



UNODC

United Nations Office on Drugs and Crime

Training Module

Gender
Dimensions
of Criminal
Justice
Responses to
Terrorism



Training Module

Gender Dimensions of Criminal Justice Responses to Terrorism

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BACKGROUND, AIMS AND METHODOLOGY OF THE TRAINING MODULE

The development of this Training Module was made possible by funding of the Government of Japan for the project *Strengthening Capacity of States to Counter Terrorism and Transnational Organized Crime in Bangladesh and Maldives*.

Background

In the course of their cooperation, UNODC and Maldivian authorities determined that the effectiveness of capacity-building initiatives on criminal justice responses to counter-terrorism would be significantly enhanced and made more sustainable if customized Maldivian training materials on key aspects of criminal justice responses to terrorism were developed and made available to criminal justice sector practitioners and training institutions in the country.

In May 2019, UNODC published the Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism. The present Training Module is intended to provide training materials tailored to Maldives' laws and context complementing the UNODC Handbook. Users of the present training tool can therefore refer to the UNODC Handbook for more in-depth analysis of the international legal and policy framework and for additional comparative materials highlighting the experience and interesting practices developed in other countries.

The present publication on Gender Dimensions of Criminal Justice Responses as a Training Module is intended to serve as a tool to train the criminal justice actors and is not to be seen as a body of research offering situational analysis on terrorism or its gendered premise in the Maldives. The publication thus has a focused nature and its intent is to examine the gender aspects of criminalization and adjudication of terrorism-related offences and to train the criminal justice sector participants accordingly in this regard. The examples and activities that have been used in the Module are illustrative and at times hypothetical; the real-life personal experiences of the trainers at different training facilities, being intertwined with the training tool, can either substantiate or contradict such examples. The Module also should be viewed as complementary to other UNODC publications on terrorism, prevention of violent extremism, and criminal justice, among others, which will provide for a more comprehensive and holistic perspective.

Aims and Methodology of the Training Module

i. Objective and target audience

The principal objective of this Training Module is to provide a tool for training Maldivian law enforcement officials, investigators, prosecutors and judges working in the counter-terrorism field or on terrorism-related cases, as well as lawyers in private practice and gender equality and women's rights advocates.

In addition to being a training tool, the Module can serve as a manual for self-study and as a reference text for practitioners to look up Maldivian, as well as regional and international practices on questions arising in connection with the criminal justice responses to terrorism.

ii. Methodology

The training method employed by the Training Module is designed to empower adult participants to effectively discharge their professional duties and responsibilities. The methodology adopted has therefore the following four characteristics:

- a) practical (as adult professionals learn by doing)
- b) interactive (in order to capitalize on the collective intelligence and expertise of the group)
- c) participant-centred (as the entire learning experience must focus on the participants' needs and expectations)
- d) based on a problem-solving approach (in order to immerse the participants in a real-life stimulating learning experience).

These are learning methods that encourage and indeed require participants to play an active role and take responsibility for their learning. Participants will be expected to work both as part of a small group, as well as individually, to explore problems through case studies and discussion platforms, and take initiatives that allow them to acquire the practical knowledge and skills that they need in their workplace. The Training Module offers key learning objectives, lecture material, activities, and case studies to enhance discussion and knowledge sharing. The Training Module does not aim at providing abstract or theoretical knowledge of legal concepts, but rather at encouraging trainers and participants to reflect upon the practical application and implications of the norms and principles discussed, and to think about the policy and ethical underpinnings of legal principles.

The Training Module may represent a useful tool both for the trainer(s) and the participants. The trainers will have to determine the most appropriate moment to distribute the Module. In some cases, they might want to distribute it at the beginning of the course. In other cases, they might esteem more appropriate to share the Module in its entirety with the training participants only at the end of the training. In this case, trainers should provide copies of assignments and other relevant materials already during the training.

In support to the participant-centred and problem-solving approach underlying the Training Module, a number of training tools are used. To facilitate the use of these tools, they are identified throughout the Training Module by graphic symbols.

These are the symbols used:

<p>Learning objectives</p> 	<p>Contains a brief overview of the key topics on which the respective Chapter intends.</p>
<p>Focus boxes</p> 	<p>Users are introduced by a series of boxes to topics of specific interest, providing more in-depth information or examples, and allowing a comparative approach to the subject.</p>
<p>Case studies</p> 	<p>Studies of hypothetical cases pertaining to the subject matter of the Module from Maldives.</p>
<p>Activities</p> 	<p>These boxes offer ideas for exploring how the various topics covered in the Module are handled in practice in the Maldives. Participants are encouraged to apply their skills and share their experience. Some of the activities are discussion points, others are hypothetical case studies which can also be used to practice drafting an application or a motion on a point of law, or as basis for a mock hearing for both the judges and the lawyers involved. During workshops, trainers may propose an activity to stimulate an initial discussion among participants, or to encourage application of the legal concepts to a hypothetical practical case. Readers studying independently will also be able to use the activity boxes to focus on the practical application of knowledge acquired.</p>
<p>Self-assessment questions</p> 	<p>Assessment questions included at the end of each Chapter provide a means to test one's knowledge on the topics covered. These questions are primarily intended as a tool for self-assessment by learners using the Modules for self-study. The assessment questions can also be used by trainers as a preliminary tool to identify training needs and the level of competence of participants, as discussion points during a training session, or to test impact at the end of a training session.</p>
<p>Tools</p> 	<p>These tools offer additional materials, including practical guides, manuals, treaties and model laws, databases, and other sources, to assist criminal justice practitioners in applying the principles discussed.</p>

Further reading



This tool offers reference to additional material with a view to broadening the reader's knowledge of the topics discussed.

Reference



The reference symbol is used to inform users of the location of information covering the same or connected topics in other UNODC publications and resources.

INTRODUCTION

This Module examines gender dimensions of criminal justice responses to terrorism in the Maldivian context. It has been developed by UNODC, in cooperation with Maldivian criminal justice officials, on the basis of the conviction that an effective criminal justice response to terrorism must include a gender perspective, adopt an approach based on gender mainstreaming and human rights, and take account of the multifaceted and distinct ways that women and men are involved in, and impacted by, terrorist acts. Adopting such an approach will both strengthen the effectiveness of the criminal justice response to terrorism and respect for women's rights in this context. As such, this Module aims to support Maldivian criminal justice practitioners to enhance the integration of a gender perspective in the investigation, prosecution, and adjudication of terrorism cases, in the provision of assistance to victims of terrorism, and in detention in relation to terrorism-related offences.

The Intersection of Gender, Terrorism and Counter-Terrorism

Gender intersects with terrorism in many ways. The patterns of women's and men's involvement in terrorism, including voluntary and forced association/recruitment, motivations, and roles, may differ. Terrorism can also have different impacts on women and men as victims.

The roles that women and men fulfil in supporting or carrying out acts of terrorism may also have a gendered premise. Men continue to hold the majority of ideological and leadership positions in terrorist groups and constitute the majority of those engaged in violent operational roles across the world.¹ On the other hand, in many cases, the roles prescribed to women in terrorist groups are closely connected with the religious or ideological doctrines that such groups adhere to.

As a result, the majority of acts of extremist violence continue to be committed by men across the world.² Contrarily, women and girls are perceived as enablers or supporters of extremist violence, when/if not as preventers, dissuaders and/or victims.³ However, women and girls are increasingly becoming perpetrators of extremist violence as well,⁴ and occupying violent operational positions in some groups.

Women appear in multiple roles in connection with terrorism, including as victims of terrorist violence, active fighters, sympathizers and mobilizers for terrorist groups, agents of social

¹ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism", p.31.

² Rex A. Hudson, "The sociology and psychology of terrorism: who becomes a terrorist and why?" Federal Research Division, Library of Congress, September 1999.

³ C. de Jonge Oudraat and M. E. Brown, "Women, gender, and terrorism: The missing links," Policy Brief, (August 2016), p. 3.

⁴ Ibid.

change and of prevention of acts of terrorism and violent extremism.⁵ Since the adoption of UN Security Council resolution 2129 (2013), efforts have been made to focus on three areas of activity by women involved in terrorism: women as the targets of terrorism, women as the perpetrators of terrorist acts, and women as preventers of terrorism, amending the earlier oversight of gender blindness in international counter-terrorism related instruments.⁶ UNODC divides the involvement of women as perpetrators of terrorist acts into further different categories such as participation in leadership and combat roles, female suicide bombers, women as recruiters and women in various support roles.⁷

There are multiple factors that may motivate individuals to support or engage in terrorism. They may include, for example, a wish to effect social change, as a response to grievances about socio-political conditions or perceived injustices along political, religious, or personal lines, to avenge the death of a spouse or relative, a fanatical commitment to ideological beliefs, or to achieve economic benefits.⁸ Motivations for women terrorists do not always coincide with those of men. There is no one reason that can be considered as the motivation for women's involvement in terrorism. The motives are many and may include showing obedience to militant husbands or relatives, dealing with inequalities and looking at terrorism as a means for finding a purpose.⁹ Other conditions that may lead to women's radicalization include sexual and gender-based violence, lack of economic and educational opportunities, as well as an impaired ability to engage in political forums and exercise civil and political rights through lawful means.¹⁰

Due to a lower number of female religious scholars in the Maldives, and religious scholarship predominantly rooted in notions of social structure based on patriarchy, religious and cultural narratives could have the tendency to undermine and overlook the feminine/gendered dimensions of religiosity. If women rely on religious discourses geared towards the male perspective which fail to adequately include women's needs, there could be a risk of making vulnerable women the target of manipulation towards violent extremism.

Moreover, generally, social exclusion and feelings of isolation can create a fertile recruiting ground for terrorist organizations.¹¹ The European Commission's Radicalization Awareness Network (RAN) has specified that in the European context, social exclusion, stigmatization and limited social mobility, are some of the factors which work as potential drivers of violent extremism.¹² The lack of group activities on some islands and the lack of a sense of community

⁵ United Nations Security Council, "Letter dated 18 January 2016 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council," S/2016/49, January 20, 2016. Available at <https://undocs.org/S/2016/49> (accessed on January 10, 2021).

⁶ Ibid.

⁷ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism", Publishing and Library Section, United Nations Office at Vienna, 2019, pp. 31-35. Available at https://www.unodc.org/documents/terrorism/Publications/GENDER/17-08887_HB_Gender_Criminal_Justice_E_ebook.pdf

⁸ Naureen Chowdhury Fink, Rafia Barakat, and Liat Shetret, "The Roles of Women in Terrorism, Conflict and Violent Extremism," Policy Brief, (April 2013), p. 3.

⁹ Shafi Md Mostofa, "Key Drivers of Female Radicalisation in Bangladesh," in Counter Terrorist Trends and Analyses, Vol. 12, No. 4 (June 2020), pp. 27-31.

¹⁰ Organization for Security and Co-operation in Europe, "Women and Terrorist Radicalization," February 2013, p. 3.

¹¹ Anooche Mushtaq, "Why Women Adopt Jihadi Ideology," Asia and the Pacific Policy Society, 25 March 2019. Available at <https://www.policyforum.net/why-women-adopt-jihadi-ideology/> (accessed on 11 January 2021).

¹² RAN Issue Paper, "The Root Causes of Violent Extremism," 4 January 2016. Available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/radicalisation_awareness_network/ran-papers/docs/issue_paper_root-causes_jan2016_en.pdf (accessed on 11 January 2021).

could also be an area of concern.¹³ These factors may play a role, although it is yet to be conclusively proven that these indeed have worked as a pull factor for the Maldivian women associated with terrorism or violent extremism leading to terrorism.

For some, women associated with terrorism in general, could be perceived to be attracted by a sense of 'liberation' from the 'immoral culture' of the West; the driving force of attaining the freedom to practice their own religion without discrimination. In the opinion of some scholars, this proved appealing for women in general who are disillusioned by the gendered expectations they feel are imposed on them by Western society.¹⁵

Disparities between tourists and locals, locally known as 'tourism apartheid,' are underscored as another factor that could potentially nourish recruitment narratives for extremist groups,¹⁶ for both men and women.

In their narrative, extremist groups have depicted the Maldivian Government as complicit in allowing non-Islamic ways of living in the name of tourism on its territory, while neglecting its own population.¹⁷ While generalizations are problematic, some of the first Maldivians to travel to join the Islamic State in Iraq and the Levant (ISIL/Da'esh, thereafter "ISIL") in conflict zones claimed that they saw the journey as an opportunity to escape poverty, overcrowded living conditions, and lack of economic opportunities

in their homeland.¹⁸ Hence, joining a terrorist group by giving in to its radical ideologies, may be seen as an 'escape'. This may encourage women to join the 'sacred' fight against Western values and also work as a key driver for women getting associated with terrorism in foreign countries.¹⁹ Some women are taken in the all-female units to ensure that other women in the organization-controlled areas abide by strict Islamic rules.

Furthermore, recent documents and social media posts which are generally used to indoctrinate youth in the context of Maldives use the narrative of guiding young women and encouraging them to prepare their children and support their spouses to join the fight in Syria,²⁰ lastly to be pulled by the prevalent gender-unequal social norms.²¹

¹³ UNDP, "Youth Vulnerability in the Maldives," February 2019. Available at <https://www.aidsdatahub.org/sites/default/files/resource/undp-youth-vulnerability-maldives-2019.pdf> (accessed on 11 January 2021). See also Shahrbanou Tadjbakhsh, "Fostering Community Resilience for Preventing Violent Extremism: Perspectives from Central Asia", The Maldives National Journal of Research, The Maldives National University, Vol. 4, No. 1, November 2016, pp. 35-44.

¹⁴ Naureen Chowdhury Fink and A. Davidian, "Complementarity and convergence? Women, peace and security and counterterrorism," in *The Oxford Handbook of Gender and Conflict*, F. Ní Aoláin, N. Cahn, D. Francesca Haynes and N. Valji (eds), (Oxford University Press, 2018) pp. 158–159.

¹⁵ Ibid.

¹⁶ "The Maldives' Foreign Fighter Phenomenon - Theories and Perspectives," European Foundation for South Asian Studies, 4 April 2020. Available at <https://www.efsas.org/publications/articles-by-efsas/the-maldives%E2%80%99-foreign-fighter-phenomenon-theories-and-perspectives/> (accessed on 3 December 2020).

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Dr. Aishath Ali Naaz, "Recruitment Trends: Crime, Mental Health and Violent Extremism: The Maldives story," SCN Summit, Melbourne, 12 July 2018. Available at <https://strongcitiesnetwork.org/en/wp-content/uploads/2018/08/Recruitment-Trends-Slides1.pdf> (accessed on 10 January 2021).

²¹ Emma Fulu, *Domestic Violence in Asia: Globalization, Gender and Islam in Maldives*, (Routledge, 2014); Animesh Roul, "The Threat from Rising Extremism in Maldives," CTC Sentinel, Vol. 6 No. 3, (2013), pp. 24–28. Available at <https://www.ctc.usma.edu/posts/the-threat-from-rising-extremism-in-the-maldives> (accessed on 11 January 2021).

Hostile sexist attitudes toward women and support for violence against women are some other factors that have been associated with support for violent extremism.²² In this sense, violations of women's human rights and violence against women,²³ are believed to be important drivers of women's participation in terrorism.²⁴

Drivers conducive to violent extremism ('push and pull' factors) include individual backgrounds and motivations, lack of socio-economic opportunities, marginalization and discrimination, poor governance, violations of human rights, subjugation or foreign intervention, distortion and misuse of beliefs, political ideologies, and ethnic and cultural differences.²⁵ Additionally, drug addictions are also considered to significantly contribute to the vulnerability to radicalization of young minds and ultimately result in their recruitment by violent extremist groups.²⁶

As discussed in Chapter 2, while many women become associated with terrorist groups as the result of coercion, some join these groups of their own volition and contribute to the activities of these groups of their own accord.

Terrorist groups across the world recruit a wide number of women, men, girls and boys, against their will and in a variety of ways, including by abducting them; making threats against them, their families or communities; or relying on spouses or other family members to coerce them. In some cases, there may be a gender component – for example, where women are coerced into supporting terrorist groups by spouses or family members and due to perceived social conventions feel unable to refuse. In this regard, it is important

to understand social structures and the potential of vulnerability of some women to different impositions, including research on the ownership and control of household assets in Maldivian families that could be perceived as advantageous to the men;²⁷ restrictions imposed by family members on travel by women to other islands for tertiary education or for jobs;²⁸ or physical or sexual violence by either partners or non-partners experienced by women at some point in their lives.²⁹ Research conducted by Fulu and Roul suggests that in the Maldives, some positions that relegate women to the sphere of the household and that condone other gender-unequal social norms that particularly disadvantage women, are spreading.³⁰

²² Melissa Johnston and Jacqui True, "Misogyny and Violent Extremism: Implications for Preventing Violent Extremism," Monash Gender, Peace and Security, UN Women, (October 2019). Available at https://www.monash.edu/_data/assets/pdf_file/0007/2003389/Policy-Brief_VE_and_VAW_V7t.pdf (accessed on 4 December 2020).

²³ Maldives, Ministry of Gender and Family, "The Maldives Study on Women's Health and Life Experiences- Initial Results on Prevalence, Health Outcomes and Women's Responses to Violence,". Available at <https://maldives.unfpa.org/sites/default/files/pub-pdf/WHLESurvey.pdf> (accessed on 30 December 2020).

²⁴ Jayne Huckerby and Fionnuala Ni Aolain, "Gendering Counterterrorism: How to, and How Not to – Part II," Just Security, (May 2018). Available at <https://www.justsecurity.org/55670/gendering-counterterrorism-to-part-ii/> (accessed on 5 December 2020).

²⁵ UNODC, "Drivers of Violent Extremism," The Doha Declaration: Promoting a Culture of Lawfulness, (July 2018). Available at <https://www.unodc.org/e4j/en/terrorism/module-2/key-issues/drivers-of-violent-extremism.html> (accessed on 3 December 2020).

²⁶ Ibid.

²⁷ Jana El-Horr and Rohini Prabha Pande, "Understanding Gender in Maldives Toward Inclusive Development," World Bank Group. Available at <https://openknowledge.worldbank.org/bitstream/handle/10986/24118/9781464808685.pdf?sequence=2&isAllowed=y> (accessed on 11 January 2021).

²⁸ Ibid.

²⁹ Ibid.

³⁰ Emma Fulu, "Domestic Violence in Asia: Globalization, Gender and Islam in Maldives"; Animesh Roul, "The Threat from Rising Extremism in Maldives."

Women and men as victims, may also be impacted differently by terrorism related violence. For example, men constitute the majority of State forces engaged in counter-terrorism responses and are therefore disproportionately affected by frontline combat. Both women and men are victims of Sexual and Gender-Based Violence (SGBV) perpetrated by terrorist groups, however women and girls are disproportionately impacted by this form of violence. SGBV by terrorist groups in general includes rape and other forms of sexual assault, forced marriage as well as forced abortion.³¹ Gender-based violence involves the infliction of great violence against women who do not conform to the gender roles that terrorist groups seek to establish.³² Women are often used as human shields and as suicide bombers by different terrorist organizations.³³ Sometimes SGBV inflicted by the terrorist organizations on women becomes a tool to achieve tactical objectives, which include increasing the recruitment, terrorizing populations into conformity and compliance, forcibly displacing persons from strategic areas, generating significant revenue through human trafficking, controlling natural resources, generating intelligence through torture, achieving conversion by means of forced marriage, and changing the composition of targeted communities.³⁴

As will be discussed in more detail in Chapter 1, the integration of a gender perspective into national policies, practices and programmes involves examining the needs and experiences of both women and men. This Module, however, principally focuses on the contact of women and girls in the Maldives with the justice system in relation to terrorism. This is because, in some instances, criminal justice systems have not differentiated between the experiences of women and men and have assumed that they share the same needs and concerns. While such an assumption may initially appear to be gender neutral, in practice, it more often leads to unequal experiences and outcomes, since the institutional design of the criminal justice system may often reflect predominantly male priorities, as men could typically dominate decision-making at the household, community and political levels. A set of apparently gender-neutral criminal justice responses therefore can make room for indirect discrimination against women.

Women as Victims

The impact of terrorist activities can be highly gendered. Globally, women are among the victims of generalized acts of terrorism related violence, while their health, education and participation in public life are disparately affected by terrorist activities compared to those of men. The victimhood of women in contact with terrorism and in conflict with counter-terrorism measures is multifaceted; the victimhood permeates across different cohorts of women: women as targets of terrorist attacks and counter-terrorism measures, women as more vulnerable and susceptible to radicalized propaganda, and women as subordinate members in the terrorist groups.

³¹ UNODC, “*Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism*,” p. 127.

³² Ibid.

³³ Ibid.

³⁴ United Nations Security Council, “Conflict-related sexual violence”, S/2015/203, March 23, 2015.

Women are targeted for acts of SGBV, such as rape, forced marriages and sexual slavery. As recognized by the United Nations Security Council, acts of SGBV “are known to be part of the strategic objectives and ideology of certain terrorist groups, used as a tactic of terrorism, and an instrument to increase their power through supporting financing, recruitment, and the destruction of communities”.³⁵ In some countries, the infliction of this form of violence on women and girls is highly disproportionate: they may constitute up to 99 per cent of the victims of reported sexual violence.

In the Maldives, Sexual and Gender-Based Violence (SGBV) is frequently exerted as part of the objectives and tactics of terrorist groups.³⁶ Generally, SGBV acts as a tool to destroy communities, and boost recruitment and finances.³⁷ Incidents of systemic negligence towards girls, deprivation of education and healthcare, and abuses involving sexual violence, rape leading to pregnancy, are also reported.³⁸ Incidents of illegal marriages with under-aged girls out of court and subsequent years into such marriages, refusals to vaccinate/educate the children considering the same as ‘Western’ is not uncommon either. Of late, more than 250 cases of parents refusing to send children to schools have been reported to the Ministry of Gender, Family, and Social Services- violating their right to education and potentially making them susceptible to extremist ideology.³⁹

Furthermore, also as direct targets of terrorist activities, women stand out as a group in the Maldives. Death threats and fatal attacks from violent extremist groups directed towards liberal and secular individuals,⁴⁰ including women, have increased.⁴¹ Some public figures and activists in the country have faced threats for their alleged promotion of anti-Islamic discourses and narratives. Cases of arson and damages to property on ideological grounds and for which terrorist organizations have claimed responsibility have also taken place.⁴²

Women within the structure of terrorist groups also have subordinate roles and do not hold decision-making positions therein. According to Cook and Vale, women tend to become victims of coercion in the process of recruitment by terrorist groups.⁴³ It is often the male members in the terrorist organizations, who force their spouses into supporting and sympathizing with the organizations they happen to be part of.⁴⁴ The recruitment process into the terrorist organizations in this regard could involve social norms which apparently compel

³⁵ United Nations Security Council Resolution 2242, S/RES/2242 (2015), Preamble

³⁶ Peace-Women, “Statement of the Maldives at the May 15 Open Debate on Sexual Violence in Conflict.” Available at <http://www.peacewomen.org/node/99185> (accessed on 4 December, 2020).

³⁷ Geneva Centre for Securing Sector Governance, “Gender, Preventing Violent Extremism and Countering Terrorism,” Policy Brief, Available at https://www.dcaf.ch/sites/default/files/publications/documents/GSPolicyBrief_3%20EN%20FINAL_0.pdf (accessed on 3 December 2020).

³⁸ Hassan Moosa, “Rape Victim Taken Under State Care,” Maldives Independent, 3 December 2019. Available at <https://maldivesindependent.com/politics/rape-victim-taken-under-state-care-149586> (accessed on 3 December 2020); Human Rights Watch, “Iraq: Women Suffer under ISIS. For Sunnis, Lives Curtailed; for Yezidis, New Accounts of Brutal Rapes,” 5 April 2016, Available at <https://www.hrw.org/news/2016/04/05/iraq-women-suffer-under-isis> (accessed on 4 December 2020).

³⁹ N Sathiya Moorthy, “Maldives: Higher alert after Govt discloses high number of ‘ready-to-kill’ radicals,” Observer Research Foundation, 26 December 2019. Available at <https://www.orfonline.org/expert-speak/maldives-higher-alert-after-govt-discloses-high-number-of-ready-to-kill-radicals-59520/> (accessed on 3 December 2020).

⁴⁰ Counter Extremism Project, “Maldives: Extremism & Counter-Extremism”. Available at <https://www.counterextremism.com/countries/maldives> (accessed on 3 December 2020).

⁴¹ Animesh Roul, “The Maldives Faces Dual Challenge of Terrorist Returnees and Extremist Hate Campaigns,” Terrorism Monitor, Vol. 17 No. 6, pp. 6-7. Available at <https://jamestown.org/wp-content/uploads/2019/03/TM-Mar.-25-2019-Issue.pdf> (accessed on 4 December 2020).

⁴² Institute for Conflict Management (ICM), “Assessment: Maldives-2020,” South Asia Terrorism Portal (SATP). Available at <https://www.satp.org/terrorism-assessment/maldives> (accessed on 3 December 2020).

⁴³ Cook and Vale, “From Daesh to ‘Diaspora’: Tracing the Women and Minors of Islamic State,” Department of War Studies, Kings College, (2018). Available at <https://giwps.georgetown.edu/resource/from-daesh-to-diaspora/> (accessed on 4 December 2020).

⁴⁴ Ibid.

the wives to follow their husbands, ultimately resulting in becoming widows in some cases.⁴⁵ There have been other cases of Maldivian women misled by their foreign terrorist fighter husbands about their departures' destination, thereby ending up in areas where terrorist organizations operate.⁴⁶

The communities vulnerable to radicalization and/or in contact with terrorism or violent extremism in the Maldives are mostly male-dominated, and women are guided in a way that, if the male partners order the women to do something, they tend to have no say, according to the National Counter Terrorism Centre (NCTC). In such communities, the NCTC has observed that, if the father shares the extremist ideology, the same is imposed on the mother and children. In some cases, girls of 16-18 years agree on marrying someone without doubting the intentions of their parents.

Like their male counterparts, women affiliates often have to surrender their passports upon arrival in the conflict zone as a sign of dedication to the terrorist organizations and to their husbands.⁴⁷ Furthermore, very often, women are compelled to wear suicide vests not only to initiate an attack but also in the name of protecting themselves from the enemies when attacked.⁴⁸ In some cases, wives and children of foreign terrorist fighters are also victims of violence,⁴⁹ and coerced into facilitating crimes in the name of the terrorist groups.⁵⁰ Women and children could often encounter difficulties returning to their former communities and face enormous stigmatization in

their home countries after their husbands or parents go missing or die.⁵¹

The significant impact on women's and girls' rights, including the use of SGBV as a tactic of terrorism,⁵³ calls for a robust and gender-sensitive criminal justice response that takes into account women's specific needs and interests and supports their access to justice.

In addition, terrorists may intentionally target women, encroaching on their human rights and hindering their socio-economic development, including by restricting their freedom of movement and access to education.⁵² In some other contexts, women are disproportionately affected by internal displacement as the result of violence caused by terrorist groups or that of conflict in general.

⁴⁵ Ibid.

⁴⁶ N Sathya Moorthy, "Maldives: Higher alert after Govt discloses high number of 'ready-to-kill' radicals."

⁴⁷ Ibid.

⁴⁸ "Life with ISIS: The Myth Unravelling," Netherlands General Intelligence and Security Service, (January 2016). Available at https://english.nctv.nl/binaries/Life%20with%20ISIS%20-%20the%20Myth%20Unravelling_tcm32-90366.pdf (accessed on 4 December 2020).

⁴⁹ "Women under ISIL - The Wives," Al Jazeera, 4 December 2019. Available at <https://www.aljazeera.com/features/2019/12/4/women-under-isil-the-wives> (accessed on 30 December 2020).

⁵⁰ Olivia M. Bizovi, "Deviant Women: Female Involvement in Terrorist Organizations," thesis submitted to Ridge School for Intelligence Studies and Information Science, Mercyhurst University, Pennsylvania, (December 2014). Available at <https://www.mercyhurst.edu/sites/default/files/uploads/799711-bizovi-thesis-final.pdf> (accessed on 30 December 2020).

⁵¹ Mara Redlich Revkin, "After the Islamic State: Balancing Accountability and Reconciliation in Iraq," United Nations University Center for Policy Research, (May 2018), pp. 53, 63.

⁵² Naureen Chowdhury Fink, Sara Zeiger and Rafia Bhulai (eds), "A Man's World? Exploring the Roles of Women in Countering Terrorism and Violent Extremism," (2016), p. 7. Available at https://www.globalcenter.org/wp-content/uploads/2016/07/AMansWorld_FULLL.pdf (accessed on 20 December 2020)

⁵³ United Nations Security Council Resolution 2467, S/RES/2467 (2019).

Women as Perpetrators

The role of women as key players in terrorist organizations was not recognized until the 1970s-1980s.⁵⁴ For the Maldives, the 'existence' of women within the spectrum of terrorism as potential perpetrators/sympathizers was sensed at a later point. In early September 2014, some 200 people, including women and children, marched in Male, waiving ISIL flags, and called for the implementation of Islamic Shariah laws in the Maldives.⁵⁵

While women are particularly affected by the crimes of terrorist groups, it is important to avoid the misperception that women can only be victims of terrorism related violence, based on gender stereotypes which generalize and suggest that women and girls become associated with terrorist groups only involuntarily or as the result of coercion.⁵⁶

In an array of terrorist groups, women provide moral support and advance their global reach through online recruiting.⁵⁷ They also play other different roles beyond those of 'jihadi brides' – across borders, women are active in disseminating propaganda and fundraising for the terrorist organizations, both individually and in small networks.⁵⁸ They could also become active members of the state building projects for the terrorist organizations since they manage to have more effective access to parts of the country's population that the organizations aim to control.⁵⁹

From the perspective of criminology, there is a broad range of scholarly and theoretical premises that address female criminality in general. For example, some scholars hold that more empowered women tend to be involved in more violent crimes;⁶⁰ others, on the other hand, maintain that it is the marginality by way of victimization of women that can explain women's involvement in crimes.⁶¹ In the case of terrorism related offences however, women may come from different backgrounds and a notable pattern or unifying characteristic cannot be established.

Terrorist organizations across the world have shifted their position on women's status in combat roles, allowing women to adopt more active roles, including taking up arms.⁶² The significance of this change is profound. This could suggest that women had various motivations to become affiliated with the terrorist groups as they hold diverse roles throughout the organizations.⁶³

⁵⁴ Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State," *Journal of Strategic Security*, Vol. 9, No. 3, Special Issue: Emerging Threats (Fall 2016). Available at <https://www.jstor.org/stable/26473339> (accessed on 8 December 2020).

⁵⁵ Ningthoujam, Alvite Singh, "Maldives is No Longer a 'Paradise'," *International Institute for Counter-Terrorism*, 2 April 2015. Available at <https://www.ict.org.il/Article/1372/Maldives-is-No-Longer-a-Paradise#gsc.tab=0> (accessed on 3 December 2020).

⁵⁶ GCTF, "Good Practices on Women and Countering Violent Extremism," Good Practice 8.

⁵⁷ Sagar N, "Stateless & Leftover ISIS Brides," *Modern Diplomacy*, 14 September 2020. Available at <https://moderndiplomacy.eu/2020/09/14/stateless-and-leftover-isis-brides/> (accessed on 3 December 2020).

⁵⁸ Cook and Vale, "From Daesh to 'Diaspora': Tracing the Women and Minors of Islamic State."

⁵⁹ Ibid.

⁶⁰ Freda Adler and Herbert M. Adler, *Sisters in Crime: The rise of the new female criminal*, (New York, United States of America, McGRAW Hill, 1975).

⁶¹ Meda Chesney-Lind, "Women and Crime: The female offender," *Sign*, Vol 12. No. 1 (Autumn 1986), pp. 78-96.

⁶² Anne Speckhard and Asaad Almomhammad, "The Operational Ranks and Roles of Female ISIS Operatives: From Assassins and Morality Police to Spies and Suicide Bombers," *International Center for the Study of Violent Extremism (Research Reports)*, 23 (April 2017). Available at <http://www.icsve.org/research-reports/the-operational-ranksand-roles-of-female-isis-operatives-from-assassins-and-morality-police-to-spies-and-suicide-bombers/> (accessed on 4 December 2020).

⁶³ Ibid.

A study of the roles played by women in the ISIL in general can help better understand the roles Maldivian women associated with terrorism may be expected to undertake. Women perform several support activities in terrorist groups- ranging from nurturing roles to next-generation militants, to managing logistics, and recruiting new members.⁶⁴ Other functions that women undertake include the ones of teaching or nursing. Furthermore, one of the most important roles played by them are those of radicalizers and propagandists- roles in which they utilize their understanding of social media and their online contacts.⁶⁵ By engaging in online conversations with family, friends, other women, and potential fighters, they encourage them to migrate, subsequently facilitating their travel. Regardless of the roles played, women make a contribution in keeping the terrorist organizations running.⁶⁶

The activities and roles of women vary from suicide bombers to spies, morality police, and assassins.⁶⁷ They also happen to be among the 'most brutal enforcers' of radical doctrines in the terrorist-controlled areas, according to a report by the International Center for the Study of Violent Extremism.⁶⁸ Women departing from different countries hold active 'security' roles in support of jihadist groups. Speckhard and A. S. Yayla have noted the diverse operational ranks and roles of women throughout ISIL, including in 'enforcement of sharia laws, surveillance, combat, intelligence, assassination, and infiltration,' for which they were provided training.⁶⁹

Women involved in terrorism abroad originating from the Maldives,⁷⁰ are often used at the forefront to deceive the law enforcement agencies.⁷¹ Apart from playing support roles, they also hold active positions in combat. Reportedly, a Maldivian woman of 23 years of age rose through the ranks of the ISIL, to become a senior fighter,⁷² later becoming a member of the most lethal unit of the ISIL- the special-operations battalion.⁷³ The country's counter-terrorism agency, the National Counter-Terrorism Center (NCTC), announced six women sought to return to the Maldives with their families. These women were widows of Maldivian militants who died fighting alongside jihadist factions in Syria and Iraq.⁷⁴

Although there have been no instances of suicide bombings by women in the Maldives, women travelling to foreign countries and joining ISIL⁷⁵ is an increasing concern as the terrorist

⁶⁴ Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

⁶⁵ Tanya Mehra, "Foreign Terrorist Fighters: Trends, Dynamics and Policy," International Centre for Counter-Terrorism, (December 2016). Available at <https://icct.nl/wp-content/uploads/2016/12/ICCT-Mehra-FTF-Dec2016-1.pdf> (accessed on 5 December 2020).

⁶⁶ Ibid.

⁶⁷ Robin Wright, "The Dangerous Dregs of ISIS," *The New Yorker*, 16 April 2019. Available at <https://www.newyorker.com/news/dispatch/the-dangerous-dregs-of-isis> (accessed on 3 December 2020)

⁶⁸ Speckhard, A. and A. S. Yayla "Eyewitness accounts from recent defectors from Islamic State: Why they joined, what they saw, why they quit." *Perspectives on Terrorism*, Vol. 9 No. 6, (December 2015).

⁶⁹ Anne Speckhard, and Asaad Almohammad, "The Operational Ranks and Roles of Female ISIS Operatives: From Assassins and Morality Police to Spies and Suicide Bombers."

⁷⁰ Azim Zahir, "Islamic State Terror in the Maldives as COVID-19 Arrives," *The Diplomat*, 18 April 2020. Available at <https://thediplomat.com/2020/04/islamic-state-terror-in-the-maldives-as-covid-19-arrives/> (accessed on 3 December 2020).

⁷¹ Isabel Coles and Ali Nabhan, "Islamic State Enlists Women as Covert Operatives in Survival Bid," *The Wall Street Journal*, 30 January 2019. Available at <https://www.wsj.com/articles/islamic-state-forced-underground-turns-to-women-to-survive-11548856800> (accessed on 17 December 2020).

⁷² "Maldivian female senior ISIS operative detained in Syria," *The Sun*, 23 April 2019. Available at <https://en.sun.mv/53410> (accessed on 3 December 2020).

⁷³ Ibid.

⁷⁴ "Widows of Maldivian fighters in Syria want to return," *Maldives Independent*, 21 February 2019. Available at <https://maldivesindependent.com/crime-2/widows-of-maldivian-fighters-in-syria-want-to-return-143916> (accessed on 3 December 2020).

⁷⁵ Francesca Borri, "Where jihadists are heroes," *NRC*, 14 March 2017. Available at <https://www.nrc.no/perspectives/2017/where-jihadists-are-heroes/> (accessed on 5 December 2020).

group has used women as suicide bombers for sometimes now.⁷⁶ Globally, the significant role of women as suicide bombers can be seen in the context of Boko Haram, which deployed 469 female bombers as of 2018.⁷⁷

As an alternative to fighting, some female recruits joined the Al-Khansaa brigade, the all-female religious police force formed to deal with/regulate/punish women accused of un-Islamic behaviour.⁷⁸ Members of the unit are claimed to be responsible for torturing prisoners and meting out punishment, such as floggings, to those found guilty of breaching the code of conduct of ISIL.⁷⁹ Also, to gain access to the country's vast female population, terrorist organizations often resort to the use of their female wing, which plays a pivotal role in the state-building process for the terrorist organizations.⁸⁰

There are several reasons why women may choose to support terrorist organizations. Apart from women who are coerced into getting involved in the militant activities, there are women who work in pursuance of their own motives or drives. There is not a single reason that can be considered as a motivation for women's involvement in terrorism. In this backdrop, women perform an array of roles in the terrorist organizations – ranging from operational or tactical roles to conduct armed attacks to those of suicide bombers.

Integrating a gender perspective is necessary in order to accurately assess the criminality of these various women whose motivations are inherently complex in nature and intricately multifaceted; make decisions on charging, prosecution or alternatives to prosecution that will advance justice and accountability; and to support the criminal justice system to play its part in the overall effort to prevent and counter terrorism and violent extremism leading to terrorism.⁸¹



Hypothetical case study

Woman radicalized by her husband

'X', wife of terrorist leader 'Y', is an uneducated woman who was a victim of child marriage. She joined the radicalized extremist group after her husband threatened to leave her should she not accompany him in hijrat to Syria.

⁷⁶ Rachel Bryson, "Female suicide bombers may be new for ISIS, but they're no stranger to Iraq," Tony Blair Institute for Global Change, 12 July 2017. Available at <https://institute.global/policy/female-suicide-bombers-may-be-new-isis-theyre-no-stranger-iraq> (accessed on 5 December 2020).

⁷⁷ Elizabeth Pearson, "Wilayat Shahidat: Boko Haram, the Islamic State, and the Question of the Female Suicide Bomber," Boko Haram Beyond the Headlines: Analyses of Africa's Enduring Insurgency, Issue: Special Report, Chap. 2, (May 2018). Available at <https://cronfa.swan.ac.uk/Record/cronfa44792> (accessed on 9 December 2020).

⁷⁸ Netherlands, General Intelligence and Security Service, Ministry of Interior and Kingdom Relations, "Life with ISIS: The Myth Unravelling," (January 2016). Available at <https://english.aivd.nl/publications/publications/2016/01/15/publication-life-with-isis-the-myth-unravelling> (accessed on 4 December 2020).

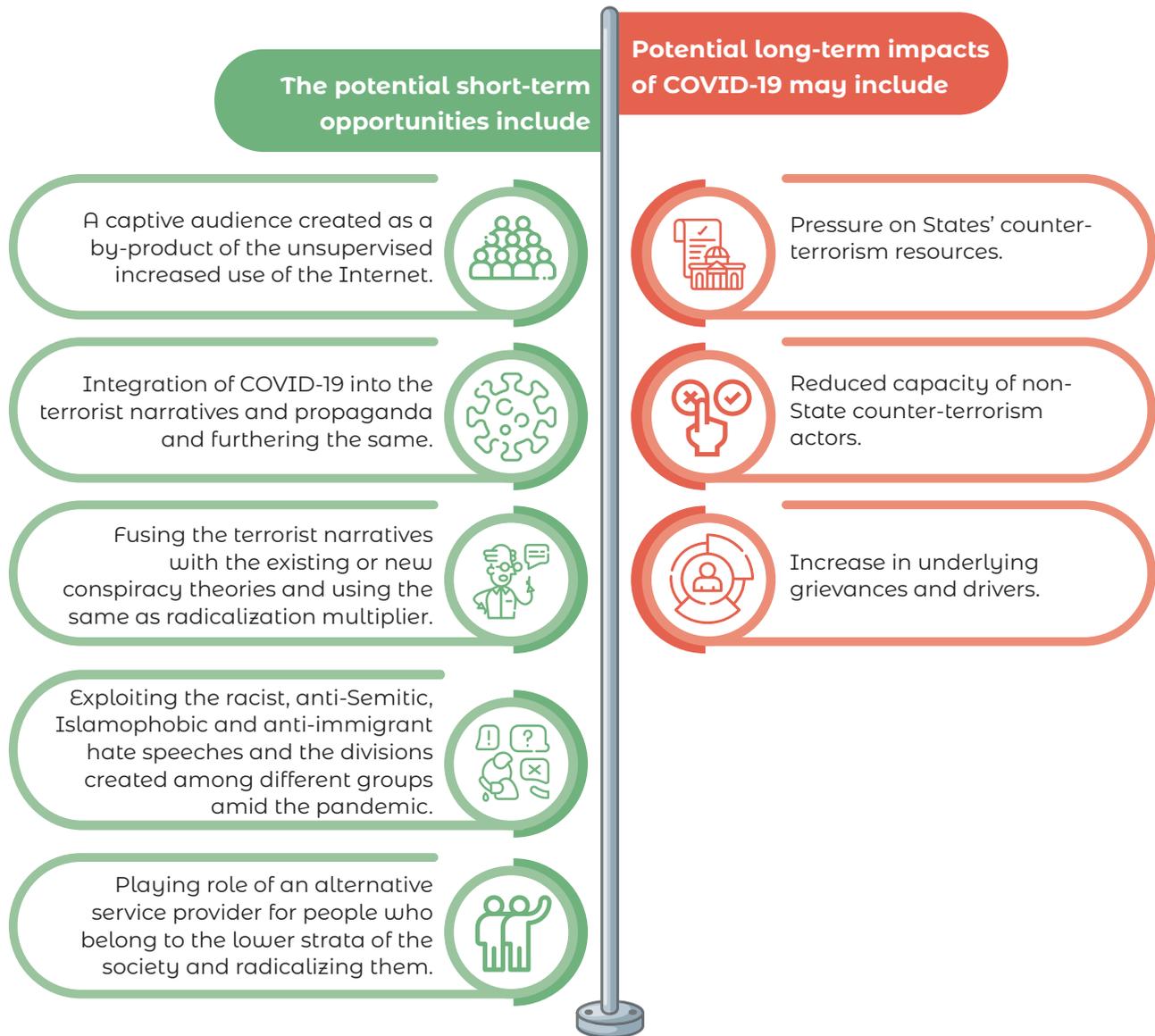
⁷⁹ Ibid.

⁸⁰ Instrument contributing to Stability and Peace (IcSP), "Exceptional Assistance Measure in favour of the Maldives – Support to Strengthening preparedness and response capabilities for counterterrorism and the prevention of violent extremism," Available at <https://ec.europa.eu/transparency/regdoc/rep/3/2019/EN/C-2019-5475-F1-EN-ANNEX-1-PART-1.PDF> (accessed on 3 December 2020).

⁸¹ Naureen Chowdhury Fink, Sara Zeiger and Rafia Bhulai (eds), "A Man's World? Exploring the Roles of Women in Countering Terrorism and Violent Extremism;" UNODC, "Gender Mainstreaming in the work of UNODC," (2013), p. 63; OSCE, "Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach," p. 39. Available at <https://www.osce.org/files/f/documents/1/d/111438.pdf> (accessed on 19 December 2020).

The Intersection of Gender and Terrorism amid the Global Pandemic

A paper prepared by the Counter-Terrorism Committee Executive Directorate (CTED)⁸² in accordance with Security Council Resolution 2396 (2017), has laid down certain potential short-term and long-term opportunities that are likely to be exploited by terrorist organizations.



These short-term and long-term opportunities underscored by the CTED from a general global perspective are equally relevant for the Maldives, as there could be scope for terrorist groups to exploit these vulnerabilities as well as their gendered aspects in the country.⁸³

⁸² UNSC Counter-Terrorism Committee Executive Directorate, "The impact of the COVID-19 pandemic on terrorism, counter-terrorism and countering violent extremism," June 2020. Available at <https://www.un.org/sc/ctc/wp-content/uploads/2020/06/CTED-Paper-The-impact-of-the-COVID-19-pandemic-on-counter-terrorism-and-countering-violent-extremism.pdf> (accessed on 14 July 2020).

⁸³ Paulo Casaca, "Focus 66- The Maldives in the Face of Recurrent Jihadism," 16 September 2020. Available at <https://www.sadf.eu/focus-66-the-maldives-in-the-face-of-recurrent-jihadism/> (accessed on 5 December 2020).

Supporters of ISIL and other jihadi groups have been quick to exploit the pandemic for propaganda purposes.⁸⁴ They have focused on framing COVID-19 as a mini-soldier of jihad, a divine intervention that has exposed the weaknesses of the West.⁸⁵ They have also framed the COVID-19 pandemic as a divine punishment for people's sins and for an 'un-Islamic' tourism industry prevalent in the Maldives. They spread messages calling for religious purification and a return to 'pure' Islam.⁸⁶

In its weekly, *Al-Naba*, the ISIL claimed responsibility for an attack in which some boats at the harbour of Mahibadhoo island (central Maldives) were set ablaze.⁸⁷ This marked the first time ISIL claimed responsibility for an attack in the Maldives, happening just days after the news of the first case of COVID-19 came out in the country,⁸⁸ and as the nation's efforts to deal with the effects of the pandemic were taking place.⁸⁹

The effects of the pandemic have been manipulated by terrorist groups to infuse their extremist propaganda narrative. Terrorist organizations can also take advantage of people who face financial hardships, attempting to radicalize and recruit them. The pandemic has exposed vulnerabilities, amplifying its impact on marginalized populations and some minority groups, as well as on women. Therefore, since the onset of the pandemic, women were more at risk of being impacted by terrorist activities as well: both as targets and as subjects for radicalization. As Pearson and Winterbotham have suggested, compared to men, women are more likely to be recruited online.⁹⁰

Following the measures adopted to prevent the spread of COVID-19 (15 April 2020), many services (apart from health and other essential public services), were disrupted. As attention and resources were diverted, emergency health, security and safety frontline workers, and social protection and services to vulnerable groups, were impacted. As delays affected prosecutions and court proceedings, the Prosecutor General's Office established mechanisms to hold virtual court hearings with the agreement of the defendants, in order to ensure the continuity of the justice system during the pandemic. A total of 46 cases were submitted on sexual assault during the first three months of the lockdown.⁹¹

Today, as borders are more easily crossed, terrorist and violent extremist organizations operating overseas attempt to infiltrate and spread their influence, and the use of the Internet has facilitated this.⁹² The vast availability of the Internet and the growing sense of frustration over the pandemic could pave the way for the extremist organizations to exploit the global

⁸⁴ N Sathiya Moorthy, "Maldives: Amidst worsening Covid19 crisis, ISIS 'claims maiden attack,'" Observer Research Foundation, 24 April 2020. Available at <https://www.orfonline.org/expert-speak/maldives-amidst-worsening-covid19-crisis-isis-claims-maiden-attack-65145/> (accessed on 5 December 2020).

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Azim Zahir, "Islamic State Terror in the Maldives as COVID-19 Arrives."

⁸⁸ Ibid.

⁸⁹ N Sathiya Moorthy, "Maldives: Amidst worsening Covid19 crisis, ISIS claims maiden attack."

⁹⁰ Elizabeth Pearson and Emily Winterbotham, "Women, Gender and Daesh Radicalisation," *The RUSI Journal* (July 2017) pp. 66, 67.

⁹¹ UNODC, "Comprehensive Assessment of the Prison System in Maldives", 2020.

⁹² Maldives, Office of the President, "State Policy: Terrorism and Violent Extremism," (2016). Available at www.presidencymaldives.gov.mv/Documents/4560_ee6e0576-8_8_.pdf (accessed on 4 December 2020).

epidemic.⁹³ As of May 2020, the Maldives Police Service reported a 200% increase in suspect cases of violent extremism compared to the same period in the previous year, and 42% increase in the number of confirmed cases of violent extremist offences between January to May 2020.⁹⁴ In connection with the use of Internet for terrorist purposes, a significant number of the online activities have been handled by the female wings of terrorist organizations.⁹⁵

Radicalisation and recruitment to fight in foreign countries has occurred online as well as in other venues.⁹⁶ A high percentage (around 71%) of the Maldivian population has access to the Internet,⁹⁷ and many Maldivians are well-versed in the English language. This could make some local social media users susceptible to online propaganda. Several extremist online groups have a large number of supporters on Facebook.⁹⁸ It has been identified that some radical individuals have presence across several social media platforms like Facebook, Twitter, Instagram, YouTube and Flickr, among others.⁹⁹ Women may have played a significant role in this regard as they are entrusted with recruiting tasks as well as handling social media in most of the terrorist organizations.¹⁰⁰

In cases where young people have inadequate or no access to learning opportunities or employment, and spend increasing amounts of time online, the risk of being vulnerable to radicalization increases. The accessibility to Internet in the country, coupled with low digital literacy and sentiments of frustration, could then be contributing factors.

⁹³ “‘Stop Feeding Terrorism with Blood of Our Youth,’ Jordan’s Crown Prince Tells Security Council during Debate on Violent Extremism, United Nations Security Council 7432nd Meeting, 23 April, 2015. Available at <https://www.un.org/press/en/2015/sc11872.doc.htm> (accessed on 5 December 2020).

⁹⁴ Maldives Police Service Statistics (June 2020).

⁹⁵ Tanya Mehra, “Foreign Terrorist Fighters: Trends, Dynamics and Policy,” International Centre for Counter-Terrorism, December 2016. Available at <https://icct.nl/wp-content/uploads/2016/12/ICCT-Mehra-FTF-Dec2016-1.pdf> (accessed on 5 December 2020).

⁹⁶ Iromi Dharmawardhane, “Maldives” in Counter Terrorism Trends and Analyses, Vol. 8, No. 1, (December 2015 - January 2016), pp. 63-69.

⁹⁷ Simon Kemp, “Digital 2020: The Maldives,” Datareportal, 18 February 2020. Available at <https://datareportal.com/reports/digital-2020-maldives> (accessed on 31 December 2020).

⁹⁸ Iromi Dharmawardhane, “Maldives.”

⁹⁹ Ibid.

¹⁰⁰ Instrument contributing to Stability and Peace (IcSP), “Exceptional Assistance Measure in favour of the Maldives – Support to Strengthening preparedness and response capabilities for counterterrorism and the prevention of violent extremism”. Available at <https://ec.europa.eu/transparency/regdoc/rep/3/2019/EN/C-2019-5475-F1-EN-ANNEX-1-PART-1.PDF> (accessed on 3 December 2020).

1

CHAPTER

MAINSTREAMING GENDER INTO COUNTER-TERRORISM, PREVENTING VIOLENT EXTREMISM, AND CRIMINAL JUSTICE RESPONSES TO TERRORISM



Learning objectives

By the end of this Chapter, you will be able to:

- ❖ Explain the concept of gender mainstreaming and name related Maldivian policy documents
- ❖ Discuss the need to apply a gender mainstreaming approach in efforts to counter terrorism, prevent violent extremism, and in criminal justice responses to terrorism, in line with international and Maldivian policy instruments
- ❖ Discuss the relevance of gender mainstreaming to human rights, gender equality, non-discrimination, and protection from sexual and gender-based violence
- ❖ Explain the linkages between the Women, Peace and Security agenda and mainstreaming gender into counter-terrorism

1.1 The Gender Mainstreaming Approach



Reference

Key terms, such as 'gender', 'sex', and 'sexual and gender-based violence' are explained in the Glossary to this Module.

1.1.1 Gender mainstreaming defined

Gender mainstreaming is one of the key strategies for promoting gender equality and women's rights and eliminating all forms of discrimination against women on the basis of sex and gender. Gender mainstreaming promotes and is premised upon the human rights of women and the elimination of discrimination against women. It also contributes to ensuring that measures to prevent and counter violent extremism and terrorism are better informed and targeted, ultimately making those measures more effective.



Focus: Gender mainstreaming

Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a way to make women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal is to achieve gender equality.¹⁰¹

As reflected in the definition, integration of a gender perspective into policies, practices and programmes involves examining the needs and experiences of both women and men. A gender-neutral approach (which does not differentiate between the impact of terrorism and counter-terrorism measures on women and men and assumes that they share the same experiences, needs and concerns) can be problematic because it may in fact reflect the assumption that only men's experiences of terrorism and counter-terrorism are relevant. Even more so, in cases where it is mainly men that dominate the decision-making at the household and community levels, as a gender-neutral approach may then predominantly reflect the male perspectives.

National and international responses to terrorism should consider and be shaped not only by men's, but also by women's experiences as perpetrators of acts of terrorism, as victims of terrorism, and as agents in State and non-State institutions (such as social movements) involved in countering terrorism.¹⁰²

In the context of counter-terrorism, there has conventionally been a tendency to equate the term 'gender' with the category of 'women', and there has been little engagement with the category of 'men'. Considering the role of masculinities and male identity in terrorism can be

¹⁰¹ UNODC, "Gender Equality Strategy for the United Nations Office on Drugs and Crime and the United Nations Office in Vienna (2018-2021)". Available at https://www.unodc.org/documents/Gender/Summary_UNOV-UNODC_Gender_Strategy.pdf (accessed on 23 December 2020).

¹⁰² Jayne Huckerby, "Gender, counter-terrorism and international law," in "Research Handbook on International Law and Terrorism", Ben Saul, ed. (Cheltenham, United Kingdom, Edward Elgar Publishing Limited, 2014), p. 165.

critical in understanding motivations for engaging in violent extremism or terrorism, and how masculinities are employed in recruitment tactics. A leading scholar has observed that:

“... men who cannot meet traditional expectations of masculinity – such as breadwinner, respect and honor, wealth, access to sexual partners of choice – may precisely find that radical or extremist political mobilization offers a compelling substitute for regular masculinity authentication. It is therefore not accidental that terrorist/violent extremist groups manipulate gender stereotypes to recruit men and women, ISIL notably employs hypermasculine images to portray its fighters, as well as promised access to sexual gratification, marriage and guaranteed income as a reward for the glory of fighting. These motifs have proven indisputably alluring to marginalized men whose capacity to access any similar social capital or status in their own communities will be extremely limited.”¹⁰³



Activity 1

Consider the statement, presented above, that:

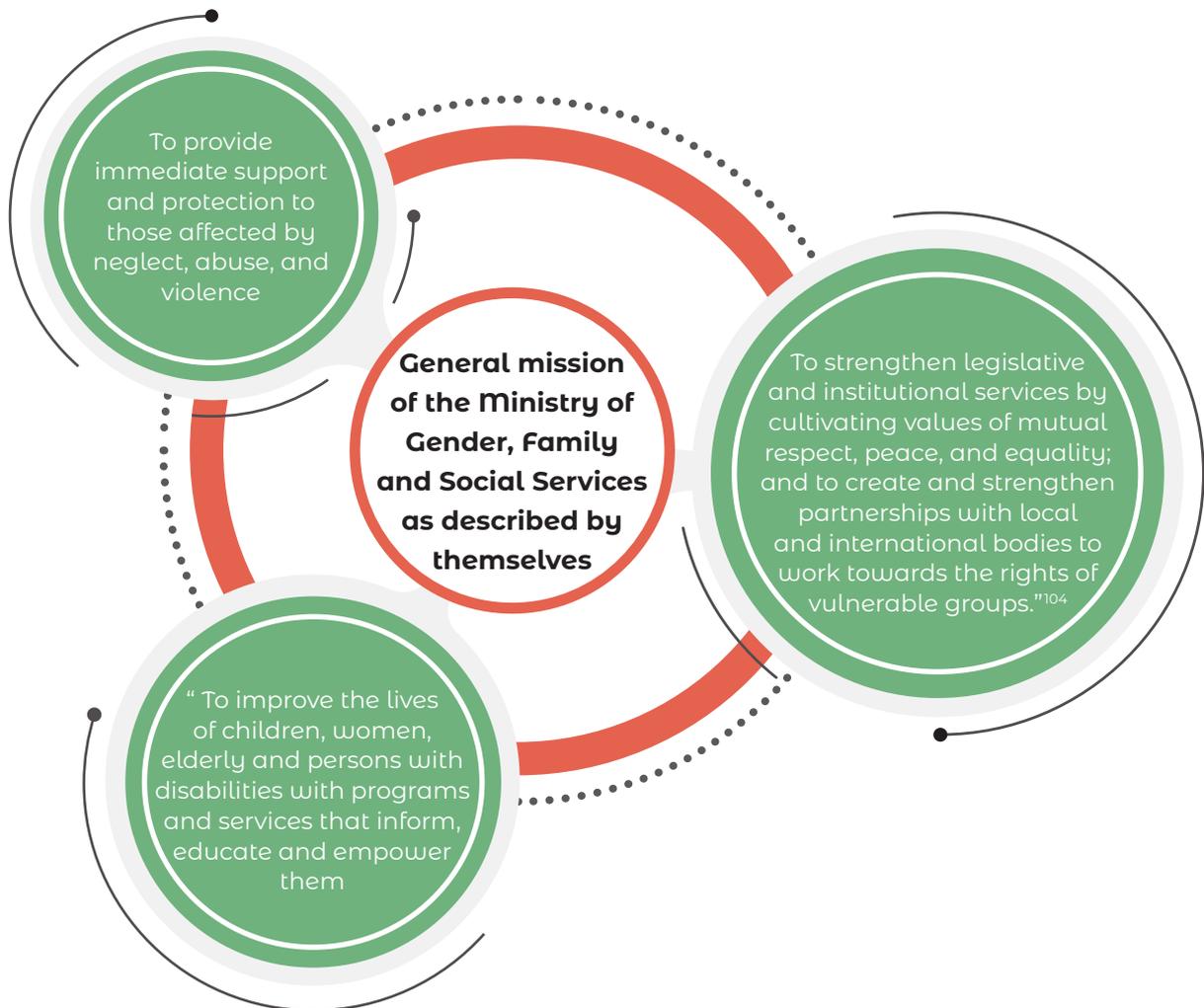
“considering the role of masculinities and male identity in terrorism can be critical in understanding motivations for engaging in violent extremism or terrorism, and how masculinities are employed in recruitment tactics.”

- (i) What does the term ‘masculinities’ mean?
- (ii) Thinking specifically of the Maldives, what role do masculinities play in the recruitment of men?

While recognizing the importance of analysing the role of masculinities, this Module predominantly examines how women experience and are impacted by the justice system’s response to terrorism. This is to balance the gender-neutral approach, which is premised on the assumption that terrorists, victims of terrorism, and counter-terrorism agents are primarily and/or exclusively male.

¹⁰³ Fionnuala Ní Aoláin, “The complexity and challenges of addressing conditions conducive to terrorism,” in “Using Human Rights to Counter Terrorism,” Manfred Nowak and Anne Charbord, eds. (Cheltenham, United Kingdom, Edward Elgar Publishing Limited, 2018), p. 190.

1.1.2 Gender equality and gender mainstreaming in the Maldivian legal and policy context



In 2016, the Gender Equality Act was adopted in the Maldives aiming at eliminating discrimination based on sex or gender, including ending violence against women. The Act, which came into force in 2017, promoted gender equality in all spheres of public and private life. It also imposed explicit duties and responsibilities on the State as well as on non-State private actors, prohibited victimization and introduced remedies for gender-based discrimination. In 2017, a Gender Action Plan (GAP)¹⁰⁵ was developed by the Government of Maldives with technical support and input from relevant UN Agencies.¹⁰⁶ The progress on its adoption is ongoing.¹⁰⁷

¹⁰⁴ Maldives, Ministry of Gender, Family and Social Services, "Mission" (2020). Available at http://gender.gov.mv/en/?page_id=72 (accessed on 24 December 2020).

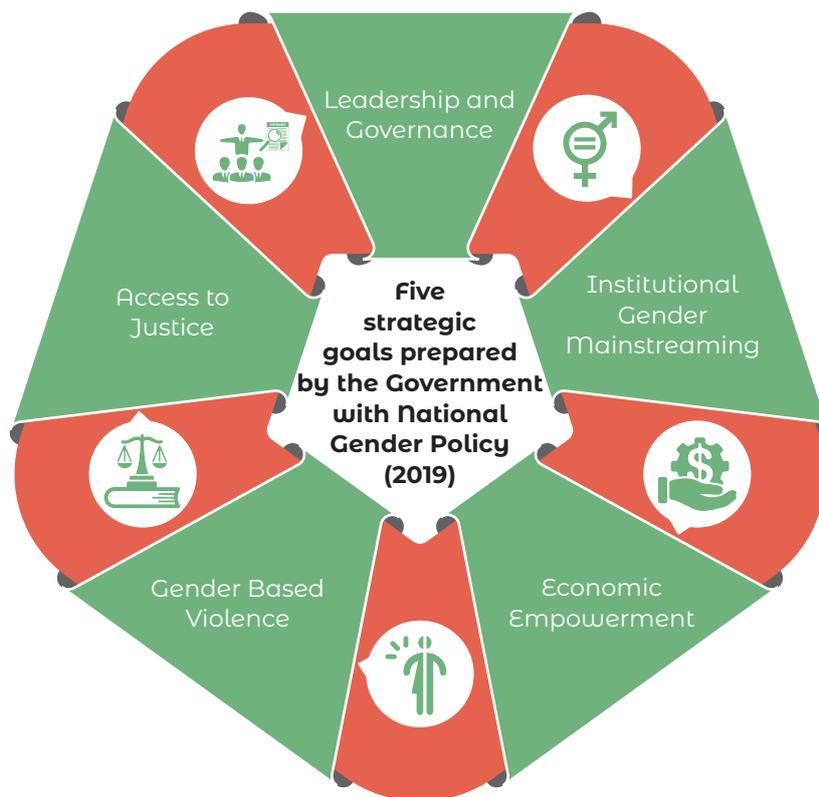
¹⁰⁵ The GAP provides suggested entry points for gender-responsive actions of the project "Supporting Vulnerable Communities in Maldives to Manage Climate Change-Induced Water Shortages".

¹⁰⁶ UN (2018), "Annual UN Country Results Report 2017". Available at http://www.un.org.mv/wp-content/uploads/2018/06/2017-One-UN-Report_Final-13.pdf (accessed on 9 December 2020).

¹⁰⁷ Kelli Rogers, "In the Maldives, 'total regression' of women's rights, environmental protection, activists say," Devex, 6 April 2018. Available at <https://www.devex.com/news/in-the-maldives-total-regression-of-women-s-rights-environmental-protection-activists-say-92479> (accessed on 6 December 2020).

As a significant policy instrument, there is the National Gender Equality Policy and Framework for Operationalization (2009). It enshrines the government's commitment to gender equality and enjoins all government ministries "to address women's issues ... recognizing that women and men have different needs and priorities."¹⁰⁸

The vision of the National Gender Equality Policy is a just society where equality of women and men are upheld, women enjoy fundamental rights and freedoms *on a basis of equality of men and women*, and both are able to realize their full potential and participate in and benefit from democracy and development in public and private life.



The goal Institutional Gender Mainstreaming included a strategy to "revise national data collection systems to ensure disaggregation of national data by sex and age and the inclusion of gender perspectives to inform policy decisions".¹⁰⁹ A Gender Equality Action Plan 2020-2025 was in the process of finalization in November 2019. The plan included a project to designate "Gender Focal Points" in each ministry.¹¹⁰

In October 2019, the President launched the State's five-year Strategic Action Plan (SAP) for the years 2019-2023 as a central policy framework and planning document. SAP included a "Gender Equality" subsector under the "Good Governance" sector. It recognized that "despite

¹⁰⁸ Maldives, "National Gender Equality Policy and Framework for Operationalisation," 2009. Available at <https://www.aidsdatahub.org/sites/default/files/resource/national-gender-equality-maldives-2009.pdf> (accessed on 25 December 2020).

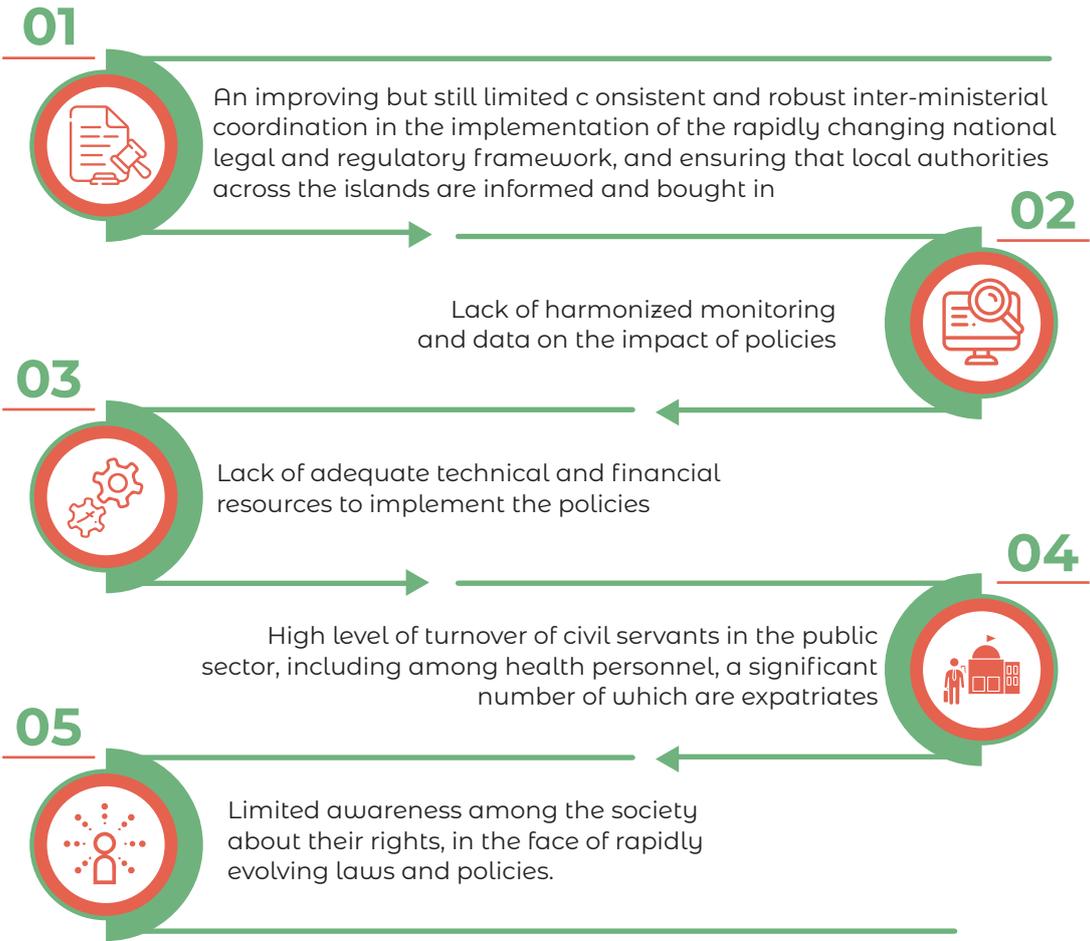
¹⁰⁹ Maldives, "National Gender Policy of the Maldives," 2019. Available at <http://dx.doi.org/n.d> (accessed on 9 December 2020).

¹¹⁰ Maldives, "Statement by H.E. Shidhatha Shareef, Minister of Gender, Family and Social Services at the Asia and Pacific Conference on Gender Equality and Women's Empowerment: Beijing+ 25 Review". Available at <https://www.unescap.org/sites/default/files/Maldives%20%28B%2B25%29%20Item%202.pdf> (accessed on 9 December 2020).

advancements in legal and policy framework including the passage of a domestic violence, a sexual harassment Act and gender equality law, administrative, budgetary and human resource constraints restrict the implementation of these laws to achieve gender equality”.

The policy priorities of the Gender Equality subsector focused on “increasing women’s representation in decision-making, minimizing sexual harassment, domestic violence, eliminating barriers for women to participate in economic activity including cultural barriers by promoting shared care work and household responsibilities”. Gender-related policies were also present in other subsectors. One of the strategies of the “Caring State” priority area mentioned “strengthening evidence-based policy making and building capacity of social protection service delivery institutions.”¹¹¹ The 2019 sixth periodic report submitted by Maldives to the CEDAW committee highlighted a set of key challenges faced by the government in ensuring consistent application of laws, regulations, and policies.

The report mentioned the following crosscutting challenges under the CEDAW relevant to gender statistics:



¹¹¹ Maldives, “Strategic Action Plan Maldives 2019-2023,” 2019. Available at <https://presidency.gov.mv/SAP/> (accessed on 10 December 2020).

¹¹² Committee on the Elimination of Discrimination against Women, “Sixth periodic report submitted by Maldives under article 18 of the Convention,” 2019, Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fMDV%2f6&Lang=en (accessed on 12 December 2020).

1.2 Mainstreaming Gender into Counter-Terrorism and Prevention of Violent Extremism

Recognition of the need to mainstream gender perspectives in measures to counter terrorism and prevent violent extremism is a relatively recent phenomenon. Such considerations include:

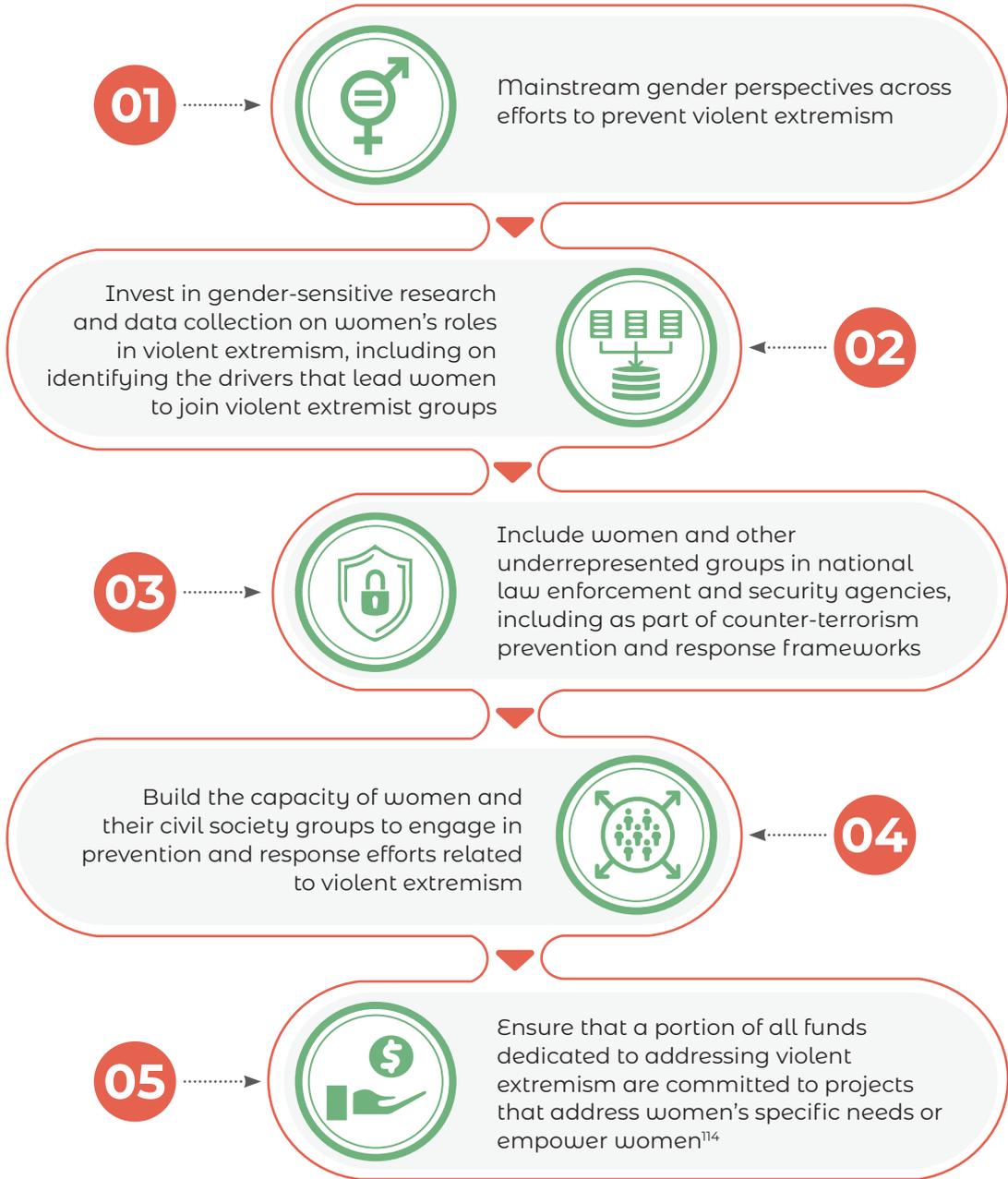
- ❖ The roles of women and girls involved in terrorist activities
- ❖ The roles of women and women's organisations in preventing violent extremism
- ❖ Considering how the needs of male and female victims of terrorism differ
- ❖ How masculine gender constructs affect radicalization and the commission of terrorist acts against women
- ❖ How women and girls may be particularly affected by the counter-terrorism response.

On the global level, the 2014 UN Global Counter-Terrorism Strategy Review encouraged Member States, UN entities and international and regional organizations “to consider the participation of women in efforts to prevent and counter terrorism”.¹¹³ The Global Counter-Terrorism Strategy Review resolution of June 2018 urged Member States to adopt a gender-sensitive analysis of the drivers of radicalization for women, and the impacts of counter-terrorism strategies on women's human rights and women's organizations.

The importance of mainstreaming gender perspectives in strategies to counter terrorism and violent extremism is also evident in the Secretary-General's Plan of Action to Prevent Violent Extremism.

¹¹³ The United Nations Global Counter-Terrorism Strategy Review, A/RES/68/276, 24 June 2014. Available at <https://undocs.org/A/RES/68/276> (accessed on 12 December 2020).

This document calls on member states to:



The Security Council has recognized the need to address the role of women in preventing and countering terrorism, and to ensure their protection on many occasions. In its resolution 2178 (2014), the Security Council recognized the need to empower women as a mitigating factor to the spread of violent extremism and radicalization.

¹¹⁴ United Nations General Assembly, "Plan of Action to Prevent Violent Extremism," A/70/674, para. 53.



Activity 2

In resolution 2178 (2014), which addresses the threat posed by foreign terrorist fighters, the Security Council recognized the need to empower women as a mitigating factor to the spread of violent extremism and radicalization.

- (i) Do you agree that women's empowerment mitigates the spread of violent extremism?
- (ii) If yes, in what ways does women's empowerment mitigate the spread of violent extremism?

This recognition is also part of a global policy framework known as the Women, Peace and Security Agenda, which is aimed at promoting gender equality and enhancing the rights, participation, and protection of women in conflict and post-conflict contexts, including with respect to conflict-related sexual and gender-based violence. The first Security Council resolution on women, peace and security was resolution 1325 (2000) which, in addition to resolutions 1889 (2009) and 2122 (2013), addresses broad areas such as the specific experience of women in conflict and their role in peacebuilding, peacekeeping and conflict resolution. Other resolutions have also covered these issues with a focus on conflict-related sexual violence.¹¹⁵

The nexus between the Women, Peace and Security agenda and countering terrorism has been addressed in a number of Security Council resolutions, including resolution 2242 (2015), in which the Council recognized the differential impact of terrorism and violent extremism on the human rights of women and girls. In resolutions 2331 (2016) and 2388 (2017), the Council recognized the connection between trafficking in persons, sexual violence, and armed conflict and terrorism.

UN Member States should develop national action plans for the implementation of resolution 1325 (2000) in order to localize international commitments under the Women, Peace and Security resolutions.¹¹⁶ Where relevant, national actions plans should include means for integrating the Women, Peace and Security Agenda into national counter-terrorism measures.

¹¹⁵ UNSC Resolutions 1888 (2009), 1960 (2010), 2106 (2013), 2242 (2015) and 2467 (2019).

¹¹⁶ Security Council, "Presidential statements", 28 October 2004, (S/PRST/2004/40); Security Council, "Presidential statements", 27 October 2005, (S/PRST/2005/52).



Focus: National Gender Equality Policy (2009)

In the policy context of the Maldives, the National Gender Equality Policy was founded on the fundamental principle of Equality for All, enshrined in the Constitution of the Republic of the Maldives (2008). Through the dual approach of gender mainstreaming and strategic action on Empowerment and the Advancement of Women in all areas, the policy aims to promote fundamental human rights and rewards of democracy on the basis of gender equality.¹¹⁷

There are four guiding principles and four policy goals that underlie the instrument:

1. Equality of women and men
2. Recognition that traditional, customary and cultural practices that negatively affect women and girls are a violation of human rights
3. Recognition that public and private are not separable spheres of life
4. Women's entitlement to the right of integrity and security of person

With the overarching goal being “to realise the stated vision of the National Gender Equality Policy through timely, strategic interventions at all levels, within all sectors, and through multi-sectoral collaboration to address thematic areas relevant across sectors”, the broad policy goals are the following:

1. To develop and activate the necessary policy, legislative and institutional framework for gender equality, so that women and men enjoy fundamental human rights and rewards of democracy on a basis of equality of men and women
2. To empower women to facilitate their equal access to available opportunities with equal outcomes/results on a basis of equality of men and women
3. To cultivate a culture of non-discrimination and respect for women's human rights, so that women enjoy human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field on a basis of equality of men and women
4. To eliminate all forms of discrimination against women The main strategies to be followed for effective and result-oriented implementation of the National Gender Equality Policy are:
 - Gender Mainstreaming
 - Temporary Special Measures or Affirmative Action (where strategic) to redress existing inequalities due to historical discrimination

Continued

¹¹⁷ UNDP Maldives, “United Nations Development Assistance Framework (UNDAP) 2011-2015”. Available at https://www.unfpa.org/sites/default/files/portal-document/Maldives_UNDAF%202011-2015.pdf (accessed on 15 December 2020).

Continued

- Empowerment for women
(As gender Mainstreaming requires all sectors to take an equal interest and commitment to gender equality, as well as the development of gender knowledge and understanding in all sectors, the following strategic interventions are a pre-requisite to the success of the National Gender Equality Policy.)
- Strong, visible and effective Gender Architecture in Government
(A strong gender architecture be established with a visible lead agency (NWM) with the political weight and influence, gender knowledge and capacity, and adequate funding and resources to guide and oversee gender mainstreaming, as well as manage a gender accountability mechanism.)
- Gender Accountability
(A gender accountability mechanism be introduced to measure performance and delivery on Gender Equality goals in all sectors.)
- Training and Capacity Building
(Developing national capacity for gender analysis and gender mainstreaming)
- Gender Database
(Collecting sex disaggregated data and gender analytical information and using it to inform policy and programmes.)
- Gender Analysis
(Developing conceptual clarity based upon universal principles, norms, and shared value amongst stakeholders)
- Gender Analysis of all policies and programmes, and the non-assumption that issues and/or problems are gender neutral.
- Participation and Inclusion
Inclusion and participation of women as well as men in agenda-setting
- Gender Sensitive Planning
Focused, context-specific, knowledge-based action/ intervention
- Gender Responsive Budgeting
- Gender Analytical Monitoring and Evaluation



Focus: Gender mainstreaming in *Good Practices on Women and Countering Violent Extremism* of the Global Counterterrorism Forum

The Global Counterterrorism Forum (GCTF) has developed a guidance document entitled *Good Practices on Women and Countering Violent Extremism*, which contains good practices and focuses on women and gender aspects in the context of efforts to counter violent extremism. The GCTF acknowledges the failure of past efforts aimed at countering violent extremism to mainstream gender, despite the participation of women and girls in violent extremism and terrorism, as well as their roles in prevention.

Good Practice 1 establishes the need to include women and girls and gender mainstreaming in the design, implementation, monitoring and evaluation of all policies, laws, procedures, programmes, and practices related to countering violent extremism.

According to the GCTF, mainstreaming gender in countering violent extremism is based on the understanding that:

- ❖ Gender mainstreaming improves the design and implementation of efforts to counter violent extremism and ensures that such efforts account for the different ways that women and girls are involved in violent extremism.
- ❖ A comprehensive approach to countering violent extremism should integrate considerations of how violent extremism and counter-terrorism efforts impact women and girls differently than they impact men and boys.
- ❖ Efforts to counter violent extremism should take into account the way in which societal gender norms and expectations associated with belonging to a particular gender, shape people's lives in order to deliver more targeted interventions.

The document also underscores that the practical integration of women and girls into all aspects of programming related to countering violent extremism can only occur in the context of broader guarantees of the human rights of women and girls. In particular, such guarantees should include addressing the causes of gender inequality, such as the subordination of women and discrimination on the basis of sex, gender, age and other factors



Activity 3

In your view, what does it mean to consider the gender dimensions of counter-terrorism and the prevention of violent extremism in the Maldives? Why is it important to do so?

1.3 Mainstreaming Gender into Criminal Justice Responses to Terrorism

In addition, it is also important to apply a gender mainstreaming approach to the way that the criminal justice system deals with terrorist crime, its perpetrators and victims.

As underscored in UNODC's guidance note on *Gender mainstreaming in the work of UNODC*, "gender mainstreaming is vital to ensuring long-term sustainable criminal justice reform, as it identifies and uses opportunities for improving gender equality in projects and policies that would not have otherwise been considered gender issues".¹¹⁸ It is also essential in order to avoid worsening inequalities in criminal justice systems.

Unequal gender power relations and gender stereotypes stemming from biological, socio-cultural and economic differences that assign status and value to the sexes often filter their way into public institutions. Thus, while criminal justice mechanisms are charged with dispensing justice and ensuring accountability through equal protection and application of the law, women and men victims undergo different experiences in these institutions.¹¹⁹ As a starting point, criminal justice systems have often been developed by men and based on their experiences. As a result, they could reflect implicit gender stereotypes about how women and men come into contact with the law. Consequently, personnel in criminal justice systems may consciously or unconsciously reinforce the pervasive unequal power relations and stereotypes that characterize wider societal patterns of gender relations, ranging from initial contact with law enforcement, to investigation, pretrial, trial and post-trial, as well as during imprisonment or deprivation of liberty, as demonstrated in the examples below.



Focus: Gender impacts of criminal justice responses

Assumptions made about the nature of victims and offenders

Gender stereotypes influence thinking that men are perpetrators of violence and women are passive victims. In some instances, rates of victimization are indeed proven to be linked to gender: women are more likely to be victims of gender-based violence, for example, which is inextricably linked to gender-based inequality. However, this assumption is not universally accurate and often leads to misconceptions and vulnerabilities. Female criminal behaviour has commonly been perceived as less prevalent, or a less serious problem, than male criminal behaviour.¹²⁰ Terrorist and violent extremist groups exploit these stereotypes for strategic advantage.

Criminalisation of offences

Criminal law provisions can overtly treat men and women differently or have differential impacts due to structural gender inequalities while being on their face neutral.

¹¹⁸ UNODC, "Gender Mainstreaming in the work of UNODC," 2013, pp. 7-8. Available at <https://www.unwomen.org/en/docs/2013/6/gender-mainstreaming-in-the-work-of-unodc> (accessed on 9 December 2020).

¹¹⁹ Ibid.

¹²⁰ Ibid.

Administration of criminal justice

Harmful gender stereotypes may, overtly or subtly, influence the work of criminal justice personnel, including police, lawyers, and judges. Such bias may manifest itself in sexual violence cases influenced by, for example, beliefs about victim behaviour, or attitudes towards marital violence.¹²¹ At the same time, the absence of female law enforcement personnel can discourage female victims from seeking assistance with their case.

Women may also face barriers in accessing justice due to a number of issues that are not gender-specific, but nonetheless disproportionately affect women. These include a lack of information of their legal rights, illiteracy and lower socio-economic and education status, a lack of autonomy over decision-making and economic resources, and a fear of stigma for seeking redress for certain crimes. Similarly, owing to *de facto* inequality, legal aid may not be available to women and men on an equal basis. For example, in some jurisdictions women may face barriers to accessing legal aid where eligibility for legal aid is means tested on the basis of total household income rather than individual income, but where women do not have access to household finances.¹²²

Imprisonment and other forms of deprivation of liberty

Women have a range of particular needs in detention that may not be considered in prison systems that are designed primarily for male prisoners.

Therefore, some services provided for women prisoners may be applied within a male-oriented framework and lack the female focus needed to assist them with their rehabilitation and social reintegration.¹²³ Rehabilitation programmes need to take into account the gender appropriate needs of women prisoners,¹²⁴ and prison staff receive specific training on working with special categories of prisoners such as women.

The imprisonment of women who are care givers has a great impact on the life of the children and family, hence the need for flexible visiting hours and children friendly environment in prisons. Women pathways to prison are different from male and as such they should not be treated as the same.¹²⁵

Others relate to health aspects and the contact with family and children. Women in detention facilities, for example, are more likely to be subject to sexual abuse than male offenders. Due largely to *de facto* inequality, women may be disadvantaged in accessing alternatives to police custody or imprisonment by bail conditions, requiring the women to report to the authority (owing to the structural inequalities emanating from household and caregiving responsibilities).

¹²¹ UNODC, "Handbook on effective prosecution responses to violence against women and girls," 2014, pp. 29-37.

¹²² Committee on the Elimination of Discrimination against Women, "General recommendation No. 33," 2015.

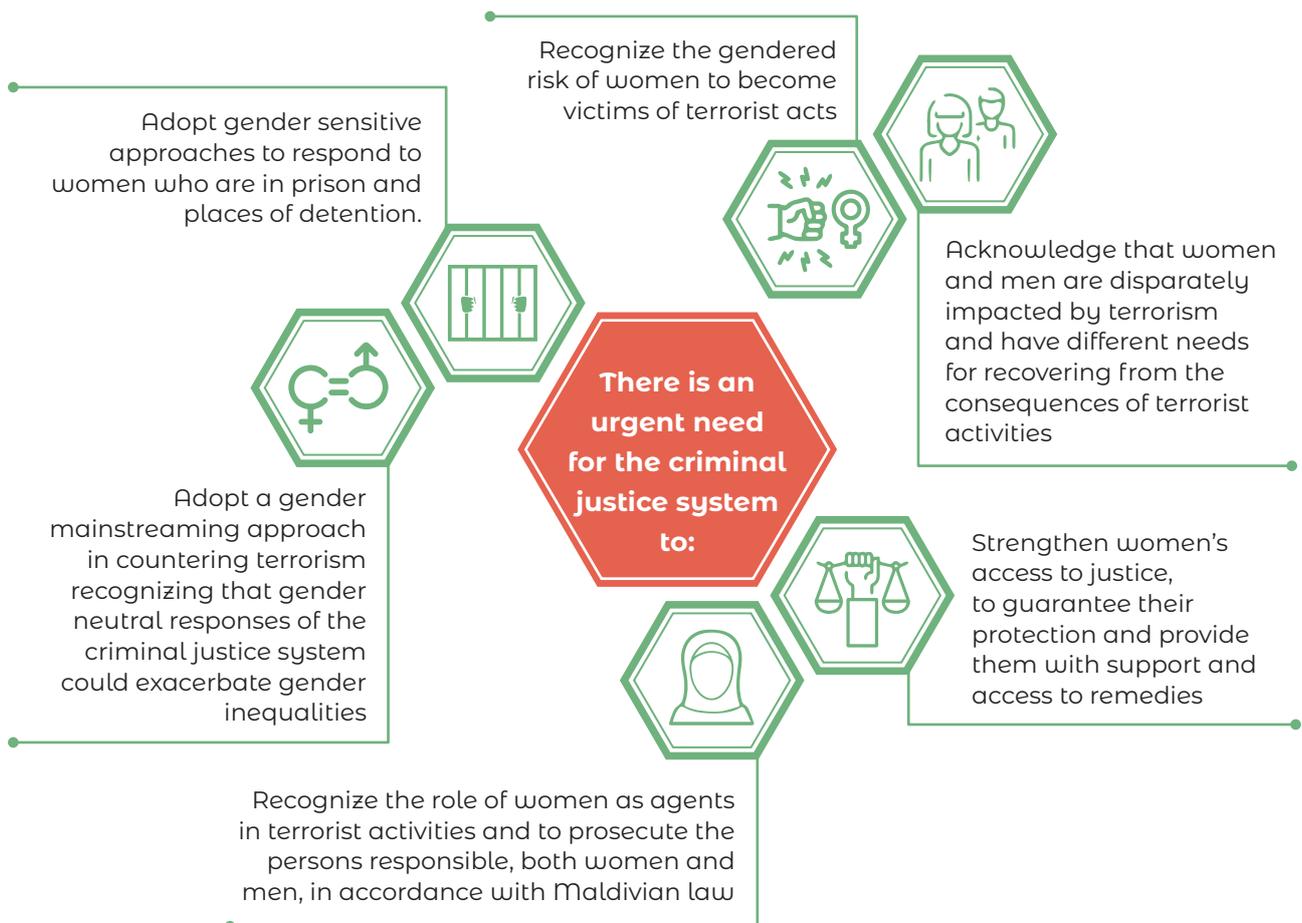
¹²³ UNODC Regional Office for South Asia, Manual for the Management of Violent Extremist Prisoners for Maldives Correctional Service, 2020.

¹²⁴ UNODC Regional Office for South Asia, Rehabilitation and Reintegration Needs of Maldives Correctional Service, 2020.

¹²⁵ UNODC Regional Office for South Asia, Comprehensive Needs Assessment of the Maldives Correctional Service, 2020.

Even where the victims of terrorist acts are of the same gender, they are not a homogeneous group. Depending on the age, status, and vulnerability, among other factors, women and girls experience suffering and trauma differently. They all deserve equal protection and equality before the law (as discussed further below), which are principles that should inform the design of multi-layered interventions. A criminal justice system that places equal value on women and men is vital as part of transformative approaches to addressing societal gender inequalities.

Furthermore, a gender-sensitive approach needs to be adopted to address the specific needs of the people of different genders who come in contact with the criminal justice system. Efficient gender-sensitive classification in prisons of women offenders and the offer of treatment and rehabilitation programmes, are key components of prison systems. Rehabilitation and reintegration serve to promote women's safety and well-being while in prison, and to prepare them for a successful reintegration upon release. Often, they may need psychological, social and legal assistance during their imprisonment and after their release. To be effective, disengagement and social reintegration interventions should be gender-sensitive and address the varying experiences, as well as the specific obstacles and challenges which women may face.





Focus: Gender mainstreaming in the Maldivian Police Force

The percentage of women police officials in the Maldives is 12%,¹²⁶ which is the highest in South Asia.¹²⁷

The President recently ratified the Maldives Police Service Act (Law No. 34/2020) which mandates to ensure the safety of all members of the public, without any discrimination or influence, and in line with human rights good practices.¹²⁸

Activity 4

Identify three ways in which the experiences of men and women within the criminal justice system differ.

Consider, for instance, the possibility of differences between men and women in the Maldives regarding:

- ❖ Reporting to the police a crime they are victims of
- ❖ Being heard as witnesses when they are victims of a crime
- ❖ Obtaining bail when charged with a serious offence
- ❖ Access to assistance by a lawyer of their own choice



1.4 Gender Equality as a Human Rights Obligation

The right to equality and non-discrimination, including on the basis of gender, is one of the foundational principles of human rights law, and is essential for the effective protection of human rights and the rule of law. Women and men are entitled to equality and non-discrimination in the application of all human rights.

The Maldives is party to numerous international and regional human rights instruments enshrining these rights, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which was adopted in 1979 and came into force in 1981, and its optional protocol.

¹²⁶ Maldives, National Bureau of Statistics, "Women in the Maldives," 8 March 2018. Available at <http://statisticsmaldives.gov.mv/nbs/wp-content/uploads/2018/03/Women-in-Maldives.pdf> (accessed on 21 December 2020).

¹²⁷ "Maldives Police Service has Highest Percentage of Female Officers in South-east Asia Region," Cision PR newswire 16 October 2017. Available at <https://www.prnewswire.com/news-releases/maldives-police-service-has-highest-percentage-of-female-officers-in-south-east-asia-region-651103813.html> (accessed on 21 December 2020).

¹²⁸ Maldives, The President's Office, "President Ratifies Maldives Police Service Act," 27 December 2020. Available at <https://presidency.gov.mv/Press/Article/24190> (accessed on 14 January 2021).

As party to an array of international human rights treaties, the Maldives has obligations and duties to respect, to protect and to fulfil human rights. The obligation to 'respect' requires the country to refrain from interfering with the enjoyment of human rights, while the obligation to 'protect' requires the State protects individuals and groups from human rights abuses. The obligation to 'fulfil' is a positive obligation on the Maldives to take steps to facilitate the enjoyment of basic human rights.

Maldives has a positive obligation under international law to protect all persons under its jurisdiction against human rights abuses perpetrated by State or non-State actors.¹²⁹ This includes an obligation to prevent, investigate and punish human rights violations perpetrated by private persons or entities, including terrorist groups.

International commitments to gender Equality

The Maldives became a party to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993,¹³⁰ and the CEDAW Optional Protocol in 2006.¹³¹

The accession to the CEDAW was coupled with a general reservation as follows:

"The Government of the Republic of Maldives will comply with the provisions of the Convention, except those which the Government may consider contradictory to the principles of the Islamic Sharia upon which the laws and traditions of the Maldives is founded.

Furthermore, the Republic of Maldives does not see itself bound by any provisions of the Convention which obliges to change its Constitution and laws in any manner."

The Maldives also made reservations to Article 7(a)¹³² and 16¹³³ of the Convention. The reservation to Article 7(a) read as follows:

¹²⁹ Human Rights Committee, "General Comment No. 31," (CCPR/C/21/Rev.1/Add.13), 26 May 2004, para. 8.

¹³⁰ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Reservations, 'to the extent that the provision contained in the said paragraph conflicts with the provision of article 34 of the (previous) Constitution of the Republic of Maldives,' Available at <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm#N35> (accessed on 9 December 2020).

¹³¹ Ibid.

¹³² The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 7: "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies".

¹³³ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 16: "1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration."

“... The Government of the Republic of Maldives expresses its reservation to article 7(a) of the Convention, to the extent that the provision contained in the said paragraph conflicts with the provision of article 34^[134] of the Constitution of the Republic of Maldives ...”.

The original reservations to article 16 read as follows:

“The Government of the Republic of Maldives reserves its right to apply article 16 of the Convention concerning the equality of men and women in all matters relating to marriage and family relations without prejudice to the provisions of the Islamic Sharia, which govern all marital and family relations of the 100 percent Muslim population of the Maldives.”

Subsequently, the Maldives withdrew some of its reservations. In 2010, the Government took the decision to withdraw its reservation regarding article 7(a).

In early 2020, the Government partially withdrew its reservations to article 16 of the Convention. The remaining reservations to article 16 concern sections (a), (c), (d) and (f) of paragraph 1.

The Maldives is party to a number of international instruments addressing gender equality and a party to all major human rights treaties,¹³⁵ with the exception of the Convention on the Protection of the Rights of Migrant Workers and Members of their Families. The Maldives is also party to the Commonwealth Action Plans on Gender Equality.



Reference

Module I of this training series on Counter-terrorism and Human Rights: *Incorporation of International Law into Maldivian Law* provides a general overview of the international and regional human rights framework and the human rights instruments to which the Maldives is a party.

(a) The right to equality and non-discrimination

Under the Constitution of the Republic of Maldives (2008) all persons are guaranteed the same rights and freedoms.

Article 17(a) stipulates non-discrimination of any kind, “including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island;” and Article 17(b) legitimises Temporary Special Measures or Affirmative Action to redress inequalities.

¹³⁴ The Constitution of the Republic of Maldives, Article 34: “(a) Every person of marriageable age as determined by law has the right to marry, and to establish a family as specified in law. The family, being the natural and fundamental unit of society, is entitled to special protection by society and the State.”

¹³⁵ International Covenant on Civil and Political Rights (ICCPR) 1966; ICCPR Optional Protocol 1966; International Covenant on Economic, Social and Cultural Rights (ICESCR 1966).

Increased women's participation in leadership and decision-making positions is a major priority of the government.¹³⁶ In January 2008, the People's Special Majilis (Constituent Assembly) removed the gender bar on women running for President – a vital step towards upholding the Maldives international commitments under CEDAW and UN human rights conventions.¹³⁷

Article 18 explicitly stipulates the duty of the State to follow the constitutional provisions of fundamental rights and promote the rights and freedoms of the people.

The recognition of women's and men's equality before the law requires the mainstreaming of gender perspectives into laws, protocols and procedures within criminal justice systems. Beyond the formal normative framework, the right to equality and equal protection for women under the law requires the adoption of gender-responsive approaches in the practices, attitudes, skills and gender composition of personnel.



Focus: Asia Pacific Forum of National Human Rights Institutions Five Year Strategic Plan

The *Five Year Strategic Plan* of the Asia Pacific Forum underscores the need to incorporate a focus on gender issues into all aspects of daily life. Women and girls in all countries across the Asia Pacific are at risk of serious violations of their human rights, such as gender-based violence and harassment. Entrenched roles, attitudes and stereotypes also mean that many experience poverty, discrimination and unequal access to services and participation in community life.

As a State party to CEDAW, the Maldives is required to take all appropriate measures to ensure that women are granted equal recognition, enjoyment and exercise of all human rights and fundamental freedoms on a basis of equality with men.¹³⁸ Further, Maldives is obligated to address not only discriminatory laws, but also practices and customs, and discrimination against women by private actors.



Activity 5

- ❖ Do you think the Maldives should withdraw all the reservations? If so, why?
- ❖ Identify 10 measures that would need to be taken, upon withdrawing the reservation, to implement Maldives' obligations under CEDAW article 2 in practice.

¹³⁶ Maldives, "Common Core Document Forming Part of the Report of State Parties," 16 February 2010. Available at https://www.ecoi.net/en/file/local/1103906/3256_1366118714_2011-02-21-maldives.pdf (accessed on 9 December 2020).

¹³⁷ Ibid.

¹³⁸ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 3.

Gender-based violence against women constitutes discrimination against women within the meaning of CEDAW Article 1 and is a violation of women's human rights.¹³⁹

(b) Right to access justice and remedies

Under Article 20 of the Constitution of Maldives (2008), every individual is equal before and under the law, and has the right to the equal protection and equal benefit of the law. Under Article 65, anyone whose rights or freedoms, as guaranteed by the Chapter on fundamental rights and freedoms of the Constitution, have been infringed or denied may apply to a court to obtain a just remedy.

The CEDAW Committee (hereinafter “the Committee”) has affirmed that the right of women to access justice is “essential to the realization of all of the rights protected under the Convention...” and may be impeded by discrimination against women, based on gender stereotypes, stigma, and gender-based violence.¹⁴⁰

The Committee further confirmed that under Article 5(a) of the Convention, States parties “have an obligation to expose and remove the underlying social and cultural barriers, including gender stereotypes, that prevent women from exercising and claiming their rights and impede their access to effective remedies”¹⁴¹

One of the most important elements in securing access to justice and remedies on the basis of equality and non-discrimination is gender balance in law enforcement and judicial agencies. Operationalizing these rights and mainstreaming gender in law enforcement activities in terrorism cases also requires the effective representation of women in the law enforcement and judicial systems. Such representation is reflected in recruitment, retention and advancement of women at all levels. This is discussed more in depth in Chapter 3 of this Module.

¹³⁹ Committee on the Elimination of Discrimination against Women, “General recommendation No. 35 on violence against women”, 2017, para. 1, reaffirming the relevance “General recommendation No. 19 on violence against women”, 1992, para. 9. Available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf (accessed on 10 December 2020).

¹⁴⁰ Committee on the Elimination of Discrimination against Women, “General recommendation No. 33 on women's access to justice,” 2015, pp. 1, 8. Available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf (accessed on 15 December 2020).

¹⁴¹ Committee on the Elimination of Discrimination against Women, “General recommendation No. 33 on women's access to justice,” 2015, p. 7. Available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf (accessed on 15 December 2020).

Activity 6

When victims access the criminal justice system, they encounter law enforcement personnel with similar or different social and cultural practices and beliefs. What are some of the possible reactions of male and female personnel in the police, prosecution, and judiciary to the following categories of victims:

- ❖ A male victim of forced conscription into fighting?
- ❖ A female victim of forced marriage to a terrorist?
- ❖ A girl below 18 years who is forced into sexual slavery to a number of terrorists?
- ❖ A widowed victim of forced labour?

In light of the above questions, would the victims face similar or different limitations in claiming their rights before criminal justice systems? Why would this occur? In which areas would it be most evident?

How could the experiences of these individuals be improved in each scenario? Consider if these changes would take place through policies, laws or practices.



Further reading

- ❖ The Global Counterterrorism Forum has produced a document on *Good Practices on Women and Countering Violent Extremism*, which contains 22 good practices on women and gender in the context of countering violent extremism (CVE). It addresses how to counter women's and girls' involvement in violent extremism and terrorism, advancing their roles in CVE, and addressing women as victims.
- ❖ UNODC has produced a guidance note for UNODC Staff on *Gender mainstreaming in the work of UNODC*, which provides an overview of gender mainstreaming in the criminal justice system, including in the context of countering terrorism.

1.5 Gender Equality as a Sustainable Development Goal for the Maldives

In 2015, all United Nations Member States adopted the 2030 Sustainable Development Agenda, which has placed gender equality and ending of all forms of discrimination against

women as one of the global sustainable development goals (SDG) to be achieved by 2030. The corresponding SDG 5 underscores the significance of gender equality not only as a basic human right, but also as a pursuit with a multiplier effect, crucial and instrumental to accelerating sustainable development in general across indicators. Another important aspect of the Agenda in general is its inclusivity: all its goals, including Goal 5, aim at improving lives for all, promise sustained, transformative change, and commit to leaving no one behind –not women, not children, not minorities, not migrants, not indigenous people, nor people with disabilities.¹⁴²

Following the adoption of the 2030 Agenda for Sustainable Development, the government of the Maldives launched many actions that aimed at facilitating the process of achieving all the 17 SDGs. These actions included establishment of the SDG Division under the Ministry of Environment and Energy in 2016 that acted as a Secretariat for all SDG-related activities. In order to facilitate the inter-agency coordination and implementation of the SDG- reporting, the government set up the National Ministerial Coordination Committee and the SDGs Technical Committee.¹⁴³

1.6 Self-Assessment Questions



Self-assessment questions

- ❖ Maldives' Five Year Strategic Action Plan (SAP) includes a "Gender Equality" subsector under the "Good Governance" sector. It recognizes that "despite advancements in legal and policy framework including the passage of a domestic violence, a sexual harassment Act and gender equality law, administrative, budgetary and human resource constraints restrict the implementation of these laws to achieve gender equality".
 - (a) What does the term 'gender equality' mean?
 - (b) What actions can be identified to contribute in achieving women's empowerment and gender equality?
- ❖ Name at least three ways in which gender mainstreaming promotes the protection of women's rights in criminal justice and counter-terrorism.
- ❖ List three ways that gender mainstreaming should be applied in police reform.
- ❖ Name four obligations the Maldives has undertaken as a State party to CEDAW in order to advance gender equality and eliminate discrimination against women.
- ❖ What are the Maldives' core obligations under the Constitution and the CEDAW to ensure access to justice and remedies for violations of the rights to gender equality and non-discrimination?

¹⁴² UN Secretary General's High-Level Panel on Women's Economic Empowerment, "Leave no one behind, a call to action for gender equality and women's economic empowerment," p. 1. Available at <https://www.empowerwomen.org/en/resources/documents/2016/09/leave-no-one-behind?lang=en#:~:text=Download-,Leave%20No%20One%20Behind%20%2D%20A%20Call%20to%20Action%20for,Equality%20and%20Women's%20Economic%20Empowerment&text=This%20report%20is%20a%20call,full%20economic%20empowerment%20of%20women> (accessed on 16 December 2020).

¹⁴³ United Nations, "Maldives: Taking Action for Sustainable Development," 2017. Available at https://www.un.org/sustainabledevelopment/wp-content/uploads/2017/07/Maldives_Government.pdf (accessed on 18 December 2020).

2

CHAPTER

GENDER ASPECTS OF TERRORISM OFFENCES



Learning objectives

By the end of this Chapter, you will be able to:

- ❖ Explain why terrorism offences formulated in a gender-neutral manner may have a different impact on women and men
- ❖ Identify gender dimensions of support and membership offences under Anti Terrorism Act, 2015, as amended
- ❖ Discuss gender dimensions of the use of suicide bombers
- ❖ Explain the relevance of alternatives to prosecution in terrorism cases and related gender dimensions
- ❖ Identify grounds for alternatives to prosecution, reduced sentences upon conviction, defences and mitigating circumstances applicable to persons involuntarily involved in the commission of terrorism offences

The obligation to bring perpetrators of acts of terrorism to justice applies equally to the conduct of women and men. Criminal justice actors should avoid perpetuating stereotypes suggesting that women are less culpable for committing terrorism offences or are incapable of acting of their own volition when it comes to violence and terrorism. Similarly, caution should be exercised not to overlook the gender premise of the society permeating different spheres while applying gender-neutral laws and policies.

It is important to recognize that laws that are formulated in gender-neutral terms may have a different impact on men and women. In many countries, counter-terrorism laws written predominantly by men respond to what has conventionally been seen as a primarily male threat. As noted by the UN Special Rapporteur on human rights while countering terrorism, women have been marginal to the conversations in which definitions of security are agreed and generally peripheral to the institutional settings in which security frameworks are implemented as policy and law.¹⁴⁴

¹⁴⁴ United Nations General Assembly, "Promotion and protection of human rights and fundamental freedoms while countering terrorism," A/72/495, para. 29. Available at <http://www.undocs.org/A/72/495> (accessed on 20 December 2020).

The present chapter explores the difference in impact that the criminalization of acts of terrorism in the ATA 2015, as amended, may have on women and men by employing the gender mainstreaming approach introduced in Chapter 1.

The provisions of the Anti Terrorism Act (ATA) 2015 criminalizing acts of terrorism and numerous forms of support to and complicity in acts of terrorism, do not distinguish between male and female perpetrators. The Act is formulated in gender-neutral terms. Killing, enforced disappearance and the financing of acts of terrorism, to name just a few examples, are made punishable without distinguishing between the sex of the alleged perpetrators.

2.1 Gender Roles in Terrorist Groups in the Maldives

The Anti-Terrorism Act 2015 is the primary legislation for preventing and prosecuting terrorism in the Maldives. In October 2019, the government passed an amendment strengthening the Act, that criminalized a range of support offences: supporting “extremist” ideologies, departing for a war zone without government authorization, assisting individuals attempting to join militant groups.¹⁴⁵ The Maldives’ Government made public the details of 17 terror organizations placed under the Anti-Terrorism Act on recommendations made by the Parliamentary Committee on National Security. These groups included the ISIL, Al-Qaeda, Jabhat al-Nusra (JaN), Lashkar-e-Taiba (LeT), Al-Qaeda in the Arabian Peninsula (AQAP), Al-Qaeda in the Islamic Maghreb (AQIM), Al-Qaeda in the Indian Subcontinent (AQIS), Abu Sayyaf (AS), Boko Haram (BH), Al-Shabaab, Tehreek-i-Taliban Pakistan (TTP), Harkat-ul-Jihad-i-Islami (HuJI), Jaish-e-Mohammed (JeM), Islamic State of Iraq and the Levant (ISIL), National Thowheed Jama’ath (NTJ), Jamathe Millathu Ibrahim (JMI) and Willayath as Seylani (WAS).¹⁴⁶

Under the auspices of Al-Qaeda, sometimes women take up the responsibility of providing moral support to the male militants.¹⁴⁷ They are also used to manage logistics and recruit other female members for the organizations.¹⁴⁸ As teachers, nurses, mothers, and torturers – under the ISIL’s rule, women play different roles – some women are willing participants, whilst others as coerced victims.¹⁴⁹ All these supportive and active roles are criminalized under the Anti-Terrorism Act 2015, as amended.¹⁵⁰

¹⁴⁵ U.S. Department of State, “Country Reports on Terrorism 2019: Maldives.” Available at <https://www.state.gov/reports/country-reports-on-terrorism-2019/maldives/#:~:text=In%20October%2C%20Maldives%20passed%20an,its%202015%20Anti%2DTerrorism%20Act.&text=2019%20Terrorist%20Incidents%3A%20There%20were,for%20preventing%20and%20prosecuting%20terrorism> (accessed on 8 December 2020).

¹⁴⁶ Giriraj Bhattacharjee, “Maldives Reels from Terrorism,” IndiaBlooms, June 30, 2020. Available at <https://www.khmertimeskh.com/739520/maldives-reels-from-terrorism/> (accessed on 7 December 2020).

¹⁴⁷ Sagar N, “Stateless & Leftover ISIS Brides.”

¹⁴⁸ Ibid.

¹⁴⁹ Thomas Dandois, “Women of ISIL, Life Inside the Caliphate,” Aljazeera, 26 September 2019. Available at <https://www.aljazeera.com/program/witness/2019/9/26/women-of-isil-life-inside-the-caliphate/> (accessed on 8 December 2020).

¹⁵⁰ Fathmath Shaahunaz, “Parliament passes amendments to Prevention of Terrorism Act,” The Edition, 30 September 2019, Available at <https://edition.mv/news/12678> (accessed on 8 December 2020).

2.1.1 The Maldives: The foreign fighters crisis

UN Security Council resolution 2178 (2014) defines “foreign terrorist fighters” as individuals who travel to a State other than their own States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.¹⁵¹ As defined by De Guttry, Capone, and Paulussen (2016) foreign fighters are “... individuals, driven mainly by ideology, religion and/or kinship, who leave their country of origin or their country of habitual residence to join a party engaged in an armed conflict”.¹⁵²

Under section 60-4 of the Anti-Terrorism (Second Amendment) Act,

- (a) “Foreign Fighters” refers to persons leaving the Republic of Maldives for any of the following purposes:
- (1) To participate in a war led by a terrorist organization or terrorists not belonging to any organization
 - (2) To conspire or prepare or aid or abet to carry out an act of terrorism
 - (3) To provide or receive training to carry out an act of terrorism
- (b) For the purposes of this Act, and until established otherwise under this Act, families returning with persons returning from war or having entered and remained in a war zone shall be considered as foreign fighters.
- (c) Unless stated otherwise explicitly in this Act, children shall not be considered as foreign fighters

Whilst the motivation of foreign fighters is often as unique as the individuals themselves, a number of factors have been identified, including “political, religious and personal”.¹⁵³ Some scholars, such as Frennett and Silverman (2016), highlight three primary reasons why foreign fighters act on the decision to leave their country: outrage at what is happening in a conflict and empathy for the people being affected; adherence to the ideology of the group an individual wishes to join; a search for identity and sense of belonging.¹⁵⁴ Further underlying conditions, such as poverty, unemployment, and crime, may also contribute to the vulnerability of the youth in the Maldives, exploited by the narratives of recruiters.¹⁵⁵

As a result of perceived internal hazards that have allegedly influenced some to join foreign terror organizations,¹⁵⁶ the Maldives has seen the move of radicalized individuals that have left the country to fight with armed groups in the Middle East, including the Al-Qaeda linked

¹⁵¹ Security Council, “Resolution 2178(2014)”, S/RES/2178 (2014), September 24, 2014. Available at [https://www.undocs.org/S/RES/2178%20\(2014\)](https://www.undocs.org/S/RES/2178%20(2014)) (accessed on January 9, 2021).

¹⁵² De Guttry, Andrea, Capone, Francesca, Paulussen, Christophe (eds.), “Foreign Fighters Under International Law & Beyond,” Springer, (2016). Available at <https://www.springer.com/gp/book/9789462650985> (accessed on 7 December 2020).

¹⁵³ UNODC, “Investigation, Prosecution and Adjudication of Foreign Terrorist Fighter Cases for South and South-East Asia”, (2018).

¹⁵⁴ Ross Frennett and Tanya Silverman, “Foreign Fighters: Motivations for Travel to Foreign Conflicts,” Springer (2016). Available at <https://www.springerprofessional.de/en/foreign-fighters-motivations-for-travel-to-foreign-conflicts/7498528> (accessed on 7 December 2020).

¹⁵⁵ European Foundation for South Asian Studies, “The Maldives’ Foreign Fighter Phenomenon - Theories and Perspectives,” 4 April 2020. Available at <https://www.efsas.org/publications/articles-by-efsas/the-maldives-%E2%80%99-foreign-fighter-phenomenon-theories-and-perspectives/> (accessed on 7 December 2020).

¹⁵⁶ European Foundation for South Asian Studies, “The Maldives’ Foreign Fighter Phenomenon - Theories and Perspectives.”

In December 2019, the Maldives Police Service referred to up to 1,400 Islamist extremists in the Maldives who adhere to ISIL ideology. Moreover, 423 citizens had attempted to travel to conflict zones in Iraq and Syria and 173 had succeeded.¹⁵⁹

factions like Jabhat al-Nusra or the more recent hybrid group Hayat Tahrir al-Sham (HTS), as well as the ISIL.¹⁵⁷ There have been cases of nationals (from six to 10) leaving for Syria together. These groups have included babies less than a year old, a girl aged 11, several women in their 20s to mid-40s, and men aged anywhere between 18 and late 40s.¹⁵⁸

2.1.2 Women in support roles (Contextualizing Maldives)

According to the NCTC, there are an array of support roles that Maldivian women in association with terrorist organizations play: the women tend to be responsible, and they are often in charge of educating and guiding their community members through different means (telegram, secret groups/channels); they often support their spouse and share the same mentality towards terrorism and violent extremism leading to terrorism; they are often in charge of home schooling and 'educating' their children on extremism.

While there is no specific research or studies on Maldivian women associated with terrorist organizations abroad in particular, general studies and research can be of help in understanding the roles of women, including those of the Maldivian women. A number of women are recruited from different countries as foreign fighters to create international media attention towards terrorist organizations at times.¹⁶⁰ Women in the terrorist organizations usually take "back seats", performing activities that are largely at home such as online recruiting and managing the households.¹⁶¹ The participation of women in support roles consists of being a wife, mother, recruiter, organizer, proselytizer, teacher, translator, and fundraiser.¹⁶² Women happen to be entrusted with passing on family traditions and systematically restructuring, repackaging, and recycling cultural traits.¹⁶³ They are viewed as the keepers of family values and morals -it becomes their responsibility to convey knowledge to subsequent generations by raising the children.¹⁶⁴ There are also watered-down instructions for women on how to be 'good' wives to jihadists.¹⁶⁵

¹⁵⁷ Animesh Roul, "The Maldives Faces Dual Challenge of Terrorist Returnees and Extremist Hate Campaigns," *Terrorism Monitor*, Vol. 17, No. 6, pp. 6-7. Available at <https://jamestown.org/wp-content/uploads/2019/03/TM-Mar.-25-2019-Issue.pdf> (accessed on 7 December 2020).

¹⁵⁸ Azra Naseem, "Leaving 'Paradise' For Jihad: Maldivian Fighters in Syria, And the Internet," 13 May 2015. Available at <https://www.voxpol.eu/leaving-paradise-for-jihad-maldivian-fighters-in-syria-and-the-internet/> (accessed on 8 December 2020).

¹⁵⁹ Fathimath Aruma Hossain, "Commissioner of Police: Maldives has nearly 1,400 extremists," *The Sun*, 16 December 2019. Available at <https://en.sun.mv/57176> (accessed on 12 January 2021).

¹⁶⁰ Frank Gardner, "The Crucial Role of Women within Islamic State," *BBC News*, 20 August 2015. Available at <http://www.bbc.com/news/world-middle-east-33985441> (accessed on 9 December 2020).

¹⁶¹ Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

¹⁶² Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

¹⁶³ Daniel Georges-Abeyie, "Women as Terrorists," in *Perspectives on Terrorism* Lawrence Zelic Freedman and Yonah Alexander, eds. (Wilmington: Scholarly Resources, 1983), p. 79; Miemie Winn Byrd and Major Gretchen Decker, "Why the U.S. Should Gender Its Counterterrorism Strategy," *Military Review*, 2017.

¹⁶⁴ Ibid.

¹⁶⁵ Anita Perešin, "Fatal Attraction: Western Muslimas and ISIS," *Perspectives on Terrorism*, Vol 9, No. 3 (2015).

ISIL set up a structure¹⁶⁶ to prepare and train women for their roles, upon their recruitment from different countries. They are offered courses in five disciplines: 1. first aid training; 2. social media marketing and computer programming; 3. Islamic law; 4. firearm and explosive training; 5. domestic affairs.¹⁶⁷

The Council of Europe's Counter-Terrorism Committee has divided the role of women in ISIL into three main categories: necessary agents of State-building, recruiters, and militants.¹⁶⁸ ISIL propaganda suggests that "Allah's ordained purpose for pure Muslim women is to support the ummah by being a good wife and nurturing the following jihadist generation."¹⁶⁹ Therefore, the responsibilities of a woman lie first and foremost to her husband and to maintain the household, except for a handful of narrowly defined circumstances as discussed below.¹⁷⁰

Terrorist organizations predominantly rely on female foreign recruits to lead social media campaign on sites including, Twitter, Tumblr, Kik, Facebook, WhatsApp and Ask.FM.¹⁷¹ The 2016 global survey of the Counter-Terrorism Committee Executive Directorate drew attention to numerous cases of foreign women who travelled to ISIL-held territory and used social media to promote the group and its State-building project.¹⁷² Besides, recruiters provide important, practical tips to future *muhajirats* –from a list of what to bring, to a list of what not to bring and recommendations on how to contact their families upon leaving home.¹⁷³ Traveling to reach ISIL recruiters can be tricky and the sites contain general advice, including how to navigate through airports.¹⁷⁴ Terrorist groups are increasingly using women as couriers to provide critical sustenance to insurgencies underground and seeking to regain traction.¹⁷⁵

Through a series of rare testimonies to Aljazeera, women from different countries at terrorist organizations share what everyday life was like under the armed group.¹⁷⁶ Women hired as religious police patrolled the streets, looking for people who broke dress codes or committed other alleged moral offenses.¹⁷⁷ Teachers taught schoolchildren radical lessons.¹⁷⁸ Nurses

¹⁶⁶ Azadeh Moaveni, "ISIS Women and Enforcers in Syria Recount Collaboration, Anguish and Escape," The New York Times, 21 November 2015. Available at <https://www.nytimes.com/2015/11/22/world/middleeast/isis-wives-and-enforcers-in-syria-recount-collaboration-anguish-and-escape.html> (accessed on 8 December 2020).

¹⁶⁷ "Matchmaking and Marriage, Islamic State- Style," Radio Free Europe, 15 January 2015. Available at <http://www.rferl.org/content/matchmaking-marriage-islamicstate-style/26774719.html> (accessed on 9 December 2020).

¹⁶⁸ Committee of Experts on Terrorism, "The Roles of Women in Daesh: Discussion Paper," (2016), pp. 5–8. Available at <https://rm.coe.int/16806b33a7> (accessed on 9 December 2020).

¹⁶⁹ Charlie Winter, "Women of the Islamic State: A Manifesto on Women by the Al-Khanssaa Brigade," (trans.), Quilliam Foundation, February 2015. Available at <https://www.quilliamfoundation.org/wp/wp-content/uploads/publications/free/women-of-the-islamic-state3.pdf> (accessed on 9 December 2020), cited in Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

¹⁷⁰ Ibid.

¹⁷¹ Mia Bloom and Charlie Winter, "How a Woman Joins ISIS," The Daily Beast, 6 December 2015. Available at <http://www.thedailybeast.com/articles/2015/12/06/how-a-woman-joins-isis.html> (accessed on 9 December 2020).

¹⁷² Security Council, "Letter dated 18 January 2016 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council," 20 January 2016, S/2016/49, para 34. Available at <https://undocs.org/S/2016/49> (accessed on 9 December 2020).

¹⁷³ Anita Perešin, "Fatal Attraction."

¹⁷⁴ Ibid.

¹⁷⁵ Isabel Coles and Ali Nabhan, "Islamic State Enlists Women as Covert Operatives in Survival Bid," The Wall Street Journal, 30 January 2019. Available at <https://www.wsj.com/articles/islamic-state-forced-underground-turns-to-women-to-survive-11548856800> (accessed on 8 December 2020).

¹⁷⁶ Azadeh Moaveni, "ISIS Women and Enforcers in Syria Recount Collaboration, Anguish and Escape," The New York Times, 21 November 2015. Available at <https://www.nytimes.com/2015/11/22/world/middleeast/isis-wives-and-enforcers-in-syria-recount-collaboration-anguish-and-escape.html> (accessed on 8 December 2020).

¹⁷⁷ Ibid.

¹⁷⁸ Thomas Dandois, "Women of ISIL, Life Inside the Caliphate."

were forced to work at terrorist-controlled hospitals.¹⁷⁹ Schools were closed and repurposed as training centres.¹⁸⁰ Movement was restricted and torture was a regular punishment significantly enforced by the female wing of the organizations.¹⁸¹

Women are increasingly becoming front-line activists, propagandists,¹⁸² and fundraisers.¹⁸³ ISIL allows recruited skilled foreign fighters (e.g. women that are doctors or teachers), to work outside of the home.¹⁸⁴ In addition to these roles, women are performing law enforcement, administrative, and welfare activities.¹⁸⁵ They have also been involved in the reopening and establishment of hospitals, convalescent homes, welfare centres, and orphanages by the terrorist groups.¹⁸⁶

2.1.3 Women involved in violent acts (Contextualizing Maldives)

Employing women in combatant positions, including as suicide bombers, has been seen as an advantage by terrorists. Besides doubling the pool of potential recruits, the tactical and strategic advantages are related to gendered assumptions about women and violence. As women are mostly perceived as the victims of violence rather than as perpetrators, they are often seen as less of a (security) threat. They, as a consequence, can enter crowded areas more easily without raising suspicion and have a better chance to pass through checkpoints undetected.¹⁸⁷ Women have been able to evade the suspicion of and searches by security forces owing to gendered assumptions that women are less likely to engage in violent functions. Such assumptions have enabled terrorist groups to exploit gender stereotypes and expectations related to women's nature –which is alleged to be inherently non-violent and passive; using certain clothing or apparent pregnancy, to avoid invasive searches by security forces.¹⁸⁸

Shortly after the inception of ISIL, women have taken on armed and unarmed roles, they have served as police in the group's all-female Khansaa Brigade, as members of the all-female counterinsurgency brigade Umm al-Rayan.¹⁸⁹ The Al-Khansaa Brigade executes activities in intelligence gathering, law enforcement, overseeing slaves, and recruiting.¹⁹⁰ Both foreign and domestic female recruits have participated in the torture of the 'morally corrupted' women

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Robyn Creswell and Bernard Haykel, "Battle Lines," *The New Yorker*, 1 June 2015. Available at <https://www.newyorker.com/magazine/2015/06/08/battle-lines-jihad-creswell-and-haykel> (accessed on 8 December 2020).

¹⁸³ Geneva Centre for Securing Sector Governance, "Gender, Preventing Violent Extremism and Countering Terrorism," Policy Brief. Available at https://www.dcaf.ch/sites/default/files/publications/documents/GSPolicyBrief_3%20EN%20FINAL_0.pdf (accessed on 7 December 2020).

¹⁸⁴ Quillam Foundation, "Women of the Islamic State: A Manifesto," Available at <https://www.quillaminternational.com/shop/e-publications/women-of-the-islamic-state-a-manifesto-on-women-by-the-al-khansaa-brigade-2/> (accessed on 9 December 2020).

¹⁸⁵ Lydia Smith, "ISIS: The 'central' role of women in forming the next jihadist generation," 18 February 2016. Available at <http://www.ibtimes.co.uk/isis-central-role-womenforming-next-jihadist-generation-1521058> (accessed on 9 December 2020).

¹⁸⁶ Ibid.

¹⁸⁷ Jennie Stone and Katherine Pattillo, "Al Qaeda's Use of Female Suicide Bombers in Iraq: a Case Study," in *Women, Gender and Terrorism*, Laura Sjoberg and Caron Gentry, eds. (Athens, University of Georgia Press, 2011), pp. 163-165; Kathy Laster and Edna Erez, "Sister in Terrorism? Exploding Stereotypes," *Women and Criminal Justice*, Vol. 25, No.1-2, (2015), p. 88.

¹⁸⁸ Mia Bloom, "Bombshells: Women and Terror", *Gender Issues*, vol. 28, Nos. 1–2 (2011), p. 3.

¹⁸⁹ Abdul-Alim, "ISIS 'Manifesto' Spells Out Role for Women." *The Atlantic*, 8 March 2015. Available at <https://www.theatlantic.com/education/archive/2015/03/isis-manifesto-spells-out-role-for-women/387049/> (accessed on 9 December 2020).

¹⁹⁰ Ibid.

in their eyes, while also playing other roles supporting the male fighters.¹⁹¹ Moving back and forth between violent and nonviolent activities is not unique for the women who have participated in the ISIL.¹⁹² Studies by Amanda N Spencer suggest that only 1 percent of the foreign recruits in the ISIL play the role of the combatants.¹⁹³

The 'active' tasks undertaken by willing/unwilling women range from espionage, outright terror operations, and the occasional leadership position.¹⁹⁴ Media have often shared reductionist representations of women in ISIL, yet one Maldivian woman who joined ISIL and rose to the rank of a senior officer in the organization conceded that she received military training and carried a weapon.¹⁹⁵ "Every man carried a gun. Every woman, too," she said.¹⁹⁶ According to the NCTC, in some cases, women and children are also taken to the training trips organized by their husbands and they do participate in physical training.

Indeed, the women who are fully integrated into the organization, play active roles.¹⁹⁷ Before taking positions on the streets, each member receives a 15-day weapons course, learning how to load, clean, and fire pistols.¹⁹⁸ Both foreign and domestic recruits in the ISIL have participated in torture and punishment.¹⁹⁹ Recruited women from around the world including the Maldives, alongside being 'morality enforcers', also play the role of overseers of rape against captured non-Muslim women.²⁰⁰ Lastly, women are also involved in the plotting and execution of terrorist violence, *albeit* on a smaller scale than the aforementioned roles.²⁰¹



Activity 7

- ❖ What does your professional experience tell you about the roles that women fulfil in terrorist groups in the Maldives?
- ❖ Does your experience coincide with the statements made in the reports quoted in this section? Where does it differ?
- ❖ In your view, how and why do women become associated with terrorist groups? Does this differ from men's experience?
- ❖ What should be the consequences of these differences for the criminal justice response to terrorism in the Maldives?

¹⁹¹ Ibid.

¹⁹² Kanisha D. Bond, Kate Cronin-Furman, Meredith Loken, Milli Lake, Sarah E. Parkinson, Anna Zelencz, "The West Needs to Take the Politics of Women in ISIS Seriously", *Foreign Policy*, 4 March 2019. Available at <https://foreignpolicy.com/2019/03/04/the-west-needs-to-take-the-politics-of-women-in-isis-seriously/> (accessed on 8 December 2020).

¹⁹³ Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

¹⁹⁴ Ibid.

¹⁹⁵ Robin Wright, "The Dangerous Dregs of ISIS," *The New Yorker*, 16 April 2019. Available at <https://www.newyorker.com/news/dispatch/the-dangerous-dregs-of-isis> (accessed on 7 December 2020).

¹⁹⁶ Ibid.

¹⁹⁷ Thomas Dandois, "Women of ISIL, Life Inside the Caliphate."

¹⁹⁸ "Khansaa Brigade – ISIS 'Female' Police," *The Belfast Child*, 21 October 2015. Available at <https://belfastchildis.wordpress.com/tag/umm-abaid/> (accessed on 9 December 2020).

¹⁹⁹ Kanisha D. Bond, Kate Cronin-Furman, Meredith Loken, Milli Lake, Sarah E. Parkinson, Anna Zelencz, "The West Needs to Take the Politics of Women in ISIS Seriously."

²⁰⁰ Nina Easton, "How ISIS is recruiting women—and turning them into brutal enforcers," *Fortune*, 5 May 2019. Available at <https://fortune.com/2015/05/05/isis-women-recruiting/> (accessed on 8 December 2020).

²⁰¹ Seran de Leede, "Women in Jihad: A Historical Perspective," ICCT Policy Brief, September 2018. Available at <https://icct.nl/app/uploads/2018/09/ICCT-deLeede-Women-in-Jihad-Sept2018.pdf> (accessed on 9 December 2020).

2.2 Gender Aspects of Offences under the Anti-Terrorism Act, 2015, Anti-Terrorism (Amendment) Act, 2016 and Anti-Terrorism (Amendment) Act, 2019

It is clear that States' obligations to bring perpetrators of acts of terrorism to justice applies equally to male and female perpetrators. Criminal justice actors should avoid perpetuating stereotypes suggesting that women are less culpable for committing these offences or are incapable of acting of their own volition and committing offences. At the same time, it is important to recognize that women may be differently and disproportionately impacted by the criminalization of certain terrorism-related offences in ways that may not have been envisaged by the legislators.

Perpetrating acts of terrorism, such as attacks with improvised explosive devices, killing and abduction, are only a part of the overall range of activities of terrorist groups. These groups are structured organizations in which some persons are immediately engaged in the commission of acts of violence, while many others enable them in "support roles", such as by securing financial funds, food, arms, and other resources, recruiting new members, obtaining, and disseminating vital information, or by providing companionship and moral support.

If criminal justice systems fail to take into account gender dynamics (highlighted in the previous chapters), the result could be ineffective or inadequate responses to terrorism offences. In some instances, relevant actors in the criminal justice system may ignore the different approaches needed for women in the light of women's lived experiences and based on how their roles and activities in the terrorist organizations differ.²⁰² Sometimes the mainstream conventional understanding of men as violent actors leads to gender-blind policies on preventing and countering violence.²⁰³

It has been noted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms that while countering terrorism, women have been marginal to the conversations in which definitions of security are agreed and have been peripheral to the institutional settings in which security frameworks are implemented as policy and law.²⁰⁴ In order to grasp the need for gender-sensitive law, the different experiences of women must be understood. Women within terrorist groups play an array of roles including those of perpetrators, enablers of violence or as ideological supporters, financiers, enforcers and recruiters. However, many also tend to be victims or mere bystanders due to their familial ties to members of the terrorist groups. Some join voluntarily, some get abducted, some get forced to travel to foreign countries, while others are only relationally affiliated with local groups.

²⁰² OSCE, "Understanding the role of gender in preventing and countering violent extremism and radicalization that lead to terrorism," May 2019. Available at <https://www.osce.org/secretariat/420563> (accessed on 14 December 2020).

²⁰³ Elizabeth Pearson, "Why Men Fight and Women Don't: Masculinity and Extremist Violence," Tony Blair Institute for Global Change, 13 September 2018. Available at <https://institute.global/policy/why-men-fight-and-women-dont-masculinity-and-extremist-violence> (accessed on 14 December 2020).

²⁰⁴ United Nations General Assembly, "Promotion and protection of human rights and fundamental freedoms while countering terrorism", A/72/495, para. 29. Available at <https://undocs.org/en/A/72/495> (accessed on 2 January 2021).

There are distinct gendered differences between self-motivated individuals involved in terrorism and victims of forced recruitment to violent extremist and terrorist organizations.²⁰⁵ Coercion and force therefore need to be recognized to avoid treating some victims, including women, as outright criminals, rather than in need of “deradicalization”.²⁰⁶ Keeping that in mind, the UN Security Council has recognized the need for a focus on women “when developing tailored prosecution, rehabilitation and reintegration strategies, and ... the importance of assisting women associated with foreign terrorist fighters who may have been victims of terrorism, and to do so taking into account gender and age sensitivities.”²⁰⁷ The question of women who return from other countries brings additional challenges- for instance, determining whether they joined voluntarily or were forced to join, the extent to which they perpetrated violence or acted as supporters and enablers, and also the availability of evidence in a foreign country.

The People's Majlis, the supreme legislative authority²⁰⁸ of the Maldives enacted the Anti-Terrorism Act 2015 (ATA). The Maldivian legislators have clearly indicated that to defeat terrorist groups and provide justice to victims, it is necessary to bring to justice not only those immediately engaged in carrying out acts of terrorism, but also those who enable terrorist violence in support roles. Particularly, the ATA 2015 (as amended in 2016 and 2019) introduced numerous additional offences, (such as ‘aid and abet an act of terrorism’, ‘Encouragement to commit an act of terrorism, whether directly or indirectly’, ‘Dissemination and publication of documents of a terrorist organization’, ‘Encouragement and Spreading Information Through Television, Radio and Internet’, ‘Training and Receiving Training,’ ‘The Production, Sale or Transportation of Dangerous Weapons or Items Containing Explosive or Destructive Material,’ ‘Joining a terrorist group and recruiting for a group,’ ‘Going to war and entering war zones’ and ‘supporting a terrorist group’), to explicitly criminalize the actions of those who enable the functioning of terrorist groups without being directly involved in acts of violence. This is

in line with international legal instruments against terrorism, including Security Council resolutions 1373 (2001), 2178 (2014), and 2396 (2017), and international conventions to which the Maldives is a party, including the 1999 International Convention for the Suppression of the Financing of Terrorism.

The offences proscribed by the Act, as amended, are, on their face, gender neutral, as they do not provide any distinction between men and women committing them. However, as the roles of men and women in terrorist organizations normally differ, this broadening of the scope of terrorism offences

The ATA 2015 (as amended in 2016 and 2019) makes these offences punishable with severe penalties, up to 20 years of imprisonment—indicating the gravity of the conduct and the serious criminality of those who enable the activities of terrorist groups without committing violent acts of terrorism themselves.

²⁰⁵ International Alert and UNICEF, “Bad blood”: Perceptions of children born of conflict-related sexual violence and women and girls associated with Boko Haram in northeast Nigeria,” 2016. Available at https://www.international-alert.org/sites/default/files/Nigeria_BadBlood_EN_2016.pdf (accessed on 1 December 2020).

²⁰⁶ Ibid.

²⁰⁷ United Nations Security Council, Resolution 2396 (2017), para. 31. Available at [https://undocs.org/en/S/RES/2396\(2017\)](https://undocs.org/en/S/RES/2396(2017)) (accessed on 10 December 2020).

²⁰⁸ The Constitution of the Republic of Maldives, Article 70.

has important gender dimensions. Maldivian law criminalizes as serious terrorist offences not only the conduct of those who carry out violent acts of terrorism – nearly exclusively men according to the information summarized above in section 2.1 – but also the many support roles, which involve women.

The remainder of this Chapter will examine in more detail gender dimensions of selected offences under the ATA 2015, as amended. It will do so in four steps:

- ❖ First, looking at selected support offences (2.2.1)
- ❖ Second, considering the issue of suicide bombers (2.2.2)
- ❖ Third, questions related to sentencing (2.2.3)
- ❖ Fourth, considering various criminal law principles, which could assist in designing gender-specific responses to ways in which women become involved in terrorism offences (2.3).

2.2.1 Selected support offences

In this section, several “support offences” in the ATA 2015, as amended, are reviewed. In considering the gender dimensions of these offences, it is important to ask how the role of men and women in the Maldivian society affect the choices and decisions of persons involved in supporting terrorist groups, harbouring terrorism suspects, concealing information about terrorism, or becoming members of a terrorist group.



Focus: Should choosing to be the wife of a terrorist be considered “support to a terrorist group”?

From 2013 onwards, several European countries saw numerous women and girls travelling to Syria and Iraq to marry fighters of ISIL (Da’esh) or marry fighters through online ceremonies and then travel (or attempt to travel) to join their husbands.

The response of the criminal justice system to the conduct of these women and girls has varied from country to country. In some countries, the courts considered that supporting a fighter of a terrorist group as wife, doing household chores and bearing children, could not be considered an offence, while courts in other countries considered that this was a form of moral support punishable under counter-terrorism legislation. Other countries initially did not investigate and prosecute women returning from Syria and Iraq, but subsequently changed their approach based on an evolving understanding of the role women played in ISIL.



Reference

This case-law is discussed in more detail in Chapter 2 of the UNODC Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism.

Supporting and instigating terrorist activities

As per section 6 of the ATA 2015, as amended,

- (a) (1) It is an offence to commit an act of terrorism as stated in Section 4^[209] of this Act.
- (2) It is an offence to attempt, aid and abet an act of terrorism as stated in Section 4 of this Act.
- (b) The penalty for an offence under this section is imprisonment for a period of 20 to 25 years
- (c) The penalty imposed for the offence of aiding and abetting or complicity of an offence under this section is imprisonment for a period of 17 to 20 years.

Under section 8 of the Act,

- (a) Encouragement to commit an act of terrorism, whether directly or indirectly, is an offence.
- (b) Encouragement for the purposes of this section refers to a person's words, or statement, which is understood by the public or a segment of the public as an encouragement to commit, conspire, aid or abet an act of terrorism.
- (c) In determining whether a statement is likely to be understood by the public or some members of the public as an encouragement to commit an act of terrorism under sub section (a)
- (d) The penalty for an offence committed under this section is imprisonment for a period of 10 to 15 years.

Similarly, section 10 provides punishment for instigating these acts through digital mediums-

- (a) The commission of any of the acts in section 9 of the Act, through television, radio or the Internet, shall be an offence.
- (b) The penalty for an offence under this section is imprisonment for a period of 10 to 15 years.

²⁰⁹ The Anti-Terrorism Act, 2015, section 4 (a) For the purpose of this act, terrorism refers to any act stated in subsection (b) carried out to achieve any of the following objectives.

To promote/advance a certain political or religious or extremist ideology; and

To coerce or unduly influence the state or the government, or to create fear amongst the public or a segment of the public.

(b) For the purposes of achieving the objectives of subsection (a) of this act, an act of terrorism refers to carrying out any of the following acts.

1. Causing serious bodily harm to a person;
2. The act of endangering the life of a person other than the offender;
3. The act of enforced disappearance or holding a person hostage;
4. The act of causing substantial damage to property;
5. The act of hijacking vessels carrying passengers or goods;
6. The act of creating a situation risking the health or safety of the public or a segment of the public;
7. Causing damage to critical infrastructure or seriously interfere with an essential service.

(c) Notwithstanding subsections (a)(1) and (2), the use of weapons of war or explosives to carry out an act pursuant to subsection (b), will be considered as an act of terrorism for the purpose of subsection(a) of this act.

(d) Notwithstanding subsection (b)(7), interferences with essential public services due to lawful demonstration, strike and peaceful assembly will not be considered acts of terrorism

Membership in a terrorist group

Section 15 of the Act provides that-

- (a) A person who commits any of the following acts in the following circumstances is committing an offence
 - (1) Involvement in the running of a terrorist organization;
 - (2) Being a member of a terrorist organization;
 - (3) Recruiting a person as a member of a terrorist organization for the purpose of the running that organization;
 - (4) Controlling the activities of a terrorist organization in any manner or providing instructions as to how the activities are to be carried out.
- (b) 'Terrorist Organization' for the purposes of this section is defined as follows
 - (1) An organization united by a cause and through its members or related other persons, as part of a plan or cause, and one which has committed two or more acts which involve violence or destruction or the threat of violence or destruction; or
 - (2) An organization which has publicly announced their commitment to, as their primary purpose or cause, the commission of such acts or the threat of such acts; or
 - (3) Organizations that have been designated as a Terrorist Organization by the Government of Maldives, as per Section 18 of this Act.
- (c) The penalty for an offence under this section is imprisonment for a period of 10 to 15 years.

Also, under section 16-1 of the Act:

- (a) It is an offence to carry out the following acts under the following circumstances.
 - (1) Support or invite support for a terrorist organization;
 - (2) Defend or provide reasonable justifications for an act of terrorism, or expresses an opinion or belief that is supportive of a terrorist organization, and in doing so is reckless as to whether a person to whom the expression is directed will be encouraged to support a proscribed organization;
 - (3) Arrange, manage or assist in arranging or managing a meeting which he knows is to support a terrorist organization, or to further the activities of a terrorist organization, or to be addressed by a person who belongs or professes to belong to a terrorist organization.
 - (4) Address a meeting where the purpose of the meeting is to encourage support for a terrorist organization or to further its activities
 - (5) Wear any garment or possess or use any document, illustration or photograph expressing support for a terrorist organization or a member of such a organization.

²⁰⁹ (e) For the purposes of this section, "Critical infrastructure" refers to any asset, system, network, or physical and infrastructural resources and conveniences, which if wilfully damaged, can negatively impact the national security of the Maldives.

(f) For the purposes of this section, "Essential service" refers to electricity, water and sewerage services, telecommunication services and transport services.

(b) The penalty for the offence stated in sub section (a) (1) (2) (3) (4) of this section is imprisonment of 3 years to 5 years

(c) The penalty for the offence stated in sub section (a) (5) of this section is imprisonment of 1 (one) to 3 (three) years.

In the South-East Asian region, by 2019 up to 59 percent of returnees were women.²¹⁰ While some of them travelled with their husbands or male family members, some did so on their own.²¹¹ In some instances they are coerced or abducted or even forced to accompany their male counterparts.²¹² Sometimes they marry the terrorist fighter for the idea of better economic security and to look after the children.²¹³ Knowingly or unknowingly, they become associated with terrorist organizations. When meetings are held at the home of the fighters, the female members of the family,²¹⁴ being the ones responsible for taking care of the domestic chores,²¹⁵ work to facilitate the varied aspects of managing such meetings and welcoming militants as guests in their homes.²¹⁶

Being a Foreign Terrorist Fighter

Section 17 of the Act states that:

(a) An offence of terrorism as per this Act shall be considered as an offence regardless of the jurisdiction of the commission of the offence.

(b) A person who commits an offence under this Act, in the situation stipulated under subsection (a) may be prosecuted by the state with the authority vested to the state under this Act.

The amendment to the Act criminalizes the conduct of departing for war zones without authorization by the Government. While the earlier version of the Act recognizes partaking in a foreign conflict as a crime, the changes criminalize all unauthorized attempts to go to any conflict zones. Section 16 of the Act enumerates that:

(a) Except under express authorization of the Government of the Maldives, the following acts shall be deemed an offence.

(1) Going to war;

(2) Entering and remaining in a war zone.

(b) It is an offence to carry out the following acts.

(1) Sending a person to war;

(2) Attempting to, or encouraging a person to go to war.

²¹⁰ ICAN, "Invisible Woman", Gendered Dimensions of Return, Rehabilitation and Reintegration from Violent Extremism, UNDP (2019), Available at <https://icanpeacework.org/wp-content/uploads/2019/02/ICAN-UNDP-Rehabilitation-Reintegration-Invisible-Women-Report-2019.pdf> (accessed on 11 December 2020).

²¹¹ Ibid

²¹² "Maldivian female senior ISIS operative detained in Syria," The Sun, 23 April 2019. Available at <https://en.sun.mv/53410> (accessed on 17 December 2020).

²¹³ Daniel Georges-Abeyie, "Women as Terrorists," Perspectives on Terrorism, 1983, p. 79.

²¹⁴ Brent L. Smith, Jackson Cothren, Paxton Roberts, Kelly R. Damphousse, "Geospatial Analysis of Terrorist Activities: The Identification of Spatial and Temporal Patterns of Preparatory Behavior of International and Environmental Terrorists," May 2008. Available at <https://www.ncjrs.gov/pdffiles1/nij/grants/222909.pdf> (accessed on 31 December 2020).

²¹⁵ Amanda N Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State."

²¹⁶ Brent L. Smith, Jackson Cothren, Paxton Roberts, Kelly R. Damphousse, "Geospatial Analysis of Terrorist Activities: The Identification of Spatial and Temporal Patterns of Preparatory Behavior of International and Environmental Terrorists."

- (c) It is an offence to attempt or aid and abet any of the offences stated in section (a)(1) of this Act.
- (d) It is an offence to attempt or aid and abet any of the offences stated in section (a)(2) of this Act.
- (e) For the purposes of this section, “Going to War” refers to leaving the Republic of Maldives to achieve any of the following objectives
 - (1) To participate in a war led by a terrorist organization or terrorists not belonging to any organization;
 - (2) To conspire or prepare for or aid or abet to carry out an act of terrorism;
 - (3) To provide or receive training to carry out an act of terrorism.
- (f) For the purposes of this section, “A war zone” refers to areas outside the Republic of the Maldives where there is an armed conflict led by a terrorist organization or terrorists not belonging to any organization as specified under section 18 of this Act.
- (g) Unless otherwise proven, and notwithstanding the provisions stated in subsection (h), it is presumed that a person enters a war zone to participate in a war.
- (h) Notwithstanding the provision stated in subsection (a), it is not an offence to enter or remain in a war zone for or in connection with any of the purposes stated below.
 - (1) To provide humanitarian aid to victims of the war;
 - (2) To enforce a court order;
 - (3) To carry out work for the government of a country other than the Republic of Maldives;
 - (4) To carry out work for the United Nations or an agency of the United Nations;
 - (5) To carry out work as a journalist;
 - (6) To carry out work authorized by the government for an organization or association;
 - (7) Any other work authorized by the government.
- (i) For the purposes of subsections (h)(1), (5), (6) and (7), a person entering or remaining in a war zone must get authorization in writing from the ministry.
- (j) Notwithstanding the provision stated in subsection (i) of this section, an Officer of Maldives National Defense Force or Maldives Police Service entering or remaining in a war zone in their official capacity, does not require authorization from the ministry.
- (k) The penalty for the offence stated in subsection (a)(1) is imprisonment of 9 (nine) to 12 (twelve) years.
- (l) The penalty for the offence stated in subsection (a)(2) is imprisonment of 5 (five) to 7 (seven) years.
- (m) The penalty for the offence stated in subsection (b) is imprisonment of 10 (ten) to 15 (fifteen) years.
- (n) The penalty for the offence stated in subsection (c) is imprisonment of 5 (five) to 7 (seven) years.
- (o) The penalty for the offence stated in subsection (d) is imprisonment of 3 (three) to 5 (five) years.

(p) Upon his return, measures stated in Chapter 8 of this Act must be taken against a person who goes to war or enters a warzone as stated in subsection (a). In addition to this, measures stated in Chapter 6 of this Act may be taken against such a person.

Therefore, a person participating in certain conflicts in a foreign country, could be prosecuted by virtue of section 17. Entering the warzone without the proper authorization of the Government is punishable under section 16 of the Act. Cases in which women who travel to a foreign country under coercion or on account of accompanying the husbands or other male relatives,²¹⁷ would require gender-sensitive approaches and analysis.

It is relevant to also mention section 60-13(e) of the Anti-Terrorism Act 2015, which stipulates:

A person who enters a war zone, in the circumstances excluding those stated in section 16(h),²¹⁸ of this Act, even where the said person is not considered as having committed, or been an accessory to, or been trained to carry out an act of terrorism, must be considered as an accused under this section and can be detained [...].

This provision as well can have a different consequence for women who go to a warzone under coercion or in order to accompany their male partners or family members without being an accessory to carry out an act of terrorism.

The Act states in section 60-7(a) that unless otherwise established in the risk assessment made according to section 60-11, women and children belonging to families of foreign fighters pursuant to section 60-3 must be considered as victims and must be detained in a detention facility (stated in section 60-6(a)(3)). This section takes a gender-mainstreaming approach; however, in this regard, risk assessment is the key. Only through proper risk assessments, the conflict underlying the foregoing provisions (one that considers a person, including a woman, entering a warzone as an accused and the other that considers women and children as victims) can be duly resolved.

Activity 8

Under section 15 ATA 2015 as amended, being a member of a terrorist group is punished with up to 15 years of imprisonment. Discuss the following:

- (a) What would be your criteria for establishing whether a person is a member of a terrorist group for the purposes of section 15(2), ATA? Is there a procedure or oath to become a member of a terrorist group? How should a prosecutor prove that a suspect is a “member” for the purposes of section 15(2), ATA?
- (b) Would the criteria differ between men and women, in light of the different roles they tend to play in terrorist activities? Are you aware of women convicted under section 15(2) ATA?



²¹⁷ ICAJ, “Invisible Woman.”

²¹⁸ Mentioned above.

Activity 9

In your view, should the women's conduct in the following hypothetical cases be considered an offence under the ATA 2015, as amended? If so, what offence(s) should these women be charged with?



- ❖ “A”, a young woman, married a member of a terrorist group and followed him to the group’s camp, where she carried out domestic chores and raised the children resulting from the marriage. “A” was motivated by the comparably better economic situation in the terrorist group.
- ❖ “B”, a young woman, married a member of a terrorist group and followed him to the group’s camp, where she carried out domestic chores and raised the children resulting from the marriage. “B” was committed to the terrorist group’s ideology and wanted to support the group as wife to a fighter.
- ❖ “C” was already married when her husband decided to join the terrorist group. She followed him to the group’s camp, where she carried out domestic chores and raised the children resulting from the marriage.
- ❖ “D” is a middle-aged woman. She successfully encouraged several young women from her island to become married to fighters of the terrorist group.
- ❖ “F”, a middle-aged woman, finds out her daughter, “Y”, has left to join a terrorist group along with Y’s husband and their two children. While there, “Y” calls “F” and asks for money. “X” starts sending monthly stipends to her daughter so that they can survive in the conflict zone.

2.2.2 Female suicide bombers

Section 12 of the Act states that:

- (a) It is an offence to commit any of the following acts for the purpose of the commission of preparation for or facilitation of an act of terrorism.
 - (1) Production, possession, sale, providing to another person, transport to another location or trade of dangerous weapons or, items containing destructive elements/ materials.
 - (2) Production, possession, sale, providing to another person, transportation or trade of explosive material.
- (b) A person, who aids and abets to commit any of the acts in subsection (a), is guilty, if he does so, knowing that the purpose of the Act is for the commission or preparation for an act of terrorism.
- (c) The penalty for an offence under this section is imprisonment for a period of 12 to 15 years imprisonment.

Moreover, under the interpretation clause of the Act, 'destructive elements' refer to any apparatus or device that can be used as explosives and/or to create arson. This includes any explosives or explosive materials designed to explode on impact or when detonated by a specified timing, proximity or unique design and/or any weapon that is designed or intended to cause death or serious bodily harm through chemicals or biological or radioactive elements or by the release, dissemination or impact of toxic or poisonous chemicals.

The abovementioned section is relevant in cases of attempted suicide bombing, that include possession and transportation of dangerous weapons or items containing destructive elements/materials. In applying the section, it is necessary to underscore the gendered premise.

Recently there has been a surge of women used as suicide bombers by various terrorist organizations,²¹⁹ which was started by Boko Haram.²²⁰ As already mentioned, women are used because of the perception that they create less suspicion in check-posts, even more so if pregnant. Women also get used as couriers/carriers of explosives due to the same reason.²²¹ In some instances, these women happen to be abductees, widows of the fighters, and women who refused to marry terrorists and subsequently are compelled to take part in violence. In some others, they decide to act based on their own convictions.

Cases involving apprehended (attempted) female suicide bombers must, as all other cases, be considered on their specific merits. Relevant factors to consider may include the circumstances surrounding the suspect's association with the terrorist group and the group's known modes of operation. It has been reported that certain groups deploy as suicide bombers women and girls who have been victims of abduction, widows of fighters and women who refuse to be married to fighters.²²² Other reports indicate that women and girls have been drugged and sent on suicide missions.²²³ Thus, while it should not be excluded that failed suicide bombers, and particularly female suicide bombers, acted with full knowledge, from a criminal justice perspective there are grounds to examine culpability related issues.

In cases involving duress and/or impaired mental capacity, alternatives to prosecution and mitigating circumstances should be taken into account (see further section 2.3).

²¹⁹ Rachel Bryson, "Female Suicide Bombers May Be New For ISIS, But They're No Stranger to Iraq."

²²⁰ Elizabeth Pearson, "Wilayat Shahidat: Boko Haram, the Islamic State, and the Question of the Female Suicide Bomber."

²²¹ Isabel Coles and Ali Nabhan, "Islamic State Enlists Women as Covert Operatives in Survival Bid," *The Wall Street Journal*, 30 January 2019. Available at <https://www.wsj.com/articles/islamic-state-forced-underground-turns-to-women-to-survive-11548856800> (accessed on 17 December 2020).

²²² See also Mia Bloom, "Female Suicide Bombers: A Global Trend." *Daedalus* 136, no. 1 (2007), pp. 94-102.

²²³ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism", p. 33.

Activity 10

Consider the following hypothetical scenario:

Law enforcement officials have raided a building in the outskirts of Male, which has been used as a safe house by a terrorist group. Inside the building they found three women, as well as material to build explosive devices, including suicide belts. The investigation indicates that two of the women were intended to be used as suicide bombers, while the third woman was there as a “minder”, to manage the house and guard the suicide bombers.

Law enforcement officers have subsequently arrested “T”, the husband of the third woman, a middle-ranking operative in the terrorist group, who appears to have set up and managed the safe house.

The investigation yields the following information on the three women.



- (1) “A” is aged 28. She is the wife of “T”, a mid-ranking operative in the terrorist group. She is the “minder” of the women in the safe house, i.e. she was guarding the other woman and the girl, doing her best to maintain their willingness to act as suicide bombers, and keeping the contact with the outside world. “A” claims that the terrorist group forced her and her husband into running the safe house by threats against their and their broader family’s lives. The investigators think that she might have valuable information on who supplied the terrorist safe house with the material to build the explosive devices and food, and regarding the network directing and supporting the safe house operations. She would probably be prepared to cooperate with the investigators if she was not charged or offered a substantially reduced sentence. She is also afraid of reprisals against herself and her family if she cooperates with the authorities.
- (2) “B” is aged 23. She was in the house to be used as a suicide bomber. Her brother was killed in a counter-terrorism operation, although “B” claims that he had no connection to the terrorist group. “B” was motivated by promises from “T” and “A” to support her brother’s family with monthly payments, in particular to feed the five children, and by a desire to avenge her brother’s death.
- (3) “C” is aged 19. In 2018, the terrorist group came to her island and forced her family to hand her over to be married to a

fighter from the terrorist group. She lived with her “husband” for nearly two years, and has a child born in July 2019. In May 2019, her “husband” was killed in combat. “C” was moved to the safe house. “T” and “A” convinced her that it was best for her to become a “martyr” herself.

Which of the women should be considered a terrorist suspect and be charged with an offence? Which offences? What defence/mitigation circumstances could be made on their behalf?



Reference

Defences and mitigating circumstances that may be available to some of the women in the above scenario are discussed in section 2.3 below.

Interviewing and witness protection: To investigate the case described in this scenario, gender-sensitive interviewing skills will be key. Moreover, if the authorities in the hypothetical case decide to consider one or several of the women as witnesses instead of charging them, gender-sensitive witness protection measures will be important. These topics are discussed in Chapter 3 of the Module.

2.2.3 Sentences

The Anti-Terrorism Act 2015 provides the punishment for the supporting acts in the terrorist organizations in terms of imprisonment for a maximum of 20 years. The severest punishment is given for aiding and abetting a terrorist act or being complicit in any manner with imprisonment of 17-20 years.²²⁴ ‘Encouragement to commit an act of terrorism, whether directly or indirectly’²²⁵ and ‘Encouragement and Spreading Information Through Television, Radio and Internet’²²⁶ are punishable with imprisonment of 10-15 years. As per section 16(k) and 16(l), the punishment for going to war and remaining in warzones are respectively 9 to 12 and 5 to 7 years of imprisonment while the punishment for attempting to go the warzone or encouraging someone to go the warzone is 10 to 15 years of imprisonment.²²⁷

Joining a terrorist organization or being a member of a terrorist organization has been made punishable with 10-15 years. Ancillary non-violent acts in a terrorist organization are punishable with custodial sentences of up to 20 years.

²²⁴ The Anti-Terrorism Act 2015, as amended, Section 6(c).

²²⁵ Ibid. Section 8(d).

²²⁶ Ibid. Section 10(b).

²²⁷ Ibid. Section 16(m).



Focus: Comparison with sentences for ancillary offences under UK Terrorism Act

Under the UK's anti-terrorism legislation, persons found guilty of perpetrating acts of terrorist violence are liable to be punished by sentences comparable in severity to those available under the ATA 2015 as amended. The men found guilty of conspiracy to murder in relation to the 21/7 bomb plot in 2005, e.g., were sentenced to life imprisonment with a minimum term of 40 years.

The sentences available for support offences, however, are very different. Under the United Kingdom's Terrorism Act 2000, for instance, a person found guilty of support for a terrorist organisation is liable on conviction "to imprisonment for a term not exceeding ten years, to a fine or to both" (section 12). Membership in a terrorist organisation is punishable by imprisonment not exceeding ten years (section 11).



Reference

Sanctions for terrorism-related offences raise complex questions under international human rights law binding the Maldives. For an in-depth analysis, see Module 4, *Human Rights and Criminal Justice Responses to Terrorism*, Chapter 6, of the UNODC Counter-Terrorism Legal Training Curriculum.

There are a number of legal grounds in Maldivian and international law justifying the imposition of lesser sentences, such as duress as a mitigating circumstance. Considering what is known about the circumstances under which women become associated with terrorist groups in many countries, including the Maldives, these mitigating factors may have a strong gender dimension. This topic is examined in section 2.3.

Criminal justice practitioners also need to consider, however, whether there may be gender stereotypes at work resulting in unjustified more lenient treatment of women committing terrorism offences. In a research article published in September 2018, the authors argued that (in the United States and in Europe) "terrorism related offenders who are women are less likely to be arrested, less likely to be convicted, and receive more lenient sentences compared to men" committing comparable offences.²²⁸ They concluded that "the evidence suggests gender has unjustly affected formal responses to individuals involved in crimes motivated by violent extremism".

²²⁸ Audrey Alexander and Rebecca Turkington, "Treatment of terrorists: how does gender affect justice?", *CTC Sentinel*, vol. 1, No. 8 (September 2018), p. 24; Ester Strommen, "Jihadi brides or female foreign fighters? Women in Da'esh – from recruitment to sentencing," *GPS Policy Brief* 2017 (Oslo, Peace Research Institute, 2017), p. 3.

Activity 11

Assume the following case: “S” is a 35-year old woman, trading vegetables at the town market. She was recruited by a terrorist group to keep her eyes open regarding movements of police, military and other forces in the town. In exchange for the information she provided to them, the terrorist group paid her a small monthly stipend over a one-year period. “S” was denounced by a neighbour and has in the meantime made a full confession to the police, who have brought a criminal case against “S”.

Charges were brought under section 6 of the ATA 2015, as amended, for aid and abetment of an offence.



- (1) What arguments can be made in favour of bringing charges against “S”, and what arguments can be made against? What are the needs for laying down guidelines for prosecutors in Maldives, e.g. considering “public interest”?
- (2) What are the options available to the prosecution if they consider that the case is strong in terms of evidence and that it is in the public interest to prosecute “S”, but that a sentence of seventeen-twenty years imprisonment (as provided under ATA 2015 section 6) would be excessive?
- (3) Assume the prosecution has brought charges under ATA 2015 section 6 for aid and abetment of an offence and has proved its case beyond reasonable doubt. The judge is convinced that “S” is guilty as charged, but also that justice and the public interest will not be served by imposing the maximum prison sentence. What options does the judge have?
- (4) What is the difference between conviction and sentencing?

2.3 Alternatives to Prosecution, Availability of Lesser Sentences upon Conviction and Mitigating Circumstances

In many cases, prosecution or prosecution leading to conviction disproportionately impacts the offenders in the circumstances they happen to be in. Due largely to the effects of prosecution, its processes and inherent challenges, the suspects of criminal offences get exposed to numerous vulnerabilities. Similarly, conviction followed by sentences can run counter to the particular needs of those convicted, in the backdrop of the circumstances that led them to commit the offences in the first place.

For such cases, and with due regard to public interest, alternative measures to prosecution can be considered as an option. Such alternative measures primarily aim at rehabilitating the offenders and at helping them get reintegrated into the communities. In the context of the Maldivian legal system, article 223 of the Constitution of the Maldives states that the Prosecutor General has the sole power to consider and assess evidence presented by investigating bodies to determine whether charges should be pursued or not. This implies that the legal system does create scope for alternatives to prosecution.

The 2019 amendment to the ATA requires the establishment of a rehabilitation and reintegration centre for the returning Maldivian foreign terrorist fighters, including a separate space for women and children deemed victims.²²⁹

There is scope of non-custodial alternatives under the Penal Code but not under the ATA 2015 (as amended). Moreover, in the context of the legal system in the Maldives, there is scope of bail. However, bail provisions of the ATA 2015 (as amended), are strict and do not expressly reveal a gender element as such.

Conviction and sentencing are two different phases of a criminal case coming to an end. Upon holding an accused as convicted, the decision of sentencing is taken by the court. Consideration of mitigating and aggravating circumstances ideally should come in play precisely at the point when conviction is determined and the convict is yet to be sentenced. Mitigating circumstances, if duly presented and considered, can make way for lesser punishments for the accused, including women. As far as the availability of mitigating circumstances is concerned, judicial decisions acknowledge the scope for commuting the quantum of sentences by the judges, taking into account certain mitigating circumstances favouring the accused.

2.3.1 Alternatives to prosecution and non-pressing of charges

A trend observable at the international level, including as a result of the expanded use of offences targeting preparatory acts and support roles, is that terrorism laws increasingly capture the conduct of:

- ❖ First-time offenders;
- ❖ People suffering from diminished mental capacity;
- ❖ Radicalized women and juveniles who have not been involved in violence yet;
- ❖ Persons involved in the “maintenance” of a terrorist group in roles that are far removed from violent action; and
- ❖ Persons who have become involuntarily associated with terrorist groups or victims of trafficking.

According to the information summarized in section 2.1, a large part of the women associated with terrorist groups fall into these categories (first-time offenders, no direct participation in acts of violence). While there are of course also men falling into these categories, the information available on men’s and women’s roles in terrorist activities suggests that women

²²⁹ The Anti-Terrorism Act, Sections 60-5 and 60-6.

are more likely to fulfil these criteria than men. Therefore, the question on how to deal with these terrorist offenders has an important gender dimension.

The presence among the persons suspected of having committed terrorism offences of many first-time offenders, persons who have not been directly involved in violence, raises complex questions of criminal justice strategy, such as:

- ❖ How should the criminal justice system deal with these categories of “terrorist offenders”?
- ❖ Should every case be investigated and, where the evidence suffices, prosecuted?
- ❖ What mechanisms are available to give flexibility to the criminal justice system?
- ❖ What alternative measures can accommodate the threat possibly emanating from persons who have been associated to a terrorist group but have not committed acts of violence?

Alternative measures aim to rehabilitate these persons and prepare them for reintegration into their communities in “alternative settings” to the criminal justice system. The United Nations Secretary General, in the 2017 Report on women and peace and security, “welcome[d] efforts by Member States to initiate human rights-based and gender-sensitive approaches to the rehabilitation and reintegration of returnees and victims, released prisoners *and suspects who qualify for alternatives to prosecution*” (emphasis added).²³⁰

When determining whether or not to prosecute a case, it would be worthwhile to establish whether the offence or the circumstances of its commission are of such a nature that a prosecution is required in the public interest, taking into account the interests of the community, the suspect and the victim. Factors to consider in assessing where the public interest lies include the seriousness of the alleged offence, and the existence of aggravating or mitigating factors. Mitigating factors, which “tend to reduce the seriousness of the offence and hence the likelihood of a prosecution being required in the public interest” include where there has been a long delay between the date of the offence and the trial.²³¹

Other factors to consider in assessing whether the public interest requires a prosecution are stipulated to include, *inter alia*:

- ❖ The availability and efficacy of any alternatives to prosecution
- ❖ Whether the consequences of a prosecution or a conviction would be disproportionately harsh or oppressive in the particular circumstances of the offender.

2.3.2 Availability of non-custodial measures

A range of factors can be identified regarding the circumstances under which women join and act in supporting roles in the terrorist organizations, including but not limited to

²³⁰ United Nations Security Council, “Report of the Secretary-General on women and peace and security,” 2017, S/2017/861, para. 47. Available at <https://undocs.org/en/S/2017/861> (accessed on 25 December 2020).

²³¹ United Nations Security Council, “Report of the Secretary-General on women and peace and security,” 2017, S/2017/861, para. 8(a)(iv). Available at <https://undocs.org/en/S/2017/861> (accessed on 25 December 2020). Note that a decision not to prosecute a complex case on public interest grounds must be brought to the notice of the Attorney General within two days of taking the decision (para. 6).

duress or coercion. Ideally, these factors would be taken into account in order to consider alternatives to prosecution, non-custodial sanctions, or lesser sentences upon conviction.²³² In order to understand the experiences and needs of women and girls militants or returnees from warzones, analysing the contexts/backgrounds is key, including whether they are from urban or rural areas, married or have children, and their level of education.²³³ These specifics usually influence whether women and girls are accepted or rejected by their families and communities when they return home.²³⁴ Considering the psychological states they happen to be in after returning from the warzones, they need an effective, humane justice system with a proper scheme of rehabilitation. In this system, the process of probation, bail, intensive supervision, or house arrest will be beneficial.

In connection with sentencing alternatives, it is important to develop gender-specific options as part of the legal framework.²³⁵ The importance of non-custodial sanctions in promoting rehabilitation and reform was evident in a study from Australia, which found that there was a significant reduction of between 11 and 31 per cent in the odds of re-offending for an individual who had been given a non-custodial sanction, compared to an offender who received a sentence of up to two years.²³⁶ Furthermore, a United Nations resolution has called for greater use of alternatives to imprisonment, acknowledging the links between non-custodial sanctions and a reduction in prison overcrowding, and the contribution they make to building safer communities in support of efforts towards the Sustainable Development Goals.²³⁷

Although the use of harsher penalties in order to prevent crimes may be considered an option,²³⁸ the Penal Code 2014 in its punishment method equivalency table²³⁹ has incorporated house arrest,²⁴⁰ intensive supervision,²⁴¹ fine,²⁴² community service,²⁴³ and probation²⁴⁴ as alternatives to incarceration. It stipulates that while deciding on a sentence, the court may use any of these authorized punishment methods as an alternative to imprisonment.²⁴⁵

- ❖ **House Arrest; Treatment Programs.** A house arrest program is one of detention at the offender's home, or at another facility that is not a correctional facility. During that time the offender is typically not permitted to leave the premises and can be subject to other punishment if they leave the facility²⁴⁶

²³² UNODC, "Handbook of basic principles and promising practices on Alternatives to Imprisonment", (2007), p. 3.

²³³ Remarks by Dr. Mia Bloom, Professor of Communication at Georgia State University, GSX Workshop, 26-27 April 2018, Oslo, Norway.

²³⁴ Ibid.

²³⁵ UNODC, "The Bangkok Rules", Rule 57.

²³⁶ New South Wales Bureau of Crime Statistics and Research, "Intensive correction orders versus short prison sentence: A comparison of re-offending", October 2017. Available at https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2017/mr-Intensive-correction-orders-versus-short-prison-sentence-A-comparison-of-re-offending.aspx (accessed on 17 December 2020).

²³⁷ United Nations Economic and Social Council, "Promoting and encouraging the implementation of alternatives to imprisonment as part of comprehensive crime prevention and criminal justice policies," E/RES/2017/19, 6 July 2017. Available at <https://undocs.org/E/RES/2017/19> (accessed on 14 December 2020).

²³⁸ Haleem Mohamed, "The Maldives Criminal Justice System – An Alternative Method for Punishment," *Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI)*, pp. 245. Available at https://www.unafei.or.jp/publications/pdf/RS_No61/No61_20PA_Mohamed.pdf (accessed on 17 December 2020).

²³⁹ The Penal Code 2014, Section 1005

²⁴⁰ Ibid. Section 1005(b).

²⁴¹ Ibid. Section 1005(e).

²⁴² Ibid. Section 1005(c).

²⁴³ Ibid. Section 1005(d).

²⁴⁴ Ibid. Section 1005(f).

²⁴⁵ Ibid. Section 1005(a).

²⁴⁶ Ibid. Section 1005(b)..

- ❖ Intensive Supervision. Intensive supervision is a program of supervision of the offender by an officer of the State. The court may impose on the offender any appropriate conditions including, but not limited to: requiring the offender to avoid certain people, barring the offender from certain locations or restricting them to a few locations (such as their home or place of employment), imposing a curfew on the offender, requiring them to submit to frequent drug or alcohol tests, compelling the offender to submit to unannounced searches of their person and home, requiring the offender to attend specific educational or other programs, to maintain active employment of a particular sort, or any other requirement or restriction that will promote the safety of others, advance the offender's rehabilitation, or give the offender the punishment they deserve. Intensive probation may include the requirement that an offender attends a treatment program. A treatment program is one in which the person is compelled to attend a facility that will treat them for addictions or other conditions contributing to the commission of the offence. An offender is legally obliged to comply with the terms of the program.²⁴⁷
- ❖ Probation. Probation is a period of release subject to restrictions, including requiring periodic meetings with a supervisory officer, regular drug or alcohol tests, regular psychological counselling, or any other minimally invasive requirement or restrictions that will promote the safety of others, advance the offender's rehabilitation, or give the offender the punishment he deserves.²⁴⁸

These alternatives bear significant gender aspects and the incorporation of these in the Anti-Terrorism Act 2015 would pave more effectively the way for rehabilitation and reintegration of the women involved with the terrorist organizations as well as ensuring the gender-sensitive approach needed to reach the end of justice.

2.3.3 Availability of bail

Article 49 of the Constitution of the Republic of Maldives incorporates a person's right to bail under certain conditions. It is to be noted that it is a fundamental right protected by the constitution:

No person shall be detained in custody prior to sentencing, unless the danger of the accused absconding or not appearing at trial, the protection of the public, or potential interference with witnesses or evidence dictates otherwise. The release may be subject to conditions of bail or other assurances to appear as required by the court.

Under article 9 of International Covenant on Civil and Political Rights (ICCPR), a person is entitled to be released from pre-trial detention upon guarantees to appear for trial. Although the Maldives is a dualist legal system, in which international law stands separate from the domestic law, article 68 of the Constitution prescribes that when interpreting and applying the rights and freedoms contained within the Chapter, a court or tribunal shall promote the values that underlie an open and democratic society based on human dignity, equality and freedom, and shall consider international treaties to which the Maldives is a party.

²⁴⁷ Ibid. Section 1005(e).

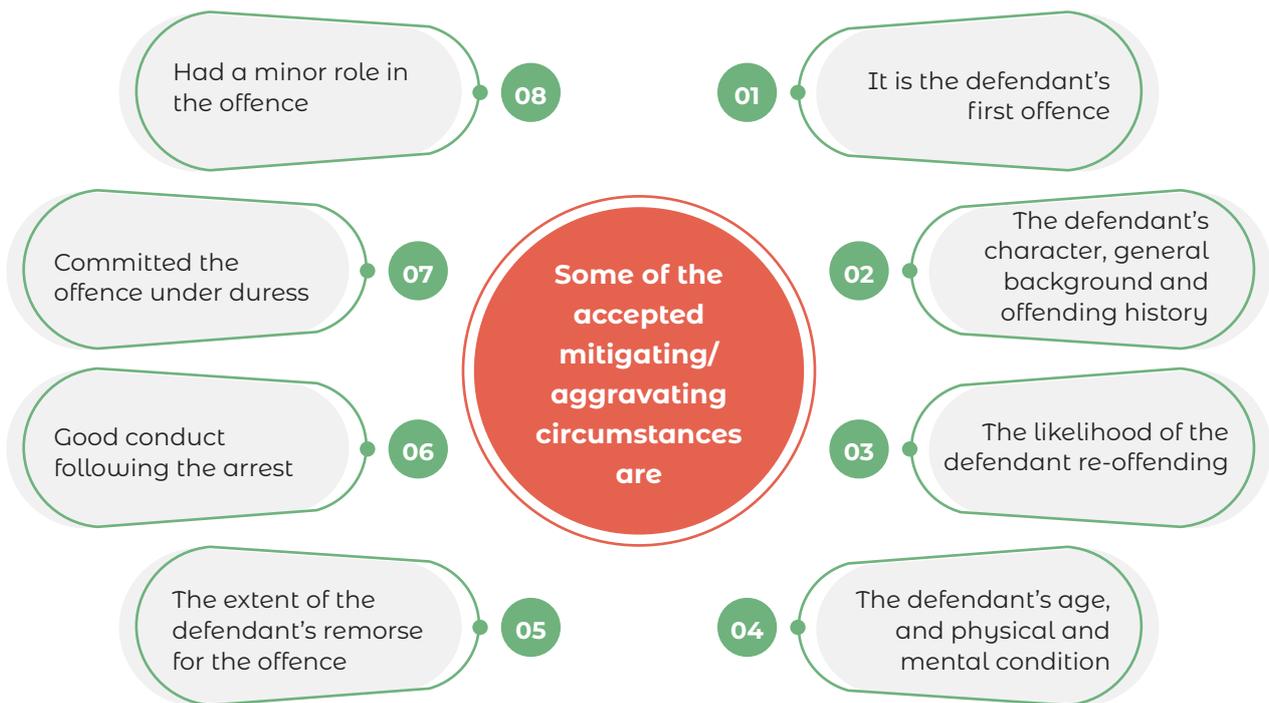
²⁴⁸ Ibid. Section 1005(f).

Section 22 of the Anti-Terrorism Act says notwithstanding the constitutional guarantee under Article 49 of the Constitution, for a person who is detained on suspicion of committing an offence listed from sections 6 to 17 of the Act, provided such person if released from detention is feared to run the risk of endangering the public or interfering with witnesses, the court may order that the suspect’s right to be released from detention during investigation phase may be limited.

As per section 28-2 of this Act, a person accused of a terrorism related offence does not have a right to bail. Similarly, section 63 of the Criminal Procedure Code indicates that a detainee who has committed offences which fall under some enumerated categories (one of them being terrorism) may be denied bail. Therefore, for persons accused of terrorism related offences, including women, there is no ‘right’ to bail as such. The refusal or granting of bail would be dependent on the discretion of the authority.

2.3.4 Lesser sentences and mitigating circumstances

While deciding on the sentences of an accused, the judges should look into the circumstances in which the crime was committed. The circumstances can be aggravating or mitigating.



The Penal Code 2014 recognizes the concept of mitigating circumstances under section 1001 while forming the guideline sentence table: Section 1104 Mitigations for Prior Criminal History, Section 1106 Mitigation for Public Expression of Genuine Remorse, Section 1107 Mitigation for Substantial Co-operation with Authorities, Section 1108 Mitigation for Imperfect Justification, Section 1109 Mitigation for Partial Excuse, and Section 1110 Mitigation for Extreme Emotional Distress.

²⁴⁹ UNODC, "Aggravating and Mitigating Factors", May 2018. Available at <https://www.unodc.org/e4j/en/organized-crime/module-10/key-issues/aggravating-and-mitigating-factors.html> (accessed on 17 December 2020).

The defences of duress, compulsion or necessity are not mentioned in the ATA 2015 as amended but are provided as statutory defences in other criminal statutes. Duress also exists as a common law defence. For example, duress as an Excuse Defense has been incorporated in Section 55 of the Penal Code 2014 which says a person is excused for the offence if, at the time of the offence:

- (1) the person is compelled to perform the offence's conduct,
- (2) by a threat that a person of reasonable firmness in the person's situation would have been unable to resist.

Although duress as a defence has not been mentioned in the Anti-Terrorism Act 2015, it could be used as a mitigating circumstance in the cases deemed fit. Considering the extraordinary subordinate roles played by women in the terrorist groups and their lack of decision-making power in the group indeed necessitate the use of mitigating circumstances during their conviction, as women may be less involved in the violent acts conducted by the terrorist groups and more involved in the non-violent supporting roles. Moreover, these involvements sometimes are the result of coercion, abduction or duress.²⁵⁰ The women returnees from conflict zones could be the ones who have lost their husbands, children, or other family members.²⁵¹ They are often the victims of Post-Traumatic Stress Disorder (PTSD) and Sexual and Gender-Based Violence (SGBV).²⁵³

2.4 Self-Assessment Questions



Self-Assessment Questions

- ❖ Does Maldivian law treat terrorism-related offences committed by women differently from those committed by men?
- ❖ List three offences under the ATA 2015, as amended, that may have a gender related impact, and explain why these provisions may have a particular and different impact on women.
- ❖ List three characteristics of the criminalization of support to acts for terrorism and terrorist groups under the ATA 2015, as amended.
- ❖ Explain the gender dimensions of the use of suicide bombers by terrorist groups.
- ❖ List three criteria for applying alternatives to prosecution that may apply in terrorism cases in Maldives, referring to international and Maldivian policy documents. Discuss their particular relevance to female offenders.
- ❖ Can the defence of duress apply in terrorism cases?

²⁵⁰ Olivia M. Bizovi, "Deviant Women: Female Involvement in Terrorist Organizations."

²⁵¹ Robin Wright, "The Dangerous Dregs of ISIS."

²⁵² Anton W. Weenink, "Behavioral Problems and Disorders among Radicals in Police Files", Terrorism Research Initiative, Leiden University, 2015. Available at <http://www.terrorismanalysts.com/pt/index.php/pot/article/view/416/html> (accessed on 31 December 2020); Amin A. Muhammad Gadit, "Terrorism and Mental Health: The Issue of Psychological Fragility", *Journal of the Pakistan Medical Association*, Vol 59, No. 10, October 2009. Available at <https://jpma.org.pk/article-details/1837> (accessed on 31 December 2020).

²⁵³ OSCE, "Guidelines for Addressing the Threats and Challenges of "Foreign Terrorist Fighters" within a Human Rights Framework." Available at https://www.osce.org/files/f/documents/4/7/393503_2.pdf (accessed on 31 December 2020).

3

CHAPTER

GENDER DIMENSIONS OF THE PREVENTION, INVESTIGATION AND PROSECUTION OF TERRORISM OFFENCES



Learning objectives

By the end of this Chapter, you will be able to:

- ❖ · Understand the gender impacts of investigatory powers exercised in the course of counter-terrorism investigations, particularly search and seizure powers, and identify good practices in the gender-sensitive application of these powers
- ❖ · Identify gender-sensitive measures, which can be implemented when interviewing victims, witnesses and suspects involved in terrorism cases
- ❖ · Identify gender-sensitive measures, which can be implemented when applying victim and witness protection measures

This Chapter examines gender-related issues that may arise in the course of the investigation and prosecution of terrorism offences. The issues discussed are not unique to terrorism cases, but they are of particular relevance in the context of counter-terrorism.

Women and girls are associated with violent extremism in complex and diverse ways. For disengagement, rehabilitation and reintegration programs to be effective, the counter-terrorism measures and measures of prevention of violent extremism must recognize women's existence in order to be gender-responsive. The absence of coherent, gender-sensitive policies may have significant implications.²⁵⁴ A gender-neutral approach, which does not differentiate between the impact of counter-terrorism measures on women and men and assumes that they share the same experiences, needs and concerns, can be problematic because it may reflect the assumption that only men's lived experiences are relevant.²⁵⁵ Gender sensitivity in

²⁵⁴ ICAN, "Invisible Woman."

²⁵⁵ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism", p. 12

prosecution, rehabilitation and reintegration of Foreign Terrorist Fighters is also mandated by UN Security Council Resolution 2396, which "... emphasizes that women and children associated with foreign terrorist fighters returning or relocating to and from conflict may have served in many different roles, including as supporters, facilitators, or perpetrators of terrorist acts, and require special focus when developing tailored prosecution, rehabilitation and reintegration strategies."²⁵⁶

The Resolution also "stresses the importance of assisting women associated with foreign terrorist fighters who may be victims of terrorism, and to do so taking into account gender and age sensitivities."²⁵⁷

3.1 Gender Aspects of Search and Seizure powers

The government has a responsibility to protect individuals and institutions within their jurisdiction from the threat posed by terrorism. A range of law enforcing powers including search and seizure may be used to discharge this responsibility. Nevertheless, searches of persons and property by law enforcement personnel in the course of terrorism investigations may impinge upon a number of human rights if not conducted in compliance with the legal framework. If search powers were to be used disproportionately, issues in connection with the respect for the dignity of the human person and the prohibition of inhuman and degrading treatment may arise. Search powers may also impact men and women differently, situation that could be ameliorated through the implementation of gender-sensitive practices.²⁵⁸

The "Basic Human Rights Reference Guide" has stated that stop and search procedures should not unduly limit or interfere with the following rights of the individuals:

- ❖ Right of movement to and from a residence, workplace or publicly accessible location;
- ❖ Right of association with family members;
- ❖ Access to land or water; or
- ❖ Ability to attend full school and work-days and access social services or medical treatment, in particular as pertains to emergency cases and pregnant women.²⁵⁹

While it is important for the law enforcement agencies to conduct searches as a countering/preventing act, in situations where social restrictions and conventions impact and influence the movement and attire of women,²⁶⁰ the events of them being personally searched can have complicated consequences in their social lives.

²⁵⁶ S/RES/2242 (2015). Available at https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2242.pdf (accessed on 11 December 2020); S/RES/2396 (2017) on Foreign Terrorist Fighters. Available at <https://digitallibrary.un.org/record/1327675?ln=en> (accessed on 11 December 2020).

²⁵⁷ Ibid.

²⁵⁸ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism", p. 63.

²⁵⁹ CTITF, "Basic human rights reference guide: the stopping and searching of persons in the context of countering terrorism", 2nd ed. (New York, March 2014), p. 20. Available at https://www.un.org/counterterrorism/sites/www.un.org/counterterrorism/files/stoppingandsearching_en.pdf (accessed on 31 December 2020).

²⁶⁰ U.S. Department of State, "2018 Report on International Religious Freedom: Maldives.". Available at <https://www.state.gov/reports/2018-report-on-international-religious-freedom/maldives/> (accessed on 31 December 2020).

3.1.1 Constitutional rights

Privacy, as a necessary precondition for the protection of fundamental values including liberty, dignity, equality, and freedom from government intrusion, is also an essential ingredient for democratic societies, requiring strong protection.²⁶¹ The right to privacy could be affected and compromised through irregular search and seizure processes.

Article 24 of the Constitution of the Maldives protects the right to privacy of an individual and states that 'everyone has the right to respect for his private and family life, his home and his private communications. Every person must respect these rights concerning others.'

Moreover, Article 47 states that:

- (a) No person shall be subject to search or seizure unless there is reasonable cause,
- (b) Residential property shall be inviolable and shall not be entered without the consent of the resident, except to prevent immediate and serious harm to life or property, or under the express authorization of an order of the court.

Search, and seizure in many cases, could also encroach upon the fundamental right to acquire and hold property,²⁶² and freedom of movement and establishment.²⁶³ The State is responsible for protecting citizens from the potential risk of violence and providing justice for the victims of terrorism, and it is also responsible for protecting the Constitutionally mandated human rights of all the citizens, including the ones involved in terrorism related offences. If the State derogates from and limits fundamental rights more than what is strictly necessary in the name of counter-terrorism, Constitutional mandates and international human rights obligations may be compromised. Moreover, doing so risks compounding discrimination and abuses perpetrated against already marginalized communities, including women.²⁶⁴

3.1.2 Searches of the person

The right to privacy in the context of personal searches and seizures, in simple terms, entails that all persons shall be free from unreasonable, arbitrary, or unlawful searches or seizures of their persons. All persons, whether innocent or guilty are entitled to search and seizure privacy rights. The right should be safeguarded regardless of the gravity of the crime in question.²⁶⁵ *Katz v United States* defined an unreasonable search as something when the government engages in warrantless surveillance of individuals under circumstances in which they have a 'reasonable expectation of privacy.'²⁶⁶

²⁶¹ OPC Submission to Innovation, Science and Economic Development Canada for its National Digital and Data Consultations, 23 November 2018. Available at https://www.priv.gc.ca/en/opc-actions-and-decisions/submissions-to-consultations/sub_ised_181123/ (accessed on 19 December 2020).

²⁶² The Constitution of the Republic of Maldives, Article 40.

²⁶³ Ibid. Article 41.

²⁶⁴ UN General Assembly (2009), "A gender perspective in countering terrorism", Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 3 August, UN Doc. A/64/211, section III.

²⁶⁵ George E. Edwards, "International Human Rights Law Challenges to the New International Criminal Court: The Search and Seizure Right to Privacy", *The Yale Journal of International Law*, Vol. 26:323. Available at <https://core.ac.uk/download/pdf/72839199.pdf> (accessed on December 19 2020).

²⁶⁶ 389 U.S. 347 (1967).

As per article 22-1 of the Anti-Terrorism Act 2015:

- (a) Notwithstanding other legislation, Maldives Police Service has the authority to search any persons suspected of an offence and is believed to possess an instrument of crime or evidence of an offence stated in this Act, without a search warrant.
- (b) Maldives Police Service has the authority to enforce the powers granted to them under Section 38(f) of Criminal Procedure Code (Act No: 12/2016) when carrying out a search under subsection (a).
- (c) Maldives Police Service has the discretion to conduct a strip search of a person pursuant to subsection (a) without a warrant; where there is a reasonable ground to believe that the person possesses an article related to the alleged offence.
- (d) In conducting the search as stated in subsection (a), Maldives Police Service must follow the relevant procedure stated in Section 38(g), (h) and (i) of the Criminal Procedure Code (Act No: 12/2016).

It is therefore important to mention the relevant provisions from the Criminal Procedure Code. Section 38(f) of the Code indicates the “Police has the power to stop any person [...] without a court order and has the following powers against any such person.

- (1) To request for identification
- (2) Detention without arrest
- (3) Subject a person to a pat-down search or search using a detector
- (4) Search anything in a person’s possession
- (5) To search the pockets
- (6) To remove any face coverings
- (7) To handover anything that can be evidence of the commission of a criminal offence to the police
- (8) To temporarily relinquish possession of any object that can cause harm to another person, to the police.”

Section 38(f) may have gendered implications which are sought to be mitigated by sections 38(g), (h) and (i). Section 38(g) provides that in conducting a search of a person’s body by virtue of the power granted to police under subsection (d) of the Act, only persons of the same gender as the detainee shall be allowed to make physical contact with the detainee or be present at the time of search. 38 (h) states that if the person falling under subsection (f)(6) is a woman wearing a face veil, only an officer of the same gender shall order her to remove her face veil or be present at time of removal.

Furthermore, section 38(i) provides that if an officer of the same gender is not present in accordance with subsections (h) or (i), the search of the suspect can be conducted after an officer of the same gender is present. Only members of the same gender should be present at the time of search.

All searches in general need to be carried out with courtesy and respect, at the proper place, consistent with the dignity of the person who is being searched. Persons being subjected to a body search by State officials or medical personnel acting at the request of the State

should be examined only by persons of the same sex.²⁶⁷ Additionally, a body search of any arrested person cannot be conducted in front of a police officer of the opposite gender.²⁶⁸ These regulations have to be followed since an unreasonable search at an improper place puts the person at risk of social stigma. In cases of searches of prisoners and cells, the international framework is provided by the United Nations Standard Minimum Rules for the Treatment of Prisoners.²⁶⁹

According to Section 33(d) of the Regulations on Executing the Constitutional Authority and Discretion Accorded to the police made under Section 17(c)(13) of the Police Act (Act number 5/2008), a body search and check of a woman should be conducted by a female police officer and that of a man by a male police officer. Where there is no female officer, any woman designated by the Duty In-Charge must be allowed to carry out the search and check. With the inclusion of more women in the police service,²⁷⁰ (integral to the response of specific security needs for women²⁷¹) the gender-sensitive approaches discussed above can be implemented effectively. It is also necessary that law enforcing officials receive gender-sensitive training as well.

In accordance with section 22-1(c) of the Anti-Terrorism Act 2015, Maldives Police Service has the discretion to conduct strip searches on a person without a warrant where there is reasonable ground to believe that the person in question possesses an article related to the alleged offence. This provision of strip search has a severe gender dimension. While strip search can be defended with the doctrine of necessity, there could be cases of abuse in connection with strip searches of women,²⁷² including sexual abuse and other incidents if the strip search was misused to humiliate the suspects.²⁷³

Under human rights principles, strip-searching is only permissible as a last resort and only under unavoidable circumstances.²⁷⁴ The Human Rights Commission of the Maldives recommended the following safeguards to the existing provisions under this regulation:

²⁶⁷ Human Rights Committee, General Comment No. 16 on article 17 of the International Covenant on Civil and Political Rights on the right to respect of privacy, family, home and correspondence, and protection of honour and reputation (A/43/40), annex VI, para. 8. Available at <https://www.refworld.org/docid/453883f922.html> (accessed on 20 December 2020).

²⁶⁸ Commonwealth Human Rights Initiative, "Review of The Legal Framework of Maldives Police Service", January 2015. Available at https://www.nipsa.in/uploads/country_resources_file/1247_Maldives_full_report-1.pdf (accessed on 20 December 2020).

²⁶⁹ UNODC, "United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)", Rules 50-43.

²⁷⁰ "Maldives Police Service has Highest Percentage of Female Officers in South-east Asia Region," *Cision PR newswire*, 16 October 2017. Available at <https://www.prnewswire.com/news-releases/maldives-police-service-has-highest-percentage-of-female-officers-in-south-east-asia-region-651103813.html> (accessed on 21 December 2020).

²⁷¹ Beijing Declaration and Platform for Action (Report of the Fourth World Conference on Women, Beijing, 4–15 September 1995 (United Nations publication, Sales No. E.96.IV.13), chap. I, resolution 1, annexes I and II), para. 124 (g).

²⁷² "MDP detainees accuse police of sexual harassment: "What right do they have?," *Minivan News* 25 March 2012. Available at <https://minivannewsarchive.com/politics/mdp-detainees-accuse-police-of-sexual-harassment-what-right-do-they-have-34122> (accessed on 20 December 2020).

²⁷³ "Deputy minister labels detained journalists 'criminals' as HRCM investigates mistreatment in custody," *Maldives Independent* 5 April 2016. Available at <https://maldivesindependent.com/politics/deputy-minister-labels-detained-journalists-criminals-as-hrcm-investigates-mistreatment-in-custody-123273> (accessed on 20 December 2020); Human Rights Commission of the Maldives, "HRCM meets with Maldives Police Service over allegations of misuse of authority to strip search", 3 October 2013. Available at <https://www.hrcm.org.mv/news/page.aspx?id=166#:~:text=Human%20Rights%20Commission%20of%20the%20Maldives,-Site%20map%20%7C%20Contact&text=Strip%20searching%20is%20only%20permissible%20by%20consent%20of%20the%20detainee,of%20someone%20the%20detainee%20trusts.&text=That%20there%20be%20an%20additional,to%20conduct%20a%20strip%20search.> (accessed on 20 December 2020); "MDP detainees accuse police of sexual harassment: "What right do they have?," *Minivan News*, 25 March 2012. Available at <https://minivannewsarchive.com/politics/mdp-detainees-accuse-police-of-sexual-harassment-what-right-do-they-have-34122> (accessed on 20 December 2020).

²⁷⁴ UNODC, "The Bangkok Rules", Rules 19-21.

- ❖ Strip searching is only permissible by consent of the detainee and/or in the presence of someone the detainee trusts.
- ❖ Should the detainee want to file a complaint after being strip-searched, provide the person with the means to do so immediately and maintain a record of this.
- ❖ That there be an additional layer of authorization from a superior officer should there be an indispensable need to conduct a strip search.
- ❖ As strip-searching is an intrusive treatment, the person searching should have authorization and also be given the proper training.
- ❖ Officers conducting the search to refrain from any gestures, instructions or movements that may be viewed as harassment or maltreatment.²⁷⁵

Adequate gender-sensitivity systems of checks and balances should be established keeping in mind the guidelines to balance the imperatives of intelligence-gathering while upholding the right to privacy.²⁷⁶

The rules concerning searches give the relevant authorities a margin of discretion to implement these measures in a way that appropriately balances the requirement of public security and counter-terrorism with those of the right to privacy and other rights, including women's rights: searches must be necessary and proportionate, and must be conducted in a respectful manner.

To properly exercise this discretion, it is important that the persons carrying out the

searches receive clear instructions and are well trained. Key considerations that should ideally be taken into account while carrying out searches include:

- ❖ Respect: all stops and searches must be carried out with courtesy, consideration and respect for the person concerned. Every reasonable effort must be made to minimize the embarrassment that a person being searched may experience.
- ❖ Location: can the location of the search have a differentiated impact according to gender? Depending on the context it can, particularly if taking place in certain public spaces like those traditionally occupied by men; and being stopped and searched in those locations may have a stigma effect.
- ❖ Religious attire: when ordering an individual to remove any religious attire, religious and gender sensitivity requires that State agents ensure that this is done out of public view and in the presence of agents of the same sex as the person being searched.
- ❖ Body searches: in all cases body cavity searches must be conducted only in very limited and specific circumstances, when absolutely necessary and as a means of last resort to achieve the security objective. They must be performed only by trained health personnel of the same sex as the person being searched.

²⁷⁵ Human Rights Commission of the Maldives, "HRCM meets with Maldives Police Service over allegations of misuse of authority to strip search," 3 October 2013. Available at <https://www.hrcm.org.mv/news/page.aspx?id=166#:~:text=Human%20Rights%20Commission%20of%20the%20Maldives,-Site%20map%20%7C%20Contact&text=Strip%20searching%20is%20only%20permissible%20by%20consent%20of%20the%20detainee,of%20someone%20the%20detainee%20trusts.&text=That%20there%20be%20an%20additional,to%20conduct%20a%20strip%20search> (accessed on 20 December 2020).

²⁷⁶ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism, p. 63.

- ❖ Gender of the searching officers: in the planning of stop and search operations it is important to ensure that a sufficient number of female officers are available to search women.

Particular challenges may arise when military forces are asked to contribute to maintaining public security and are therefore involved in the searching of persons. It will be essential to ensure that, if military forces are to search civilians, military personnel has received all adequate training and clear instructions.



Activity 12

Assume that following a suicide bombing attack in an urban area the authorities decide to establish stop and search measures at markets and in strategic places in the urban area to disrupt future attempted attacks and the smuggling of weapons and explosives.

What elements should a set of Standard Operating Procedures for the officers involved in the stop and search operation include to ensure that it is gender sensitive?

3.1.3 Searches of houses and other places

Searching of houses, offices and warehouses are vital to the prevention of terrorism and in the process of counter-terrorism, as it enables the authority to get hold of the property that is suspected to be used in connection with a terrorism related offence. However, unreasonable search and seizure can have complex and diverse gender implications. Improper timing and unusual entry and the non-compliance with the due process guidelines can create a traumatizing experience to the female residents of a place searched. As already mentioned, the Maldives' Constitution provides express recognition to a person's right to privacy and enjoyment of the property.²⁷⁷ It is therefore important that proper gender-sensitive trainings are arranged for both male and female officers in order to make them aware of the Constitutionally mandated rights of the people as well as the adverse consequences searches and seizures may have.

Article 47 of the Constitution of the Maldives provides that:

- No person shall be subject to search or seizure unless there is reasonable cause.
- Residential property shall be inviolable and shall not be entered without the consent of the resident, except to prevent immediate and severe harm to life or property, or under the express authorization of an order of the court.

Section 22(f) of the ATA states that the Maldives Police Service has the authority to enter a private property for the purpose of arresting persons. Section 22(g) requires that in entering private property pursuant to this section, Maldives Police Service must follow the relevant

²⁷⁷ The Constitution of the Republic of Maldives, Article 47.

procedure stated in the Criminal Procedure Code. The Code requires that staying or waiting in the private property shall only happen for a reasonable amount of time.²⁷⁸ The Code also states that police officers can enter private property only when a sub inspector or a higher ranking official gives permission based on reasonable grounds to believe that the suspect who can be arrested without a warrant is in the private property;²⁷⁹ when using a power conferred on a law enforcement authority to enter private property without a court order, and if the owner of the private property questions the officer of the authority about the purpose of the entry, he/she has to explain which ground he/she has entered acting upon.²⁸⁰

Considering the gender consequences that searches of private property might have, the right balance needs to be struck between the human rights principles and the security concerns.

As per section 28 of the Anti-Terrorism Act 2015:

- (a) Maldives Police Service has the authority to seize or confiscate property obtained during the investigation of an offence as stated in Chapter 2 of this Act.
- (b) Property that is seized or confiscated under the subsection (a) shall only be destroyed in accordance with a court ruling unless it is a property that needs to be destroyed for safety and security reasons.

According to Section 49 of the Anti-Terrorism Act 2015, terror suspects' financial transactions, possessions and private property can also be monitored — through surveillance or other means if a MoniCon order (Order of Monitoring and Control) is issued.²⁸¹ The section that follows enables authorities to confiscate or intercept and record private correspondence on suspects' mobile devices or computers.²⁸² While all these are important in preventing terrorism and violent extremism, it is always important for the authorities to be mindful of the fact that among others, Article 17 of International Covenant on Civil and Political Rights (ICCPR) obliges States to ensure a person's right not to be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.

Section 54 of the ATA provides police with the power:

- (a) To stop and search the person, at any given time.
- (b) For the purposes of serving a MoniCon order, entering, and searching a place where the suspect is believed to be present.
- (c) To enter and search a place other than the specified address on the order if it is believed that the suspect is present.
- (d) To search the person and the place they are at after serving the MoniCon order, or while the order is being served.

²⁷⁸ Code of Criminal Procedure 2016, Section 29(b).

²⁷⁹ Ibid. Section 29(d).

²⁸⁰ Ibid. Section 29(f).

²⁸¹ The Anti-Terrorism Act 2015, Section 29.

²⁸² Ibid. Section 50.

The entry and search of a property can take place at any time under the authority of the law enforcement agencies,²⁸³ which can be particularly gender-insensitive since an improper timing of search and seizure may lead to social stigmatization and can cause unreasonable fear to the female members of the family. A search of the home breaches the private domestic domain and may cause feelings of intimidation, vulnerability and a lack of security. When coupled with intimidating conduct by law enforcement personnel –sexualized verbal abuse, for example – the effect of such home searches is particularly acute for women.²⁸⁴

Therefore, law enforcement agencies need to consider cultural and religious factors when executing search and seizure procedures in the home, such as separating areas of the home in which only women may be present and taking gender-sensitive approaches therein.²⁸⁵ In one of its four recommendations to the Maldives Police Service, the Human Rights Commission of the Maldives advised making it mandatory to take video footage of police operations, involving officers of both genders in raids to have a more gender-sensitive approach to the entry and search, and respecting human rights while searching private residences.²⁸⁶



Tools

- ❖ Counter-Terrorism Implementation Task Force, Working Group on protecting human rights while countering terrorism, Basic Human Rights Reference Guide, The Stopping and Searching of Persons, March 2014.
- ❖ London Metropolitan Police, “Stop and search of people of different gender to the searching officer”.

3.2 Interviewing Female Victims, Witnesses and Suspects

Integrating a gender perspective into the interviewing of victims, witnesses and suspects is important in order to, first, increase the likelihood that women cooperate with the law enforcement and justice authorities in the investigation and prosecution of terrorism offences, and second, to protect women who are victims or witnesses of acts of terrorism from re-traumatization by contact with the justice system, to prevent stigmatization by their family or community or even retaliation.

Interviewers must be aware of factors that may prevent victims and witnesses from coming forward or from cooperating with authorities.

²⁸³ Ibid. Section 56.

²⁸⁴ Fionnuala Ní Aoláin, “Close encounters of the female kind in the land of counter-terrorism” in ‘Gender, National Security, and Counter-Terrorism: Human Rights Perspectives’, Margaret Satterthwaite and Jayne Huckerby, eds. (Abingdon, United Kingdom, Routledge, 2013) p. 243.

²⁸⁵ UNODC, “Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism,” p. 64.

²⁸⁶ “HRCM questions police conduct in raid of ex-defence minister’s apartment,” Minivan News, 1 July 2015. Available at <https://minivannewsarchive.com/politics/hrcm-questions-police-conduct-in-raid-of-ex-defence-ministers-apartment-100407> (accessed on 20 December 2020).

Most of the following factors are relevant to both women and men, but could particularly apply to women:



Illiteracy

Limited understanding of legal procedures



Socio-cultural norms that may prevent female victims and witnesses from coming voluntarily to police stations or other places where witness statements are normally taken

A feeling of powerlessness and lack of trust in the ability to obtain justice



Fear of violence from the authorities or from initial perpetrators or community or the very people who are supposed to help them

Under-representation of women in criminal justice, legal, and counter-terrorism professions.



There are a number of measures that law enforcement and justice authorities can adopt to overcome or at least mitigate these challenges:

- ❖ Raise women's awareness, through public education programmes, of their equal rights to access justice and equal duties to collaborate in the investigation of offences;
- ❖ Raise awareness of measures to protect women against negative repercussions of collaborating with the authorities;
- ❖ Consider the use of local languages to promote these awareness raising measures;
- ❖ Consider whether it is possible to conduct interviews in locations other than the police station, where the victim, witness or suspect will feel safer and more at ease;

- ❖ Partner with community leaders, religious and traditional authorities and women in leadership positions in the community;
- ❖ Receive assistance from the health centres of the communities if needed;
- ❖ To ensure effective communication with the local trusted individuals of a community can also be of great assistance.

Many witnesses in terrorism cases testify about events that had a significantly negative and traumatic impact on their lives and their communities, including the loss of loved ones or seeing them injured. Almost all witnesses suffer some degree of stress during or after their involvement in an investigation and prosecution of a terrorism case.²⁸⁷ Therefore, measures such as integrating a gender perspective in relevant guidance materials and training modules, and having female first responders and developing gender-sensitive interview, investigative and prosecution procedures for female victims and witnesses, can strengthen a rights-based approach for all the victims and ensure effective mechanisms for countering violent extremism.²⁸⁸

3.2.1 Interviewing female witnesses

Many of the female terrorist returnees who initially travelled to other countries with their husbands, at some point have remarried to other jihadists.²⁸⁹ Some have lost their families in the process or have been victims of SGBV (Sexual and Gender Based Violence). It becomes challenging to get them to testify or to gather crucial intelligence since, in such circumstances, female interviewees may be intimidated by the interview settings or may lack the confidence to speak openly. The sense of intimidation and vulnerability is compounded by their reduced

access to legal assistance and redress compared with that available to men. Besides, owing to their lower economic and social status, and lack of or reduced access to education, many women could be less aware of their rights.²⁹⁰

In addition to avoiding coercive interviewing methods, investigators must avoid secondary victimization of the persons they deal with in the course of an investigation. The questioning of the victims and witnesses of violence, including sexual violence, caused by terrorist groups, brings with it a risk of secondary victimization.²⁹² Those risks are

If during an interview, the victim is coerced in any way to provide assistance to law enforcement agencies, the result could be a difference between the testimony of prosecution witnesses at court and their statements taken by the police, which would not help the prosecution to prove their case beyond reasonable doubt.²⁹¹

²⁸⁷ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism," p. 72.

²⁸⁸ Good Practice 2.1, "Good Practices on Women and Countering Violent Extremism". Available at <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/GCTF%20Good%20Practices%20on%20Women%20and%20CVE.pdf?ver=2016-03-29-134644-853> Accessed on December 20, 2020.

²⁸⁹ Robin Wright, "The Dangerous Dregs of ISIS."

²⁹⁰ Penal Reform International and Association for the Prevention of Torture, "Women in Detention: A Guide to Gender-Sensitive Monitoring," (London, 2015), p. 9.

²⁹¹ "Alleged Maldivian Jihadis cleared off their intent to join terror group," *Maldives Independent*, October 23, 2017. Available at <https://maldivesindependent.com/crime-2/alleged-maldivian-jihadis-cleared-of-intent-to-join-terror-group-133542> (accessed on 14 December 2020).

²⁹² UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism," p. 70.

compounded by characteristics, including gender of the victim or witness. In some cases, male police officers may either intentionally or unwittingly intimidate and revictimize female witnesses through aggressive questioning.²⁹³

The interviewer should ask for the consent of the interviewee and let the person know how the collected data will be used and whether that data will be used against her or not.

The investigative interviewing model by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment laid down that in order to have a proper interview with the victims or witnesses, the interviewers:

- ❖ must seek to obtain accurate and reliable information in the pursuit of truth;
- ❖ gather all available evidence pertinent to a case before beginning interviews;
- ❖ prepare and plan interviews based on that evidence;
- ❖ maintain a professional, fair and respectful attitude during questioning especially with women;
- ❖ establish and maintain a rapport with the interviewee;
- ❖ allow the interviewee to give his or her free and uninterrupted account of the events;
- ❖ use open-ended questions and active listening;
- ❖ scrutinize the interviewee's account and analyze the information obtained against previously available information or evidence.²⁹⁴

Witnesses are likely to be more confident and helpful if they are assured of their safety prior to interviews or testimony. Failure to adequately protect witnesses, or to assure them of protection prior to, during, and after interviewing may adversely affect the quality and quantity of evidence gathered from witnesses, particularly female witnesses who may have greater fear of social stigma and reprisals.

Investigators should inform witnesses in clear terms of the existing mechanisms to protect them, including possible mechanisms to ensure confidentiality of their statements. They must not, however, make promises of protection that cannot be maintained.

In the case of witnesses who are also victims, investigators should be aware that the presence of a psychologist or other mental health professional can be conducive to healthy and effective questioning. Investigators must also ensure that they supplement all witness/victim testimony with physical documentation of injuries or trauma. Every statement should be recorded.

Additionally, the recruitment, training, and retention of female law officers and counter-terrorism practitioners is an essential element to support interviewing of female witnesses.

²⁹³ UNODC, "Handbook on Justice for Victims: On the Use and Application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power," 1999, p. 9. Available at https://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf (accessed on 10 December 2020).

²⁹⁴ United Nations General Assembly, "Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment", (A/71/298), para. 48. Available at <https://undocs.org/en/A/71/298> (accessed on 15 December 2020).

3.2.2 Interviewing female suspects

When interviewing female suspects, it is crucial to understand their backgrounds and their roles in the organization. A sense of security, coupled with proper treatment by the authority, will give them the confidence to co-operate with the law enforcement agencies. However, in no circumstances can they be made a victim of coercion or forced to give a confession or statement.

The Maldives Constitution 2008 provides an accused an array of rights that have significant bearing on investigative measures. An accused has the right to remain silent provided by the Constitution,²⁹⁵ a Constitutionally mandated right to not be compelled to testify against themselves or any other person.²⁹⁶ Articles 54 and 57 of the Constitution further guarantee the right to be free from degrading treatment and torture and to be treated with humanity and respect for the inherent dignity of a human being. The Constitution states that 'no person shall be subjected to cruel, inhumane or degrading treatment or punishment or torture,' even under exceptional circumstances, such as during the State of Emergency.²⁹⁷ According to Article 255 (b) (12) of the Constitution, measures adopted during a State of Emergency cannot restrict article 54 of the Constitution, which states that no degrading treatment or torture can be inflicted upon people. Acts of torture are similarly outlawed in the domestic laws of the Maldives and are criminal offences under the Anti-Torture Act, the Penal Code and the Prisons and Parole Act of the Maldives.²⁹⁸ Article 53 of the constitution states that everyone has the right to retain and instruct legal counsel at any instance where legal assistance is required and in severe criminal cases, the State shall provide a lawyer for an accused person who cannot afford to engage one. Since the Maldives is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, 1984 (CAT), it has an international obligation under the convention to take protective measures for women to ensure that such human right violations do not occur.

As per Article 48 of the Constitution, everyone has the right on arrest or detention: (b) to retain and instruct legal counsel without delay and to be informed of this right, and to have access to legal counsel facilitated until the conclusion of the matter for which the person is under arrest or detention. The word 'facilitated' puts a burden on the State to allow the accused a legal counsel and if the counsel fails to appear for a reason, the State needs to facilitate the access to a legal counsel. However, under no circumstances they can start questioning if the accused enforces the right to access to legal counsel. Also, section 38(d) of Maldives Police Service General Regulation states that the police can withhold an arrestee the right to access a lawyer for a period not exceeding 96 hours. Section 50 of the same regulation emphasizes the fundamental Constitutional right to the effect that the suspect has the right to a legal counsel. The regulation goes further to state that the person must be given the opportunity to meet with their legal representative privately and that the suspect must be questioned in the presence of their legal representative.²⁹⁹

²⁹⁵ The Constitution of the Republic of Maldives, Article 48 (c).

²⁹⁶ Ibid. Article 51(c).

²⁹⁷ Ibid. Article 255 (b) (12).

²⁹⁸ Committee against Torture, "Initial reports submitted by Maldives under article 19 of the Convention," 17 October 2017. Available at https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MDV/CAT_C_MDV_1_5865_E.pdf (accessed on 19 December 2020).

²⁹⁹ Commonwealth Human Rights Initiative, "Review of The Legal Framework of Maldives Police Service," January 2015. Available at https://www.nipsa.in/uploads/country_resources_file/1247_Maldives_full_report-1.pdf (accessed on 20 December 2020).

The Anti-Terrorism Act 2015 however states that after granting opportunities to the accused to appoint a legal counsel, if the counsel fails to appear, then the authority can proceed with the questioning without a legal counsel.³⁰⁰ Under section 19-1 of the Anti-Terrorism Act 2015, a person must disclose any information they possess to the Counter-Terrorism Intelligence Bodies.

Women held in police custody could be at a particular risk of sexual abuse and other forms of violence used to intimidate and coerce suspects into producing information or confessions,³⁰¹ although such coerced pieces of evidence are non-admissible in the courts of Maldives.³⁰²

The UNODC has forwarded the following measures that can improve the integration of a gender perspective into the interviewing of suspects, witnesses and victims:

- ❖ Training all law enforcement officers and counter-terrorism practitioners on gender-sensitive interviewing techniques is necessary to raise awareness of the different needs and experiences of female interviewees. In addition, the recruitment, retention and training of female law enforcement officers and counter-terrorism practitioners is vital to ensuring that gender-sensitive interviewing practices can be implemented for female interviewees who request a female interviewer. In any case, the assessment of suitable interviewers should take into account cultural norms, gender roles and the sensitivity of disclosure for female and male survivors.
- ❖ Trained personnel should be present across the spectrum of national bodies involved in counter-terrorism investigations and not only in, for example, the sexual crimes division of law enforcement agencies.
- ❖ Expertise in gender-sensitive interviewing practices should be shared within and between authorities addressing terrorism crimes and also gender-based crimes.
- ❖ Training sessions could also be provided to sensitize personnel to intersecting issues – including the interaction of gender with social, cultural and religious factors – and discrimination, such as on the basis of race, ethnicity, religion and nationality.
- ❖ The presence of a psychologist or other mental health professional may be required during the interview process if the interviewee has experienced trauma. Interviewing authorities should also be prepared to refer to such professionals for follow-up care if needed.³⁰³

In interviewing female suspects, the following needs to be adequately considered:

- ❖ Avoid gender stereotypes: there is often a stereotype that women become involved with terrorist groups because they have been coerced, or for more emotional and less logical reasons than men. Many women are in fact often driven by the same factors as men.
- ❖ With female suspects linked to terrorist groups, it may be difficult to separate involvement with the organization into categories of ‘forced,’ and ‘voluntary’ assistance or support for the organization.

³⁰⁰ The Anti-Terrorism Act 2015, Section 23.

³⁰¹ UNODC, “*Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism*,” p. 71.

³⁰² The Constitution of the Republic of Maldives, Article 52.

³⁰³ UNODC, “*Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism*,” p. 71.

- ❖ In spite of the stereotype that women become associated with terrorist groups against their will, female suspects are often more likely to face social stigmas arising from their links to the organization, running the risk of isolating and alienating themselves and their children.
- ❖ It is possible that women suspected of involvement with terrorist groups may have been indoctrinated over a long period of time, as well as possibly being physically and sexually abused, making it more difficult for them to cooperate with investigations.
- ❖ The presence of female officers and practitioners is encouraged – both to create an environment in which female suspects feel safer and to reduce the risk of sexual violence.

Activity 13

Law enforcement has apprehended a 19-year-old woman (would-be suicide bomber). The woman was forced by her older brother to follow him and join a terrorist group when she was 15 years old. Now that she has been apprehended by legal authorities:

- ❖ Who should conduct the interview of the female suspect, and who else should be present during this interview?
- ❖ Should the female suspect be held in general detention in a prison or jail? What are the risks of holding her in such detention?
- ❖ What issues arise from her status as an accomplice to the terrorist group, and how should the interview deal with this complication?
- ❖ What is the best way for the interviewer to ensure full cooperation from the female suspect prior to, during, and after the interview?



Tools

The UNODC *Handbook on effective prosecution responses to violence against women and girls* provides advice on interviewing female victims, protecting and supporting them throughout the criminal justice process and preparing them for trial.

3.3 Establishing Gender-Sensitive Witness and Victim Protection Measures

Victims and witnesses are cornerstones of justice and accountability processes for terrorism offences. Given the nature of these offences, it is important that victims and witnesses who interact with the justice process on these crimes have confidence that their safety and security will be assured, and that they will receive support and protection from intimidation and harm that perpetrators, or their supporters or others, may seek to cause in order to discourage or stop them from testifying.

States have the responsibility to ensure that protective measures are in place for victims and witnesses who engage with justice processes. Support and protection measures should take fully into account the individual situation and needs of the witnesses. This includes gender and other variabilities such as age and disability, as well as the nature of the crime.

Victim and witness protection measures should aim to substantially reduce the threat/intimidation, even while acknowledging that they cannot guarantee their complete elimination.

The State must have formal witness protection schemes or programmes which are designed to protect witnesses before, during and after a trial. The 'UNODC Manual on Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime' defines such schemes as a "formally established covert programme, subject to strict admission criteria that provides for the relocation and change of identity of witnesses whose lives are threatened by a criminal group because of their co-operation with law enforcement authorities."³⁰⁴

The criminal justice system needs to be able to provide the assurance of safety and support any person who comes in contact with its process, including witnesses as an essential element of criminal justice.³⁰⁵



Focus: Vulnerable witness

According to the OHCHR *Tool on Witness and Victim Protection*, vulnerable witnesses are witnesses and victims who are at increased risk to be psychologically harmed by testifying and/or who may face psychological or physical difficulties in testifying. Vulnerability can be determined by various parameters such as age, disability, personality, the nature of the crime a victim suffered from, previous experiences, coping skills and other psychosocial factors. These factors influence witnesses' capacity to give an accurate statement, deal with the stress of testifying, be confronted with the accused or cope with cross-examination.³⁰⁶

³⁰⁴ UNODC, "Manual on Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime", 2008. Available at <http://www.unodc.org/documents/organized-crime/Witness-protection-manual-Feb08.pdf> (accessed on 21 December 2020).

³⁰⁵ UNODC, "Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism," p. 75.

³⁰⁶ International Criminal Court: "Protocol on the vulnerability assessment and support procedure used to facilitate the testimony of vulnerable witnesses" (ICC-01/05-01/08-974-Anx2). The use of a broad definition of vulnerability avoids stigmatisation of specific groups and acknowledges the fact that any witness may be vulnerable. At the same time, it ensures that groups of victims with an increased risk of vulnerability, such as victims of gender-based violence or child witnesses, receive the appropriate attention and support to which they are entitled.



Activity 14

Thinking in the national Maldives' context, list five factors of vulnerability that could be specific to female witnesses, or that are more likely to be present in the case of female witnesses.

Activity 15

Discuss the following hypothetical scenario:

“A” is a young man of twenty years who was threatened, harmed and forced by a terrorist group at the age of sixteen to become a fighter. He has been captured by the authorities and is now willing to collaborate with the justice system and testify against his former comrades.

“B” is a young woman of twenty years who was recruited by a terrorist group at the age of sixteen on the false promise of a romantic relationship. She was married off to a mid-level operative with whom she stayed for four years. She has managed to escape from the group together with her two children, aged three and one, and is now willing to collaborate with the justice system and testify against her “husband”.

As senior investigator, you consider that both “A” and “B” could be very valuable witnesses. Because they would be important witnesses, you would have the possibility not only to apply for measures protecting their identity, such as the use of a pseudonym and having them testify behind a screen at trial, but also to relocate them to a safehouse for a year.

Discuss whether these measures will be equally effective in protecting “A” and “B”, and what specific challenges may arise for each of them with regard to witness protection.

3.3.1 Other considerations on gender-sensitive protection mechanisms

Female suspects associated with terrorist groups could face gendered social stigma arising out of their links to the organization, putting themselves and their children at risk of being isolated and alienated.³⁰⁷ That situation is likely to render female suspects and witnesses less likely to be forthcoming in the interview and to co-operate with the investigators unless they can be assured of measures to protect them against stigmatization.

³⁰⁷ International Crisis Group, “Nigeria: women and the Boko Haram insurgency,” 5 December 2016. Available at <https://www.crisisgroup.org/africa/west-africa/nigeria/nigeria-women-and-boko-haram-insurgency> (accessed on 21 December 2020).

The State has the duty to protect any person who is involved with the justice process and provide adequate support for their effective participation in the counter-terrorism measures. At the beginning of the criminal investigation in terrorism cases, the State needs to make a gender-sensitive assessment of the vulnerability and the protection needs of the witnesses considering their age, disabilities and cultural backgrounds. The Human Rights Council (HRC) has noted that the protection of the life, physical and psychological integrity, privacy and reputation of those who agree to testify before courts are essential under the relevant provisions in the ICCPR of which the Maldives is a party.³⁰⁸

Due to the relatively small population of the Maldives, where many may be acquainted with others, the Maldivian legal system has faced challenges in securing the collaboration of witnesses. Individuals may refuse to testify in court to crimes they witnessed, out of fear of reprisals. However, the newly proposed Evidence Bill entails regulations for testifying, offering evidence, obtaining evidence, criteria for assessing evidence, requirements of collecting testimonies and procedures for questioning witnesses.³⁰⁹

The Bill enables prosecutors to seek a court order to place a witness under protection in any stage of the investigation before the testimony is given. Witnesses also have the option to request for the prosecution to classify them as a witness needing protection, when there is a risk of reprisals against them or their families. It also gives judges the authority to place witnesses under protection. If a question asked by the legal defence of the witness may reveal clues as to his or her identity, the judge can rule the question as void. The testimony must be given in secret, in the same way, secret witnesses give testimonies at present.³¹⁰ Moreover, the Bill includes features securing protection for witnesses, with the location of the witness also to be kept secret, with no one but those decided by the judge presiding over the case to know the location. The Bill states that the identity of the witness must be kept secure throughout the investigation and both during and post-trial.³¹¹ The property of the witness must be protected by the Government as well, after assessing the level of threat faced by the witness. Some have submitted that offering plea deals and witness protection to the terrorist returnees could have a significant impact in resolving the lack of evidence issue,³¹² considering offering plea deals and protection measures are not unprecedented.³¹³

The grave crimes against women by terrorist groups mean that there is a need for specialized interventions to assist women to go through the difficult task of testifying. Further, since female

³⁰⁸ HRC, "Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General," A/HRC/12/19, para. 34. Available at <https://undocs.org/A/HRC/12/19> (accessed on 14 December 2020).

³⁰⁹ "Maldives Takes Revolutionary Steps in Witness Protection," *Avas*, 11 February 2017. Available at <https://avas.mv/en/29354#:~:text=Maldives%20however%2C%20has%20no%20such,keep%20the%20witnesses%20from%20harm>. (accessed on 21 December 2020); "Maldives Parliament Accepts Evidence Act," *Avas*, 13 February 2017. Available at <https://avas.mv/en/29511> (accessed on 21 December 2020).

³¹⁰ Aishath Mihna Nasih, "Govt lobbies new evidence bill offering major witness protection," *The Edition*, 9 February 2017. Available at <https://edition.mv/news/2329> (accessed on 21 December 2020).

³¹¹ "Maldives Parliament Accepts Evidence Act," *Avas* 13 February 2017. Available at <https://avas.mv/en/29511> (accessed on 21 December 2020); "Lawmakers Hail Long-awaited Evidence Bill," *Maldives Independent*, 15 February 2017. Available at <https://maldivesindependent.com/politics/lawmakers-hail-long-awaited-evidence-bill-128786> (accessed on 21 December 2020).

³¹² "Alleged Maldivian Jihadis cleared off their intent to join terror group," *Maldives Independent*, 23 October 2017. Available at <https://maldivesindependent.com/crime-2/alleged-maldivian-jihadis-cleared-of-intent-to-join-terror-group-133542> (accessed on 21 December 2020).

³¹³ Mohamed Visham, "Bomb maker in Maldives boat blast under witness protection," *The Edition*, 14 June 2016. Available at <https://edition.mv/rome/119#:~:text=Former%20president%20Ahmed%20Adheeb%20Abdul,speedboat%20in%20September%20last%20year> (accessed on 21 December 2020).

witnesses are more likely to both be victims of terror and be subject to reprisals or stigma for any association with terrorist organizations, protection of vulnerable witnesses is particularly important. Protection includes not only physical safety but also access to psychological help, providing a holistic approach.

In order to successfully engage women victims, in particular victims of sexual violence, in the justice processes, it is critically important that their particular needs and rights are properly reflected in national legal frameworks. A number of international instruments have been developed on the protection of witnesses in judicial processes.

States are required to address protection of vulnerable witnesses through legislation pertaining to victim assistance, focusing on psychosocial and general support measures and the use of procedural protective measures to facilitate testimony and to minimise the risk of re-traumatization.



Tools : Guidelines for the Protection of Vulnerable witness

The UN Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, adopted by ECOSOC in 2005, offer a general framework with a focus on an interdisciplinary approach towards protection of children in justice mechanisms.

Activity 16

Can the Court order measures as it deems fit to keep the identity and address of the witness or person secret in order to protect witnesses at risk? What are the preconditions that must be satisfied to do so? Could the court equally order such measures where there is no threat to the life of the witness, but there is a risk that the witness may suffer serious psychological damage if she has to testify without protective measures?

Consider the following hypothetical scenario:

“W1” is a woman who was abducted by a terrorist group and exploited for sexual and domestic services for two years. She is now to testify in the trial of some of the terrorist group members involved in her exploitation. Could the court order protective measures under any Maldivian law on the ground that making the identity of the witness public may endanger her reintegration into the community?



It is to be noted that keeping the witness identity secret from the defendant (“anonymous witnesses”) is a measure that will in many cases have a considerable adverse impact on the ability of the defendant to challenge the evidence against them and therefore on the right to a fair trial. It must therefore remain an exceptional measure.

Reference

Witness protection measures are discussed from the perspective of defence rights in Module 4 of the *UNODC Counter-Terrorism Legal Training Curriculum on Human Rights and Criminal Justice Responses to Terrorism*, section 5.2.

3.3.2 Fundamental principles for the psychological protection of victims and witnesses

Aside from the need for a strong legal framework, and resources and institutions to put it into practice, there are a number of important principles that should be followed in order to assure psychological protection of victims and witnesses – many of them of particular relevance when dealing with female witnesses:

- ❖ *Focusing on “no-harm” and increasing control and empowerment.* All measures taken to protect, and support witnesses and victims, should contribute to the implementation of a no-harm principle. Witnesses should not suffer any psychological or physical harm or be traumatized as a result of their involvement in the justice process. Cooperation with the witness, including support and protection, should not be started if the required follow-up cannot be provided.
- ❖ *Early determination of vulnerability and follow-up throughout involvement.* An early determination of the level of vulnerability and the capacities of the witness is critical in order to provide adequate support and protection throughout their involvement with the justice process.
- ❖ *Confidentiality and informed consent.* Confidentiality is among the first and most critical tools for witness protection. Aside from its importance to minimize the physical risk to witnesses, it is also a key condition to ensure psychological protection of vulnerable witnesses.
- ❖ *Staffing requirements and training.* All staff dealing with vulnerable witnesses need to have sufficient understanding of how to deal with them. Investigators need to receive training on interviewing techniques, especially of victims of sexual and other forms of gender-based violence and child witnesses. Staff dealing with support and protection of vulnerable witnesses need to understand the concept of vulnerability and should be trained to be sensitive for and respond to these witnesses’ needs, recognize their capacities and contain common challenges that may arise while handling the witnesses.

- ❖ Protection measures at pre-investigation phase. A baseline assessment needs to include extensive information about specific vulnerabilities of potential witnesses. This is particularly the case with conflict-related sexual violence, it is important to assess the impact the crimes had on these groups of victims, in particular the social impact. For example, after mass abductions, rape, forced marriages and forced pregnancies, victims of sexual violence victims may face social rejection and stigma.

A terrorist attack is traumatic for a wide range of individuals and institutions, but it most directly affects the victims and their families. How well the victims' physical and emotional needs are met can have a significant impact on how well the victims are able to cope with the trauma.³¹⁴ It also affects how well they can co-operate with law enforcement agencies. That is why the government should pay close attention to the psychological protection of the victims as well as the witnesses. The UN General Assembly resolution 40/34 mentions that the victim and witness protection measures should be aimed at reducing the trauma that may arise in the process of giving testimony and ensuring psychological well-being as well as ensuring respect for the dignity and privacy of victims and witnesses.³¹⁵

In every context, gender dynamics play a critical role. Returning women and girls who are victims of sexual violence face additional stigma from their communities and have distinct psychosocial and health needs.³¹⁶

Their unique needs should be taken care to encourage their effective participation in the counter-extremism processes. Victims and witnesses should also be offered ongoing support and assistance to deal with the emotional complications that can arise from public discussion of the terrorist event. The capacity of the media should be built for gender-sensitive reporting that recognizes the particular impact of terrorism on women and girls and also respects their privacy and agency and ability to heal from physical and

emotional trauma.³¹⁷ Confidentiality is a key condition in ensuring the psychological protection of vulnerable witnesses.

The UNODC Handbook on *'The Criminal Justice Response to Support Victims of Acts of Terrorism'* provides measures to limit the witness' exposure to the public and psychological stress:

³¹⁴ Good practices related to assistance to victims of terrorism, "GCTF Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the Attack and in Criminal Proceedings". Available at www.theGCTF.org (accessed on 20 December 2020).

³¹⁵ Resolution adopted by the UN General Assembly, "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power", A/Res/40/34, 1985, annex, para. 6 (d). Available at <http://www.un-documents.net/a40r34.htm#:~:text=Access%20to%20justice%20and%20fair%20treatment&text=Victims%20should%20be%20treated%20with,harm%20that%20they%20have%20suffered> (accessed on 30 December 2020).

³¹⁶ ICAN, "Invisible Woman", Gendered Dimensions of Return, Rehabilitation and Reintegration from Violent Extremism," UNDP. Available at <https://icanpeacework.org/wp-content/uploads/2019/02/ICAN-UNDP-Rehabilitation-Reintegration-Invisible-Women-Report-2019.pdf> (accessed on 11 December 2020).

³¹⁷ Good Practices on Women and Countering Violent Extremism, Good Practice 22. Available at <https://www.thegctf.org/Portals/1/Documents/Framework%20Documents/GCTF%20Good%20Practices%20on%20Women%20and%20CVE.pdf?ver=2016-03-29-134644-853> (accessed on 20 December 2020).

- (i) Change of the trial venue or hearing date;
- (ii) Removal of the public from the courtroom (*in camera* session);
- (iii) Presence of an accompanying person as support for the witness.³¹⁸

A proper environment is also needed for the rehabilitation and reintegration into society of convicted terrorists. Section 69 of the Prison and Parole Act incorporates basic necessities for the environment that is needed for a process of rehabilitation from psychological trauma:

- ❖ Means to pray, recite the Quran and observe fasting.
- ❖ Nutritionally adequate food and water from a source approved by a Government agency.
- ❖ Medical attention; consultation, medication and treatment.
- ❖ Adequate means to do physical activities and exercise.
- ❖ Rehabilitation that assists successful reintegration.
- ❖ Access to wash/change uniform or apparel in a hygienic manner.
- ❖ Methods and procedures for communication and visitation with family and lawyers.
- ❖ Writing and reading materials as permitted.

The International Criminal Tribunal for Rwanda (ICTR) set an example of psychological protection for the witnesses for States to follow. Through its Witness and Victim Support Section, the ICTR provides the following:

- ❖ Specialized counselling and medical care to victims of sexual and gender-based violence through partnerships with national authorities and referrals for treatment;
- ❖ Impartial assistance and support to all witnesses for both the prosecution and the defence, including psychological counselling and access to medical care.

The Tribunal's Trust Fund made further resources available to hire a trained psychologist, gynaecologist and nurse-psychologist. Potential witnesses for the prosecution received additional support from the Witness Management Team, located in the Office of the Prosecutor, which included licensed nurses trained in the treatment of victims of sexual violence. Psychological care and counselling services were also made available to spouses or partners of sexual violence victims in order to enable them to provide more support to the victim and to assist in coping with secondary trauma.³¹⁹

³¹⁸ UNODC, "The Criminal Justice Response to Support Victims of Acts of Terrorism", Publishing and Library Section, United Nations Office at Vienna, November 2011. Available at https://www.unodc.org/documents/terrorism/Victims_Rights_E-Book_EN.pdf (accessed on 21 December 2020).

³¹⁹ International Criminal Tribunal for Rwanda, "Best Practices Manual for the Investigation and Prosecution of Sexual Violence Crimes in Post-Conflict Regions: Lessons Learned from the Office of the Prosecutor for the International Criminal Tribunal for Rwanda," 2014. Available at https://unictr.irmct.org/sites/unictr.org/files/legal-library/140130_prosecution_of_sexual_violence.pdf (accessed on 30 December 2020).



Activity 17

Designing Witness Protection Measures:

“X” is a 20-year-old woman who was forced to marry a terrorist fighter, who abused her physically and sexually. She managed to escape from her husband when the terrorist group was moving camps. She reported to the Maldivian military and helped the military intelligence by providing information on the movement of the groups.

“X” would be willing to cooperate also with the justice system. She is however afraid of reprisals from the terrorist group and their sympathizers.

- ❖ In small groups, discuss the protection measures required to enable “X” to participate in the justice process as victim and as witness. Discuss legal provisions, institutional arrangements and resources required.
- ❖ Considering how best to provide for her physical and psychological well-being, what principles should be taken into consideration?
- ❖ How does X’s history as the forced wife of a terrorist group member affect her status as a witness and the kind of protection she may need?



Activity 18

A counter-terrorism unit investigating a recent attack by a terrorist group on a village has identified a young woman living in the town who is an eyewitness to the attack and who states that she recognized several of the attackers as former residents of the town. She says she wants to assist the investigators, but fears that if she does cooperate with law enforcement officials, she and her family will be targeted by the terrorist group. Several of her friends have already been killed or seriously injured by terrorist insurgents.

- ❖ The woman is not a victim of sexual or gender-based violence. Do you think that there are nonetheless gender aspects to her protection needs as a potential witness?
- ❖ Does she qualify as a vulnerable witness and why?
- ❖ How can investigators apply the principles when formulating effective witness protection for this particular witness?
- ❖ What should investigators do if this witness refuses to testify in a trial against alleged terrorist group members?

3.4 Self-Assessment Questions



Self-assessment questions

- ❖ Name five elements of international law and good practice regarding gender sensitive searches of persons and residential premises.
- ❖ Name three Maldivian legal provisions regulating search and seizure powers which contain a gender element.
- ❖ What gender-sensitive measures can be taken when interviewing female victims, witnesses and suspects in terrorism cases? List and explain three.
- ❖ List three factors of gender-related vulnerability of witnesses in terrorism cases at court in the Maldivian context. What gender-sensitive measures can be taken to protect them?
- ❖ Discuss the relevance and the limitations of ATA 2015, as amended, to the protection of a female victim of sexual exploitation by terrorist groups.

GLOSSARY

Gender

'Gender' refers to the roles, behaviours, activities, and attributes that a given society at a given time considers appropriate for men and women. In addition to the social attributes and opportunities associated with being male and female and the relationships between women and men and girls and boys, gender also refers to the relations between women and those between men. These attributes, opportunities and relationships are socially constructed and are learned through socialization processes. They are context/ time-specific and changeable. Gender determines what is expected, allowed and valued in a woman or a man in a given context. In most societies there are differences and inequalities between women and men in responsibilities assigned, activities undertaken, access to and control over resources, as well as decision-making opportunities. Gender is part of the broader socio-cultural context, as are other important criteria for socio-cultural analysis including class, race, poverty level, ethnic group, sexual orientation, and age.

Gender mainstreaming

Gender mainstreaming is the chosen approach of the United Nations system and international community toward realizing progress on women's and girl's rights, as a sub-set of the human rights to which the United Nations is dedicated. It is not a goal or objective on its own; it is a strategy for achieving equality for women and girls in relation to men and boys. Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a way to make women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.

Gender-based discrimination against women

This refers to any distinction, exclusion or restriction, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms, even where discrimination was not intended. Direct discrimination against women constitutes different treatment explicitly based on grounds of sex and gender differences. Indirect discrimination against women occurs when a law, policy, programme or practice appears to be neutral in so far as it relates to men and women but has a discriminatory effect in practice on women because pre-existing inequalities are not addressed by the apparently neutral measure.

Gender stereotype

A gender stereotype is a generalized view or preconception about attributes or characteristics that are or ought to be possessed by, or the roles that are or should be performed by, women and men.

Wrongful gender stereotyping

This is the practice of ascribing to an individual woman or man specific attributes, characteristics or roles by reason only of her or his membership in the social group of women or men, which results in a violation or violations of human rights and fundamental freedoms. The harm is caused by the application of a stereotypical belief to an individual (e.g., through a State enforcing a gender stereotype into a law) in such a way as to negatively affect the recognition, exercise or enjoyment of their rights and freedoms.

Sex (biological sex)

The physical and biological characteristics that distinguish males and females.

Sexual and gender-based violence

This refers to any harmful act that is perpetrated against one person's will and that is based on socially ascribed (gender) differences between males and females. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty, whether occurring in public or in private life. Sexual and gender-based violence entails widespread human rights violations, and is often linked to unequal gender relations within communities and abuses of power. Acts of sexual and gender-based violence may be inflicted upon women, men, girls and boys.

It comprises the following two notions:

Sexual violence which encompasses any sexual act, attempt to obtain a sexual act or acts otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, sexual enslavement, forced circumcision, castration and forced nudity.

Gender-based violence which is considered to be any harmful act directed against individuals or groups of individuals on the basis of their gender. Other forms can include acts of physical violence, domestic violence and harmful traditional practices. Accordingly, while sexual violence is a form of gender-based violence, gender-based violence is a broader category of crime and may be perpetrated through non-sexual acts (including for example, physical violence).

**Conflict-related
sexual violence**

This term refers to incidents or patterns of sexual violence, that is rape, sexual slavery, forced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity against women, men or children. Such incidents or patterns occur in conflict or post-conflict settings or other situations of concern (e.g., political strife). They also have a direct or indirect nexus with the conflict or political strife itself, that is, a temporal, geographical and/or causal link. In addition to the international character of the suspected crimes (which can, depending on the circumstances, constitute war crimes, crimes against humanity, acts of genocide or other gross violations of human rights), the link with conflict may be evident in the profile and motivations of the perpetrator(s), the profile of the victim(s), the climate of impunity/ State collapse, cross-border dimensions and/or the fact that they violate the terms of a ceasefire agreement.

ANNEXURES

A. List of relevant UNODC publications

- ❖ The current publication should not be viewed in isolation from other publications by UNODC, which can serve as complementary reading and training materials. The complementary publications should be taken into consideration for a more comprehensive approach towards legal responses to terrorism and criminal justice capacity-building to prevent and counter terrorism and violent extremism leading to terrorism
- ❖ Case management tool to conduct investigations of the financing of terrorism offences in Colombia (Plan de investigación en financiación del terrorismo) (Spanish only)
- ❖ Comprehensive Needs Assessment of the Maldives Correctional Service
- ❖ CTED: Guidelines to facilitate the use and admissibility as evidence in national criminal courts of information collected, handled, preserved and shared by the military to prosecute terrorist offences
- ❖ Digest of Terrorist Cases
- ❖ Frequently Asked Questions on International law Aspects of Countering Terrorism
- ❖ Foreign Terrorist Fighters: Manual for Judicial Training Institutes, South Eastern-Europe
- ❖ Good Practices in Supporting Victims of Terrorism within the Criminal Justice Framework
- ❖ Guidance Manual for Member States on Terrorist Financing Risk Assessments
- ❖ Guide for Colombia on the Legal Regime against Terrorism and its Financing (Guía del régimen jurídico contra el terrorismo y la financiación del terrorismo para Colombia) (Spanish only)
- ❖ Guide for Legislative Incorporation of the Provisions of the Universal Anti-Terrorism Instruments
- ❖ Guidelines for the Central Asian PVE Network: Design and Management of Programmes to Prevent and Counter Violent Extremism
- ❖ Handbook of basic principles and promising practices on Alternatives to Imprisonment
- ❖ Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System
- ❖ Handbook on Criminal Justice Responses to Terrorism
- ❖ Handbook on Gender Dimensions of Criminal Justice Responses to Terrorism
- ❖ International Instruments related to the Prevention and Suppression of International Terrorism
- ❖ Investigation, Prosecution and Adjudication of Foreign Terrorist Fighter Cases for South and South-East Asia

- ❖ Investigation, Prosecution and Adjudication of Foreign Terrorist Fighter Cases for South and South-East Asia
- ❖ Legislative and Capacity-Building Assistance to Prevent and Combat Terrorism
- ❖ Legislative Guide to the Universal Legal Regime Against Terrorism
- ❖ Lutte contre le terrorisme dans la région du Sahel: cadre juridique, techniques d'enquête et coopération policière (French only)
- ❖ Manual for the Management of Violent Extremist Prisoners for Maldives Correctional Service
- ❖ Manual on International Cooperation in Criminal Matters related to Terrorism
- ❖ Nigeria Training Module on Gender Dimensions of Criminal Justice Responses to Terrorism
- ❖ Practical Guide on carrying out effective extradition and mutual legal assistance requests in criminal matters for countries of the Sahel Regional Judicial Platform (Burkina Faso, Mali, Mauritania, Niger)
- ❖ Practical Guide to Draft Cooperation Requests to Member States of the Multi-Agency Task Force of the Middle East and North Africa Region (Arabic only)
- ❖ Practical Guide to extradition and mutual legal assistance for member states of the Indian Ocean Commission (Comoros, Réunion, Madagascar, Mauritius, Seychelles)
- ❖ Preventing terrorist acts: a criminal justice strategy integrating rule of law standards in implementation of United Nations anti-terrorism instruments
- ❖ Rehabilitation and Reintegration Needs of Maldives Correctional Service
- ❖ Supporting Legal Responses and Criminal Justice Capacity to Prevent and Counter Terrorism
- ❖ The Bangkok Rules, United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders with their Commentary
- ❖ The Criminal Justice Responses to Support Victims of Acts of Terrorism
- ❖ The Use of the Internet for Terrorist Purposes
- ❖ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)

B. List of participants of the Online Joint Training Session on 24-25 February 2021 to review draft Maldives' training module on gender dimensions of criminal justice approaches to terrorism

- ❖ The online consultations were led by the Training Module drafters Dr. Arturo Laurent, Programme Officer, Terrorism Prevention Branch/UNODC, Ms. Psymhe Wadud, Consultant, UNODC Programme Office in Bangladesh, Ms. Marina Yakunina, Programme Officer, UNODC, and Ms. Thoiba Saeedh, National Programme Coordinator, UNODC Regional Office for South Asia, Programme Office in Maldives.

- ❖ The following participants to the online consultations contributed to the Training Module:

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Uz Ijulaz Abdul Rasheed, Public Prosecutor, Prosecutor General's Office

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