





longstanding public criticism that the judiciary was, at the time, viewed as vulnerable to political interference and pressure from powerful individuals.

Yet despite widespread discourse, no comprehensive study has examined public perceptions of where judicial independence is most lacking in the Maldives. This research seeks to fill that gap. It explores the public's views on the state of judicial independence, clarifies the conceptual importance of an autonomous judiciary, assesses current conditions within the Maldivian judicial system, and offers targeted recommendations for reform. By identifying areas of perceived weakness, this study aims to contribute to ongoing efforts to strengthen judicial independence and enhance public trust in the Maldivian judiciary.

### **Significance of judicial independence**

Public confidence is fundamental to the legitimacy and effective functioning of any judiciary. Judicial independence must not only exist internally but must also be *visible* to the public. If the courts are not perceived as impartial, fair, and free from external influence, trust in the justice system erodes, and the authority of judicial decisions is weakened. Ensuring both the reality and appearance of independence is therefore essential for maintaining respect for the rule of law.

### **Maintaining the Integrity of the Rule of Law**

The Maldives adheres to a constitutional separation of powers among the legislative, executive, and judicial branches. One of the judiciary's central roles is to act as a check on the other two branches, ensuring that state power is exercised within constitutional bounds.

According to the Parliament of the Maldives, the judiciary must operate without undue influence from either the executive or the legislature, as independence is essential to fair and unbiased decision-making. If judges are pressured to favour government officials or powerful private actors, the rule of law is compromised and constitutional principles are undermined.

The judiciary also safeguards the rule of law by reviewing the constitutionality of legislation and governmental actions. As the People's Majlis explains, "*the judiciary has the power to determine the constitutionality of laws or actions of any person or body performing a public function.*"<sup>3</sup> This function positions the courts as protectors of constitutional governance.

International standards reinforce this duty. The United Nations' *Basic Principles on the Independence of the Judiciary* stress that judicial independence must be constitutionally guaranteed and continuously protected by state authorities.<sup>4</sup> Independence is not only an internal institutional requirement but also a matter of public perception—

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<sup>3</sup> People's Majlis Secretariat, *Understanding 3 Parts of the State* (online) accessed 21 September 2025.

<sup>4</sup> United Nations, *Basic Principles on the Independence of the Judiciary* (6 September 1985) accessed 22 September 2025.

society must believe that judges decide cases free from political pressure. Griffith describes this ideal in a celebrated passage:

*“They see governments come like water and go with the wind. They owe no loyalty to ministers, not even the temporary loyalty which civil servants owe... Judges are also lions under the throne but that seat is occupied in their eyes not by the Prime Minister but by the law and their conception of the public interest.”*<sup>5</sup>

His words illustrate that judicial legitimacy depends on unwavering allegiance to the law and the public interest, not to transient political authorities.

### **Protecting Fundamental Rights**

Judicial independence is also essential for the protection of fundamental rights. Judges who are secure, autonomous, and free from improper influence are more likely to adjudicate cases impartially, resist pressure from powerful actors, and uphold constitutional guarantees. This confidence, in turn, encourages citizens to trust and rely upon the judicial system.

Conversely, where judges are susceptible to corruption or political manipulation, courts may become biased in favour of influential individuals, political elites, or corporate interests. Such a judiciary cannot protect rights effectively, leading to public distrust and the erosion of constitutional freedoms.

The Bangalore Principles of Judicial Conduct (2002) emphasise the importance of both actual and perceived independence. Article 1.1 provides that: “A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.”<sup>6</sup>

This principle underscores that the judiciary must *demonstrate* independence in a way the public can observe and trust. In previous assessments, concerns were raised regarding the judiciary’s protection of the right to a fair and speedy trial. Allegations of bias—particularly in politically sensitive cases—have been widely reported. According to the U.S. Department of State, numerous detainees have been held in pre-trial detention for more than a year, and instances of intimidation or bribery involving judges and attorneys have been documented.<sup>7</sup> Such findings suggest shortcomings in both judicial independence and public confidence, highlighting the need for structural reforms.

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<sup>5</sup> JAG Griffith, *The Politics of the Judiciary* (3rd edn, Fontana Press 1985) 199.

<sup>6</sup> UNODC, *The Bangalore Principles of Judicial Conduct* (2002) accessed 22 September 2025.

<sup>7</sup> US Department of State, *2023 Country Reports on Human Rights Practices: Maldives* (2023) accessed 22 September 2025.

### Judicial independence in the Maldives

The Maldivian legal system faces numerous challenges in the consistent application of laws and regulations. Whether motivated by political or personal interests, such interference can pose significant threats to the impartiality of courts in any legal system. Allegations of judicial bribery and misconduct were reported frequently in earlier periods of public discourse and media coverage.<sup>8</sup>

While the Constitution and statutory frameworks guarantee judicial independence, earlier evaluations have pointed to practical difficulties in achieving this ideal. These assessments have noted issues such as political influence, structural vulnerabilities, and institutional limitations. Even so, the 2008 Constitution establishes robust protections intended to uphold judicial autonomy.<sup>9</sup>

### Key Constitutional Safeguards of Judicial Independence in the Maldives

Article (2008 Constitution)	Subject	How it ensures Judicial independence
141 (a-d)	Establishment and independence of the Judiciary	Declares the judiciary an independent branch of the state and prohibits interference by the executive or legislature in judicial functions.
142	Independence in decision-making	Requires judges to decide cases solely according to the Constitution, the law, and their conscience, free from coercion or influence.
152	Funding of the Judiciary	Mandates a separate state budget for the judiciary, reducing financial dependence on other branches.
154	Security of tenure of judges	Ensures judges may be removed only for gross misconduct or incompetence and only through a formal and lawful process.
157	Judicial Service Commission (JSC)	Establishes an independent body responsible for appointing, promoting, and disciplining judges, thereby limiting executive control.

These constitutional provisions demonstrate a clear commitment to judicial autonomy in theory. However, earlier reports highlighted gaps between these constitutional ideals and the judicial reality at the time.

<sup>8</sup> Ahmed Sharuhaan, 'Police: Detained Maldives Supreme Court Judges Took Bribes' (2018) <<https://apnews.com>> accessed 5 November 2025.

<sup>9</sup> *Constitution of the Republic of Maldives* (2008) arts 141, 142, 146, 151, 152, 154 and 157.

## Challenges to Judicial Independence in the Maldives:

### Politicization of the Judicial Service Commission (JSC)

Despite the constitutional protections for judicial independence, numerous international reports have highlighted systemic problems within the Maldivian judiciary. One of the most frequently cited concerns is the politicisation of the Judicial Service Commission (JSC)—the body responsible for appointing, promoting, and disciplining judges. The JSC has been criticised in various earlier assessments for making decisions that appear influenced by political pressures rather than objective, merit-based criteria.<sup>10</sup>

The International Commission of Jurists (ICJ) has noted that the structure of the JSC itself enables political influence because its membership includes representatives appointed by the President, Parliament, and the general public.<sup>11</sup> This composition creates a body vulnerable to partisan manipulation.

Another major issue relates to Article 285 of the 2008 Constitution, which required that all sitting judges undergo a professional evaluation within two years of the Constitution's enactment. However, the JSC reappointed nearly all judges without conducting meaningful competency assessments.<sup>12</sup> Many of these judges reportedly lacked formal legal training, increasing their susceptibility to external pressure and further undermining judicial independence.

Given these concerns, the ICJ and other bodies have recommended structural reforms to the JSC, including establishing merit-based appointment processes and reducing political influence to safeguard judicial tenure and independence.<sup>13</sup> The UN Universal Periodic Review (UPR) in 2015 similarly urged Maldives to improve judicial selection processes, revise the oversight body's composition, and implement recommendations made by the UN Special Rapporteur on judicial independence.<sup>14</sup>

### Executive Influence and Politicised Trials

Following the introduction of the multi-party political system in 2005,<sup>15</sup> the judiciary faced increasing allegations of political interference. Courts were frequently accused in earlier periods of issuing rulings shaped by government pressure or partisan interests.

### Supreme Court Overreach and Judicial Intimidation

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<sup>10</sup> Transparency Maldives, *Issues in the Maldivian Judiciary* (December 2015).

<sup>11</sup> International Commission of Jurists (ICJ), *Maldives: Securing an Independent Judiciary in a Time of Transition* (February 2011).

<sup>12</sup> *Ibid*, no.11

<sup>13</sup> ICCPR, *Consideration of Reports Submitted by States Parties* (31 August 2012) 5.

<sup>14</sup> Human Rights Watch, *An All-Out Assault on Democracy* (August 2018) 41.

<sup>15</sup> Elections Commission, *Political Parties: Beginning of Political Parties in the Maldives* accessed 6 November 2025.

Concerns extend beyond political interference into issues of judicial overreach—particularly by the Supreme Court of the Maldives. Observers have reported that the Supreme Court, in earlier periods, used its authority to influence or control lower courts and judicial administration.

The ICJ notes that the Supreme Court “has used and appears ready to use again undue influence over the lower judiciary... and often exercises this power arbitrarily.”<sup>16</sup>

The Supreme Court has also relied on its **suo motu** powers to discipline institutions critical of judicial conduct. In the case *Supreme Court v Human Rights Commission of the Maldives* (2014),<sup>17</sup> the Court ordered the Human Rights Commission of the Maldives (HRCM) to follow its guidelines when preparing reports about the judicial system. This arose after the HRCM submitted a UPR report stating that the judiciary was influenced by the Supreme Court, weakening the autonomy of other courts.<sup>18</sup>

These actions fueled public and international concerns that, at the time, the Supreme Court was functioning not as an independent constitutional guardian but as an institution exercising political influence and suppressing criticism.

### **Public perception of the judiciary in the Maldives**

Public perception is a critical component of judicial independence. Since the 2008 democratic transition, trust was reported to have eroded during the post-2008 period.

### **Loss of Public Trust After Democratization (Post-2008)**

Although the 2008 Constitution promised renewed judicial independence, its implementation was flawed—most notably when the JSC failed to remove incompetent judges during the constitutional transition. This failure significantly damaged public trust. The ICJ (2011) reported that the judiciary had “lost the confidence of the public due to its failure to act independently and impartially.”<sup>19</sup>

### **Perception of Corruption and Political Influence**

Transparency Maldives' 2013 survey indicated that the judiciary was among the three institutions perceived as most corrupt in the country.<sup>4</sup> Judges were widely believed according to earlier reports to be influenced by political parties, wealthy business actors, and senior officials, particularly in high-profile cases.<sup>5</sup> The UN Human Rights Committee likewise described the judiciary as suffering from “pervasive public perception of bias, favouritism and susceptibility to executive influence.”<sup>6</sup>

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<sup>16</sup> International Commission of Jurists, *Judicial Adrift* (August 2015) 30.

<sup>17</sup> *Supreme Court Suo Motu Case* 2014/SC-SM/42.

<sup>18</sup> SunOnline International, *Supreme Court Sets Guidelines for the HRCM* (16 June 2015).

<sup>19</sup> ICJ, *Maldives: Securing an Independent Judiciary in a time of transition* (2011).

### **Media, Civil Society, and Public Criticism**

Media outlets and civil society organizations have, in various reports, highlighted judicial misconduct, lack of transparency, and corruption. However, criticism is often met with judicial intimidation. In 2014, the Supreme Court charged the Human Rights Commission with contempt for criticising judicial conduct.<sup>20</sup> This deepened public fear and frustration, reinforcing the perception that the judiciary lacks accountability.

### **The way forward**

To improve public perception of the judiciary in the Maldives, judicial independence must not only exist internally but must also be clearly demonstrated across all organs of the judicial system. The Maldivian judiciary is composed of three tiers: the Supreme Court, which serves as the apex court and final appellate authority responsible for constitutional interpretation; the High Court, which reviews appeals from both superior and magistrate courts; and the lower courts, which include the Criminal Court, Civil Court, Family Court, Juvenile Court, Drug Court, and the magistrate courts located on each inhabited island. For these institutions to operate effectively and independently, several interrelated reforms are essential.

A critical first step is the reform of the Judicial Service Commission (JSC). Reducing political influence within the Commission is necessary to ensure the integrity of judicial appointments and disciplinary procedures. This can be achieved by revising the composition of the JSC to include a greater number of independent legal professionals and civil society representatives. The introduction of transparent, merit-based processes for the appointment, promotion, and discipline of judges would further enhance public confidence. Moreover, publishing JSC decisions would promote transparency and reinforce accountability.

Strengthening judicial education and professionalism is equally important. All newly appointed judges should possess formal legal qualifications, ensuring a uniform baseline of professional competence. Continuous legal education programmes focusing on constitutional law, judicial ethics, human rights obligations, and international standards would enhance judicial reasoning and reduce susceptibility to external pressures. Establishing a Judicial Training Institute—operating under the guidance of the Supreme Court and in collaboration with international partners—would centralize professional development and improve judicial performance across the country.

Enhancing transparency and access to justice is another essential component of reform. Making court judgments, schedules, and disciplinary outcomes publicly available online would foster greater institutional openness. Creating effective complaint mechanisms would empower citizens to report instances of corruption or misconduct, thereby increasing accountability. Additionally, public information campaigns aimed at educating citizens about their rights and judicial procedures would strengthen civic engagement with the justice system.

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<sup>20</sup> Ibid, no.10

Judges must also be protected from political pressure to uphold the integrity of their decisions. This requires strengthening constitutional safeguards related to security of tenure and financial independence. Informal communications or directives from political actors regarding ongoing cases should be explicitly prohibited, ensuring that judicial decisions are grounded solely in law. A strict and effectively enforced code of judicial ethics would help prevent conflicts of interest and eliminate improper political affiliations.

Accountability mechanisms must be improved without compromising independence. Establishing an independent Judicial Integrity Unit capable of investigating judicial misconduct free from political influence would help restore public trust. Disciplinary actions should be applied only in cases of proven misconduct and must never be used as tools of political retaliation. Additionally, the Supreme Court should exercise restraint in its administrative authority over lower courts and the Department of Judicial Administration to avoid perceptions of hierarchical intimidation or overreach.

Finally, strengthening public engagement is vital. Including civil society organizations, the media, and academic institutions in judicial reform discussions would ensure broader participation and transparency. Allowing journalists, international observers, and non-governmental organizations to monitor court proceedings can help demonstrate openness and fairness. Increasing the availability of mobile courts or expanding legal services in remote atolls would further enhance access to justice and strengthen public confidence in the judiciary.

Through these reforms, judicial independence in the Maldives can become a lived reality rather than a constitutional aspiration. Enhancing institutional transparency, reducing political interference, and improving judicial professionalism together form the foundation for restoring trust and building a judiciary that genuinely serves the Maldivian people.

### **Final Reflections**

Judicial independence in the Maldives has, according to earlier assessments, been hindered by political pressures, institutional weaknesses, and diminished public trust—despite the strong protections enshrined in the 2008 Constitution. These concerns contributed to a widespread perception that the judiciary had not consistently operated as an impartial guardian of the rule of law. Reform of key institutions such as the Judicial Service Commission, together with improvements in judicial professionalism and administrative transparency, therefore, remains essential. Because judicial independence and public confidence are mutually reinforcing, progress in one area is likely to support gains in the other.

Earlier studies reported a decline in public trust during the years following the 2008 democratic transition, largely due to allegations of political influence and structural shortcomings. Under President Dr Mohamed Muizzu, however, the government has articulated a clear commitment to allowing the judiciary to function without

interference. His pledge to respect judicial autonomy signals a potential turning point, marking the beginning of what many view as a more conducive climate for strengthening judicial independence.

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