disharmony amongst any section of the Maldives population towards the Government established by Law in the Maldives. It shall also be an offence to cause, any enmity contempt, or disharmony by such oral or written representations even between different sections of the Maldives population.
- b. Whoever commits an offence prescribed in subsection (a) of this section shall be punished with imprisonment or exile for a period between 1 year and 5 years. A person who abets or aids the commission of this offence shall also be subjected to the same punishment. A person who has concealed the design to commit this offence shall be punished with imprisonment or exile for a period not exceeding 2 years.

- c. Comments spoken or written in newspapers or magazines registered according to Law and in accordance with reality and expressing dissatisfaction towards the acts or omissions of the Government or a civil servant in the due discharge of his duties with a view to obtain their alteration shall not constitute an offence prescribed in this section.
- d. Enmity contempt or disharmony as provided in this section shall be deemed to have been excited only where a person by having committed an act as provided above causes disobedience by a person or a group of persons to a lawful directive of the Government or attempts to disobey such directive or causes or attempts to cause loss to property or buildings belonging to the Government or a person or a group of persons or where people assemble in opposition to the Government or attempts to assemble in such manner or there is encouragement in any form to commit any such act.

39. Whoever by reason of his negligence allows the escape of an offender mentioned in this chapter and kept in his custody shall be punished with imprisonment or exile for a period between 4 years and 8 years. Whoever takes part in it or facilitates it or conceals the design to commit that offence shall be punished with imprisonment or exile for a period not exceeding 6 years.

40. Whoever conspires except in the form of causing harm or injury to prevent or refrain the due discharge of duties or exercise of power or discretion attributed to a person appointed to an office by an Instrument of Appointment from the President in the cause of discharging the functions of

Government established by Law by Constitution shall be punished with imprisonment or exile for a period between 6 months and 8 years. Whoever abets the commission of that offence shall also be subjected to the same punishment. However who aids the commission of that offence or conceals the design to commit that act shall be punished with imprisonment or exile for a period between 1 month and 6 years.

41. a. Whoever is convicted of conspiracy to commit an offence prescribed in sections 29, 30, or 31 of this Law free from any collusion with others shall be punished with imprisonment or exile for a period between 8 years and 15 years. Where a person is convicted of conspiracy to commit such an offence in collusion with a group of persons shall be punished with imprisonment or exile for a period between 10 years and 17 years.
- b. In this Chapter “solitary confinement” shall mean confinement of a person in such manner where he has no access to any other human being except prison officials and has no connection with the outside world in any form or means.
- c. In this Chapter “concealment” of design to commit an offence shall mean the failure to give immediate notice of the act to the Ministry of Defense and National Security, a Police Station, an Atoll Office or Island Office.

In accordance with Article 69 of the Constitution, the provisions of this Law shall come into effect from 21st April 1975.

2 September 2004