

2009

**RAPID ASSESSMENT OF
THE EMPLOYMENT SITUATION IN
THE MALDIVES**



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Research conducted from November 2008 to January 2009
Report Published in August 2009

Produced by Human Rights Commission of the Maldives
In consultation with Dr.Mohamed Munavvaru

FOREWARD

Our deepest gratitude is to Allah Almighty for having bestowed upon us human beings the right to live in peace prosperity and tranquility. Our blessings and prayers are upon Prophet Muhammed (PBUH) who decreed and facilitated the fair and equitable distribution of these rights.

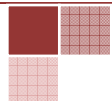
The last four years have taken the Maldivian people through an unprecedented transformation process which has set the Maldives on the path to a modern liberal democracy. The country has undergone an intensive constitutional reform process and adopted concepts and doctrines that require new and expeditious mechanisms for their effective implementation.

The right to work and to just and fair working conditions is provided for in Chapter 2 of the Constitution of the Republic of Maldives in a language similar to that of the Universal Declaration of Human Rights and other related international instruments, reflecting the changed nature of economic and labour relations in the country today. However, much remains to be achieved in order to implement the respective provisions of the new Constitution and the recently enacted Employment Act.

This Rapid Assessment of the Employment Situation in the Maldives is timely in surveying the prevailing economic situation and the application of international labour standards in the country. This report is published at a time of multiple labour disputes, both in the public and private sectors, which need to be resolved urgently for the common benefit of employers and employees at this time of global economic crisis and economic uncertainty within the country. We would have achieved our objective if this assessment and the recommendations made are received positively by the stakeholders and are helpful in the resolution of the current employment disputes and contributes to the effective implementation of the new Constitution and the Employment Act as well as the efforts made to integrate international labour standards in order to protect Employment Rights more fully throughout the country.



Ahmed Saleem
President



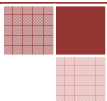
Universal Declaration of Human Rights

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

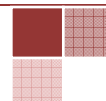
Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

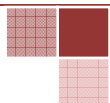


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EXECUTIVE SUMMARY

The remarkable economic growth of the past three decades created multiple job opportunities. The government was unable to train Maldivians to match the needs of the growing industries, such as tourism and construction. The demand for service personnel out paced the ability of the country to train workers for such needs. The relative affluence created by the economic growth made the educated reluctant to work at jobs of certain categories. These factors together with the cost of living and consequent demand for higher wages by Maldivians resulted in an unmanageable and socially undesirable migrant work force, stretching the public services and threatening new problems.

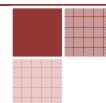
The demands of the growing labour force and changing labour relations are reflected in the recently amended and enacted Constitution of the Maldives and the newly formulated Employment Act of 2008. The Constitution grants the right to work, organise trade unions, the right to strike and prohibits forced labour and discrimination. The Employment Act mandates employment agreements, prescribes an 8 hour work day, annual and other leaves comparable to international standards, provides for setting minimum wages and establishes a Labour Relations Authority and an Employment Tribunal. However, most

of the provisions were found to cause further complications in their implementation and lacking in mechanisms for proper implementation and enforcement.

This Report of the Rapid Assessment of the Employment Situation in the Maldives starts with an overview of the employment situation in the Maldives before moving on to a description the of employment legislation in the country followed by a brief section on international labour standards. It then briefly describes the most urgent issues and challenges of the employment sector and provides recommendations of measures that could be taken towards resolving the same.

The latter part of the report contains comparisons between international labour standards and labour standards and practices in the Maldives. The report makes recommendations for the formulation of policies, amendment of the Employment Act and for the creation of mechanisms to bring the existing national labour standards and practices in line with international labour standards.

The report recommends that broad based consultations be held with employers' associations, employees' associations and principal employers in the country, among others, to obtain their views on the implementation of



the Employment Act, the issues related to implementation and provisions of the Act that need to be reviewed and amended. The report also highlights in its recommendations provisions of the Act that need revision and amendment in order to bring the national labour standards and practices in line with international labour standards.

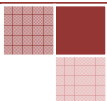
The report further recommends the formulation and enactment of a law on

Trade Unions and Labour Relations as a basis for the establishment of trade unions or employees' associations, collective bargaining, collective agreements, tripartite consultations and the resolution of labour disputes. The report also recommends that Maldives become a member of the International Labour Organisation as a prerequisite for a number of its recommendations.

Summary of Recommendations

Legislations and National Standards

- ❖ Review and amend the Employment Act of 2008
 - Hold broad based consultations to obtain views on issues addressed in the Act and need amending
 - To provide for setting specific standards for specific groups of workers
 - To introduce new concepts such as compressed workweeks, staggered working time, annualized working hours and flexitime
 - To review requirement to sign written employment agreements
 - To review hours of work, rest days per week and sick leave without medical certificate
 - To strengthen employment security
 - To provide for the regulation of the employment of fishers and seafarers until respective legislation is enacted
- ❖ Formulate and enact a law on Trade Unions and Labour Relations
 - To provide for the organisation of employees' associations
 - To provide for the regulation of relations between employers and employees
 - To provide for collective bargaining and collective agreements
 - To provide for tripartite consultation
 - To provide for mechanism for the settlement of employment disputes, including an advisory and conciliation service and arbitration
- ❖ Formulate and enact a law on pensions for employees of both the public and private sectors
- ❖ Prescribe punishment in law for forced labour
- ❖ Set minimum wages



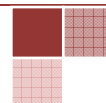
- ❖ Develop national standards for occupational safety and health and codes of practice
- ❖ Formulate standards for the employment of seafarers, fishers, doctors, nurses, employees of resorts, restaurants and home workers
- ❖ Formulate standards for the occupational safety and health of employees of ports/dockworkers
- ❖ Set standards for accommodation of workers

Policy

- ❖ Complete the procedures for becoming a member of ILO
- ❖ Consider ratification of/accession to ILO Conventions
- ❖ Consider ratification of/ accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- ❖ Issue and publish national employment/labour policies
- ❖ Develop a national employment agenda
- ❖ Formulate national strategies and a plan for technical education and vocational training
- ❖ Develop programmes for integrating new labour market entrants into the labour force
- ❖ Commence programmes at schools aimed at improving work ethic of school leavers
- ❖ Develop programmes for rehabilitation and integration of disabled into the labour market
- ❖ Review policies and arrangements of requiring employees to reside on resorts and industrial islands and consider providing housing on nearby inhabited islands for employees of resorts and industrial islands and their families and integrating such a component into national housing policy
- ❖ Issue and publish national policies on migrant workers
- ❖ Consider registration of expatriate workers employed in islands other than Male' at the respective island offices
- ❖ Review the role of employment agencies in recruiting expatriate workers
- ❖ Consider imposing visa restrictions to prevent human trafficking where relevant
- ❖ Require work places to provide easy access to physically disadvantaged

Institutional

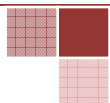
- ❖ Provide separate office premises and required financial and other resources to Labour Relations Authority and enable it to properly function
- ❖ Establish a Bureau of Labour Statistics within the Labour Relations Authority
- ❖ Establish a labour inspectorate within the Labour Relations Authority



- ❖ Establish an Advisory and Conciliation Service within the Labour Relations Authority until the same is provided for in law
- ❖ Issue and publish Rules of Procedure of the Employment Tribunal and commence functioning of the Tribunal
- ❖ Reaffirm the competency of island courts to hear employment disputes
- ❖ Commence the functioning of the Pay Advisory Board
- ❖ Consider introducing arbitration as an alternative mechanism for resolving employment disputes
- ❖ Consider establishing a separate bureau for expatriate workers
- ❖ Establish day care centers and other child care facilities

Enforcement/Implementation

- ❖ Conduct regular inspections of work sites to ensure elimination of forced labour
- ❖ Conduct a survey to assess the situation of child labour
- ❖ Engage consultancy services for the establishment of trade unions
- ❖ Consider holding a national conference on human resources/ employment/ labour
- ❖ Organise workshops/seminars on collective bargaining and collective agreements
- ❖ Organise regular employment fairs
- ❖ Expand technical and vocational training in the atolls
- ❖ Conduct a survey of work related accidents and deaths in the Maldives
- ❖ Take measures to prevent discrimination at work places
- ❖ Ensure tourist resorts maintain the agreed ratio of Maldivian and expatriate employees



International Covenant on Economic, Social and Cultural Rights

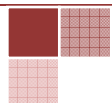
Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

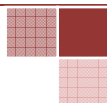


Article 8

1. The States Parties to the present Covenant undertake to ensure:
 - (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organisations;
 - (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

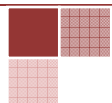
The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.



Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.



INTRODUCTION TO THE REPORT

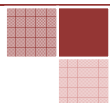
The Human Rights Commission of the Maldives is undertaking rapid assessments of situations relating to issues of national importance with a rights-based perspective. The Rapid Assessment of the Employment Situation in the Maldives is one of them.

With a total of 167 the highest number of complaints received by the Human Rights Commission of the Maldives in 2008 had to do with Employment Rights. The deteriorating employment situation in the country has been reflected in the fact that employment related issues made up the highest number of complaints received by the Commission for the previous 2 years as well. In order to determine the underlying reasons for the current situation and measures required for improvement, the Commission decided to conduct a rights based examination of the employment situation of the country and develop realistic recommendations to relevant public and private agencies which would lead to greater protection and fulfillment of Employment Rights throughout the country

This Rapid Assessment of the Employment Situation in the Maldives focuses on labour and other related issues and conditions at national and local levels. From November 2008 to

January 2009, the team that carried out this rapid assessment visited competent government Ministries and Departments and held interviews with the concerned officials. The team also visited a number of companies owned or controlled by the government and several private companies.¹ The assessment team met with the management and employees of the companies visited and obtained their respective views on the Employment Act, its implementation and the most urgent employment issues faced by them.

The assessment team visited a number of worksites at K. Thilafushi, K. Thulusdhoo, Lh. Felivaru, Lh. Naifaru and L. Maandhoo, and held interviews with the management as well as the employees at the sites to obtain an insight into the prevailing working conditions and the implementation of the Employment Act at these sites. The assessment team visited the working areas and the employees' accommodation at all the work sites and the employees' accommodation of a number of construction companies and the Maldives Ports Ltd. The team visited the islands of H. Dh. Kulhuduffushi, Lh. Naifaru, K. Thulusdhoo, L. Fonadhoo, L. Gan and S. Hithadhoo and held meetings with members of the Civil Service, Island Development Committees, Women's

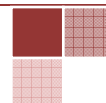


Committees, NGOs and representatives of community and youth organisations and small and medium employers in the islands.

The team also held meetings with the High Commissions of Bangladesh, India and Sri Lanka to obtain views of the respective high Commissions in respect of migrant workers. The meetings held with the representatives of Maldives Association of Tourism Industry, Maldives Association of Construction Industry, the National Chamber of Commerce and Industry and Job Market Maldives Pvt Ltd provided views of the employers on the Employment Act and its implementation, while the meetings with the Tourism Employees' Association of Maldives and the Teachers Association of Maldives provided an employees' perspective of prevailing working conditions and the implementation of the Employment Act. However, the team, regrettably, was able to visit only one tourist resort, Rannaalhi Tourist Resort, where the team met with the management and employees of the resort. However, the team was satisfied that they did get a representative view of the employers and employees of the tourism industry from their respective associations.

In the numerous meetings and interviews held by the assessment team with government authorities, employers and employees the team was able to identify key issues and challenges with regards to the fulfillment of employment rights throughout the country. Information and views were sought from the interviewees with respect to enforcement of the Employment Act, labour disputes, strikes, mechanisms for dispute settlement, attracting Maldivians to employment, training Maldivians to the needs of the growing economy and the increasing number of migrant workers as key challenges faced by the Maldives in the employment sector. Information was also obtained from the interviewees relating to national practices in the subject areas of international labour standards.

In the absence of a system for the collection, compilation and analysis of national labour statistics, the team depended on the national census data of 2006. However, in conducting the assessment the team did obtain statistics relating to migrant workers, student enrollment and industry specific data from the relevant government authorities and the respective employers' associations.



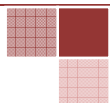
Objectives of the Rapid Assessment

The purpose of this assessment is to make recommendations to the government to ensure that it has better defined employment policies that will help both the public and private sectors

to protect employment rights progressively and adjust institutions and policies to allow them to fully accommodate both new legislative and international standards.



An office worker – this report highlights the situation of both white collar and blue collar sectors in the Maldives (Photo:Zai)



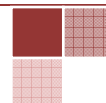
EMPLOYMENT SITUATION IN THE MALDIVES

An overview

The government was the principal employer in the Maldives until tourism was introduced in the early 1970s. Although private owners/operators of carpentries, retail shops, small passenger and cargo vessels and other small enterprises did employ workers and paid monthly wages to them, private employment was not a factor in the economic life of the Maldives. Owners of fishing vessels paid to fishermen in kind. Hence, employment regulations were made to govern only the relationship between the government and its employees.

However, with the beginning of 1980s and the expansion of tourism and related industries, including the construction industry, wage earning workers became a regular feature in the economic activities of the country. In order to meet the demands of the mechanization of fishing vessels and the newly begun tourism industry, a vocational training institute named Vocational Training Center (VTC) was established in 1975 and a tourism sector training institute named School of Hotel and Catering Services was established in 1987 which were to become the first ever centers for skills training in the country.

The remarkable economic growth seen in the Maldives during the past three decades created multiple economic opportunities and thousands of jobs. The government invested substantially in education and created opportunities for training Maldivians for the jobs that were being created. However, the efforts of the government were not adequate to match the demand for skilled and semi-skilled workers. Demand for labourers grew while the government was promoting policies to check population growth and to control birth rates. Most economic activities were based in the capital island Male' and its immediate vicinity, forcing people living in the atolls to migrate to the capital area, leaving their families behind. In the past three to four years, the government leased islands from all the atolls for the development of tourist resorts, perhaps, with the intention of extending economic activities to and thereby creating jobs in the atolls. However, some interviewees were of the view that the islands that were leased for the development of resorts during the last two to three years were leased for political considerations rather than for creating employment in the atolls, as they were leased without any employment planning or training efforts for the jobs created in the



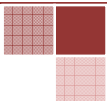
islands being developed as tourist resorts.

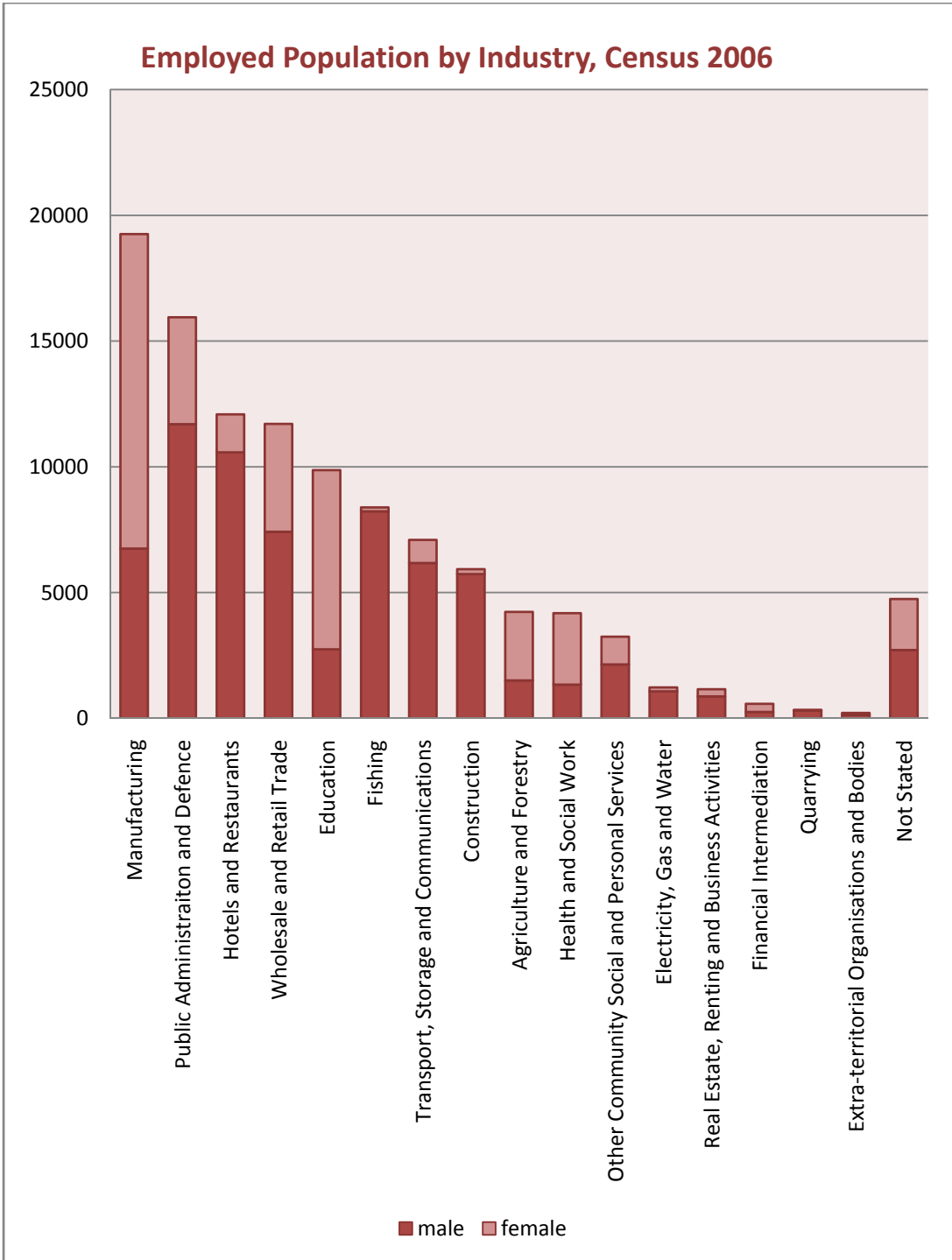
At the time of the most recent population census (2006) the total number of Maldivians employed was 110,231.ⁱⁱ The highest numbers were engaged in the manufacturing industry. A total of 19,259 were engaged in manufacturing industry, which includes the highest number of females engaged in one industry.ⁱⁱⁱ This figure, however, may be misleading in the sense that manufacturing industry includes small scale manufacturing activities such as the manufacture of wooden articles, cork, straw and plaiting material and the production of materials from

coconut leaves, which are mostly self employed work undertaken by women at home and is not manufacturing undertaken at organised work places. Similarly processing and preservation of fish and fish products, sewing of clothes and preparation of food products for sale which are included in the manufacturing industry are all unorganised work carried out mostly by women in their living quarters and would not fall within the scope of any labour regulations. Most of the workers employed in the manufacturing industry are, hence, either self employed or contributing family workers who do not get any direct remuneration for their work.

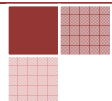


A Maldivian Fishermen – this report highlights the situation of both white collar and blue collar sectors in the Maldives (Photo:Zai)





Source: Ministry of Planning and National Development, Analytical Report 2006, Population and Housing Census 2006, p.143.



The main industry in the country, tourism employed 10,578 Maldivians and is male dominated with only 3.7% females.^{iv} Male domination of the industry is due to the working environment and the way the industry is organised in the Maldives. Tourist resorts being developed on uninhabited islands with the requirement to stay on the resort islands for extended periods of time.

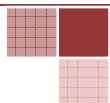
The fishing industry which provided for the livelihood of the majority of the population living in the atolls employed the sixth highest number of persons nationally. Fishing industry, especially fish harvesting and traditional fish processing activities are operated as small scale informal economic activities. Majority of fishermen have no fixed location of work and a third operate as group workers and around one fourth as own-account workers and contributing family workers. Only 16% of the fishermen worked as employees.^v Agriculture and sand mining, which are categorized as primary industries, are also operated informally with similar characteristics to the fisheries industry in terms of engagement in work and employment.

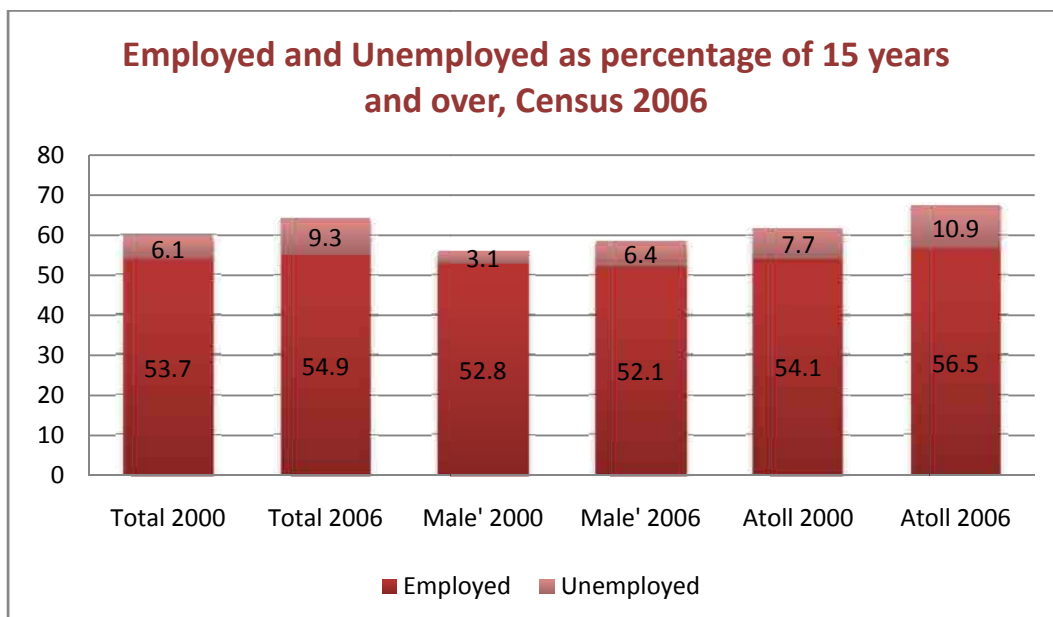
Construction and related industries employ approximately 70,000 people,

60% being migrant workers.^{vi} Very few females are employed in construction and related industries. Most of the few females employed in construction and related industries are employed as administrative staff.

Females dominate teaching, especially primary teaching in the Maldives and the education sector nationally employs the second highest number of females.

The participation of women and youth in the labour market is very low compared to other South Asian nations. Most of the school leavers do not join the work force. The relative affluence resulting from the economic growth is also cause for a growing number of educated youth staying out of the labour market. As a result, unemployment rate is very high for women and youth. Further, low wages and the existing working conditions at many work places do not attract Maldivians to many job categories and Maldivians do not have the skills necessary for getting higher paying jobs, thus driving the national unemployment rate to 14.4% (See the table below: “Labour force, employment and unemployment, Census 2000 & 2006”).





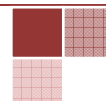
Source: Ministry of Planning and National Development, Analytical Report 2006, Population and Housing Census 2006, p.132.

The reluctance on the part of the youth, the inability of females to participate in the labour market and the government’s inability to facilitate training for the jobs being created were cited by employers interviewed as reasons for the employment of a migrant work force which exceeds one

fourth of the total population of the Maldives.^{vii} As a result, the country is faced with an unmanageable population of migrant workers threatening the very economy that they were brought in to sustain and affecting every aspect of life in the country.

Labour Force, Employment and Unemployment, Census 2000 and 2006						
Census Years	Population 15+	LFPR	Labour Force 15+	Employed Persons 15+	Unemployed Persons 15+	Unemployment Rate
2000	158,897	59.8	95,068	85,356	9,712	10.2
2006	205,931	64.1	128,836	110,231	18,605	14.4

Source: Ministry of Planning and National Development, Analytical Report 2006, Population and Housing Census 2006, p.139.



Employers, while expressing their desire to employ Maldivians, are unanimous in identifying reasons for employing migrant workers instead, which include:-

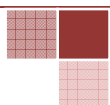
- Lack of interest/unwillingness on the part of Maldivian urban youth to work in tourist resorts. Most Maldivians who work in tourist resorts are from the atolls.
- Lack of interest/unwillingness by Maldivians to work in isolated islands.
- White collar jobs are limited in tourism and construction industries. Most prefer white collar jobs and anything other than a white collar job is not desired, especially by Maldivians who have completed their G.C.E. O/Levels.
- Married females and females with children are unable to work in tourist resorts or isolated uninhabited islands.
- Most of the jobs, especially jobs requiring manual labour in the construction industry are not suitable for females.
- Lack of need based training. Tourism and other industries are not able to employ some of the educated Maldivians as their training is not need based.
- Existing training facilities are not adequate – there is a mismatch between the requirements and

needs of employers and the training that is being provided.

- Lack of work ethics and discipline among Maldivian employees: Maldivians might quit at any time; might not return after annual or other leaves, might leave the job once they learn the skills of the job or after being trained at company expense.
- Drug addiction among Maldivian Youth.

Maldivian employees, on the other hand, raise a number of issues as obstacles faced by Maldivians seeking employment, which include:

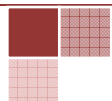
- Low wages in view of the increasing living costs.
- Preference of employers to employ foreign workers for low wages.
- Lack of opportunities for advancement.
- Lack of training and professional guidance.
- Inadequate working conditions.
- Inability of foreign workers to complain about the working conditions.
- Reluctance of employers to grant leave despite their extended stays away from their families.
- Verbal and social abuse by employers.
- Employers' refusal or reluctance to implement the Employment Act.
- Lack of job security.



- Lack of pension schemes or any other form or type of social security for employees of the private sector.

Thus, among the most urgent tasks before the government in the employment sector is the challenge of creating employment opportunities for

the new labour market entrants, particularly in the atolls, and training the increasing number of school leavers for the jobs that are being created, while at the same time managing a migrant work force that equals, if not exceeds the total number of employed Maldivians.^{viii}



EMPLOYMENT LEGISLATION

History

Maldives did not have any laws or regulations governing labour or labour relations until the mid 1990s. However, over the years, regulations had been made by the President's Office to address individual issues relating to government employees. The President's Office compiled and consolidated the then existing regulations concerning government employees and issued them in a single volume akin to a code for the first time in June 1994, which has since been amended and re-issued a number of times. The government Employees regulations of 1994 required an employment agreement be signed by the government with each employee for the first time in the Maldives. The Regulations of 1994 covered issues such as the creation of government jobs, hiring, transfer, promotions and termination of government employees, temporary government employees,

wages, allowances and other benefits given to Employees, working hours and leave of government employees.

The first employment regulations covering the private sector were issued in 1994 as well. These regulations provided for an employment agreement and prescribed minimum standards to be included in such agreements covering such issues as employee's age, termination of employment, working hours, training, medical treatment for injuries sustained at work and fines for violations of the regulations.

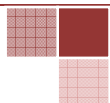
The regulations governing employees of the government and the general employment regulations thus made were amended from time to time and remained in force until the adoption of the Employment Act of the Maldives in 2008.

The Constitution

The People's Special Majlis, convened in 2004 to amend the Constitution of the Republic of Maldives, completed its work in 2008 and a new constitution entered into force on the 7th of August 2008. The new Constitution expanded the chapter on fundamental rights and has introduced new dimensions to

labour relations in the Maldives. The right to work, the right to form trade unions and to participate in their activities, and the right to strike in protest are all newly granted rights under the new constitution.

Article 37 of the Constitution for the first time grants the right to every



Maldivian citizen to engage in any employment or occupation and entitles everyone to just and safe conditions of work, fair wages, equal remuneration for work of equal value, and equal opportunity for promotion. The same Article further grants the right to rest and leisure, including limits on hours of work and periodic holidays with pay and in order to provide this right to each employed person, this Article requires the maximum number of working hours

and the length of paid holidays to be determined.

The right of pension granted under Article 38, which states that every person employed by the State shall have the right to pension as provided by law, is a right that has continued from the past constitutions. The new constitution categorically prohibits all kinds of discrimination and forced labour.

Constitution of the Republic of Maldives 2008

Article 17 Non-discrimination

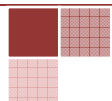
17. (a) Everyone is entitled to the rights and freedoms included in this Chapter without discrimination of any kind, including race, national origin, colour, sex, age, mental or physical disability, political or other opinion, property, birth or other status, or native island.
- (b) Special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, as provided in law shall not be deemed to be discrimination, as provided for in article (a).

Article 25 No Slavery or Forced Labour

25. (a) No one shall be held in slavery or servitude, or be required to perform forced labour.
- (b) Compulsory military service, service required in cases of emergency or calamity threatening the life or well-being of the community, or service required pursuant to a court order shall not be deemed to be contrary to article (a).

Article 30 Freedom to form political parties, associations and societies

30. (a) Every citizen has the right to establish and to participate in the activities of political parties.
- (b) Everyone has the freedom to form associations and societies, including the following:
1. the right to establish and participate in any association or society for



- economic, social, educational or cultural purposes;
2. the right to form trade unions, to participate or not participate in their activities.

Article 31 Right to Strike

31. Every person employed in the Maldives and all other workers have the freedom to stop work and to strike in order to protest.

Article 37 Right to Work

37. (a) Every citizen has the right to engage in any employment or occupation.
- (b) Everyone is entitled to just and safe conditions of work, fair wages, equal remuneration for work of equal value, and equal opportunity for promotion.
- (c) Everyone has the right to rest and leisure, including limits on hours of work and periodic holidays with pay.
- (d) Everyone has the right to spend time at rest and leisure. In order to provide this right to each employed person, the maximum number of working hours have to be determined as well as the length of paid holidays.

Article 38 Right of Pension

38. Every one engaged in employment with the State shall have the right of pension as provided by law.

Employment Act of 2008

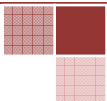
The Employment Act of 2008 which entered into force on 26th May 2008 is the first Statute on employment or labour to be enacted in the Maldives. The Employment Act is the result of discussions and consultations among the relevant government agencies over several years. It also received consultations from ILO nominated experts at its initial drafting stages.

The Act extends to all employers and employees of the public and private

sectors except those exempted by statute.

The Act is comprised of the following 11 Chapters:

- Chapter 1 Introduction, Scope
- Chapter 2 Basic Principles
- Chapter 3 Employment of Children
- Chapter 4 Employment Agreement
- Chapter 5 Employment of Foreigners
- Chapter 6 Employment Agencies



- Chapter 7 Training and apprenticeship
 - Chapter 8 Safety at Work and Health of Employees
 - Chapter 9 Labour Relations Authority
 - Chapter 10 Employment Tribunal
 - Chapter 11 Miscellaneous
- Employees engaged in the arrival and departure of marine vessels and aircraft, stevedoring and provision of other services to such vessels and aircraft
 - Employees of tourist resorts
 - Employees of uninhabited industrial islands
 - Senior management staff

The Act, in its Chapter 2 (Basic Principles) prohibits forced labour and discrimination of all kinds in hiring employees, determination of wages, training, dismissal and in other employment related matters.

The Act, in its Chapter 4 provides for employment agreements and prescribes minimum standards for employment such as 8 hours of work a day, annual, maternity and other leaves, procedures for termination of employment and wages.

The Act also contains a Chapter on employment of foreigners, but merely states that a regulation be made with respect to the employment of foreigners.

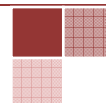
The Act further provides for a Labour Relations Authority and an Employment Tribunal.

When the Act was first enacted Clause 34 of the Act excluded the following categories of employees from the application of Chapter 4 of the Act.

- Emergency workers
- Crew of marine vessels and aircraft

Exclusion from the scope of Chapter 4 meant that no employment agreement was required to be signed with such employees, the minimum requirements relating to working hours, overtime, dismissal from work, annual and other leaves and wages were not applicable to such employees. The exclusion of employees of tourist resorts from the application of Chapter 4 of the Act was not well received by the employees of tourist resorts. The efforts and lobbying by Tourism Employees' Association of Maldives (T.E.A.M), an association established to promote and protect the rights and interests of the employees of tourist resorts resulted in an amendment to the Act, which became effective on the 13th of October 2008.

The Amendment Act amended Clause 34 of the Employment Act by removing the employees engaged in the arrival and departure of marine vessels and aircraft, stevedoring and provision of other services to such vessels and aircraft, employees of tourist resorts and employees of uninhabited industrial islands from the list of employees excluded from the scope of



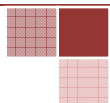
Chapter 4 of the Employment Act. The Amendment Act further included muezzins and labourers of mosques and on call employees on duty among the

categories of employees excluded from the application of Chapter 4 of the Employment Act.

Law on Civil Service

The Law on Civil Service of the Maldives was enacted in 2007. The Civil Service Law established a politically non-partisan Civil Service and provided for the establishment of a Civil Service Commission to manage the Civil Service. The new constitution provided for the establishment of an independent Civil Service Commission with the necessary guarantees for its independence. Employment terms of civil service employees are also governed by the provisions of the Employment Act.

Many issues, such as salary scales and transfers and promotions within the Civil Service remain to be resolved. Ensuring the independence of the Civil Service Commission and the politically non-partisan character of the Civil Service has been turbulent in the current political situation. The current Civil Service Commission is transitional and a new Civil Service Commission will be appointed under the new constitution after the forthcoming parliamentary elections.

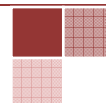


INTRODUCTION TO INTERNATIONAL LABOUR STANDARDS^{ix}

Labour is not a commodity and is not to be treated as a product to be negotiated for the highest profit or the lowest price. Work which is part of everyone's daily life is important to a person's dignity, well-being and development. International labour standards aim to ensure that economic development is undertaken to improve human life and dignity. For the purpose of promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and dignity, the International Labour Organisation has, since its establishment in 1919, maintained and developed a system of international labour standards. The international labour standards thus developed by the ILO are closely related to the universal values of freedom, equality and dignity laid down in the Universal Declaration of Human Rights, and many provisions of the subsequently adopted International Covenant on Economic, Social and Cultural Rights coincide with ILO standards that had already been adopted on the same subjects. The principles of freedom of association and the right of all human beings to pursue their material and spiritual development in conditions of freedom,

dignity, economic security and equal opportunity, established and promoted by the ILO have influenced the evolution of human rights globally. More than 75 ILO Conventions are relevant to the achievement of the International Covenant on Economic, Social and Cultural Rights.

International labour standards are conventions and recommendations of ILO which set out basic principles and rights at work. They are drawn up by the ILO's constituents - representatives of governments, employers and workers and adopted at ILO's annual International Labour Conference. Conventions are subject to ratification by member states and once ratified would be legally binding international treaties and recommendations serve as non-binding guidelines. In many cases, recommendations supplement the conventions by providing more detailed guidelines on the application of basic principles laid down in the conventions. Once a standard is adopted, member states are required under the ILO Constitution to submit them to their competent authorities for consideration.



Although international labour standards are sometimes perceived as entailing considerable costs and thus hindering economic development, compliance with international labour standards often accompanies improvements in productivity and economic performance. Higher wages and working time standards and respect for equality contribute to increase in work performance and efficiency and lower turnover of staff. Investment in vocational training results in a better trained workforce. Safety standards reduce costly accidents and health care costs. Foreign investors prefer workforce quality and political and social stability over low labour costs. Freedom of association and collective bargaining contribute to better labour management.

The following eight conventions covering subjects that are considered as fundamental principles and rights at work have been identified as “fundamental” by the ILO’s Governing Body:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No.29)
- Abolition of Forced Labour Convention, 1957 (No.105)
- Minimum Age Convention, 1973 (No.138)
- Worst Forms of Child Labour Convention, 1999 (No.182)
- Equal Remuneration Convention, 1951 (No.100)
- Discrimination (Employment and Occupation) Convention, 1958 (No.111)

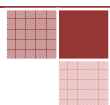
In 1995, the ILO launched a campaign to achieve universal ratification of these eight conventions.

The ILO’s Governing Body has also designated the following four conventions as “priority” instruments. :

- Labour Inspection Convention, 1947 (No.81)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No.144)
- Employment Policy Convention, 1964 (No. 122)

ILO encourages member states to ratify them because of their importance to the functioning of the international labour standards system.

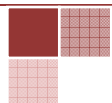
Further, the ILO has also developed a comprehensive Decent Work Agenda aiming to achieve decent work for all by promoting social dialogue, social protection and employment creation, as well as respect for international labour standards. The ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998 requires ILO member states to respect, promote and realize the four fundamental principles of freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in respect of employment and occupation. The Declaration, unlike the conventions which apply only to those member states which ratify them, represents a political commitment by governments



to respect, promote and realize the Declaration's principles.

The Maldives is not a member of the International Labour Organisation and hence, has not ratified any ILO conventions. Although the language of the Constitution of the Maldives of 2008 granting the right to work and providing for the freedom of association and the general principles contained in the Employment Act of the Maldives of 2008 are similar to those of and have, perhaps to an extent, been borrowed

from the relevant international labour instruments, Maldives is yet to begin taking appropriate measures to bring its labour practices in line with international labour standards, the first of which should be becoming a member of ILO. This report compares international labour standards and labour practices in the Maldives and makes recommendations of measures to be taken to bring labour practices and standards in the Maldives in line with international labour standards.



EMPLOYMENT ISSUES AND CHALLENGES

Enforcement of the Employment Act

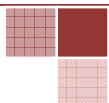
The Employment Act which was adopted by the Peoples' Majlis on 23rd April 2008 was assented to by the President and published in the Official Gazette on 26th May 2008. Article 90 of the Act stipulates that the Act will be implemented commencing from the 45th day from the date the President gives his assent. The same Article further stipulates that any procedures or other matters related to the Act that require to be altered or amended by the government will have to be completed within 90 days from the date the Act is assented to by the President. Article 87 of the Act requires that the rules of procedure of the Employment Tribunal be issued within 3 months from the date of entry into force of the Act.

However, little, if any, has been done to implement the Act. The institutions provided for in the Act have not started to properly function. Few of all the parties consulted during the assessment were aware of the existence of the Labour Relations Authority created under the Act. The Employment Tribunal has not issued its rules of procedure, although a date for the issue of the same was expressly stipulated in the Act. Courts refuse to accept cases relating to employment disputes and

people involved in employment disputes are denied justice.

The assessment team in the interviews held found that few employers have, in fact, concluded employment agreements in accordance with the Act. Even government corporations are only in the process of bringing their employment agreements in line with the Act. Many private companies have not taken any steps to enter into employment agreements with their employees. Small employers such as shop owners and work shop operators did not show any intention to enter into such agreements. The same is true with respect to job descriptions, which too the law requires to be given to each employee in writing.

According to some interviewees, law enforcement is generally weak in the country and prevailing attitude of impunity in the country is the main reason for non-enforcement of the Employment Act. According to others, the Act was formulated without proper consultation with the principal employers in the country and thus the interests of industries with high numbers of employees were not taken account of. Such employers argue that it is impractical to implement the Act and if they were forced to do so, they

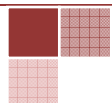


will not be able to bear the resulting costs and hence, their business will suffer.

Maldives Association of Tourism Industry insists that the Employment Act does not take into consideration the rights of employers and for the most part protects only the employees. MATI has undertaken considerable work to review the Act by engaging lawyers to compare the Act with legislation of other countries and has submitted its concerns to competent government authorities calling for the amendment of the Act. Some of the issues raised by MATI are:-

- Ambiguity of provisions, terms and phrases.
 - Inclusion of Friday as an official public holiday is unworkable.
 - Annual paid leave of one month may be unworkable for the tourism industry.
 - Over time rates, particularly those for Friday and other public holidays are not appropriate for tourism industry.
 - A number of employment agreements are based on company best practices and the implementation of the Act would result in resorts having to rewrite their agreements.
 - Calculations/guidelines for wages should be at the discretion of the employer and should not involve intervention by the Minister.
- Granting an extra day in place of every public holiday falling into the period of leave is not in the best interests of the employer.
 - Need to ascertain whether minimum wage will be fixed separately for different industries or whether a national minimum wage will be fixed.
 - In the tourism industry, employees are free to move about as the employer is compelled to maintain a local expatriate ratio, where there is a severe shortage of skilled or even semi-skilled employees to fill the growing demand for labour.
 - Employers are not at liberty to state the reasons for dismissal of the employee or to include employer's comments in the reference and this contribute to the mobility of employees from one employer to another for petty increases in salary.
 - All industry/segment heads should be included as members of the Employment Tribunal.
 - The period of 45 days given for the implementation of the Act was too short as a number of management companies are based outside the Maldives.

Similar concerns were also expressed by the Maldives Association of Construction Industry (MACI) Maldives National Chamber of Commerce and Industry and by almost all the



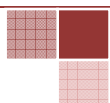
employers interviewed. Although a few of the government controlled corporations and a number of private employers have taken some steps

towards compliance with the Act, by and large the Employment Act of 2008 has been ignored by employers in general.

Recommendation 1

1.1 Review and amend the Employment Act for the purpose of facilitating the implementation of the same. For this purpose, there is an urgent need to consult with the existing employers' associations and employees' associations, government controlled companies, Civil Service Commission, individual employers who are not members of any employers' association, the principal employers in the country, employees who are not members of any employees' association in order to obtain their views on the Act and to ascertain reasons and obstacles to its implementation

1.2 Consider holding a national conference on human resources/employment/labour. Such a conference should be participated by employers' associations, employees' associations, major employers, managers of human resources of major employers and selected employees that would represent a cross section of employees. Such a conference could be initiated and held by the competent government authority and participation by ILO could be requested. Deliberations at such a conference would assist identify the concerns of employers and employees relating to the Act and the practical issues of implementation of the Act and would assist address such concerns and resolve such issues. Such a conference could also be a forum for exchanging ideas and information among managers of human resources and would be a start to establishing a mechanism for tripartite consultations.



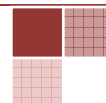
Employment Agreement

Article 13 (b) of the Employment Act expressly states that there shall be a written employment agreement (consisting of one or several documents) between every employer and employee. However, employment agreements are not a common practice for Maldivian employees. The Civil Service employees have a symbolic agreement that dates from the initial introduction of employment agreements in 1994. The assessment team, during visits to government agencies and interviews conducted, found that employment agreements are yet to be signed by all members of the Civil Service in line with the new Employment Act.

All employers sign employment agreements with all their expatriate employees as it is a requirement for them to process work permits/visa for foreign employees. Some larger private companies do sign employment agreements with their Maldivian employees as well. However, in both cases, the employees are not familiar with the contents of their agreements and in most cases do not have a copy of their employment agreements. The assessment team in their visits and interviews held found that many employers employing a few employees, such as shop owners, work shops and garage operators, restaurant and café operators do not sign employment agreements with their Maldivian

employees. Most employers employing a few employees consider the requirement to sign an employment agreement with every employee an additional administrative cost, which they do not seem eager to take. It was noted during the assessment that there is a general belief among the smaller employers especially in the atolls, that such provisions of the law will not be implemented. Such employers are of the view that it is the employment agreement that gives rights to an employee and that if such an agreement is not signed, there would be no obligation to provide such rights to the employee and employees would not have a basis for making claims with respect to their employment. As a result, the lack of employment agreements often leads to unfair dismissal and abuse of employee rights by irresponsible employers. This is further supported by the fact that the majority of employment related complaints to the Human Rights Commission of the Maldives are about unfair dismissal.

Although no exceptions are made in the law, the Employment Act does not seem to address the employment situation of fishers engaged in fish harvesting. Fishers do not enter into employment agreements with owners of fishing vessels and in view of the informal manner in which vessels are operated for fish harvesting, it may not



be practical for owners of such vessels to enter into a formal employment

relationship as envisaged in the Act.

Recommendation 2

2.1 Review the requirement to sign written employment agreements by every employer with every employee and amend the Employment Act accordingly. As generally with contracts, employment contracts could also be in writing, oral, express or implied. All employers in every employment situation should be required to at least maintain the minimum standards required by the law, whether the employment contract is written, oral, express or implied.

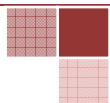
2.2 Consider developing employment agreement forms with standard minimum terms and conditions for various sectors/categories of employment. Such agreement forms could help employers comply with the requirements of the Act with respect to employment agreements and could serve as a mechanism for promoting employment standards set in the Act.

Disputes and Strikes

Article 31 of the Constitution states that every person employed in the Maldives and all other workers have the freedom to stop work and to strike in order to protest.

This newly granted constitutional right to strike combined with the pro-democracy activities of the past 4 to 5 years in the Maldives have emboldened many Maldivians and are on the verge of a work stoppage or a strike whenever any dispute arises with an employer. The Teachers' Association of Maldives (TAM) organised an "absence" from work on 1st July 2008 to protest low wages and to demand a pay increase for teachers. TAM has announced another such action to protest the fact that

teachers have not been given a pay increase as promised to them by the relevant authorities. Tourism Employees Association of Maldives (T.E.A.M) organised a nation wide industry strike to demand an amendment to the Employment Act to extend the scope of Chapter 4 of the Act to employees of tourist resorts. The Act was amended to that effect prior to the date set for the strike. T.E.A.M again organised a work stoppage at a luxury tourist resort managed by an internationally renowned hotel chain to protest working conditions, failure to implement the Employment Act and to demand the removal of one of the executives at the resort. The dispute was settled with intervention and mediation at the highest level of the



government. Since and prior to that, work stoppages have taken place with and without the involvement of T.E.A.M at a number of tourist resorts for various reasons, mostly related to working conditions, wages, implementation of the Employment Act or treatment by individual executives. Although there have been occurrences

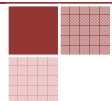
of work stoppages at individual work places even prior to the constitutional grant of the right to strike and before the pro-democracy movement took up momentum, the Maldives has not seen protests at the work place at such frequency and on such a scale ever, causing alarm to employers and scaring away potential investors.



Work Stoppage at luxury resort – this newly granted constitutional right is being exercised with increasing frequency

The threat of work stoppages and strikes to tourism and construction industries is unsettling for many investors. The threat of such action, and the reasons for and manner of such work stoppages and strikes would also

have a discouraging effect on potential foreign investors at a time when the government is about to undertake or is planning major development projects with involvement by foreign investors. The threat of such action by members



of the civil service, such as doctors, state lawyers and nurses destabilizes the functioning of the government and However, efforts by the Civil Service Commission, competent government authorities, employers' associations and individual authorities to prevent work stoppages and strikes by resorting to interpretation of relevant provisions of the Constitution, the Employment Act and other legislative acts is both controversial and counter productive.

undermines essential public services and public order.

The right granted in the Constitution to strike as a means of protest is unambiguous. Hence, in the current environment of democratic reform in the country the attitude should be to provide, facilitate and guarantee the rights granted by the Constitution and restrictive interpretations should be avoided.

Recommendation 3

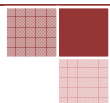
3.1 Labour Relations Authority should be strengthened to enable it to immediately initiate talks with parties to current disputes and function as a mediator to such disputes until mechanisms such as are recommended in Recommendation 3.2 are established

3.2 Consider establishing an Advisory and Conciliation Service which will provide advice, assistance and facilities for mediation to various parties involved in employment disputes with a view to reaching a settlement. The purpose will be to discuss and negotiate a settlement between disputing parties and avoid costly strikes and work stoppages. Such an Advisory and Conciliation Service should function until a Trade Union and Labour Relations Act is formulated and enacted and such a Service and other mechanisms for settlement of employment disputes are established under such law.

Dispute Settlement

Chapter 10 of the Employment Act provides for the establishment of an Employment Tribunal and contains provisions relating to the powers of the Tribunal and the composition of the Tribunal. The Amendment Act amended Clause 86 of the Employment Act relating to the composition of the Employment Tribunal providing for the qualifications for office of members of the Tribunal, appointment and

termination of members of the Tribunal and financial matters of the Tribunal. Article 87 of the Employment Act stipulates that rules of procedure of the Tribunal shall be published within three months from the date of entry into force of the Act. However, although the Tribunal was appointed towards the end of December 2008, the rules of procedure of the Tribunal are yet to be



issued and hence, the Tribunal has not started to function.

Although the Tribunal has not yet started to function, the Civil Court and other Courts with jurisdiction to hear

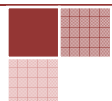
employment related cases have since the entry into force of the Employment Act refused to accept or hear employment related cases, thereby denying those with labour/employment disputes access to justice.

Recommendation 4

4.1 Issue and publish the rules of procedure of the Employment Tribunal and take appropriate measures to commence the functioning of the Employment Tribunal without delay.

4.2 Review the Employment Act in order to amend it to provide for employment cases to be filed and heard in island courts. Many employees in the atolls will not be able to afford to travel to Male' or to engage lawyers to submit their complaints to a single employment tribunal sitting in Male' and as a result will be denied the right to submit complaints and grievances as provided for in the Employment Act. Hence, the jurisdiction of island courts to hear employment disputes where it is impractical or unreasonably costly to submit employment disputes to the Employment Tribunal should be reaffirmed in the Employment Act.

4.3 Formulate and enact a law on Trade Unions and Labour Relations and in such a law provide for mechanisms for the settlement of employment disputes. Such mechanisms should include an Advisory and Conciliation Service which will provide advice, assistance and facilities for mediation to various parties involved in employment disputes with a view to reaching a settlement (See Recommendation 3.2). A law on Trade Unions and Labour Relations should provide procedures for addressing employee grievances and mechanisms for conciliation. Such a law should also provide for arbitration as an alternative mechanism for settling employment disputes.



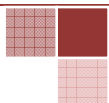


Public protest in solidarity with work stoppage at luxury resort being contained by the Police – the result of lack of proper channels through which employment related disputes can be settled

Residency at workplace

Maldives being a nation of small islands with small isolated communities poses unique development challenges. Such challenges need to be addressed taking into consideration the unique geography of the Maldives, the small size of the population, the cost of providing services to small isolated communities and the cost of transportation from island to island. Tourism, which provides most job opportunities in an organised work environment, is based on facilities organised on uninhabited isolated

islands. Tourism in the Maldives is based on the concept of isolated islands developed as tourist resorts. Industrial works, in most cases, are carried out on isolated uninhabited islands. Separate uninhabited islands are also leased for agricultural purposes. Hence, all tourist resorts, industrial works and agricultural undertakings require their employees to reside on or at the work sites, i.e. at “staff quarters” on the resort island, industrial or factory island or the agricultural island.

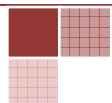




Cramped staff quarters at luxury resort

This situation is very similar to that of international seafarers. Although the employees on tourist resorts of Maldives or on islands where industrial works are carried out may not be subject to extreme weather conditions or rough oceans, they are subject to all other harsh conditions of work faced by seafarers. Having to work on isolated islands while residing on such islands, at work sites for extended periods of time, such workers are vulnerable and subject

to social exploitation, abuse, non-payment of wages, non-compliance with contracts, and exposure to poor diets and living conditions. Humans being social beings, require a family life in a community environment. Maldivians, who are compelled to spend most of their life at work sites on uninhabited islands, and their families are deprived of a family life and as a consequence contribute to the innumerable social problems facing the



nation today. The Constitution of the Maldives echoes in its Article 34, the recognition provided to the family as the natural and fundamental group unit of society and the requirement for special protection to be accorded to the family by society and the State provided for by Article 16 of the Universal Declaration of Human Rights, Article 10 of the International Covenant on Economic, Social and Cultural Rights and Article 23 of the International Covenant on Civil and Political Rights. The government needs to take urgent action to accord the special protection

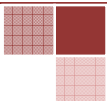
that it is obliged to provide to the family under the Constitution and the relevant international instruments.

Furthermore, the arrangement of economic activities on isolated uninhabited islands and workers having to reside on the same are discouraging female workers and educated youth from seeking employment on such islands. Hence, urgent action is needed to find a solution to the economic and social issues resulting from the present arrangement of compelling workers to reside at work sites on isolated uninhabited islands.

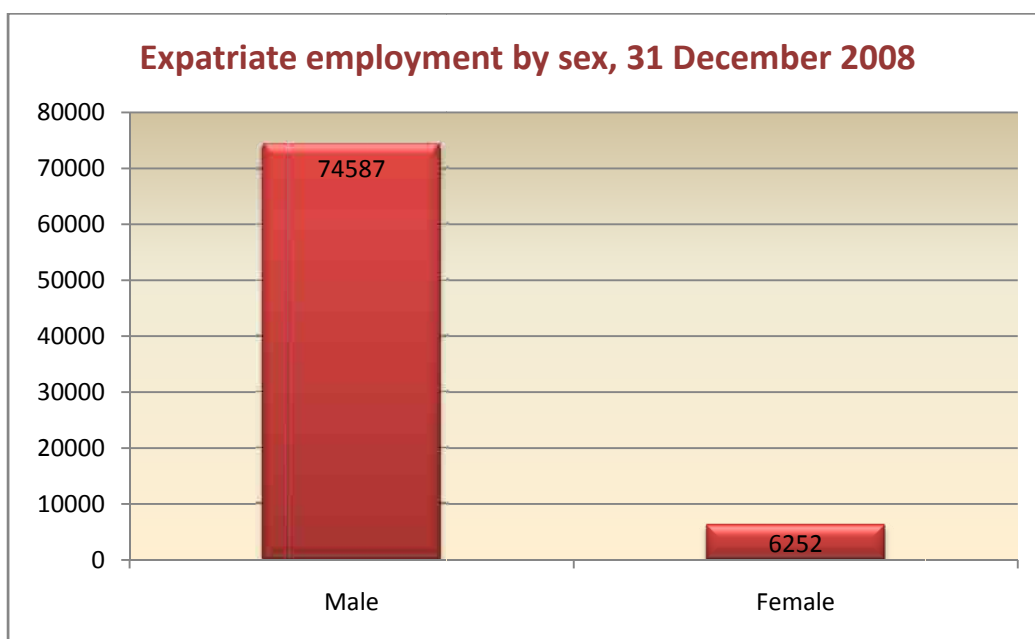
Recommendation 5

5.1 Review the current policies and arrangements requiring employees of resorts and islands with industrial and agricultural projects to reside on such islands and consider establishing housing facilities in near by inhabited islands for employees to reside with their families. Providing housing/accommodation for employees of tourist resorts and islands with industrial and agricultural projects in near by inhabited islands with their families and facilitating commuting between the inhabited island and the island where the person is employed would increase the productivity of the employees and prevent the social and employment problems that result from keeping all the employees confined to the staff quarters at the work site for extended periods of time.

5.2 Consider inclusion in the broader national housing policies, and hence, the national development agenda, the issue of providing housing for employees of resorts and islands with industrial and agricultural projects in nearby inhabited islands so that such employees could relocate their families to such inhabited islands. The objective of such effort would be to facilitate workers to return to their families after work every day so that they could spend their leisure time with their families, which will contribute to the strengthening of families and avoiding the social problems that are associated with children growing up without their fathers at home. It would further encourage females to seek employment at tourist resorts and other such islands.



Migrant Workers



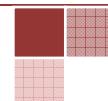
Source: Ministry of Human Resources, Youth and Sports

The most pressing employment issue or challenge facing the Maldives today is the issue of migrant or, as is commonly referred to in the Maldives, expatriate workers. The Maldives with a population of 309,575 people is host to over 80,839 migrant workers;^x 26.11 percent of the population. In 2006, the total number of Maldivians employed was 110,231.^{xi} By some accounts, the total number of migrant workers is much higher than the official figure and surpasses the total number of Maldivians in employment.^{xii} The number of migrant workers has doubled and almost tripled during the past five years.^{xiii} Although the lease agreements of islands for development as tourist resorts require resort owners and operators to maintain a ratio in

employing foreigners, such ratios are not maintained and enforcement of the ratio does not appear a priority of the concerned authority. Tourism and construction industries have become dependent on migrant workers for their sustenance.

Migrant domestic workers have become a regular feature of Maldivian households and it is difficult to imagine how household work could be managed without migrant domestic workers in many households today. In the absence of child care facilities, migrant domestic workers have become the child care “system”.

Although Maldivian Rufiyaa remains the legal tender in the country, and Rufiyaa is accepted at all business



establishments, the same cannot be said of Dhivehi, the Maldivian language. Dhivehi, though the official language, if used in a restaurant or a café' or a pharmacy would cause confusion and the possibility of not receiving the

desired service is high, since almost all waiters in the country are migrant workers. It is acceptable practice that expatriate pharmacists will “draw” the instructions or directions for use of medical drugs sold at pharmacies.



Migrant workers often solicit work to clean vehicles at parking areas

Migrant workers in the Maldives today are engaged in work in all economic activities, including the traditional fishing sector. Interviews conducted during the assessment supported the fact that some have formed groups on their own and carry out work on contract basis in Male' and in the atolls. Migrant workers wait at parking areas and solicit work to wipe or clean parked vehicles. On weekends and public holidays, migrant workers fill the public

parks in Male' and other major population centers, causing alarm and ringing warning bells of the looming social crisis. The governmental authorities are unable to confirm the total number of migrant workers. The concerned Ministry publishes the figure for legal migrant workers but estimates the figure to be much higher as the data bases are not accurate and is unable to confirm the number of illegal foreign workers in the country.^{xiv}

Expatriate Employment Annual Growth Rate by Industry

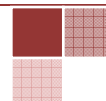
INDUSTRY	2006	2007	ANNUAL GROWTH RATE
Agriculture and Forestry	481	487	1.25%
Fishing	1,534	1,688	10.04%
Manufacturing	1,065	1,406	32.02%
Electricity, Gas and Water	115	222	93.04%
Construction	16,415	27,958	70.32%
Education	2,424	2,712	11.88%
Wholesale and Retail Trade	1,744	2,074	18.92%
Hotels and Restaurants	3,036	3,462	14.03%
Tourism	11,095	12,352	11.33%
Transport, Storage and Communication	1,077	1,273	18.20%
Financing, insurance, business and real estate	6,613	7,104	7.42%
Other Community, social and personal services	8,302	9,337	12.47%
TOTAL	53,901	70,075	30.01%

Source: Ministry of Human Resources, Youth and Sports

Expatriate Employment and Growth Rate by Industry 2003 - 2007

INDUSTRY	2003	2004	2005	2006	2007	AVERAGE ANNUAL GROWTH RATE
Agriculture and Forestry	347	414	473	481	487	7.01%
Fishing	672	881	1,153	1,534	1,688	20.23%
Manufacturing	2,715	1,613	978	1,065	1,406	-12.33%
Electricity, Gas and Water	17	83	90	115	222	67.18%
Construction	6,502	9,147	11,274	16,415	27,958	33.87%
Education	1,059	2,501	2,491	2,424	2,712	20.69%
Wholesale and Retail Trade	2,132	1,159	1,589	1,744	2,074	-0.55%
Hotels and Restaurants	9,420	2,459	3,131	3,036	3,462	-18.14%
Tourism	4,031	9,776	10,302	11,095	12,352	25.10%
Transport, Storage and Communication	502	575	1,238	1,077	1,273	20.46%
Financing, insurance, business and real estate	3,880	4,780	5,524	6,613	7,104	12.86%
Other Community, social and personal services	2,448	5,025	6,602	8,302	9,337	30.28%
TOTAL	33,67	38,413	44,845	53,901	70,075	15.72%

Source: Ministry of Human Resources, Youth and Sports



The current situation with respect to migrant workers was created by the unprecedented economic growth of the past two decades and the inability to train Maldivians for the jobs that were being created. The growth in per capita income of the Maldives and the relative affluence compared to other South Asian countries provided opportunity to employers in the Maldives to gain from relatively low wages demanded by workers in other South Asian countries and to maximize profits.^{xv}

Migrant workers undoubtedly contribute to the economy of the Maldives. Some industries, such as tourism and construction, which heavily rely on migrant workers, cannot be sustained without migrant workers. Maldives has continued to depend on foreign teachers since teaching in English medium began. Maldives has not been able to train sufficient number of accountants for the increasing number of companies and enterprises

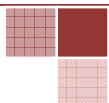
and has not been able to train adequate number of doctors or nurses to operate its hospitals and other health services without contribution from migrant workers.

Similar to other countries which are host to migrant workers, migrant workers in the Maldives also do not enjoy much social protection and are vulnerable to exploitation. However, the status of migrant workers employed in the categories of senior management, professions and skilled workers is different from other categories of migrant workers and they enjoy a status similar to nationals, if not at times better. Mention must also be made here of the fact that the International Convention on the Protection of the Rights of All migrant Workers and Members of their Families is the only convention so far not ratified or acceded to by the Maldives from the nine core international human rights treaties.

Following are issues that call for urgent action from a human rights perspective with respect to migrant workers:-

Human Trafficking:^{xvi} As demand grew for foreign workers, the number of companies and agencies providing recruitment services grew. The procedures established for issuing work permits required substantial paper work thereby increasing the demand for the services of employment agencies. Eventually the processing of work permits of foreign workers through

employment agencies became mandatory. The demand for foreign workers in the Maldives gave many workers in neighboring countries an impression of affluence in the Maldives and hence, of lucrative jobs. Interviews conducted revealed that many foreign workers, especially Bangladeshi nationals are promised high wages and good jobs by employment agents in

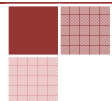


Bangladesh and sometimes by Maldivian employment agents and pay large sums of money as commission to such agents to secure jobs. In most cases, foreign workers sell all their belongings and sometimes belongings of their spouses or family in order to pay commission to employment agents. Many such workers, on their arrival in the Maldives, find out that the situation is not what they were promised. The pay is much lower and the job that was specified is not available. Such migrant workers are forced to accept the jobs available at whatever pay that is offered so that they could earn back the sum paid as commission. Many are either illiterate or unable to communicate in English and thus, unable to express their grievance to any authorities. Some workers who sell their belongings and travel to the Maldives expecting a good job with a good salary are abandoned

Inadequate Housing: The Ministry of Tourism has made regulations concerning the construction of housing for staff on tourist resorts and potential developers of resorts when submitting bid proposals make specific proposals for staff housing on resorts. Other than the regulations of the Ministry of Tourism, there are no regulations governing housing provided to employees. There are no mechanisms for monitoring staff housing or accommodation provided to employees by employers. The assessment team,

on arrival. Their complaints are not heard by any authority and there is no authority to which they could submit their complaints. Such activities of employment agents in the Maldives and agents in the source country amount to human trafficking as defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime. Such trafficking is one of the primary causes for the increase in the number of illegal immigrants. The concerned authorities can only make a guess of the number of foreign workers in the Maldives. The exclusivity given to employment agencies to process work permits of foreign workers is one of the main reasons for the increase in the number of foreign workers both legal and illegal.

during their visits to work sites and accommodations of employees, found that except for a very few government owned corporations and one or two private companies, housing provided to migrant workers by employers is inadequate and often not suitable for human habitation. The assessment team found such accommodation facilities over crowded, lacking in proper ventilation and without adequate sanitary facilities and in most cases without fresh water or with limited amounts of fresh water.





Sleeping quarters provided to migrant workers employed by the government



Kitchen facilities provided to migrant workers employed by the government



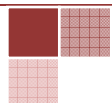
Bathing area provided to migrant workers employed by the government

Non-payment of wages: Many instances of non-payment of wages to migrant workers by their employers are reported daily. There have been cases of migrant workers gathering at the relevant Ministry in protest and other forms of protests over non-payment of wages. The team conducting this

Illegal migrant workers: Local daily newspapers carry several notices of government authorities asking for information relating to the whereabouts of migrant workers, which is indicative of the magnitude of the issue of illegal migrant workers. The number of migrant workers soliciting work at parking areas and harbor areas of Male' and several other islands or sitting idle at parks are evident of the defects in the laws and regulations relating to foreign workers and of the weaknesses or indifference to enforcement by relevant authorities. Interviews with relevant agencies and individuals revealed that many of the illegal foreign workers are workers who have been sponsored by some employer and processed by an employment agency and then been abandoned or foreign workers who have come under tourist visas with the assistance of a compatriot and who has not been able to yet find work. Illegal workers engage mostly in low paying day jobs or find something to do for any sum, however little that may be. Illegal migrant workers are also vulnerable for

assessment visited two construction work sites where the migrant workers were not paid their wages for several months and at one site the workers complained that they did not have the energy to work as they have not had a proper meal for several days.^{xvii}

exploitation by unscrupulous employers as they would be reluctant to resist it because of their illegal status and their situations undergo little monitoring by any authority, often leading to gross violations of the rights of these human beings. Migrant workers who arrive legally also contribute to the problem of illegal migrant workers by earning commission from their friends and relatives at home to assist them in coming to the Maldives to seek work with promises of good jobs that pay well. Male' with its limitations of available housing and other facilities and the high costs of living place the illegal migrant worker in a very serious situation of deprivation, where the migrant worker has to seek assistance from a compatriot for temporary shelter and food. This leads to an increase in the debt already incurred to pay commissions to agents. Illegal migrant workers burden the already stretched out economic resources and social services of the Maldives.



Recommendation 6

6.1 Consider establishing a separate bureau for expatriate workers with the responsibilities to issue quotas to employ expatriate workers and work permits, to collect and maintain statistics with respect to expatriate workers and to deal with complaints of and other matters relating to expatriate workers.

6.2 Consider ratification of or accession to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

6.3 Consider requiring registration of expatriate workers employed in islands other than Male' at the island office or at the administrative office of the island concerned.

6.4 Consider requiring entry visas be obtained from the Maldivian High Commission/Consulate in the country concerned for nationals of countries subject to trafficking in order to prevent human trafficking. Maldivian High Commission/Consulate concerned could check the permission issued for the employment of the applicant and/or other relevant documentation prior to issuing the visa.

6.5 Include provisions in a housing code setting minimum standards for accommodation of workers.

6.6 Conduct regular inspections of work sites and accommodation provided to migrant workers to ensure that national standards are complied with

6.7 Consider amending the requirement to engage an employment agency for processing work permits of expatriate employees. Such a measure would allow principal employers in the country to process work permits of their expatriate employees on their own and discourage trafficking by some measure.

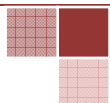
6.8 Ensure that tourist resorts maintain the agreed ratio of Maldivian and expatriate employees.

Membership of International Labour Organisation (ILO)

The International Labour Organisation (ILO) was founded in 1919 and became a specialized agency of the United Nations in 1946. It currently has 182 member states. The ILO serves the needs of working women and men by bringing together governments, employers and workers to set labour standards, develop policies and devise programmes. Its tripartite structure

makes the ILO unique among world organisations because employers' and workers' organisations have an equal voice with governments in all its deliberations.

The ILO has, from the very beginning, sought to define and guarantee labour rights and improve conditions for working people by building a system of



international labour standards expressed in the form of Conventions, Recommendations and Codes of Practice. The ILO has adopted more than 180 ILO Conventions and 190 Recommendations covering all aspects of the world of work. The ILO helps to ensure that standards ratified by individual member States are applied and provides advice and assistance in the drafting of national labour laws. The ILO further encourages tripartism within member States by promoting social dialogue to help design and implement national policies. Fair terms of employment, decent working conditions, and development for the benefit of all cannot be achieved without active involvement of workers, employers and governments, including a broad-based effort by all of them. ILO helps governments, employers' and workers' organisations to establish sound labour relations, adapt labour laws to meet changing economic and social needs and improve labour administration.

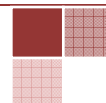
The government of Maldives would immensely benefit from becoming a member of ILO. It could request for and obtain assistance in establishing national labour standards in line with international labour standards, drafting relevant laws and regulations, establishing and organizing trade unions and setting a culture of dialogue between employers and employees, establishing mechanisms to resolve labour disputes, strengthening labour administration and technical assistance in a number of other matters related to labour relations, thereby providing for better protection of employees' and employers' rights.

The new government of the Maldives sworn in on the 11th of November 2008 had indicated that Maldives would become a member of ILO before the 4th of December 2008. However, although some effort was seen to be made during the first week of December 2008, the Maldives has not yet become a member of ILO and constitutional and other required procedures remain to be completed.

Recommendation 7

7.1 Complete the procedures for becoming a member of the International Labour Organisation, without further delay.

7.2 Consider ratification of/accession to ILO Conventions.



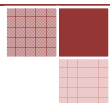
IMPLEMENTATION OF INTERNATIONAL LABOUR STANDARDS

“Ensuring the freedom of association and collective bargaining can go a long way toward promoting labour market efficiency and better economic performance. And there are obvious economic and social reasons for banning slavery and all forms of forced labour.”^{xviii}

Following is a list of subjects covered by international labour standards.^{xix} International labour standards respond to a growing number of needs and challenges faced by workers and employers in the global economy. The international labour standards are to be

found in the many conventions and relevant instruments and recommendations of the International Labour Organisation^{xx}. The end notes to the listed subjects contain a selection of the relevant conventions and recommendations.

- Freedom of association^{xxi}
- Collective bargaining^{xxii}
- Forced labour^{xxiii}
- Child labour^{xxiv}
- Equality of opportunity and treatment^{xxv}
- Tripartite consultation^{xxvi}
- Labour administration^{xxvii}
- Labour inspection^{xxviii}
- Employment policy^{xxix}
- Employment promotion^{xxx}
- Vocational guidance and training^{xxxi}
- Employment security^{xxxii}
- Social policy^{xxxiii}
- Wages^{xxxiv}
- Working time^{xxxv}
- Occupational safety and health^{xxxvi}
- Social security^{xxxvii}
- Maternity protection^{xxxviii}
- Migrant workers^{xxxix}
- Seafarers^{xl}
- Fishers^{xli}
- Dockworkers^{xlii}
- Indigenous and tribal peoples^{xliii}
- Other specific categories of workers^{xliv}



Freedom of Association

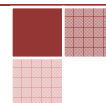
The principle of freedom of association is enshrined in the Constitution of ILO and lies at the center of the ILO's values. It is also a right proclaimed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The fundamental ILO conventions relating to freedom of association set forth the right of workers and employers to establish and join organisations of their own choosing without previous authorization.

Article 30 of the Constitution of the Republic of Maldives grants everyone the freedom to form associations and societies, including the right to establish and participate in any association or society for economic, social, educational or cultural purposes and the right to form trade unions, to participate or not participate in their activities. This is the first mention of trade unions in any law of the Maldives and is a fundamental departure from the earlier position that trade unions did not have a role in the Maldivian society since there was no unemployment in the Maldives and complaints regarding working conditions were not a common occurrence in the Maldives.

The Employment Act of the Maldives does not mention trade unions and there is no law on trade unions in the Maldives. The existing organisations/associations active in the area of workers' rights were registered

with the Registrar of Associations at the Ministry of Home Affairs under the Law on Associations (Law No.1/2003). Hence, such associations do not have a status different from other non-governmental organisations and do not have the legal capacity to function as trade unions and to enter into negotiations or take action on behalf of workers they represent. Some employers and the existing employer's associations, Maldives Association of Tourism Industry (MATI) in particular, question the competency of such employee's associations to represent their employees.

The Teachers' Association of the Maldives (TAM), Tourism Employees' Association of Maldives (T.E.A.M) and Fishermen's Association are among the most active associations that have been established to protect and promote the interests of the employees of the respective profession. T.E.A.M has taken a lead role on a number of occasions in organizing work stoppages to protest working conditions and working hours. Similarly, the Teachers' Association has taken action to protest low wages and has been making their case to the concerned government authorities. The actions of such associations are hindered by the uncertainties with respect to their status, mandate and in general, due to the lack of a law prescribing their role, functions and procedures for them to engage with employers and employer's associations to negotiate terms of employment.



Recommendation 8

8.1 Formulate and enact a law on trade unions or workers' associations (Law on Trade Unions and Labour Relations, see Recommendation 4.3). Such law should provide for the free organisation of employees' associations and prevent the dissolving or suspension of such associations by administrative authority and should grant such organisations the right to establish and join federations, with the right to affiliate with international organisations of workers and employees.

8.2 Engage a consultant (perhaps with the assistance of ILO) to assist in the establishment of trade unions and to advise workers' groups in the establishment, functions, operation and management of trade unions.

Collective Bargaining

The Right to Organise and Collective Bargaining Convention of 1949 provides for measures to be taken, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with the aim of regulating terms and conditions of employment by means of collective agreements. Freedom of association and sound collective bargaining practices together ensure that employers and workers have an equal voice in negotiations and that the outcome will be fair and equitable. Collective bargaining allows workers and employers to negotiate a fair employment relationship and prevents costly labour disputes.

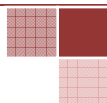
The concept of collective bargaining is unknown in the Maldives. In the absence of functioning workers' associations and laws on trade unions and labour relations, it is not surprising that the concept of collective bargaining is yet to be introduced to the Maldives. The organisation and establishment of employers' and workers' associations is a prerequisite for sound collective bargaining.

The recent discussions held between Maldives Association of Tourism Industry and Tourism Employees' Association of Maldives, which currently appear to represent the interests of employers and employees of tourism industry respectively, should be taken as a positive development indicative of the need for a formal mechanism for such negotiations.

Recommendation 9

9.1 Organise workshops/seminars on collective bargaining and collective agreements with simulation exercises for employers and employees.

9.2 Formulate and enact a labour relations act (Law on Trade Unions and Labour Relations, see Recommendation 4.3) to provide for the regulation of relations between employers and workers and their trade unions and the prevention and settlement of any differences or disputes arising from their relationship and generally to deal with labour disputes.



Forced Labour

Forced Labour Convention of 1930 prohibits all forms of forced or compulsory labour, which is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Exceptions are provided for work required by compulsory military service, normal civic obligations, as a consequence of a conviction in a court of law, in cases of emergency, and for minor communal services performed by the members of a community in the direct interest of the community. The convention also requires that the illegal extraction of forced or compulsory labour be punishable as a penal offence, and that ratifying states ensure that the relevant penalties imposed by law are adequate and strictly enforced. Forced labour today is universally condemned.

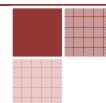
The Constitution of the Maldives in its Article 25 (a) states that no one shall be held in slavery or servitude, or be required to perform forced labour. Article 25 provides exceptions for compulsory military service, service required in cases of emergency or calamity threatening the life or well-being of the community, and service required pursuant to a court order. This provision of the Constitution of the Maldives is almost identical to the prohibition contained in the Forced Labour Convention of 1930.

Article 3(a) of the Employment Act of 2008 very categorically states that no person shall be compelled or forced into employment and defines forced

employment as any service or labour obtained from a person under threat of punishment, undue influence or intimidation, and does not include services or labour performed of his own volition by any person. Labour carried out by, or services obtained from a person under the control and supervision of the relevant State Authority in pursuance of a court order or labour or services obtained to the extent deemed reasonable in instances of emergencies which may pose risk to the life or well being of the entire population or a section of the population are excluded from the definition of forced employment.

However, illegal extraction of forced or compulsory labour is not a punishable penal offence under any law of the Maldives. The employment Act prohibits forced labour as a principle to be followed by employers and provides for filing a complaint with the Employment Tribunal in the event of non-conformity to the principle. In case of such complaint, the Employment Act empowers the Employment Tribunal to issue an injunction or an order to reinstate the employee or to restore a benefit to the employee or to pay compensation.

Although the prohibition of forced labour appeared in a statute for the first time only in 2008, forced labour in the form of coercive recruitment has not been evident in the Maldives. However, some girls and boys who migrate to Male’ from outer islands for educational purposes are compelled to work as domestic workers. The house work



done by such children cannot be said to be voluntary in the cases where their continued stay in such houses depends on such children obediently doing house work as required by the owners of houses.

During this assessment, no evidence was found of men, women and children being tied to work through debt or of trafficking in women and or children or of their being sold into forced prostitution or other work places as may be found in some other South Asian countries. However, some cases of girls addicted to drugs being forced into prostitution have been reported^{xlv}.

A review of the situation with respect to migrant domestic workers is important in this context. Some domestic workers,

especially migrant female domestic workers are at times trapped in situations of forced labour, and are in many cases restrained from leaving the employers' home through threats and other means.

Although the situation of migrant workers who work as labourers in the Maldives is grim, and may not technically be defined as bonded labour or forced labour, questions may be asked as to whether such labourers are free to leave their employment at will. Some migrant workers from neighboring countries pay large sums as commissions to get employment and may not be in a position to leave their employment before they are able to earn back at least the amount paid as commission.

Recommendation 10

10.1 Prescribe punishment in law for forced labour and for holding workers in bondage.

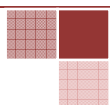
10.2 Conduct regular inspections of work sites to ensure elimination of forced and/or bonded labour.

Child Labour

The Minimum Age Convention of 1973 sets the general minimum age for admission to employment or work at 15 years, 13 years for light work and 18 years (16 under certain strict conditions) for hazardous work. It further provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed. The Worst Forms of Child Labour Convention of 1999 defines as a "child" a person under 18 years of age and requires

states to eliminate the worst forms of child labour, which, inter alia, include work which is likely to harm the health, safety or morals of children.

Chapter 3 of the Employment Act of the Maldives deals with child labour. Article 6 of the Employment Act prohibits the employment of a minor under the age of sixteen except for the purpose of training in relation to such minor's education. The Article makes an exception for children participating, with their consent, in work undertaken



by their families. Article 7 of the Employment Act prohibits the employment of a child (below 18 years of age) in any work or employment that may have a detrimental effect on a child's health, education, safety or morals due to the work or job undertaken or the conditions of work. Article 8 of the Act requires parental consent be obtained for employing minors. Article 9 of the Act prohibits the employment of a minor during school hours of such minor and after 11.00 pm at night. Those who employ minors are required to maintain a register of minors employed containing their names, addresses and dates of birth (Article 10 of the Employment Act). Article 11 of the act requires a medical fitness test prior to employing minors on vessels and further such tests for continued employment on vessels. The

punishment that the Act prescribes for violation of the provisions of the Act relating to child labour (a fine of Rf 1000 to Rf 5000) does, however, seem to lessen the gravity of such offences and the harm that such violations could cause to a child.

The team that conducted this assessment was informed of instances where household poverty and broken family circumstances forced children to seek employment in the informal sectors and were subject to exploitation. Note also must be made here of the under aged children who migrate to islands other than islands of their birth for educational purposes and are placed in situations where they are forced to work as informal domestic workers in exchange for accommodation and food.

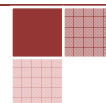
Recommendation 11

11.1 Labour Relations Authority and Department of Child and Family Protection should conduct a joint survey to assess the situation of child labour in order to determine measures to be taken to eliminate child labour.

Equality of Opportunity and Treatment

Freedom from discrimination is a fundamental human right and is essential for workers to choose their employment freely, to develop their potential to the full and to reap economic rewards on the basis of merit. The Equal Remuneration Convention of 1951 requires parties to the convention to ensure the application of the principle of equal remuneration for men and women workers for work of equal value. The Discrimination (Employment and Occupation)

Convention of 1958 defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It requires ratifying states to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of



opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields. This includes discrimination in relation to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 17 (a) of the Constitution of the Maldives states that everyone is entitled to the rights and freedoms included in Chapter 2 of the Constitution (Fundamental Rights and Freedoms) without 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. Further, Clause (b) of the same Article states that special assistance or protection to disadvantaged individuals or groups, or to groups requiring special social assistance, as provided in law shall not be deemed to be discrimination. Article 37 (b) of the Constitution provides for equal remuneration for work of equal value and for equal opportunity for promotion.

Article 4(a) of the Employment Act prohibits discrimination amongst persons carrying out equal work either in the granting of employment, determination of remuneration, increase in remuneration, provision of training, determination of conditions and manner of employment, dismissal from employment or resolution of other employment related matters, based on race, colour, social standing, religion, political beliefs or affiliation with any political party, sex, marital status, family obligations, and in so far as it does not contravene the provisions of the Act, age or disability. Article 4(b) provides that the implementation of any principles, activities or programmes for assisting those disadvantaged would not be deemed discrimination. Article 4(c) of the Act states that consideration of matters such as educational qualifications required for employment, aptitude, experience and such other matters directly related to employment would not amount to discrimination. Violations of the prohibition of discrimination would as per the Employment Act (Article 5) entail an order by the Employment Tribunal to perform or cease to perform an act or



Staff quarters provided for Maldivian workers by the government



Staff quarters provided for foreign workers by the government

to reinstate an employee or to restore a benefit or advantage denied to a person or an order awarding compensation.

The language used both in the Constitution of the Maldives and the Employment Act to prohibit discrimination is similar to that used in international instruments prohibiting discrimination. However, apart from the mere prohibition contained in the Constitution and the Employment Act, no measures have been taken to prevent discrimination at the work place. The government has no policies announced publicly to prevent or to address issues of discrimination or to provide equal opportunities in employment.

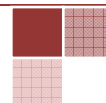
A number of issues relating to discrimination at the work place and preventing equal opportunity were brought to the attention of the team making the assessment.

1. Women are prevented from working in tourist resorts: Tourist resorts in the Maldives are developed on isolated uninhabited islands and in most cases quite far from inhabited islands. Hence, staff cannot commute daily to resorts from inhabited islands and are required to stay for extended periods of time at staff quarters on the resort. It is not socially acceptable for young unmarried women to stay on resort islands for extended periods of time and married women and women with children cannot stay for extended periods on resort islands away from families.

2. Absence of child care facilities: Since there are no child care facilities in the Maldives and schools function on shift basis, women with children can work only if they have sources of income other than their monthly wages (monthly wages are low in the categories in which most females are employed, such as clerical and secretarial jobs, pre-school and primary school teachers and cleaners) to pay for child care workers at home. Hence, many female employees are forced to quit from their jobs with the birth of the first child.

3. No access for physically disabled: There is no work place in the Maldives with accesses for physically disabled. Hence, very few people with physical disabilities are able to seek employment. There are very limited facilities for education and training available for disabled persons.

4. Some vacancy announcements are targeted only to foreigners. The current labour regulations require public announcements be made for vacancies prior to applying for permission to employ foreign workers. The announcements are to specify monthly wages of the announced job. Most of the announcements in certain job categories are made with wages that are too low for Maldivians to accept. However, although not acceptable to Maldivians, such wages are the normal wages being paid to migrant workers in those job categories.



5. Specific allowances: Specific allowances are paid to Maldivians which are not paid to workers of other nationalities.

6. Senior executives of other nationalities favour their compatriots: In some tourist resorts managed by foreign companies with foreign nationals as senior executives and in other establishments managed similarly by foreign companies, Maldivian employees have complained of being mistreated, discriminated against in favour of employees – compatriots of the senior executives. Similar cases have been reported concerning foreign supervisors at some establishments managed by Maldivian companies.

7. Certain benefits are not paid to Maldivians: Migrant workers are provided housing by employers while Maldivian workers of the same category are not provided with

housing nor are they given any allowance or benefit in lieu thereof. Foreign employees are provided a return ticket to their country annually, while such a benefit is not generally available to Maldivians who may be from another atoll or island.

8. Discriminatory attitude towards employees of certain nationalities: There have been reports of ill treatment of workers of certain nationalities and categorizing certain types of work for workers of certain nationalities.

9. Discouragement of certain persons: Women wearing head scarves for religious reasons are not employed at some work places and employees of certain establishments are not permitted to get married and pregnancies are either discouraged or getting pregnant would entail termination of employment or change of job.

Recommendation 12

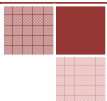
12.1 Establish day care centers and other child care facilities in order to facilitate women with children to participate equally in the labour force.

12.2 Require work places to provide easy access to physically disadvantaged.

12.3 Introduce training programmes for physically and mentally handicapped persons in order to train them for employment.

12.4 Review the complaints regarding discriminatory practices and conduct programmes to both employers and employees to create and increase awareness with respect to discrimination at work places.

12.5 Conduct a survey of benefits awarded to employees, local and foreign and require employers to revise all benefits and allowances to ensure that such allowances and benefits do not contravene the principle of equal remuneration for work of equal value.



Tripartite Consultation

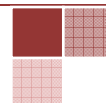
The principle of tripartism in the formulation of standards and policies dealing with labour matters is dialogue and cooperation between governments, employers, and workers. ILO is based on the principle of tripartism and international labour standards are created and supervised through a tripartite structure at ILO. Tripartism with regard to ILO standards is also important at the national level. Through regular tripartite consultations, governments can ensure that ILO standards are formulated, applied and supervised with the participation of employers and workers. ILO standards on tripartite consultation set forth the framework for effective national tripartite consultations. Such consultations can ensure greater cooperation among the social partners and stronger awareness and participation in matters relating to international labour standards, and can lead to better governance and a greater culture of social dialogue on wider social and economic issues.

The Tripartite Consultation (International Labour Standards) Convention of 1976, the ratification and implementation of which ILO has made a priority, requires states to operate procedures that ensure effective consultations between representatives of the government, of employers and of workers on matters regarding items on the agenda of the International Labour

Conference, submissions to competent national authorities of newly adopted ILO standards, reexamination of unratified conventions and recommendations, reports on ratified conventions, and proposals for denunciations of ratified conventions. Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken, and consultations shall take place at least once every year.

At present, there is no institutional framework for tripartite consultations in the Maldives. However, discussions between employers and employees with the government acting in a mediatory role have produced positive results in resolving a few labour disputes in the recent past.^{xlvi}

The principle of tripartism in the formulation of standards and policies dealing with labour matters can be applied in the Maldives only after workers' associations and employers' associations are established under the necessary legal framework. Hence, in order to facilitate the required institutional framework for tripartite consultation, it is imperative that the Maldives become a member of ILO. The institutional framework for tripartite consultation would also facilitate social dialogue on social and economic issues. The consultation mechanisms must be provided for in law.



Recommendation 13

13.1 Complete the procedures for becoming a member of ILO (Recommendation 7.1) and seek the assistance of ILO to establish the institutional framework for tripartite consultation.

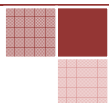
13.2 Provide for tripartite consultation in the law to be formulated and enacted on Trade Unions and Labour Relations (See Recommendation 4.3).

Labour Administration

International labour standards are usually applied through national law and policy. Hence, it is vital that a viable and active labour administration system be maintained that will be responsible for all aspects of national labour policy formulation and implementation. The Labour Administration Convention of 1978 requires states to ensure the organisation and effective operation in their territory of a system of labour administration, the functions and responsibilities of which are properly coordinated. The labour administration system is to be responsible for the formulation, implementation and supervision of national labour standards, employment and human resource development, studies, research and statistics on labour and provide support for labour relations. Participation by workers and employers and their respective organisations in relation to national labour policy is also to be ensured.

In the Maldives, the first mandate given to a governmental authority relating to labour administration in any sense was the mandate to manage labourers in the government service. The mandate was given in the 1970s and early 1980s to the department that undertook major government projects or tasks

involving the largest number of labourers: first to the authority that was in charge of administering Male' harbor and port and then to the department undertaking public works projects. In the early 1990s, with the need to regulate the inflow of foreign workers, the mandate was given to the Ministry of Trade, industries and labour. Today, after being with the Ministry responsible for national planning and development and then with the Ministry responsible for higher education and human resources, the mandate is with the newly created (November 2008) Ministry of Human Resources, Youth and Sports. However, the Ministry's primary function in relation to labour administration appears confined to the issuance of permissions to foreign workers and to the issues arising in respect of foreign workers. The Ministry does not have the resources or policies in place to effectively address the wider labour and employment issues and challenges facing the nation. The demands of the other functions delegated to it in respect of youth and sports, which also require financial and other resources have a limiting effect on its ability to address national labour and employment issues.



The Employment Act of 2008 provides for the establishment of a Labour Relations Authority to observe compliance with the Employment Act and the regulations enacted under the Act, to implement the administrative measures required to ensure adherence to the Act and the regulations, to create awareness for the implementation of the Act, to provide technical information and advice to employers and employees and to advise the Minister of issues arising due to matters that are not provided for in the Act and regulations and of unfair advantages taken from such issues or matters. The Labour Relations Authority is also given the power to make regulations governing employer and employee relations.

Although the Employment Act stipulates that the Minister^{xlvii} shall establish and the Minister in fact has established a Labour Relations Authority, the Labour Relations Authority has not begun to function as required by the Act. The Labour Relations Authority does not have the staff or the facilities for it to carry out the functions vested in it by the Act. Consequently, it is not surprising that very few Maldivians have even heard of the Labour Relations Authority and those who have heard of it aren't very clear about its mandate as evidenced by focus group interviews conducted during the assessment.

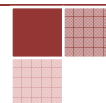
Besides promoting labour administration systems in a variety of forms, ILO standards at the same time promote the collection of labour statistics, which are invaluable in identifying needs and formulating labour policy, at both the national and international level. The Labour Statistics Convention of 1958 requires ratifying States to regularly collect, compile and publish basic labour statistics, which are to be progressively expanded in accordance with their resources, on the economically active population, employment, unemployment, and where possible visible underemployment.

The Ministry in charge of labour administration in the Maldives does not collect or publish national labour statistics. It collects and compiles statistics relating to the employment of foreign workers. However, the Ministry has recently stated that even the statistics collected with respect to the employment of foreigners and the relevant data bases are neither adequate nor accurate. The main source of labour statistics available in the country is the national population census, the most recent being the census conducted in 2006. Some nationally conducted surveys relating to poverty, household income and expenditure also contain valuable statistics relating to labour.

Recommendation 14

14.1 Strengthen the Labour Relations Authority by providing separate office premises, financial and other resources adequate for it to properly carry out the mandate given to it by law (See Recommendation 3.1).

14.2 Establish a Bureau of Labour Statistics within the Labour Relations Authority to collect, maintain and analyze labour statistics.



Labour Inspection

Proper application of labour legislation depends on effective labour inspection. Labour inspectors must examine how national labour standards are applied in the workplace and must advise employers and workers on how to improve the application of national law in such matters as working time, wages, occupational safety and health, and child labour. Labour inspectors would also be in a position to bring to the notice of national authorities loopholes and defects in national law. Labour inspectors have an important role in ensuring that labour law is applied equally to all employers and workers. The Labour Inspection Convention of 1947 requires ratifying states to maintain a system of labour inspection for workplaces in industry and commerce.

The Employment Act, having provided for the establishment of a Labour Relations Authority to ensure compliance with the Act mandates officials of the Labour Relations Authority to inspect work places from

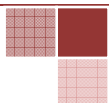
time to time (Article 77). The Act empowers employment officials to enter and inspect work places without prior notice for compliance with the Act, to interview employees, to require submission of records, books, registers and other documents required to be maintained in relation to employment, to make copies of the same, obtain information relating to working conditions, working hours and wages and to inspect records of work place accidents and illnesses. Such officials also have the authority to require employers to take measures to comply with the Act. Further the Act also requires employers to facilitate the work of labour inspectors. The Act also imposes a duty on labour inspectors to duly report to the Minister on their findings.

However, the provisions of the Employment Act relating to labour inspection, with all the powers and authority vested in labour inspectors remain as they were enacted without any attempt at implementation.

Recommendation 15

15.1 Establish a Labour Inspectorate or a section or a unit for labour inspection within the Labour Relations Authority and employ labour inspectors to carry out the duties bestowed on labour inspectors by the Employment Act.

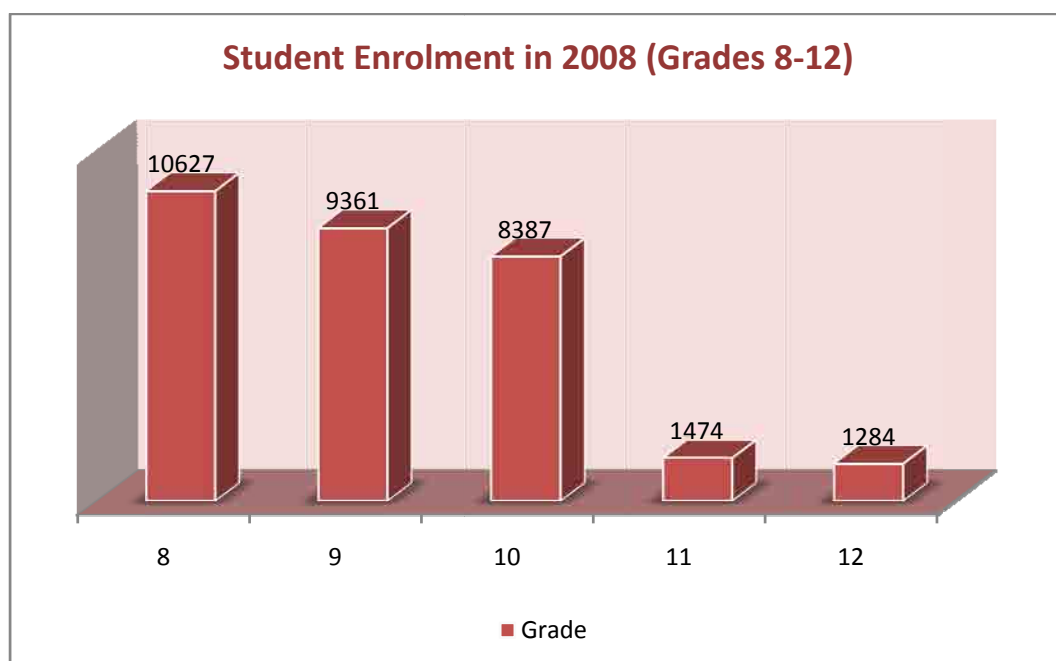
15.2 Provide adequate financial resources to the Labour Relations Authority to establish a labour inspectorate and to employ and train labour inspectors in order to enable them to properly carry out their duties.



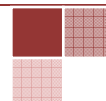
Employment Policy

The Employment Policy Convention of 1964 requires ratifying states to declare and pursue an active policy designed to promote full, productive and freely chosen employment. ILO promotes international standards on employment policy which, together with technical cooperation programmes, are aimed at achieving full, productive and freely chosen employment. It dedicates a large part of its programme to creating greater opportunities for women and men to secure decent employment and income. ILO standards on employment policy provide a framework for designing and implementing such policies, thereby ensuring maximum access to jobs needed to enjoy decent work. Every country is to devise its own policies to bring about full employment.

The need for creating employment opportunities for the increasing number of new labour market entrants and to increase the participation of youth and women in the labour market is acute. Every Year about 8,000 to 10,000 students complete secondary school, out of which only about 1400 students enroll for higher secondary education at institutions in the Maldives, a few hundreds proceed overseas for higher education and a few hundreds get employed, leaving about 6,000 to 8,000 idle, out of the work force and vulnerable to drug abuse, gangs and other social ills.^{xlviii} No career guidance or work programmes exist in the schools or other educational institutions and hence, no efforts are seen to be made to guide school leavers or to attract Maldivian youth to work.



Source: Ministry of Education



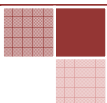
The government recently leased over 45 islands across the Maldives for development as tourist resorts. There was no planning for employment. The labour requirements for the development and operation of the resorts were not assessed and no effort has been made to train any Maldivians for the jobs that will be created by the development of these resorts. Such development without proper planning for employment and training will increase the number of migrant workers and will lead to further social problems. By some estimates the number of foreign or migrant workers in the Maldives already equals and perhaps even exceeds the number of Maldivians in employment. However, although all these factors call for immediate and urgent action on the part of the government, little

movement is seen in resolving these urgent issues facing the nation. No clear policies or strategies, short term, long term or otherwise have been issued to address the issues of employment. There is no sense in setting labour standards without addressing employment.

During the assessment, a majority of the employers expressed concern relating to the lack of work ethic among Maldivian employees. The lack of work ethic and the general indifference to work and employment by Maldivian youth are national issues which impact economic development. The high unemployment among youth contributes to drug abuse and increased violence on the streets, which are national issues crying out for help.



Increasing numbers of labour market entrants are left unemployed and vulnerable to social ills



Recommendation 16

16.1 Develop a national employment agenda setting forth strategies, both short term and long term, to boost employment and to replace the migrant labour force. Such strategies should include economic strategies to promote small and medium enterprises in the atolls to increase job opportunities in the islands and strategies for need based vocational and skills training. Development projects and large foreign investment projects should incorporate planning for employment as a compulsory component.

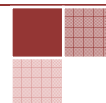
16.2 Commence work experience programmes, life skills programmes and career guidance in schools and other educational institutions to improve work ethic of school leavers and young graduates.

Employment Promotion

The Employment Policy Convention of 1964 sets out the goal of full, productive and freely chosen employment. Strategies for attaining this goal are contained in other ILO instruments. The Employment Service Convention of 1948 requires ratifying states to establish and operate an employment service that is accessible to everyone, free of charge both to workers and employers. The Private Employment Agencies Convention of 1997 provides for cooperation between private and public employment services, general principles to protect jobseekers against unethical or inappropriate practices, and protection of workers under subcontracting arrangements and workers recruited from abroad. The Vocational Rehabilitation and Employment (Disabled Persons) Convention of 1983 sets forth the principles of national policy for the vocational rehabilitation and employment of persons with disabilities and provides for the setting up and evaluation of vocational guidance, vocational training,

placement and unemployment services for persons with disabilities. In the area of employment promotion, there are a number of ILO Recommendations such as the Older Workers Recommendation of 1980 which recommends that older workers should enjoy equal opportunity and treatment without discrimination on the grounds of age and Job Creation in Small and Medium-Sized Enterprises Recommendation of 1988 which suggests members to adopt measures appropriate to national conditions to promote small and medium-sized enterprises, in regard to their importance in promoting employment and sustainable economic growth.

The Ministry of Human Resources, Youth and Sports has recently announced that the government would establish a job center in every province for the purpose of employment promotion and providing assistance to job seekers in the islands. Although job centers have been formally commissioned in a few islands, none of the centers is functioning as planned.



Recommendation 17

17.1 Develop practical programmes for integrating new labour market entrants into the labour force.

17.2 Develop programmes for rehabilitation and integration of disabled into the labour market.

17.3 Organise and hold an employment fair as a periodical regular event which will bring the employers, employees, their respective organisations and government authorities together to promote employment.

Vocational Guidance and Training

Education and training make people employable and allow them to gain access to decent work and to escape poverty. In order to attain full employment and sustained economic growth, countries need to invest in education and human resources development. Countries can help ensure workers maintain and improve their employability by providing basic education, core work skills, and life long learning opportunities, which will result in a more skilled and productive workforce. ILO standards encourage countries to develop sound human resources practices and training policies which are beneficial to all. The Human Resource Development Convention of 1975 requires ratifying states to develop policies and programmes of

vocational guidance and vocational training, closely linked with employment, in particular through public employment services. For this purpose, states are further required to develop complementary systems of general, technical and vocational education, educational and vocational guidance and vocational training, and to extend them gradually to young persons and adults, including appropriate programmes for the disabled. Because of the current importance of this topic, in 2004 the International Labour Conference adopted an updated Recommendation concerning Human Resources Development: Education, Training and Lifelong Learning.



*Kulhudhufushi
Campus of the
Maldives College
of Higher
Education (MCHE)
– provides
vocational training
required for
various sectors,
one of three
campuses located
off Male'*

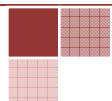
Chapter 7 of the Employment Act of the Maldives which is dedicated to Training and apprenticeship contains three Articles. Article 69 provides for an agreement to be signed between the employer and the employee prior to the commencement of any formal training programme and Article 70 of the Act provides for a similar agreement to be signed with respect to any apprenticeship. Article 71 provides for the submission of complaints to the Employment Tribunal in the event of violation of any such agreement.

The main reason for low employment among Maldivian youth and new labour

market entrants is the lack of training and the skills required for the jobs that are being created. The mismatch between the needs of the employers and the training that is being provided is cited by employers as a reason for unemployment among Maldivians. The representatives of employers' associations in tourism and construction industries emphasized the need for skilled workers in those industries and the lack of training for Maldivians to acquire the necessary skills for such jobs. Among the areas with such needs included carpentry, masonry, plumbing, electrical wiring, building supervision and operation of heavy equipment.



Faculty of Hospitality and Tourism Studies of the MCHE - provides vocational training required for the tourism industry (Photo: Ameen)



Recommendation 18

18.1 Formulate national strategies and a plan for technical education and vocational training in consultation with employers and the existing training institutions.

18.2 Review the existing training facilities to ascertain whether additional facilities are required to provide vocational training or whether the required training could be provided at the existing facilities.

18.3 Expand vocational training in the atolls. Match the training opportunities to the number of school leavers in the atoll. Consider providing assistance to students for accommodation and living to facilitate participation by students from islands other than the island where the training is provided.

18.4 Consider concluding agreements for employment between employers and training institutions prior to commencing training programmes to obtain commitment to employ graduates of such institutions.

18.5 Involve trade unions in the provision of vocational training.



Faculty of Management and Computing of the MCHE- provides management and computing training required for management and administration staff

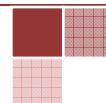
Employment Security

The termination of employment results in loss of income to the worker which impacts the well being of the worker and his/her family. Today's globalization and the employment flexibility sort by many countries destabilize traditional employment patterns and many face termination of employment at some point during one's professional lifetime. Events or circumstances such as the current global financial crisis force employers to terminate large numbers of employees to ensure survival of their businesses in such circumstances. Hence, the flexibility to reduce staff during such economic crisis and to dismiss unsatisfactory workers is a necessary measure for employers to sustain their businesses and to keep them productive. ILO standards on termination of employment seek to find a balance between maintaining the employer's right to dismiss workers for valid reasons and ensuring that such dismissals are fair and are used as a last resort, and that they do not have a disproportionate negative impact on the worker. The Termination of Employment Convention of 1982 sets forth the principle that the employment of a worker should not be terminated unless there is a valid reason for such termination connected with the worker's capacity or conduct or based on the operational requirements of the undertaking, establishment or service. Reasons for dismissal which shall not be considered valid include those based on union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion,

national extraction or social origin, temporary absence due to illness, or absence from work during maternity leave.

Article 21 of the Employment Act states that an employee shall not be dismissed from employment without showing appropriate cause as to failure to maintain work ethics, inability to carry out employment duties and responsibilities related to the proper functioning of his work place, even after measures have been taken to discipline the employee or upgrade skill deficiencies. The same Article lists a number of reasons which shall not be considered reasonable causes for terminating an employee or to determine that a worker is failing to maintain work ethics, which include employee's race, colour, nationality, social standing, religion, political opinion, affiliation with any political party, sex, marital status, familial responsibilities, disability, pregnancy, exercise of any right under the Act, temporary failure to report to work for a period of time due to illness or injury and membership of a workers association or participating in any lawful activities of such association.

Article 22 of the Employment Act states that employees may not be terminated without due notice as specified in the Act except in the circumstances specified in the Act. Article 23 of the Act states that an employee may be terminated without notice if an employee's work ethic is deemed unacceptable and further continuation of employment is on reasonable



grounds seen by the employer as unworkable. An employee's work ethics is to be deemed unacceptable if further continuation of employment is likely to be detrimental to the employer or to the work place or if the employee has committed fraud.

In Article 28, employees are given the right to complain to the Employment Tribunal concerning their termination and Article 27 stipulates that it would be an obligation of the employer to prove to the Tribunal that the termination was for cause. The Tribunal has the authority to order the

reinstatement of the employee if the termination was not for cause.

Failure to implement and enforce the Employment Act, non-compliance by employers with the requirement to sign employment agreements and the lack of mechanisms for settlement of employment disputes make employment very insecure in the Maldives and render the provisions of the Employment Act relating to employment security meaningless. Hence, unfair dismissals are fairly common in the Maldives.

Recommendation 19

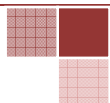
19.1 Review the Employment Act with a view to strengthening the guarantees provided for in the Act as employment security (see Recommendation 1.1). The Act provides for dismissal of employees if the employer deems it likely that the continuation of an employee's employment is detrimental to the employer or to the work place, without any mention of how that would be determined by the employer.

19.2 The Employment Tribunal must begin to function and the jurisdiction of island courts to hear employment disputes must be reaffirmed. (Recommendations 4.1 and 4.2)

Social Policy

The ILO Constitution, in the Declaration of Philadelphia, states that *"all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity"* and that the fulfillment of this objective *"must constitute the central aim of national and international policy"*. Relevant ILO standards provide a framework for creating social policies which ensure that economic development benefits all

those who participate in it. The Social Policy (Basic Aims and Standards) Convention of 1962 sets forth the general principle that all policies shall be primarily directed to the well-being and development of the population and to the promotion of its desire for social progress. Furthermore, the improvement of standards of living shall be regarded as the principal objective in the planning of economic development. It also provides additional requirements concerning migrant workers, agricultural producers, independent



producers and wage earners, minimum wage-fixing and payment of wages, non-discrimination, and education and vocational training.

The Constitution of the Maldives in its Article 23 in stipulating economic and social rights lays down the basis for economic and social policies. The Constitution provides that the state shall, by reasonable measures within its ability, achieve the progressive realization of providing adequate and nutritious food and clean water, clothing, housing, good standards of health care, physical and mental, a healthy and ecologically balanced environment, equal access to means of communication, the state media, transportation facilities, and the natural resources of the country, the establishment of a sewage system of a reasonably adequate standard on every inhabited island and the establishment of an electricity system of a reasonably adequate standard on every inhabited island that is commensurate to that island.

Article 37 of the Constitution for the first time grants the right to every Maldivian citizen to engage in any employment or occupation and entitles everyone to just and safe conditions of work, fair wages, equal remuneration for work of equal value, and equal opportunity for promotion. Further, the same Article grants the right to rest and leisure, including limits on hours of work and periodic holidays with pay and in order to provide this right to each employed person, this Article requires the maximum number of working hours and the length of paid holidays to be determined.

After the entry into force of the Constitution of 2008 with these new criteria for the economic and social development of the country, it is fundamental that all policies be made to achieve the goals set in the Constitution as the corner stone for all policies to be made by any incoming government.

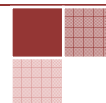
Recommendation 20

20.1 Ensure that all economic and social policies are made in order to achieve the goals set in the Constitution and the progressive realization of the right to work granted in the Constitution.

Wages

The Protection of Wages Convention of 1949 provides that wages be paid in legal tender at regular intervals and in cases where partial payment of wages is in kind, the value of such allowances be fair and reasonable. Further, workers are to be free to dispose of their wages as they choose and in cases of employer

insolvency, wages are to enjoy a priority in the distribution of liquidated assets. The Minimum Wage Fixing Convention of 1970 requires states to establish a minimum wage fixing machinery capable of determining and periodically reviewing and adjusting minimum wage rates having the force of law.



Article 37 of the Constitution provides for fair wages and equal remuneration for work of equal value. Article 50 of the Employment Act requires all employees, except temporary employees, to be paid wages on at least a monthly basis and temporary employees to be paid on a daily basis in general. Article 56 of the Act provides for the establishment of a Pay Advisory Board which is to review and ascertain the manner of employment of employees in commercial ventures and other work places and is to advise the Minister on minimum wages payable for all such employment. Article 59 provides that the Minister may, after review by the Pay Advisory Board, issue an order to establish, amend or terminate a minimum wage or remuneration in respect of certain employment. Such orders establishing minimum wages are to be reviewed by the Pay Advisory Board once every two years.

Although the Employment Act provides for the setting of minimum wages and the establishment of a Pay Advisory Board, no minimum wages have been set for any category of employment and the Pay Advisory Board has not begun to function.

The wage and salary structure of employees of various occupations are under pressure due to the increase in monthly wages of certain categories of employees. The demand for higher wages due to the increase in the wages of some and the resulting socio-economic imbalances are acute. Wage issues are keeping the Civil Service and some professions under severe constraint. The threat of protests and work stoppage is disrupting the provision of essential public services and destabilizing public order.



Migrant workers protesting months of unpaid wages in Male'

In the Maldives non-payment of wages to migrant workers remains a problem, which requires immediate intervention by the government authorities to ensure that all employees are paid

wages regularly. The assessment team interviewed several migrant workers who complained of not having been paid monthly wages for over eight months.

Recommendation 21

21.1 Pay Advisory Board should start to function.

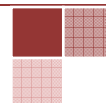
21.2 Consultations must be begun to set minimum wages for different categories of employment and/or sectors of employment. It must be noted that such consultations should be tripartite and hence, for this purpose too, it is urgent that workers' and employers' associations be provided a legal basis to function. It must also be noted that minimum wage schemes are an effective tool in the efforts to alleviate poverty and in the Maldives it would also be a tool in managing or dealing with the issue of migrant workers.

Working Time

The regulation of working time is one of the oldest concerns of labour legislation. Already in the early 19th century it was recognized that working excessive hours posed a danger to workers' health and to their families. Today, ILO standards on working time provide the framework for regulated hours of work, daily and weekly rest periods, and annual holidays. These instruments ensure high productivity while safeguarding workers' physical and mental health. The very first ILO Convention, Hours of Work (Industry) Convention adopted in 1919 and Hours of Work (Commerce and Offices) Convention of 1930 limited hours of work and set the general standard at 48 regular hours of work per week, with a maximum of 8 hours per day and provided for adequate rest periods for workers. The Forty-Hour Week Convention of 1935 and the Reduction of Hours of Work Recommendation of 1962 set out the principle of the 40-hour workweek. The Weekly Rest

(Industry) Convention of 1921 and the Weekly Rest (Commerce and Offices) Convention of 1957 set the general standard that workers shall enjoy a rest period of at least 24 consecutive hours every seven days. Holidays with Pay Convention of 1970 provides that every person to whom the convention applies shall enjoy at least three working weeks of annual paid holiday for one year of service.

Article 37(c) of the Constitution of the Maldives grants everyone the right to rest and leisure, including limits on hours of work and periodic holidays with pay. Clause (d) of the same Article further states that everyone has the right to spend time at rest and leisure and that in order to provide this right to each employed person, the maximum number of working hours have to be determined as well as the length of paid holidays.



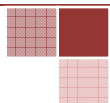
Article 32 (a) of the Employment Act states that no employee shall be required to work more than forty eight hours a week. It further states that this principle does not include overtime carried out in accordance with the Act. Article 32 (b) states that no employee shall be required to work more than six consecutive days a week without being provided with twenty four consecutive hours of leave. The Article provides flexibility to employees of tourist resorts, tourist vessels and uninhabited islands designated for industrial projects to provide in their employment agreements to accumulate the weekly off days and to work an extra 2 hours a day, which will be paid as overtime hours. Article 33 of the Act gives the Minister the discretion to determine the maximum number of working hours per day. The Act further provides for a break of at least thirty minutes for meals after every five consecutive hours of work (Article 35) and a break of 15 minutes for prayers without disrupting work or alternatively a break of 15 minutes after every four consecutive hours of work (Article 36). Article 37 of the Act provides for overtime work and states that employees shall work over time only as specified in the employment agreement and shall be paid one and a quarter times the employee's hourly wage and for work on Fridays and public holidays at one and a half times the employee's hourly wage.

Article 39 of the Act states that every employee is entitled to thirty days of paid leave upon completion of one year

of employment. The Act further provides for 30 days paid sick leave per year (Article 42) (the employer is not required to grant sick leave for more than two consecutive days without a medical certificate, which has to be submitted when the employee returns to work), a paid leave of 10 days a year to attend to important obligations such as tending to a family member during illness (Article 47) and five days of paid leave on the occasion of the circumcision of a child (Article 49).

Some employers expressed concern with the provision of annual sick leave of 30 days with pay and the option of taking sick leave without a medical certificate. The law requires a medical certificate only in case of sick leave for more than two consecutive days and some employers are of the view that any sick leave should require submission of a medical certificate. Employers complained that this creates difficulties in managing working hours of employees who work on shifts. However, many of the employees interviewed complained about employees not being given adequate time for rest between shifts and having to work for more than six days without a rest period of consecutive twenty four hours.

Employers have found that application of hours of work and weekly rest days provided for in the Act pose practical difficulties to crew members of marine vessels.



Recommendation 22

22.1 Hold consultations with employers and employees and their respective associations for the purpose of reviewing hours of work, rest days per week and sick leave without medical certificate, provided for in the Act and the concerns of employers with a view to amending the Act to facilitate implementation of the same.

22.2 Review the new practices of working time such as compressed workweeks, staggered working time arrangements, annualized working hours, flexitime and on call work to ascertain the suitability of such concepts to resolve work time related issues in tourist resorts and other industries with specific concerns.

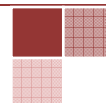
Occupational Safety and Health

The ILO Constitution sets forth the principle that workers should be protected from sickness, disease and injury arising from their employment. The ILO has adopted more than 40 standards specifically dealing with occupational safety and health, as well as over 40 Codes of Practice. Nearly half of ILO instruments deal directly or indirectly with occupational safety and health issues. ILO standards on occupational safety and health provide essential tools for governments, employers, and workers to establish such practices and to provide for maximum safety at work. The Occupational Safety and Health Convention of 1981 provides for the adoption of a coherent national occupational safety and health policy, as well as action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions. This policy shall be developed by taking into consideration national conditions and practice. The Occupational Health Services Convention of 1985 provides for the establishment of enterprise-level occupational health services which

are entrusted with essentially preventive functions and which are responsible for advising the employer, the workers and their representatives in the enterprise on maintaining a safe and healthy working environment.



Safety measures are rarely implemented on construction sites



Article 72 of the Employment Act requires employers to implement measures for the safety and protection of employees at the work place without charging any fees from employees, which measures shall include implementation of a safe work place and procedures, procurement of secure tools and machinery for carrying out work, and ensuring the continued safety of the same, provision of safe materials to work with, provide protective equipment and safety equipment in the event that the nature of work is such that it is not possible to eliminate or control health hazards arising out of work, provide education and training to employees on the use of protective gear and safety equipment and disseminate to employees information on all issues of related concern, conduct regular health checks for employees engaged in work involving chemical or biological materials that may cause a hazard to physical health of employees involved in any work that may cause physical ill health, provide or arrange for appropriate medical care for employees injured while carrying out employment, arrange the facilitation of first aid to employees in the case of emergencies and accidents. Article 73 of the Act obligates employees to maintain safe work practices at work, to avoid danger to the safety and well being of the employee and co-workers which may be caused by inattentiveness to safety and security measures, assist the employer and co-workers in maintenance of measures to ensure health and safety in the work place, use

safety equipment and protective gear as instructed in accordance with the training and education provided for use of such equipment and gear. The employee is further required to report to the employer any damage or loss of protective gear or safety equipment and to inform the employer or supervisor immediately of the occurrence of any incident which may cause danger and which the employee is unable to resolve, and of any accidents or damages sustained or occurred at work. The employee can abstain from work if he has reason to believe that the work may cause damage to his health and the Minister is to be notified of any accidents or death within 48 hours.



Technicians with no safety equipment or measures – a common sight in the Maldives



Construction workers working with no safety equipment or measures

However, although the Employment Act requires employers to implement safety measures, there are no national standards for such measures and hence, such measures would be at the discretion of employers. Some employers that have adopted international quality standards for their enterprises and undertakings or employers who have to comply with EU requirements due to their exports to Europe have adopted safety and health standards that comply with such requirements. However, employers without such a requirement have not

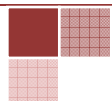
taken measures to ensure safety and protection of employees at the work place. The assessment team found that little attention was paid to safety and health at the work place at most sites visited by the team.

Although no statistics are available on work related accidents and deaths in the Maldives there are cases of work related diseases and fatal and non-fatal work related accidents in the Maldives and such illnesses and accidents cause suffering to families of such workers.

Recommendation 23

23.1 Develop national standards for occupational safety and health and develop codes of practice to provide guidance on safety and health at work in certain sectors such as construction, boat building and repair, agriculture, operation of heavy machinery, marine works and harbor works.

23.2 Conduct a survey of work related accidents and deaths in the Maldives to address the causes of such accidents and illnesses and to take appropriate measures to prevent the same.



Social Security

Social security systems protect people from the insecurities related to making a living through work. They provide for basic income in cases of unemployment, illness and injury, old age and retirement, invalidity, family responsibilities such as pregnancy and childcare, and loss of the family breadwinner. Such benefits are important not only for individual workers and their families but also for their communities as a whole. In addition to enhancing productivity by providing health care, income security and social services, by such measures, social security systems contribute to the dignity of the individual and also promote gender equality through the adoption of measures to ensure that women who have children enjoy equal opportunities in the labour market. ILO standards on social security provide for different types of social security coverage under different economic systems and stages of development. Social security conventions offer a wide range of options and flexibility clauses which allow the goal of universal coverage to be reached gradually.

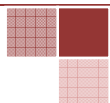
The Social Security (Minimum Standards) Convention of 1952 lays down the minimum standard for the level of social security benefits and the conditions under which they are granted. It covers the nine principal branches of social security, namely medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits. To ensure that it could be applied in all national circumstances, the convention offers states the

possibility of ratification by accepting at least three of its nine branches and of subsequently accepting obligations under other branches, thereby allowing them to progressively attain all the objectives set out in the convention. The level of minimum benefits can be determined with reference to the level of wages in the country concerned. Temporary exceptions may also be envisaged for countries whose economy and medical facilities are insufficiently developed, thereby enabling them to restrict the scope of the convention and the coverage of the benefits granted.

Article 38 of the Constitution states that every one engaged in employment with the State shall have the right of pension as provided by law. There is no law on pensions yet and pension is granted only to employees of the state, which as a rule include only the members of the civil service. There is no pension scheme for private sector employees.

Article 35 of the Constitution states that children, young people, the elderly and disadvantaged persons are entitled to special protection and assistance from the family, the community and the State. The details of the special protection stated in the constitution are yet to come.

The only form of social security available to employees in the Maldives is the pension available to employees of the state or government employees. No medical care benefits, sickness benefits, unemployment benefits, employment injury benefits, family benefits, maternity benefits, invalidity benefits or



survivor's benefits are available to Maldivian employees. No pension schemes exist or are available to employees in the private sector.

Until the beginning of 2009, there was no system or mechanism for making

payments to persons of over a particular age. The government has recently (February 2009) started to implement a scheme for making a monthly payment of Rf. 2000.00 to every unemployed Maldivian over 65 years of age.

Recommendation 24

24.1 Formulate and enact a law on pensions for employees of both the public and private sectors, providing for appropriate pension schemes for all employees.

24.2 Consider the adoption of benefits schemes as incentives to Maldivian employees.

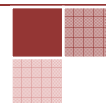
Maternity protection

Pregnancy and maternity are an especially vulnerable time for working women and their families. Expectant and nursing mothers require special protection to prevent harm to their or their infants' health, and they need adequate time to give birth, to recover, and to nurse their children. At the same time, they also require protection to ensure that they will not lose their job simply because of pregnancy or maternity leave. Such protection not only ensures a woman's equal access to employment, it also ensures the continuation of often vital income which is necessary for the well being of her entire family. Safeguarding the health of expectant and nursing mothers and protecting them from job discrimination is a precondition for achieving genuine equality of opportunity and treatment for men and women at work and enabling workers to raise families in conditions of security.

The Maternity Protection Convention of 2000 is the most up-to-date international labour standard on

maternity protection, although the earlier relevant instruments – the Maternity Protection Convention, 1919 (No. 3), and the Maternity Protection Convention (Revised), 1952 (No. 103) – are still in force in certain countries.

Maternity Protection Convention of 2000 provides for 14 weeks of maternity benefit to women to whom the instrument applies. Women who are absent from work on maternity leave shall be entitled to a cash benefit which ensures that they can maintain themselves and their child in proper conditions of health and with a suitable standard of living and which shall be no less than two thirds of her previous earnings or a comparable amount. The convention also requires ratifying states to take measures to ensure that a pregnant woman or nursing mother is not obliged to perform work which has been determined to be harmful to her health or that of her child, and provides for protection from discrimination based on maternity. The standard also prohibits employers to terminate the employment of a woman during

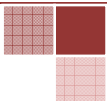


pregnancy or absence on maternity leave, or during a period following her return to work, except on grounds unrelated to pregnancy, childbirth and its consequences, or nursing. Women returning to work must be returned to the same position or an equivalent position paid at the same rate. The standard also provides a woman the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

Article 43 of the Employment Act states that female employees shall be granted sixty days maternity leave based on a medical certificate specifying the estimated date of giving birth issued by a licensed practitioner. Such leave does not commence until thirty days prior to the estimated date of giving birth. Maternity leave is to be granted to female employees in addition to other leaves. Female employees on maternity leave are also entitled to all the rights and benefits granted under the employment agreement such as the right to a promotion. No employee on maternity leave is subject to any lessening of rights conferred by the employment agreement or in calculating the duration of employment for due promotion. Employees on maternity leave are to be paid wages on the same day salary payments are made in the normal course of business even while the employee is on maternity leave. A further leave of twenty eight days (in addition to the maternity leave) is granted to an employee where a licensed practitioner certifies of the employee's inability to return to work either due to the ill health of the

mother or the baby. Such leave can be granted prior to the estimated date of delivery or after delivery. The employer has the discretion not to pay the employee for the duration of any such leave. Employees have the right to return to work to the same position held with the same benefits upon expiry of the maternity leave unless the position no longer exists at the work place due to economic, professional or organisational purposes or unless the employee is incapable of continuing to work in the same job (Article 44). Article 45 provides that upon return to work after completing of maternity leave, the employee shall be entitled to two daily breaks of thirty minutes each to attend to the needs of the child. No deductions from pay shall be made for such breaks and an employee is entitled to such breaks until the child is one year. Article 46 provides for an unpaid leave of up to one year for the mother or father upon expiry of maternity leave. Fathers are entitled to three days of paid leave on the occasion of the birth of a child (Article 48).

Maternity leave is provided to female employees requiring such leave as provided for in the Act. However, female employees are unable to return to work after child birth due to the non-existence of child care facilities in the country and because not many can afford child care workers to attend to children while mothers are at work. Further, no information is available on the effects of the provisions of the Employment Act relating to maternity leave on the employment of female workers.



Recommendation 25

25.1 Establish child care facilities to enable female workers to continue in their jobs after child birth. (Recommendation 12.1)

25.2 Conduct a survey to ascertain whether the provision of maternity leave in the Employment Act has had any negative impact on the employment (hiring) of female workers.

Migrant workers

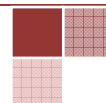
Poverty and unemployment in many developing countries force many to seek work elsewhere, while demand for labour, especially unskilled labour is increasing. As a result, millions of workers and their families travel to countries other than their own to find work.



Makeshift on-site sleeping area for a construction worker - many migrant workers are forced to sleep on construction sites due to lack of adequate accommodation being provided

Although migrant workers contribute to the economies of their host countries, they are accorded little social protection and are vulnerable to exploitation and human trafficking. Although less vulnerable to exploitation, the departure of skilled migrant workers has deprived some developing countries of valuable labour needed for their own economies. ILO standards on migration provide tools for both migrant sending and receiving states to manage migration flows and to ensure adequate protection for this vulnerable category of workers.

The Migration for Employment Convention (Revised) of 1949 requires ratifying states to facilitate international migration for employment by establishing and maintaining a free assistance and information service for migrant workers and taking measures against misleading propaganda relating to emigration and immigration. The Convention contains provisions on appropriate medical services for migrant workers and the transfer of earnings and savings. The Convention requires States to apply to migrant workers treatment no less favourable than that which applies to their own nationals in respect to a number of matters, including conditions of employment, freedom of association and social security.



The Migrant Workers (Supplementary Provisions) Convention of 1975 provides for measures to combat clandestine and illegal migration while at the same time setting forth the general obligation to respect the basic human rights of all migrant workers. It also extends the scope of equality between legally resident migrant workers and national workers beyond the provisions of the

1949 Convention to ensure equality of opportunity and treatment in respect of employment and occupation, social security, trade union and cultural rights, and individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within a ratifying state's territory.



Large groups of migrant workers gathered at public spaces in Male' on weekends

Article 62 of the Employment Act requires the Minister to, within six months from the date the Act comes into force, to publish regulations to govern the employment of foreigners in the Maldives, carrying out of such employment, employment and dismissal of foreigners and other related matters. Article 63 of the Act provides for complaints by foreigners or on their behalf to the Employment

Tribunal alleging breaches of the employment agreement.

The situation with respect to migrant workers in the Maldives has been addressed to earlier in this report.

Recommendations: (See Recommendations 6.1 – 6.7 on Migrant Workers)

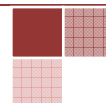
Seafarers

Seafarers are frequently exposed to difficult working conditions. Since ships that seafarers work on are both their home and workplace for prolonged periods of time living and working conditions are of primary importance. Seafarers are exposed to many unique occupational risks such as exposure to extreme weather conditions, the possibility of wrecking and sinking and the carriage of toxic materials and chemicals. Having to work far from home, seafarers are vulnerable to social exploitation and abuse, non-payment of wages, non-compliance with contracts, and exposure to poor diet and living conditions.

To protect the world's seafarers and their contribution to international trade, the ILO has adopted over 60 conventions and recommendations. ILO's maritime standards deal with almost all aspects of work in relation to seafaring including protection of children and young persons, vocational guidance and training, safety and health, security of employment and social security. They also cover specific subjects related to the particular

employment situation of workers in the maritime industry, such as articles of agreement, wages, hours of work and manning, recruitment and placement, certification of qualification, and identity documents.

The Merchant Shipping (Minimum Standards) Convention of 1976 and its Protocol of 1996 provide general standards for the protection of seafarers. These instruments require a ratifying state to draw up laws or regulations governing safety standards, including standards of competency and hours of work and manning, appropriate social security measures, and shipboard conditions of employment and shipboard living arrangements for seagoing ships registered in its territory. States must also ensure that provisions of laws and regulations are substantially equivalent to conventions enumerated in the appendix to the Convention (covering freedom of association and collective bargaining, minimum age, social security, safety, health and welfare, certificates of competency, and repatriation of seafarers), in cases where they have not ratified the corresponding instruments.





Seafarers are forced to live and work on ships for prolonged periods of time (Photo: Ameen)

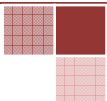
Although seafaring is a vital domestic economic activity for the Maldives as it is comprised of small islands, and maritime transport of passengers and cargo is a daily activity essential for the sustenance of the nation employing a large percentage of employed Maldivians, Maldives does not have any regime for the protection of seafarers or employees of marine vessels. The Employment Act, having initially excluded employees of marine vessels from the scope of Chapter 4 of the Act

later amended the Act to extend the scope of Chapter 4 to such employees. However, employers interviewed during the assessment expressed their concerns in implementing the provisions of the Employment Act relating to working hours, overtime, leave and other issues with respect to employees of vessels and believe that the Act should be amended to accord the special protection that the employees of marine vessels need.

Recommendation 26

26.1 Consider amending the Employment Act to provide for formulating regulations to govern the employment relations of employees of marine vessels until a law is formulated to govern the employment of seafarers.

26.2 Consult ship owners and operators of passenger and cargo vessels and employees of vessels to obtain their views relating to the amendment of the Employment Act to provide for the formulation of regulations governing the employment relations of employees of marine vessels as stated in Recommendation 26.1.



Fishers

Fishing is one of the world's earliest industries and today provides a livelihood for millions of families around the globe. Millions of people are engaged in capture fishing and aquaculture worldwide. Like seafarers, fishers are exposed to significant hazards, including rough weather at sea, crushing waves, powerful and dangerous machinery, hooks and shark bites. Fishing is also a very diverse industry, ranging from highly organised

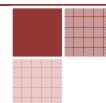
commercial deep-sea fishing operations to the more common small-scale and artisan fishing. The majority of fishers still belong to the informal sector. The wage payment system is normally based on a share in the value of the catch. To respond to the specific needs of workers engaged in fishing, the ILO has developed standards specifically aimed at providing protection for the men and women who work in this sector.



Fishers are often exposed to significant hazards such as rough weather

The Medical Examination (Fishermen) Convention of 1959 provides that no person shall be employed in any capacity on a vessel if he or she is not fit enough to be employed at sea. The Fishermen's Articles of Agreement Convention of 1959 provides that articles of agreement (contracts) shall be signed both by the owner of the

vessel or his authorized representative and by the fisher. The agreement shall clearly state the respective rights and obligations of each of the parties and shall, among other things, specify the voyage or voyages to be undertaken, the capacity in which the fisher is to be employed, the amount of his or her



wages, and the termination of the agreement.

The Maldives fishing industry by the end of 2007 employed 14241 fishers,^{xlix} most of whom were engaged in fish

harvesting. In the Maldives too, fish harvesting is considered an informal sector and the wage pay system is based on a share of the catch or a share in the value of the catch.



Fishers work in difficult conditions, enduring extreme hot weather

However, due to the importance of the fishing industry and their contribution to the national economy, it is vital that

fishers be accorded appropriate protection in line with the relevant international standard.

Recommendation 27

27.1 Consider amending the Employment Act to provide for the particular situation of the employment relations of fishers.

27.2 Consult owners of fishing vessels, captains of fishing vessels and fishers across the country to obtain their views on regulating employment relations of fishers and providing them special protection in view of the special circumstances of their employment.

Dockworkers

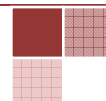
The dock industry in many countries is an important link in the transport network that requires constant upgrading in order to respond to the demands of international trade. The growing transport volume, the increasing sophistication of infrastructure, the widespread use of containers, and the intensity of capital investment required for the development of dock activities have led to profound reforms in the sector. Once relying on mostly occasional and low-skilled labour, dock work today requires more highly skilled workers who are increasingly registered workers. ILO standards deal with the need for specific protection due to safety and health hazards to which dockworkers are exposed during their work, and the impact of technological progress and international trade on their employment and the organisation of work in ports.

The Dock Work Convention of 1973 deals with new methods of work in docks and their impact on employment and the organisation of the profession with the objectives of protecting dockworkers in their professional life through measures relating to the conditions of their access to and

performance of work and foreseeing and managing in the best possible manner, through appropriate measures, fluctuations in the work and the workforce required for it. The Occupational Safety and Health (Dock Work) Convention of 1979 requires ratifying states to take measures with a view to providing and maintaining workplaces, equipment and methods of work that are safe and without risk of injury to health; providing and maintaining safe means of access to any workplace; providing information, training and supervision necessary to ensure protection of workers against risks of accident or injury to health at work; providing workers with personal protective equipment and clothing and any life-saving appliances reasonably required; providing and maintaining suitable and adequate first-aid and rescue facilities; and developing and establishing proper procedures for emergency situations which may arise. Maldives with dependence on foreign exports for its sustenance, must give due consideration to the protection and well being of those working at its ports. At present there are no laws or regulations formulated for the protection of such workers.

Recommendation 28

28.1 Formulate standards and regulations to provide for the occupational safety and health of employees of Ports/dockworkers.





Unique safety and health hazards faced by dockworkers require specific protection

Indigenous and Tribal Peoples

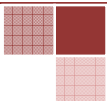
The most recent ILO standards on the subject of indigenous and tribal peoples set out principles and provide a framework for governments, organisations of indigenous and tribal peoples, and non-governmental organisations to ensure the

development of the peoples concerned, with full respect for their needs and desires.

The population of the Maldives is ethnically homogenous.

Recommendation 29

29.1 Disseminate information on the relevant conventions



Other Specific Categories of Workers

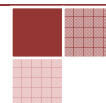
International labour standards in most cases have universal value and apply to all workers and all enterprises. Some standards mentioned earlier cover specific industries, such as seafaring. Finally there are a number of standards dealing with work-related issues in very specific sectors of economic activity (plantations, hotels, restaurants) or concerning specific groups of workers (nursing personnel, home workers).

In this regard, three conventions are of particular importance to the Maldives. The Nursing Personnel Convention of 1977 requires states to adopt measures appropriate to national conditions to provide nursing personnel with education and training and with working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them. Although this Convention was drawn up taking into account the fact that many nurses are migrant workers who face particular challenges, it is relevant to the Maldives because of the high number of migrant workers working as nurses and the need to train Maldivian nurses.

The Working Conditions (Hotels and Restaurants) Convention of 1991 is equally important. This convention, created for the purpose of improving the working conditions of workers in hotels and restaurants and bringing them closer to those prevailing in other

sectors, provides for reasonable hours of work, overtime provisions, rest periods, and annual leave. The employment situation in the tourism industry of the Maldives warrants a closer scrutiny of this convention in order to determine viable measures to address current challenges within the industry. Interviews with employees of tourist resorts during the assessment revealed the need to formulate standards specific to tourist resorts.

The Home Work Convention of 1996 aims to promote equality of treatment between home workers and other wage earners, particularly in relation to freedom of association, protection against discrimination, occupational safety and health, remuneration, social security, access to training, minimum age for admission to work, and maternity protection. In the Maldives, a large number of foreigners or migrant workers work as home workers and live at the homes in which they work and live, in cramped or overcrowded rooms. They are often paid very low wages and in most cases do not adhere to an 8 hour working day. In Male', households continue to informally employ young females barely over, and sometimes under, the age limit who come to Male' from rural areas for various purposes, such as education. They constitute a particularly vulnerable category of workers on account of their often informal status and lack of legal protection, their isolation and weak bargaining position.



Recommendation 30

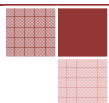
30.1 Review the relevant Conventions and consider setting specific standards for certain specific groups of workers, such as doctors, nurses, employees of tourist resorts, restaurants and home workers.

30.2 Consider amending the Employment Act, if necessary, to provide for the setting of specific standards for specific groups of workers as stated in Recommendation 30.1.

30.3 Consult doctors, nurses and workers of other specific groups to obtain their views on setting specific standards with respect to their employment.



Male' Commercial Harbour, where hundreds of dockworkers operate regularly



ANNEX I

List of Ministries, Departments and other government Institutions, Foreign Diplomatic Missions, Government Controlled Companies, Private Companies, Work sites, Islands and Non-governmental Organisations visited and/or interviewed during the assessment.

Government

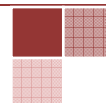
- Ministry of Human Resources, Youth and Labour
- Ministry of Housing, Transport and Environment
- Ministry of Economic Development
- Ministry of Tourism, Arts and Culture
- Ministry of Fisheries and Agriculture
- Ministry of Home Affairs
- Ministry of Education
- Department of Immigration and Emigration
- Department of National Planning
- Civil Service Commission
- Maldives College of Higher Education

Diplomatic Missions

- High Commission of Bangladesh
- High Commission of India
- High Commission of Sri Lanka

Government Controlled Companies

- Bank of Maldives Plc
- Maldives Transport and Contracting Company Plc
- Maldives Airports Company Ltd
- Maldives Ports Ltd
- Maldives Industrial Fisheries Company Ltd
- Island Aviation Services Ltd



Private Companies

- Universal Enterprises Pvt Ltd
- Villa Group
- Lily Shipping and Trading Pvt Ltd
- Aima Construction Company Pvt Ltd
- Batch Construction Pvt Ltd
- Maldivian Air Taxi Pvt Ltd
- Job Market Maldives Pvt Ltd
- ADK Hospital

Work Sites

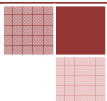
- Guarantee Fiber Glass Fabrication at K. Thilafushi
- Gulf Craft Services Center at K. Thilafushi
- Male' Aerated Water Company Pvt Ltd at K. Thulusdhoo
- Maafahi Agricultural complex
- Maandhoo Fisheries Complex
- Felivaru Tuna Processing Plant
- Rannaalhi Tourist Resort

Islands

- H. Dh. Kulhuduffushi,
- Lh. Naifaru,
- K. Thulusdhoo,
- L. Fonadhoo,
- L. Gan
- S. Hithadhoo

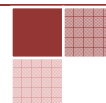
Non-governmental Organisations

- Maldives Association of Tourism Industry,
- Maldives Association of Construction Industry,
- Maldives National Chamber of Commerce and Industry
- Tourism Employees' Association of Maldives
- Teachers Association of Maldives

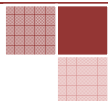


END NOTES

- ⁱ A full list of the Ministries, Government Departments, Government Companies, Private Companies, Worksites and Islands visited by the Team that conducted the Rapid Assessment of the Employment Situation from November 2008 to January 2009 is provided as Annex I of this Report.
- ⁱⁱ For further details and analysis of employment data of the Maldives see, *Analytical Report 2006, Population and Housing Census, 2006*, Chapter 8 (Labour Force & Employment), pp. 129-177. Ministry of Planning and National Development.
- ⁱⁱⁱ Ibid.,p.143.
- ^{iv} Ibid.,p.145.
- ^v Ibid.,p.146.
- ^{vi} Interview with the President of the Maldives Association of Construction Industry (MACI), Monday, 15th December 2008.
- ^{vii} See Statistics issued by the Ministry of Human Resources, Youth and Sports with respect to expatriate workers in the Maldives.
- ^{viii} Ibid.
- ^{ix} For details on international labour standards see, *International Labour Standards. A Global Approach*. International Labour Office, 2001
- ^x See Monthly Data published by the Ministry of Human Resources, Youth and Sports on Expatriate Workers.
- ^{xi} *Analytical Report 2006*, op. cit., p.143.
- ^{xii} Competent authorities of the Government have publicly declared that the data on migrant workers is inaccurate and have provided varying figures on the estimated number of illegal migrant workers in the country. This conclusion is derived from the interviews conducted by the team undertaking this Assessment.
- ^{xiii} See the monthly and annual data on expatriate workers published by the Ministry of Human Resources, Youth and Sports.
- ^{xiv} Press Conference by the Minister of Human Resources, Youth and Sports, November 2008.
- ^{xv} See Dr. Hameed, Hassan, *Youth Unemployment: the real Issues*, May 2003.
- ^{xvi} This section and the conclusions arrived at are all based on information obtained from the visits by the assessment team to High Commissions, to the Ministry of Human Resources, Youth and Sports, to the Department of Immigration and Emigration, to work sites and interviews with migrant workers, their representatives and representatives of community organisations.
- ^{xvii} Visit to Lh. Naifaru, 9th January 2009.
- ^{xviii} World Bank, *World Development Report 2005*, p.141.
- ^{xix} For details see, *International Labour Standards. A Global Approach*. International Labour Office, 2001
- ^{xx} For full texts of Conventions and Recommendations, visit www.ilo.org/ilolex/english/convdisp1.htm
- ^{xxi} a) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
b) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
c) Workers' Representatives Convention, 1971 (No. 135)
d) Rural Workers' Organisations Convention, 1975 (No. 141)
e) Labour Relations (Public Service) Convention, 1978 (No.151)
- ^{xxii} a) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
b) Labour Relations (Public Service) Convention, 1978 (No. 151)
c) Collective Bargaining Convention, 1981 (No. 154)
- ^{xxiii} a) Forced Labour Convention, 1930 (No. 29)
b) Abolition of Forced Labour Convention, 1957 (No. 105)
- ^{xxiv} a) Minimum Age Convention, 1973 (No. 138)
b) Worst Forms of Child Labour Convention, 1999 (No. 182)
- ^{xxv} a) Equal Remuneration Convention, 1951 (No. 100)
b) Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
c) Workers with Family Responsibilities Convention, 1981 (No. 156)
- ^{xxvi} Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
- ^{xxvii} a) Labour Administration Convention, 1978 (No. 150)
b) Labour Statistics Convention, 1985 (No. 160)
- ^{xxviii} a) Labour Inspection Convention, 1947 (No. 81)
b) Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)
c) Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- ^{xxix} Employment Policy Convention, 1964 (No. 122)



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- xxx
- a) Employment Service Convention, 1948 (No. 88)
 - b) Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)
 - c) Private Employment Agencies Convention, 1997 (No. 181)
 - d) Older Workers Recommendation, 1980 (No. 162)
 - e) Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)
 - f) Promotion of Cooperatives Recommendation, 2002 (No. 193)
- xxxii
- a) Paid Educational Leave Convention, 1974 (No. 140)
 - b) Human Resources Development Convention, 1975 (No. 142)
- xxxiii
- Termination of Employment Convention, 1982 (No. 158)
 - Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)
- xxxiv
- a) Labour Clauses (Public Contracts) Convention, 1949 (No. 94)
 - b) Protection of Wages Convention, 1949 (No. 95)
 - c) Minimum Wage Fixing Convention, 1970 (No. 131)
 - d) Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)
 - e) Equal Remuneration Convention, 1951 (No. 100)
- xxxv
- a) Hours of Work (Industry) Convention, 1919 (No. 1)
 - b) Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
 - c) Forty-Hour Week Convention, 1935 (No. 47)
 - d) Reduction of Hours of Work Recommendation, 1962 (No. 116)
 - e) Weekly Rest (Industry) Convention, 1921 (No. 14)
 - f) Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)
 - g) Holidays with Pay Convention (Revised), 1970 (No. 132)
 - h) Night Work Convention, 1990 (No. 171)
 - i) Part-Time Work Convention, 1994 (No. 175)
- xxxvi
- a) Occupational Safety and Health Convention, 1981 (No. 155) and its Protocol of 2002
 - b) Occupational Health Services Convention, 1985 (No. 161)
 - c) Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
 - d) Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
 - e) Safety and Health in Construction Convention, 1988 (No. 167)
 - f) Safety and Health in Mines Convention, 1995 (No. 176)
 - g) Safety and Health in Agriculture Convention, 2001 (No. 184)
 - h) Radiation Protection Convention, 1960 (No. 115)
 - i) Occupational Cancer Convention, 1974 (No. 139)
 - j) Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)
 - k) Asbestos Convention, 1986 (No. 162)
 - l) Chemicals Convention, 1990 (No. 170)
- xxxvii
- a) Social Security (Minimum Standards) Convention, 1952 (No. 102)
 - b) Equality of Treatment (Social Security) Convention, 1962 (No. 118)
 - c) Maintenance of Social Security Rights Convention, 1982 (No. 157)
- xxxviii
- Maternity Protection Convention, 2000 (No. 183)
- xxxix
- a) Migration for Employment Convention (Revised), 1949 (No. 97)
 - b) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- xl
- a) Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
 - b) Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)
 - c) Seafarers' Hours of Work and the Manning of Ships Convention, 1997 (No. 180)
 - d) Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
 - e) Labour Inspection (Seafarers) Convention, 1996 (No. 178)
 - f) Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
 - g) Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
 - h) Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
 - i) Seafarers' Welfare Convention, 1987 (No. 163)
 - j) Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
 - k) Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
- xli
- a) Medical Examination (Fishermen) Convention, 1959 (No. 113)
 - b) Fishermen's Articles of Agreement Convention, 1959 (No. 114)
 - c) Fishermen's Competency Certificates Convention, 1966 (No. 125)
 - d) Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)
- xlii
- a) Dock Work Convention, 1973 (No. 137)
 - b) Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)
- xliii
- a) Indigenous and Tribal Peoples Convention, 1989 (No. 169)
 - b) Indigenous and Tribal Populations Convention, 1957 (No. 107)



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- xliv a) Plantations Convention, 1958 (No. 110) and its Protocol of 1982
b) Nursing Personnel Convention, 1977 (No. 149)
c) Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)
d) Home Work Convention, 1996 (No. 177)

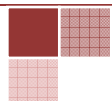
xlv Draft Report of a Rapid Assessment Survey of Drug Abuse in the Maldives by Journey, an NGO registered in the Maldives, 2008

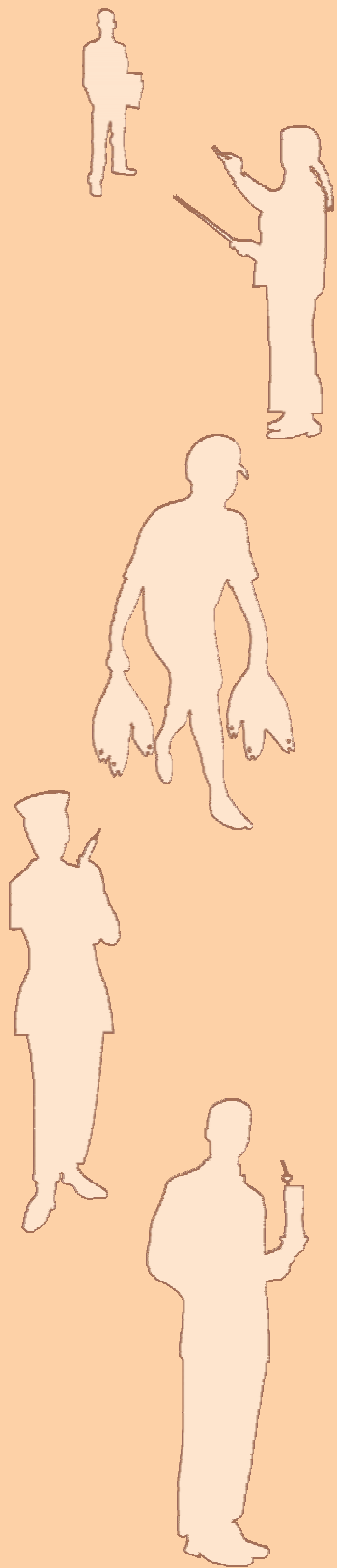
xlvi In November 2008, a labour dispute at Reethi Rah Tourist Resort was resolved through discussions and negotiations held at a meeting of Tourism Employees Association of Maldives representing the striking employees of the Resort, the Management of the Resort and the Government. The Meeting of the three parties was held at the President's Office.

xlvii "Minister" is defined in the Employment Act as the Minister in charge of the Ministry responsible for employment matters or to any party empowered to represent such person.

xlviii Number of students enrolled in schools was provided by the Ministry of Education and other statistics are from information obtained at the interview with the Maldives College of Higher Education.

xlix Data provided by the Ministry of Fisheries and Agriculture.





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