



Supreme Court of the Maldives

Hand Book

Supreme Court of the Maldives



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SUPREME COURT OF THE MALDIVES

“The judicial power is vested in the Supreme Court, the High Court, and such trial courts as established by law.” These words of Article 141 (a) of the Constitution of Republic of the Maldives (2008) established, for the first time in the history of the Maldives, a Supreme Court. As stipulated in Article 141(b) of the Constitution, the Supreme Court is the highest authority for the administration of justice in the Maldives.

The constitutional mandate of the Supreme Court is to protect the fundamental rights of all citizens, to resolve legal disputes in a fair and transparent manner, and to ensure justice through an independent, honest, and effective judicial system.

Pursuant to Article 282 of the Constitution the Supreme Court of the Republic of Maldives convened for the first time on 18th September 2008, under Honorable Chief Justice Abdulla Saeed. The newly established Supreme Court of the Maldives consisted of Chief Justice Honorable Abdullah Saeed, Honorable Justice Mujthaz Fahmee, Honorable Justice Yoosuf Hussain, Honorable Justice Abudulla Areef, and Honorable Justice Ahmed Faiz Hussain.

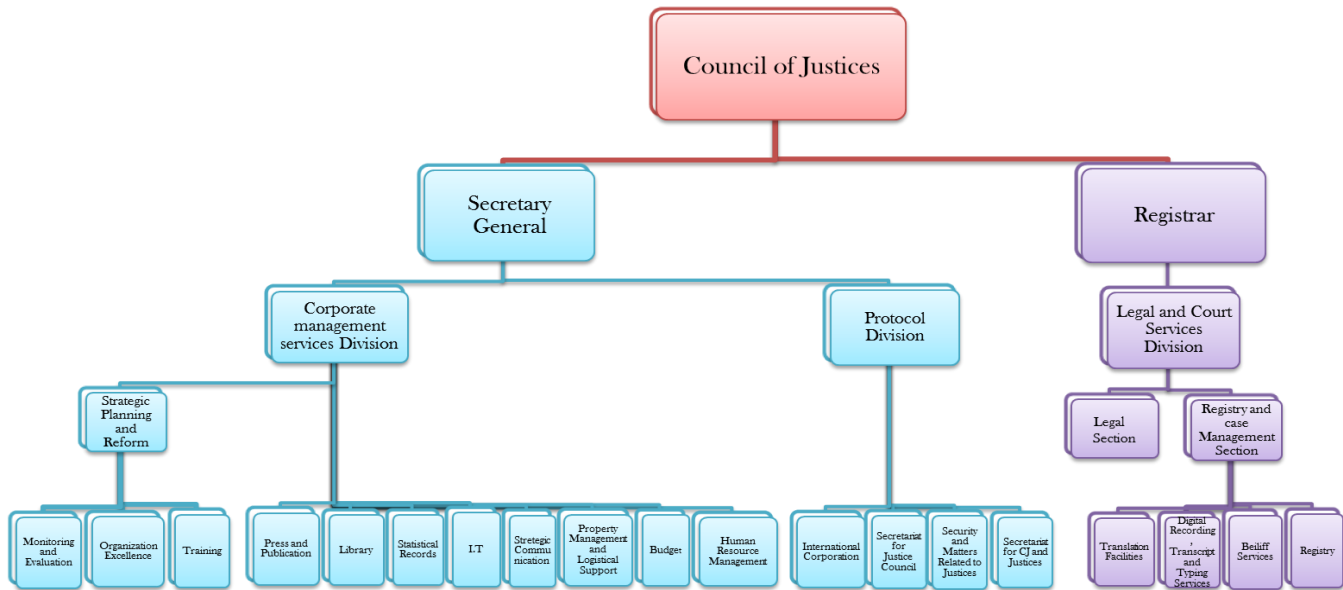
With the establishment of a permanent Supreme Court, on 10th August 2010 a total of 7 judges were appointed. The full bench of the Supreme Court consists of Chief Justice Honorable Justice Ahmed Faiz Hussain, Justice Honorable Abdullah Saeed,

Justice Honorable Abdullah Areef, Justice Honorable Ali Hameed Mohamed, Justice Honorable Adam Mohamed Abdullah, Justice Honorable Dr. Ahmed Abdullah Didi, and Justice Honorable Ahmed Muthasim Adnan.

Pursuant to the first amendment to the Judicature Act 2010, on 11th December 2014 Supreme Court does clearly reflect the amendment of 5 Justices and the full bench consists of the Chief Justice Honorable Abdhullah Saeed, Justice Honorable Abdhullah Areef, Justice Honorable Ali Hameed Mohamed, Justice Honorable Adam Mohamed Abdullah, Justice Honorable Dr. Ahmed Abdullah Didi.

ORGANIZATION CHART

The organizational structure of the Supreme Court consists of main 3 divisions. This structure was formulated to bring the courts functions in line with other modern judiciaries.



JUSTICE COUNCIL

As stipulated in Article 141(b) of the Constitution, the Supreme Court is the highest authority for the administration of justice in the Maldives, thus the Justices Council of the Supreme Court is entrusted with formulating the policies in administering justice in accordance with the Constitution and laws.

The Judicial Council established under Article 81 of the Judicature Act was abolished under the Supreme Court Ruling No 2011/SC-RU/02 (14th March 2011). As the highest authority for the administration of justice in the Maldives is the Supreme Court, the functions of the Judicial council were transferred to the Justice Council of Supreme Court by the Supreme Court Circular No 2011/03/SC (10th August 2011).

The functions of the Justices Council include, determining the strategic plan for the Maldives Judiciary, formulating guidelines to regulate the administrative and procedural frameworks of the courts, standardizing the trial procedures of the court and ensuring speedy disposal of cases and easy access to justice.

Furthermore, the functions of the Council include, reviewing the forms used in courts determining the general rules on how cases shall be accepted to the courts and determining the guidelines on organizing and administrating the scheduling of cases. The functions also include altering the jurisdiction of superior courts and magistrate courts according to judicature Act.

In addition, the functions of Judicial Council include, formulating policies to promote necessary trainings and capacity building programs such as conferences, seminars for judges and judicial officers. The function also includes determining the number of judges in the lower courts.

JURISDICTION OF THE COURT

Exclusive jurisdiction of the Supreme Court

Matters submitted under Article 74 of the Constitution, regarding the qualification or removal or vacating of seats of a parliament member.

- Matters submitted under Article 113 of the Constitution to determine disputes concerning the qualifications or disqualification of a presidential candidate or running mate, election or removal of the President by the Parliament.
- Matters submitted under Article 258 of the Constitution to determine issues with regard to the validity in whole or part of the declaration or any law or order made pursuant to declaration of state of emergency.

Original jurisdiction of the Supreme Court

Supreme Court has original jurisdiction to adjudicate on constitutional matters with the following characteristics pursuant to section 11 of Judicature Act 2010:

- The matter may create a constitutional void or the matter may lead to the constitutional system to be out of order.
- Matter between two institutions or two powers of the state regarding the interpretation of the Constitution.
- Matters relating to public interest of the nation.
- Pursuant to section 143 of the Constitution, the Supreme Court shall have the jurisdiction to enquire into and rule on the constitutional validity of any statute or part thereof enacted by the Parliament.

Appellate jurisdiction of the Supreme Court

- The Supreme Court has jurisdiction to hear appeals from any decision or order or ruling of the High Court on grounds of the decision violating the constitution, a law or a regulation made pursuant to section 12 of the Judicature Act 2010.
- A matter adjudicated by the High Court and appealed to the Supreme Court must be submitted within 60 (sixty) days from the date of the High Court decision. The 60 (sixty) days will be counted excluding the public holidays between the date of the decision and the deadline for submission.
- With regard to matters that have not been submitted within the duration specified above due to circumstances beyond their power, should the Supreme Court deem the reason for failure of submission as reasonable, the Supreme Court has the

discretion to grant leave in the matter after the expiration of the duration specified.

- The ability to submit a matter within the specific time period due to circumstances beyond control, lies on the party submitting the application to the Supreme Court.

Advisory Jurisdiction

Under Article 95 of the Constitution, the Parliament may by resolution refer to the Supreme Court for hearing and consideration, important questions of law, concerning any matter including the interpretation of the Constitution and the constitutional validity of any law. Such matters shall be heard by a minimum of 5 members of the bench of Supreme Court within a reasonable period of time.

Supervisory Jurisdiction

Pursuant to Article 141(b), 143(c) and (d) and Article 145(c), to speed up the process with regard to complaints about ongoing matters, the Supreme Court has a supervisory jurisdiction to take actions in such matters in order to ensure the administration of justice in the Maldives. Under supervisory jurisdiction, if an issue arises regarding the procedural matters of a lower court, the higher courts have the authority to take the following actions.

- ⇒ To clarify the information regarding a case or procedure, the higher courts can direct a lower court to send the records of such matters to the higher court.
- ⇒ Higher courts could give advice regarding such procedural matters to the lower courts.
- ⇒ If an action is to be taken in the aforementioned matters, the court may issue the following orders to lower courts;
 - Certiorari Order can be issued to the lower court, tribunal or public authority to send the records in a given case for review.
 - In matters of unlawful detention sought by the prisoner or another person coming to prisoner's aid, the court would summon the prisoner and the custodian before the court, and the custodian should present proof of authority, allowing the court to determine whether the custodian has lawful authority to detain the person. If the custodian does not have the authority to detain the prisoner, then they may be released from custody under a writ of Habeas Corpus.
 - A Mandamus order can be issued to a lower court or a civil servant, or a public authority or its employee to do specific act which that body is obliged under law to do or refrain from doing such an act.

- If the case in question does not fall under the lower court's jurisdiction, or if a lower court goes beyond their jurisdiction in an ongoing case, a writ of prohibition may be issued to the lower court ordering the court not to proceed with the case.

STAGES OF A CASE IN SUPREME COURT

Leave procedure of Supreme Court

An application for the Supreme Court must be submitted by party (s) of interest in a case and the following procedure has to be followed.

1. Leave application

- Application must be submitted by the specified form. The forms are available from the Supreme Court counter and the website.
- The form must be completed in accordance with the Supreme Court Regulation 2009. Thus;
 - ◇ If the application for leave is by an individual, a copy of the National Identification Card must be attached and if the application for leave is by a company, a copy of the Certificate of registration must be attached.
 - ◇ If a person is to be appointed on behalf of the parties, letter of appointment and acceptance must be attached with the form. If the application

for leave is submitted by a legal entity, an official document verifying the name and the status of its representative must be attached.

- ◇ Along with the original application 5 copies of each document must be submitted.
- ◇ Original document or attested copies of any referred document must be attached with the form.
- ◇ If the application is for an appeal case, every document submitted to the High Court for appeal and the original case report of the High Court should be attached with the application form.

2. Granting of Leave

- All applications will be checked by the Registrar and if the application fulfills the formalities stipulated in Supreme Court Regulation 2009, the case will be entered in the first instance registry.
- The Justice Council will decide on granting of leave and whether leave will be granted after a procedural hearing or without a procedural hearing
- The Applicant and the Respondent will take part in the procedural hearing and unless otherwise decided by the court, a procedural hearing will be held within 14 days of the application.

3. Registration Process

- For registration, the registration form should be submitted to the Supreme Court within 3 days of grant of leave (otherwise such an application will not be accepted by the Supreme Court unless a valid reason is specified).
- Documents to be submitted with the Registration Form:
 - ◇ The original and additional 5 copies of the registration form.
 - ◇ The original of document of leave with 6 copies.
 - ◇ The case will be registered upon payment of MVR500 to the Supreme Court as registration fee.
 - ◇ All registered cases will be heard by three or more Justices sitting together. These benches will be decided by the Registrar, according to a sequential order of allocation and each bench will be presided by the most senior Justice in the bench.

Preliminary meeting

Once a case is registered, a preliminary meeting will be held by the Registrar with the respondent. In the meeting all the documents will be handed over to the respondent and will be informed to submit the reply to the case within 5 days of preliminary meeting.

- If the Respondent is not residing in Male', the case form and the attached documents will be delivered to the respondent through the Magistrate Court of the

respondent's island of residence. The court has discretion to extend the 5 day period for submission of response.

- If the Respondent resides in Male', the respondent will be summoned to the Court and all the documents will be handed over to the respondent.
- In Civil cases, a person can be appointed to represent himself at the court hearings. If the appointed representative is a lawyer, he must be registered in the lawyer's registry of the Supreme Court.
- The appointment of lawyers/representatives is practiced according to the prescribed regulations.
- After the appointment, if any party changes his appointed lawyer, it should be informed to the Registrar and to all the respective parties without any delay.
- No lawyer can drop the case, without court's permission, only on the ground of non- payment of legal fees.
- In the preliminary meeting the respondent will be guided on appointing of a lawyer and informed about appointing of a personal representative.
- Upon application and registration of a case, parties will be informed not to leave the island or country without prior permission of the court.

Hearings of the Supreme Court

- Even if the reply is not submitted within the given period for submission of reply, as per the regulation, the Registrar in consultation with the respective bench will publish the court calendar specifying the dates of hearings.
- As a general rule, this information will be made available to all the parties and their lawyers three days before the scheduled date by a “summoning order”.
- In the absence of a lawyer, a party can present his / her argument in a hearing with prior permission from the Court.

Judgment and Report

- Once the hearing of the case is concluded, the respective bench has the discretion to make the judgment and announce the judgment on the day of the last hearing or on a later date.
- Once the judgment is delivered, the case summary report will be issued on the same day.
- The parties can request for the full judgment report by submitting the specified form, which is available from the Supreme Court counter and the website. If the parties request for the statement and documents tendered to the Court, MVR 1 will be charged per page. In addition, a revenue stamp of MVR 20 should be submitted.

- If the request for the judgment report is made after 90 (ninety) days, an additional MVR 100 will be charged.

LAWYER'S REGISTRY OF THE SUPREME COURT

- A lawyer who is registered in the Lawyer's Registry of the Supreme Court must be appointed in all cases submitted to the Supreme Court, unless otherwise permitted by the court.
- A lawyer shall have the following requirements in order to be registered in the Supreme Court lawyer's registry pursuant to section 26 of the Regulation of Supreme Court 2009:
 1. Has been granted the license to practice law in the courts of Maldives and has minimum 5 years' experience of court practice.
 2. Has not been convicted of an offence for which a *Hadd* is prescribed in Islam, criminal breach of trust, or bribery.
 3. Within the last past 5 years, has not been convicted of any offence other than those mentioned in (2). If has been convicted and sentenced, unless a period of five years has elapsed since his release, or pardon for the offence for which he was sentenced.

DRESS CODE

Attire of lawyers

Male lawyers attending the court, should wear either black or navy blue suit with trousers, and female lawyers should wear black or navy blue suit with trousers or a skirt.

Attire of person attending the court hearings

Persons attending the court hearing should dress in accordance with the respective regulation. Hence:

- Attire which hide the identity of the person is not allowed, including attires which cover the face.
- Attires which are revealing, short shorts, t-shirts without collar, tracksuits and clothes with inappropriate writings on them are not allowed in court. However, government officers with uniform should attend the court in their respective official dress code or uniform.
- Clothes and jewelry which portray ideologies against religion of Islam are prohibited.
- Any attire which the court deems to be inappropriate will not be allowed.

TRANSPARENCY OF HEARINGS

As the Article 42(b) of the Constitution clearly states all judicial proceedings in the Maldives will be conducted with justice, transparency and impartiality. The judicial proceedings would

be open to the both public and the media except under certain conditions stipulated in law.

Conditions which excludes the public from the hearing

As stipulated under Article 42(c) of the Constitution the presiding judge may exclude the public from all or part of a trial in accordance with the democratic norms:

- In the interests of public morals, public order or national security.
- Where the interests of juveniles or the victims of a crime so require; or
- In other special circumstances where publicity would prejudice the interests of justices.

Disclosure of information about cases

- The court shall not disclose any information to the media regarding the individual matters submitted to the court.
- However, the website of the court contains information of cases scheduled for each day.
- The media and the public will have access to court hearing(s) in accordance with the following procedures:
 - ◇ The person who is attending the hearing should note their names one hour before the time scheduled for the hearing.

- ◇ Personnel noting their names for the hearing should provide identification documents (with photograph)
- ◇ Personnel representing media should provide their media pass indicating the media he is representing.
- ◇ Seats are reserved for media personnel in all hearings.

Disclosure of information about judicial proceedings by media

The media should be fair and just when disclosing the information about the hearings of the court. However, under conditions mentioned below disclosing information about the hearings would be illegal.

- The disclosure of such information is illegal by an existing law or regulation.
- Under the powers of the court, if the court has forbidden publicizing of such information regarding the hearing is prohibited by the court in order to protect the interest of the parties.
- If the hearing is not open for public in order to protect the interest of the parties.
- If the hearing is related to confidential issues regarding the national security.
- If the court has prohibited to disclose information about a case due to specific reasons.

COURT CONTEMPT

Article 141(c) of the Constitution states that no officials performing public functions, or any persons shall interfere with and influence the functions of the courts. Section (d) of the same Article states that persons or bodies performing public functions, through legislative and other measures, must assist and protect the courts to ensure the independence, eminence and dignity, impartiality, accessibility and effectiveness of the courts.

Contempt of Court

If any of the following act is done orally or in written form or expressed by his action against the court, within the court or outside the court, such an act will amount to contempt of court under the Court Contempt Regulation 2014.

- Attempting to or giving a false impression of the court.
- Hindering or attempting to hinder the process of judicial proceedings.
- Hindering the delivery of a fair judgment in an ongoing trial or matter.
- Willfully disobeying a judgment, order or any instruction given by the court.
- Refusing to testify in a trial or refusing to give information in a trial as a witness.
- Obstructing or attempting to obstruct course of justice.

- Willfully disobeying a court order given by a judge in a court trial.
- Any act or a word which might harm the order of the court, a (J) justice or a staff of the court.
- Obscene language, inappropriate behavior and attire in court premises.
- Harming the body or the property of a justice or a court staff.
- Harming the body or the property of any person present in the court.
- Harming the property of the court.
- Taking a device which might record audio or video into the court room without the permission of the court.

Punishment for Court Contempt:

The court has the discretion to take fair and just action against the persons or body that disobeys a court order or any action which might harm the dignity of the courts under the Court Contempt Regulation 2014. If any such action takes place in an on-going trial the court has the discretion to issue an instant sentence.

Article 76 of the Judicature Act of The Maldives states that, “during the court proceedings if a party leaves the court without the permission of the court, or if a person conducts themselves in the court in a manner which contravenes the order of the court, or if a party disobeys the order of a court, in

taking into consideration the graveness of the matter, the judge has the discretion to issue an instant sentence as follows:

- a. Levy a fine which does not exceed MVR10,000 (ten thousand)
- b. Imprisonment of not more than 15 (fifteen) days or house arrest of not more than 1 (one) month.”

General Information about the Court

Sitting of the Court

- The sittings of the Supreme Court generally commence on every Monday, Tuesday and Thursday at 11:00 am and 13:00 pm.
- Matters will be disposed of by an uneven number of Justices sitting together in session and the decision will be the majority opinion of that bench. Generally, all the appeal cases are heard by a bench of 3 Judges, and Constitutional and election matters are decided by the full bench.

Court Timing

The Supreme Court registry will be open from 0800 hrs. to 1500 hrs. except on Friday and Saturday.

Court Calendar

- The annual term of the Supreme Court every year, will commence on the first official working day of the

month of January of each year and will continue till the last official working day of the last week of the month of November. From that date, the Supreme Court will be in recess until the first official working day of the month of January the following year.

- Generally, the Supreme Court will not conduct any hearings during the period of recess.

Court Website

Court Website below is accessible to the general public at www.supremecourt.gov.mv

Location and Contact Details

Supreme Court of the Maldives

Theemuge, Orchid Magu

Male', Republic of Maldives

Telephone number: 3009990

Fax number: 3008554

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Male', Republic of Maldives
2016