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LAW'S
FINEST

Feature on:

Justice Dr. Azmiralda Zahir

First female judge appointed to an appellate court of Maldives and one of the first female judges appointed to the Supreme Court of the Maldives

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LAW'S FINEST

Law's Finest is an initiative developed by Maldives Moot Court Society (MMCS) that features exclusive interviews with the most prominent and accomplished legal professionals in the industry.

We aim to create a space for legal professionals to share their experiences, and insights to foster a well-informed and engaged legal community while inspiring and empowering each other.

Join us as we explore the diverse and fascinating world of law, one interview at a time.

Let's hear from the Law's Finest and discover what it takes to become one.

A handwritten signature in white ink that reads 'Suma Ilyas'. The signature is fluid and cursive, with the first letters of 'S' and 'I' being particularly large and stylized.

Founder & President

BIOGRAPHY

Dr. Azmiralda Zahir was born on 19th July 1979 in K. Malé, Maldives. She has completed her L.L.B Honors from the University of Cardiff (United Kingdom) and L.L.M Degree from the University of Portsmouth (United Kingdom). Afterwards, she completed her PhD in International Intellectual Property Law from the University of Exeter (United Kingdom).

On July 1999, Dr. Azmiralda Zahir obtained her license to practice law in the courts of the Maldives. In 2001 she worked in the legal section of Male' Municipality and from 2002 to 2007 she worked at the Maldives Law Commission which was overseen by the Attorney General's Office. During that time, Dr. Azmiralda worked on drafting bills to be summited to Parliament. In 2009, she joined the Maldives College of Higher Education and subsequently held the post of the Dean of the Faculty of Shariah and Law.

On 26th March 2011, Dr. Azmiralda was appointed as a judge of the High Court, where she became the first female judge to be appointed to an appellate court. In 2015, she was appointed to the Southern Branch of the High Court. Following her resignation, Dr. Azmiralda was engaged in private practice, until her appointment to the Supreme Court bench. Dr. Azmiralda Zahir was appointed as a justice of the Supreme Court on 4th September 2019.

INTERVIEW

01

What inspired you to pursue a career in law?

From a very young age, I had always been interested in becoming a lawyer. My parents were quite encouraging as well. When I started working, I realised that I genuinely enjoy what I do – be it the Law Commission, the university, or the judiciary.

02

Your early career included working in the legal section of Male' Municipality. How did this experience shape your understanding of public administration and the intersection between municipal governance and law?

At the time, Male' Municipality functioned under the Ministry of Home Affairs. I was working as a legal officer in the land section. I worked there at a time when the regulations that we followed were considered internal and not shared with the public. Yet the public were inadvertently bound by them. This involved policies on how land was divided amongst successors, who qualified, etc. This was just before the Land Act.

I had my desk in one of the publicly accessible areas, and unhappy members of the public were mostly directed towards me. Let's just say they had no filter, and I'm deeply grateful for Article 61 of the Constitution!

As the first female judge appointed to an appellate court in the Maldives, how did you navigate the challenges of being a trailblazer in a traditionally male-dominated space, and what systemic changes do you believe are still needed to further promote gender equality in the judiciary?



Being appointed to the High Court was no doubt a learning curve for me. In the beginning. I did sense some awkwardness from some of my male colleagues, especially when discussing certain kinds of sensitive cases, but it soon subsided and we were comfortable working together.

Even though my workplace itself rarely posed challenges gender-wise, I did have my fair share of problems in a male-dominated judiciary. Gender equality at the work place means recognizing the gender difference and accommodating them. However, during my experience at the High Court, equality was interpreted in the literal sense. For example, when the Judicial Service Commission decided to hold the High Court election to appoint its representative to the JSC, I had just delivered a baby. During the months leading up to the election, I had been talking about the urgency of holding the election before I went on maternity leave.

Literally a couple of hours before I gave birth, while I was in the labour room, my colleague called me and asked me if I

could go that afternoon to cast my vote. I had replied that I was a bit busy delivering a baby.

JSC postponed the election by 2 days. My baby was barely 48 hrs old but I still went to vote. This is an example of how your gender can be used against you.

Another example is when I was assigned to the High Court Southern branch. At the time my husband had gone abroad to study and I was alone raising a 4 year old and a 6 year old. I took my children with me to Addu and absolutely struggled to find someone to help me take care of them while I was at work. Now if all such facilities were available there, this would not have been a problem at all. When I was posted there, neither the JSC nor the Supreme Court would clarify whether I was based in Addu permanently or whether it was for a specific period of time. These are very fundamental aspects of a job. If I was single or I did not have any other responsibilities in life, I would say the Addu chapter would have been the adventure of a lifetime, and I would have revelled in it. I mean, not knowing where your job would take you next month or living somewhere indefinitely can have its appeal!

But this is the Maldivian judiciary we are talking about! One would anticipate more maturity and responsibility in decision-making.

Being female and raising two little girls on my own was ultimately what cost me my job. In the end, I had no choice but to submit my resignation. My other colleagues who went to Addu had wives at home taking care of their children. That's the difference between us. It may be called a resignation in this country, but in a place where rights are recognised, it would be called a dismissal.

As for the judiciary today, I would say that in comparison to other

sectors, we still have a long way to go. It's not right if you come across a male judge who gets appalled at the notion of gender equality, most of the time without even realising what equality at the workplace means. Rigorous training would help alleviate existing stereotypes.

04

After serving in the High Court, you transitioned to private practice and later to the Supreme Court. What were the key differences in your approach to legal reasoning and decision-making as you moved from private practice back into judiciary at the highest level?

Between the High Court and the Supreme Court, I was hardly involved in private practice. Me and my colleagues had opened a firm in 2018, but before we got off the ground, in 2019 I was appointed to the Supreme Court.

However, if I was making a general comment, at the Supreme Court, most of the time we have novel issues before us, inevitably leading us to do research on the topic. Some lawyers do extensive research and are dead-impressive when presenting their arguments. I can tell the arguments and the potential consequences have been carefully thought-out. It would of course be a pleasure to see more advocacy of this nature in the courtroom.

Having completed your LLB, LLM, and PhD from prestigious universities in the UK, how has your international legal education influenced your perspective on the Maldivian legal system, and how do you integrate global legal principles into your judgments while considering local laws and customs?

Our Constitution stipulates that when interpreting and applying the fundamental rights contained in Chapter II, we must take into consideration the practices of open democratic societies. Thus, we heavily rely on practices of other countries when interpreting these rights. Moreover, a lot of our statutes, such as contract law or employment law have concepts borrowed from elsewhere. Sometimes a provision in a statute may not make sense if we are to consider the local context only. Studies of different jurisdictions and international best practice often shed light on the purpose of such provisions.

Of course, there are shortcomings of having statutes that heavily embody principles attributable to problems inherent in other jurisdictions. Even when I was working at the Law Commission, I had never been a fan of using templates for statutes as provided by certain international authorities. Whilst the idea of a statute is to address, and hopefully solve certain problems, blindly adopting templates could lead to the creation of more problems than solutions.



As a Supreme Court justice and as someone who has had extensive experience in law drafting, how have the ways that laws have been drafted impacted your judgments? What more can we do to improve how we draft laws in the Maldives?

I think studying the Maldivian context is imperative to drafting meaningful laws. This is especially the case with procedural laws. As for substantive laws, I have to admit that I have experienced many instances where I had wished the law was more specific or clearer. Of course, the courts have always filled these legal gaps, often observing that certain issues should be specified in a statute. When an aggrieved party comes to court to seek a solution, the lack or silence of a statute does not justify ignoring the problem.



As a Supreme Court Justice, what do you wish to see more of from lawyers presenting cases before the Court? Are there particular practices or approaches that you believe could enhance the quality of legal advocacy at this level?

There is nothing more delightful than sitting in a hearing where both the appellant and the respondent's counsel appear before the court to present legally stimulating arguments and they are thorough with the case.

If we are talking about enhancing the quality of legal advocacy at the Supreme Court level, the biggest problem that I have observed is that there is a gap between the arguments presented at the trial court and subsequently the arguments presented at the Supreme Court level. A possible reason for this is that the lower courts often have junior lawyers advocating, but by the time the case reaches the Supreme Court, we have more "seasoned" lawyers who present far more sophisticated arguments. Essentially the arguments submitted at trial are different to those submitted at the appellate level.

As far as law firms are concerned, I think this problem could be resolved by closely monitoring and mentoring junior lawyers by senior lawyers.

You have been involved in various high-profile cases shaping the Maldivian legal system. Could you share an example of a particularly challenging case that has left a lasting impact on you?

It's not so much the landmark cases that I remember! Of course, in some cases I had spent months researching, and there is always a sense of satisfaction when I'm able to make "legal sense" and pieces fit neatly in the jigsaw.

But an unforgettable case is from when I was at the High Court – I think this case was amongst the first few cases that I had decided there. It involved a lady taking home a few spoonful of instant coffee (if memory serves, there was just a little bit of coffee remaining in the jar) and some cleaning detergent from her work place. She had already been sacked as a result of that incident, but to top it off, her employers decided to press criminal charges against her.

She was pressed charges under the previous Penal Code, which unfortunately was very rigid. She was sentenced by the Criminal Court to 6 months banishment in another island. She appealed to the High Court, and unfortunately, there was nothing we could do about it. We upheld the decision.

I stand by that decision and I will not change it, as legally, we were correct. But I could not get my head around the fact that a decision was made to press charges over this matter. One would have thought that sacking her would be enough. But to

give her a criminal record as well, is beyond me! Once such a matter is lodged in court, and the charges can be proved beyond reasonable doubt, there is no going back! Yes, the Penal Code exists to punish crimes, but surely the prudent employer would seriously consider the impact and consequence of pressing charges. A conviction should reflect punishment appropriate for the matter. Not a complete destruction of somebody's life.

The new Penal Code largely alleviates such problems.

09

Your PhD was in Intellectual Property Law. How do you think the advancement of technology has affected the legal landscape in the Maldives, especially in the realm of intellectual property?

My PhD was on international intellectual property law. The Maldives is still largely consumers, as opposed to producers of intellectual property. We do have international legal obligations under the TRIPs Agreement to recognise minimum standards for the protection of intellectual property rights. Even though the Maldives is yet to implement its international obligations, I believe there are certain areas from which we can benefit from, such as the protection of geographical indications. With respect to existing laws recognising intellectual property rights, again, not many disputes in this area actually make it to court.



As a current justice and a past high court judge, what would be your advice to students and lawyers considering becoming judges?

It's all about being passionate about what you do. If you want to make a mark, be thorough with your work, and ensure that skill and knowledge is reflected through your work. Commitment, dedication, and reliability is what will get you there in the end.

How do you view the role of women in the Maldivian legal system, and what advice would you give to young female lawyers?

Female lawyers no doubt, can play a significant role in shaping the Maldivian legal system. A female narrative is essential to what has traditionally been a male-dominated field. Yet, in comparison to male lawyers, very few female lawyers are in decision-making roles across the public sector. Moreover, in comparison to male lawyers, there are very few female lawyers that practice in court, and the higher up you go, unfortunately there is just a handful. Why, I don't know. Perhaps most female lawyers prefer to do legal work away from court?

Whatever the reason, if I were to give any advice, be passionate about what you do, and don't pursue your career for the sake of others. Remember, an employer can spot an enthusiast a mile off.

The doors of opportunity open when you show that enthusiasm. Some may disagree with me, but I think skill is not far behind enthusiasm.

Gender is not a barrier unless you decide it is. Be supportive of your peers. If you are competing on the job market, do not ever put down female peers, because that says a lot about you. Female empowerment lies in solidarity, not by demeaning one another.

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Where do you see the future of the legal profession in the Maldives heading in the next decade?

I expect professional standards to be significantly elevated in the Bar. For example, if we were to compare the kinds of appeal points submitted to appellate courts a decade ago, appeal points submitted now are considerably technical, and it continues to evolve.

A decade later, I expect the legal profession to be highly competitive.



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