

# **National Judicial Academy**

## **Training Program for Maldives Judicial Officers [SE-15] 8<sup>th</sup> - 12<sup>th</sup> December, 2025**

### **Programme Report**

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The National Judicial Academy organized 4 day training program for the second batch of Maldivian judicial officers and court staff from **8<sup>th</sup> December to 12<sup>th</sup> December, 2025** at the National Judicial Academy. The program included sessions on constitutional law, civil law, criminal law, human rights laws and correlative jurisprudence. The program aimed to acquaint participants with skills of judging and judgment writing. The program also facilitated discussions on court & case management and jurisprudence on environmental law.

### **Session 1: Indian Judiciary: Organizational Structure, Jurisdiction and Approaches**

The session was commenced by emphasizing common features between the legal and judicial system of Maldives and India. The power and functions of courts at various level in India and nature of hierarchy of courts were discussed and Articles 233 and 234 of the Constitution were referred. The nature of jurisdiction of courts at various levels in India was discussed and different kinds of jurisdiction including original jurisdiction, appellate jurisdiction, pecuniary jurisdiction, contempt jurisdiction and writ jurisdiction were explained. The doctrine of precedent followed in India was explained and Articles 141 and 142 of the Constitution of India were referred. The power of the Parliament to amend the Constitution was highlighted and various landmark judgments of the Supreme Court of India were referred in this regard. These judgments included *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225, *I. C. Golaknath vs State of Punjab* 1967 SCR (2) 762, *Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651, *M. Nagaraj v. Union of India*, (2006) 8 SCC 212 and *Indira Nehru Gandhi v. Raj Narain*, 1975 SCC OnLine SC 521. The requirement of due process was highlighted and the judgment *Maneka Gandhi v. Union of India* (1978) 1 SCC 248 was discussed.

The discussion then focused on the importance of the Preamble of the Constitution of India and its various features were explained. It was opined that values of the Preamble are reflected in the normative framework of the fundamental rights and directive principles of state policy of the Indian Constitution. Article 1 of the Constitution was referred and the difference between state and union territory was explained. The three organs of government were discussed and their various elements were highlighted. The parts of the Constitution dealing with Union and States were referred and power and functions of Union government and State governments were discussed. The power and functions of President, Prime Minister and Cabinet were deliberated and role of the President in the appointment of judges was highlighted. The distribution of the legislative power between Union and States was explained.

### **Session 2: Goals, Role and Mission of Courts: Constitutional Vision of Justice**

The session was commenced by explaining purpose of courts in modern societies and it was stated that main purpose of courts is adjudication of litigation between parties. The jurisdiction of trial courts and constitutional courts including High Courts and Supreme Courts was discussed and it was stated that trial courts decide factual disputes between parties and constitutional courts primarily decide controversy regarding issues of law through appellate and writ jurisdiction. The provisions of the Constitution dealing with fundamental rights and directive principles of state policy were discussed and various landmark judgments of the Supreme Court were referred in this regard. Article 20 which prohibits the imposition of retrospective punishment and mentions the right against self-incrimination was discussed at length. The jurisdiction of High Courts and the Supreme Court for enforcement of fundamental right was discussed and Article 32 and Article 226 were referred. The extraordinary original jurisdiction of the Supreme Court was highlighted and Articles 131 and 71 were discussed. The contempt jurisdiction of the Supreme Court was discussed and Article 129 was referred. The contempt jurisdiction in Maldives was discussed and situation in Maldives was shared by participants. The judgment *Subrata Roy Sahara v. Union of India* AIR (2014) SC 46, *In Re: Vinay Chandra Mishra*

(1995) 2 SCC 584, *ITAT Through President v. V. K. Agarwal* (1999) 235 ITR 175 and *Delhi Judicial Service Association v State of Gujarat* 1991 (4) SCC 406 were referred in this regard. The contempt jurisdiction of High Courts and District Courts was also highlighted.

The appellate jurisdiction of the Supreme Court was discussed and it was stated that there should be substantial question of law as to the interpretation of the Constitution and Articles 132, 133 and Article 134 were referred in this regard. The extraordinary discretionary jurisdiction of special leave to appeal of the Supreme Court under Article 136 was discussed. The maxim *Discretio est discernere per legum quid sit justum* was referred which implies that discretion consist in knowing what is just in law. It was stated that discretion should be exercised according to rules of reason and justice and should not be influenced by personal opinions. The judgment *Municipal Board, Pratabgarh v. Mahendra Singh Chawla* (1982) 3 SCC 331 was referred. The scope of review power of the Supreme Court was discussed and it was stated that it is an extraordinary jurisdiction and should be exercised in the rare situation of error apparent on the face of record. The discussion then focused on the advisory jurisdiction of the Supreme Court and Article 143 dealing with the power of President to consult the Supreme Court was referred.

### **Session 3 Judicial Skills and Art of Judgement Writing: Ethics, Neutrality and Professionalism**

The session was commenced with discussion on judicial ethics and its importance in judicial profession. It was opined that a judge must practice four things in his life i.e. to hear courteously, to proceed wisely, to consider soberly and to decide impartially and it was further added that a judge, by his conduct, by his fairness in hearing and by his just and equitable decisions should earn for himself and the judiciary, the trust and respect of the public and the members of the Bar. Then discussion focused on core judicial skills including thorough knowledge of procedures, broad acquaintance with substantive laws, art of giving proper hearing, marshalling facts and writing good judgments and handling interim prayers. The core values of judicial ethics were highlighted including independence, impartiality, integrity, protecting rights and gender sensitivity and reference was made to the Bangalore Principles of Judicial Conduct. The need to ensure balancing bar and bench relations was emphasized and judgments were discussed in this regard including *Hukummat Rai v. The Crown* AIR 1943 LAH 14.

The importance of the personality of a judge was discussed and it was stated that the judge must be keen to enquire the root of the case and there should be a desire to do justice. It was added that loose remarks during proceedings must be avoided which can create an impression of biasness among the mind of litigants. The value of impartiality, truth and justice was discussed and it was stated that it is better to ask questions, understand the issues and then decide and the purpose of judge's questions should be to elicit relevant clarifications and not to exhibit knowledge or learning. The discussion then focused on the definition of judgment and it was stated that judgment has a concept of finality and it affects merits of issues between the parties determining some right or liability. The importance of well-structured judgment was emphasized and it was stated that it enhances clarity and ensure fairness. The discussion then focused on framework for drafting judgment and it was opined that the finding on the disputed facts should be done issue wise and should be based on oral and documentary evidence and the judge must apply the law to facts in hand carefully. The structural form of judgment writing was discussed including introduction, setting out facts, finding law and issues, applying law to the facts, determining relief and order of the court. The importance of editing the judgment was discussed and the process of editing was explained to participants.

#### **Session 4 Civil Justice Administration: Alternative Dispute Redressal System in India**

The session was commenced by highlighting different modes of alternative dispute resolution [ADR] including arbitration, conciliation, mediation, lok nyayalays and judicial settlement. The nature of alternative dispute redressal system in United States, Canada, Australia and United Kingdom was discussed and their essential features were explained. The use of commercial mediation in various kinds of commercial disputes were discussed and disputes where mediation cannot be used were highlighted. It was stated the mediation cannot be referred in matters involving contentious issue of law, involving interpretation of documents, involving alleged frauds, acts against society and human rights violations and crimes. The process of reference of a case for alternative dispute redressal was discussed and when a pending matter can be referred was highlighted. The reference of new matters was also discussed. Then discussion then focused on issues related to connecting people and client counselling in mediation and strategy of mediation.

The importance of confidentiality during alternative dispute redressal was emphasized and processes and information which are required to be kept confidential were highlighted. Then recent developments in legislations with regard to ADR was discussed and Section 12A of the Commercial Court Act, 2015, Section 442 of the Companies Act, 2013, Section 74-91 of the Consumer Protection Act, 2019, Motor Accident Mediation Authority in the MACT Act and Conciliation Forum of the RERA Act, 2016 were referred. The situation of impasse in the ADR process and its effects on the resolution of dispute was discussed and situation in different countries was compared with India in this regard. The need of novel initiatives in the ADR system was emphasized and important suggestions were given including training for lawyers, government officers and bankers, certification and acceptance of trainees in all organizations and colleges, presence of ombudsman in government department and companies, agreements to have mediation clause like arbitration, Section 80 notice for mediation and circulation of pamphlets suggesting mediation with summons. It was stated that there should be feedback system and constant evaluation of mediation and the need of separate bars for mediation was emphasized.

#### **Session 5 Principles of Evidence: Appreciation in Civil and Criminal Cases**

The session was commenced with discussion on the definition of evidence and various types of evidence. The difference between oral and documentary evidence was explained and various provisions of the Bhartiya Sakshya Adhinyam, 2023 were discussed in this regard. The difference between public documents, private documents and certified copies were highlighted and issues regarding admissibility of documents were explained in detail. The discussion then focused on the admissibility of direct evidence and secondary evidence and various issues in this regard were explained to participants. The type of facts and documents were explained including relevant and irrelevant documents and admissible and inadmissible documents. Then issues regarding presumption of facts were discussed and various provisions of the Bhartiya Sakshya Adhinyam, 2023 were discussed in this regard. The presumptions as to documents were discussed and different kinds of documents were explained. The issues regarding production of documents were highlighted and various issues in this regard were deliberated.

The discussion then focused on burden of proof and issues including who has the burden of proof, facts within special knowledge, owners in possession and birth during marriage were explained. Various stages of evidence including examination in chief, cross examination, reexamination and further cross examination were highlighted and provisions of the Bhartiya Sakshya Adhinyam, 2023 were discussed in this regard. The different kinds of witnesses were discussed and difference between witness to give evidence and witness to produce documents was explained. The issues regarding relevant facts and duty to answer, reasonable grounds for questions in cross examination and contents of documents upon the

production of documents were discussed. Then discussion focused on when evidence not to be recorded, evidence of admitted facts, admitted documents, contents of documents and interpretation of admitted documents. The issues regarding when a cross-examination can be conducted was discussed and conducting cross-examination regarding previous statements, introduction, to test the veracity, to shake the credit worthiness and corroborative evidence were discussed.

### **Session 6 Criminal Justice Administration: Fair Trial and Human Rights**

The session explored foundational human rights norms and their practical application. It traced the evolution from ancient charters like the Cyrus Cylinder to modern instruments such as the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), emphasizing how these establish minimum standards for just procedures, including presumption of innocence and protection from torture. Participants engaged with the broader concept of fairness, extending beyond the accused to encompass victims, society, and other stakeholders, drawing on Indian judicial precedents like *Zahira Habibullah Sheikh v. State of Gujarat 2006 (3) SCC 374* to highlight the need for balanced protection across all parties.

The discussion outlined five fundamental principles - presumption of innocence, proof beyond reasonable doubt, non-self-incrimination, non-retroactivity, and double jeopardy. While detailing pre-trial elements like rights against arbitrary arrest, legal counsel, and prompt judicial appearance. During trial, emphasis was placed on impartial tribunals, adequate defense preparation, and timely hearings, with post-trial safeguards including appeals and compensation for miscarriages of justice. Victim rights were also foregrounded, covering dignity, information access, participation, compensation, privacy, and appeals, underscoring their integral role in a holistic fair trial framework.

Judicial mechanisms to curb investigative abuses were a key focus, including mandatory FIR registration under *Lalita Kumari v. Government of Uttar Pradesh AIR 2014 SC 187*, electronic and zero FIR provisions in the Bharatiya Nagarik Suraksha Sanhita (2023), and safeguards against arbitrary arrests via *D.K. Basu v. State of West Bengal (1997) 1 SCC 416* guidelines. Courts exercise control through quashing frivolous proceedings, monitoring sensitive probes, anticipatory bail, and transfers to impartial agencies, alongside compensation for rights violations. Comparative insights from Maldives highlighted constitutional fair trial provisions but noted real-world gaps like torture complaints, prison overcrowding, and delays equaling or exceeding sentences.

Persistent issues such as mechanical remands, withheld exculpatory evidence, and access barriers were critiqued, with calls for scrupulous adherence to safeguards and robust judicial enforcement to bridge rhetorical commitments and reality. The session stressed that delays and procedural lapses erode public trust, urging systemic reforms in police, prosecution, courts, and prisons across pre-trial, trial, and post-trial stages. Ultimately, it positioned the judiciary as the vital enforcer of human rights in criminal justice, transforming declarations into enforceable justice.

### **Session 7 Jurisprudence on Environmental Law: Experience of the Supreme Court**

The session offered a comprehensive overview of constitutional, statutory, regulatory, and judicial approaches to environmental protection. The discussion situated environmental law within a broader framework of sustainable development, public trust, inter-generational equity, and climate justice, showing how legal systems respond to ecological protection as a matter of governance and rights.

The session began with the constitutional foundation for environmental protection, highlighting provisions that recognise the State's duty to preserve the natural environment, biodiversity, resources,

and ecological balance for present and future generations. It also underlined the role of local governance and legislative responsibility in creating a safe and healthy environment, while linking environmental protection to food security, clean water, and human well-being. The discussion thereafter, focused on the development of environmental jurisprudence through judicial decisions. It explained how courts expanded the scope of the right to life to include the right to a wholesome environment and relied on principles such as the public trust doctrine, sustainable development, the precautionary principle, and the polluter pays principle. These doctrines were presented as the backbone of modern environmental governance, ensuring that natural resources are treated as public assets and that ecological harm carries legal consequence.

A significant portion of the session focused on key Indian environmental judgments that have influenced regional environmental thinking. The discussion referred to landmark rulings on public nuisance, industrial pollution, forest conservation, municipal sanitation, environmental clearances, and climate rights, demonstrating how judicial intervention has shaped the balance between economic development and ecological preservation. The session also emphasized that environmental protection must be rooted in accountability, transparency, and meaningful public participation.

The Maldives-specific segment examined the Environmental Protection and Preservation Act, land allocation rules, fisheries regulation, tourism controls, and protected area management. It highlighted the significance of marine and island ecosystems, restrictions on harmful fishing practices, tourism-related environmental standards, and the conservation regime governing protected zones and biosphere areas. The session showed how environmental law in the Maldives must respond to the country's unique geography, dependence on marine resources, and vulnerability to climate impacts. The discussion also considered newer regulatory developments, including environmental audit mechanisms, contaminated site rules, greenhouse gas intensity controls, and stricter compliance frameworks. These reforms were presented as examples of a more proactive and preventive environmental governance model, intended to strengthen accountability, improve monitoring, and support sustainable growth.

## **Session 8 Cybercrimes and Electronic Evidence**

The session was conducted with a focus on the growing complexity of digital offences and the corresponding legal challenges in the collection, preservation, and appreciation of electronic records. The discussion highlighted that cybercrime is an umbrella term covering offences committed through computers, mobile phones, networks, applications, and other digital communication tools, while cyber fraud was explained as a narrower category driven primarily by deception for financial gain or unauthorized access to personal information.

The session outlined several common forms of cyber fraud, including OTP and KYC scams, call forwarding scams, fake customer care frauds, QR code UPI scams, job task scams, romance or pig butchering scams, investment frauds, lottery scams, sextortion, and deepfake-based deception. Each scam type was discussed in terms of its method of operation, the kind of loss inflicted on victims, and the ease with which digital platforms can be misused to manipulate trust. Substantial part of the session dealt with electronic evidence and its legal recognition. It was emphasized that electronic records may include internet browser history, databases, computer memory contents, backups, printouts, GPS tracks, email records, audio-video files, transaction logs, spreadsheets, instant messages, and accounting data. The discussion also noted the legal principle that information required by law to be in writing is treated

as satisfied when it is made available in electronic form and is accessible for subsequent reference.

The session further explained the challenges of authenticity in digital communication, including WhatsApp message modification, spoofing, SMS spoofing, and email spoofing. Technical safeguards such as SPF, DKIM, and DMARC were introduced as tools used to verify sender authenticity, detect tampering, and strengthen domain-level trust in electronic correspondence. Attention was also given to the practical handling of electronic evidence in investigations. The process of preparation, scene securing, identification and seizure, sealing and transport, imaging and data acquisition, forensic analysis, and report preparation was described as essential to maintaining the integrity of digital material. The importance of an unbroken chain of custody, proper documentation, forensic hashing, restricted access, and secure storage was stressed as necessary for admissibility and reliability. The session referred to the legal framework governing admissibility of electronic records and certificate requirements, including identification of the record, the manner of production, device particulars, and affirmation of compliance with prescribed legal conditions. It was underlined that procedural compliance, authenticity, reliability, and relevance remain central to the appreciation of evidence, especially in criminal, civil, and regulatory proceedings where standards of proof may differ.

### **Session 9 Forensic Evidence in Civil and Criminal Trials**

The session examined the role of scientific evidence in strengthening adjudication and improving the quality of investigation. The discussion emphasized that, in an era of increasingly sophisticated crimes, courts and investigators must rely not only on oral testimony and conventional proof but also on forensic methods grounded in science and law. The session began with the foundational concept of forensic science and the principle of exchange associated with Locard, namely that every contact leaves a trace. This principle was used to explain how trace evidence can connect a person, object, or suspect to a crime scene and how circumstantial evidence may acquire strong evidentiary value through scientific analysis.

A major focus of the session was DNA evidence. The speaker explained the nature of DNA as a personal genetic blueprint, the distinction between nuclear DNA and mitochondrial DNA, and the ways in which DNA profiling is used to identify individuals, establish paternity, and compare biological samples recovered from a scene of crime. The session also discussed the use of STR markers, Y-STR analysis, and emerging technologies such as rapid DNA profiling and M-Vac collection systems. The discussion also highlighted the importance of proper collection, packaging, preservation, storage, and transportation of samples. It was stressed that the value of forensic evidence depends significantly on the integrity of the chain of custody, the reliability of the testing procedure, and the competence of the investigating officer and laboratory personnel. Particular caution was placed on avoiding contamination at every stage, from collection at the scene to presentation before the court.

Several landmark Indian cases were referred to in order to demonstrate the judicial treatment of forensic evidence. These included matters in which DNA profiling helped connect accused persons to the crime, as well as cases where the courts scrutinized delays, contamination risks, and procedural lapses before accepting scientific reports. The session made clear that even highly probative forensic material may lose evidentiary force if the process of collection or analysis is unreliable. The session further addressed the use of forensic evidence in civil matters, including paternity disputes and questions of legitimacy, while noting the privacy, ethical, and social concerns that arise from genetic testing. It was pointed out

that courts must balance the search for truth with safeguards against misuse, discrimination, and unwarranted intrusion into personal and family life.