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Introduction

The protection of labor rights refers to the rights, workers are entitled to, and the enforcement of such rights. All employees in Maldives fall under the purview of the Maldives Employment Act,⁵³⁷ including private sector employees. This statute elaborates the rights and liabilities of employees and the employers, methods of redress where a workplace injury takes places, work hours, minimum wage, and other issues that fall within the ambit of employment.⁵³⁸ This research focuses on the rights of private sector employees amongst the employed population of Maldives including migrant workers and laborers working in the private sector.

Labor rights have gained global prominence through the efforts of human rights institutions and advocacy organizations like the International Labour Organization (ILO), which asserts that their enforcement strengthens economic resilience by preventing exploitation and reducing labor disputes.⁵³⁹ Labor rights protection is indispensable for addressing modern labor market inequalities, reducing exploitation, and fostering inclusive growth. It is a crucial

element for building resilient economies that prioritize human dignity alongside economic progress.⁵⁴⁰

Effective labor rights safeguard workers by ensuring fair wages, safe working conditions, and job security, thereby enhancing both their well-being and productivity.⁵⁴¹ Furthermore, robust labor protections help address critical issues like income inequality, precarious employment, and social exclusion.⁵⁴² These rights empower workers to demand equitable treatment and access to social protection, which are fundamental to sustainable economic growth.⁵⁴³ Cultural and institutional factors further complicate labor rights enforcement. In some regions, prioritization of rapid economic growth over labor protections leads to weak legal frameworks and enforcement mechanisms, perpetuating worker exploitation.⁵⁴⁴ This dynamic was evident in the Maldivian tourism industry during the 1970s and 1980s, when the tourism sector was being established. Due to poor living conditions and a lack of security and protection for employees in tourist resorts, many locals refused to join the tourism industry, resulting in an influx of a large number of expatriate

⁵³⁷ Law No. 2/2008, Employment Act.

⁵³⁸ Gurpreet Singh, 'Labour Law : The History and the Present' (*iPleaders*, 30 May 2021) <<https://blog.ipleaders.in/labour-law-history-present/>> accessed 23 April 2023.

⁵³⁹ Oleh Lohinov and others, ‘Regulatory Peculiarities of the Maritime Labor Convention in the System of International Legal Protection of Seafarers’ Rights’ (2024) 21 Journal of Maritime Research 31.

⁵⁴⁰ Sandra Polaski, 'Protecting Labor Rights through Trade Agreements: An Analytical Guide' (2003) 10 UC Davis J. Int'l L. & Pol'y 13.

⁵⁴¹ Wenshuo Han and others, ‘The Impact of Digital Economic Development and Government Intervention on China’s

Pension Insurance Fund Income: Moderated Chain Mediation Effects' (2024) 13 Social Sciences 672.

⁵⁴² Swatantra Pratap Singh, Pooja Barthwal and Anjay Singh Bisht, 'Decent Work and Economic Growth: A Sociological Perspective.' in Mousmi Goel, Nirmesh Sharma and Varsha Gupta (eds), *UNDP: Sustaining Actions and Reforms* (RED'SHINE PUBLICATION PVT LTD 2024).

⁵⁴³ Francesca Maffei, ‘The Need for Evolving Legal Frameworks for Digital Workers’ [2023] *DiFree News letter* <www.difree-project.it/wp-content/uploads/2024/12/DiFree-News-4.pdf> accessed 29 November 2024.

544 Samina Ali and Muhammad Zubair Khan, 'A Comprehensive Analysis of Unfair Labor Practices in Pakistan from the Perspective of National and International Law' (2024) 3 Pakistan Research Journal of Social Sciences.

workers into the country.⁵⁴⁵ Until the mid-90s, there was no proper regulatory mechanism to protect the rights of employees in the Maldives.

Despite the rights of workers were briefly outlined in the earlier constitutions of the Maldives, these rights were limited to certain context, *inter alia* include the right to work, the right to freedom from forced labor, and the right to a pension.⁵⁴⁶ Workers' rights were outlined in more detail with the enactment of the government employees' regulation in 1994. This regulation covered issues such as hiring, promotions, termination of government employees, wages, allowances, and other benefits given to government employees. The first employment regulations regarding the private sector were also established in 1994. These regulations set down minimum standards which must be included in an employee agreement.⁵⁴⁷ While there was no significant improvement in labor legislation, the ratification of the Maldives Civil Service Act in 2007 established the Civil Service Commission to oversee the enforcement of rights and duties of civil servants.⁵⁴⁸ The 2008 Constitution also brought about a notable change in the horizon of labor laws. It set down more extensive rights of workers, including freedom from forced labor, the right to strike, the right to safe conditions of work and fair wages.⁵⁴⁹ The biggest milestone in protecting labor rights was achieved with the enactment of the Employment Act in 2008, which set down the rights and duties of workers comprehensively.⁵⁵⁰

The promulgation of the 2008 Constitution and the enactment Employment Act of 2008 established labor rights for private sector employees as well. Despite the existence of labor laws and regulatory bodies to oversee the enforcement of labor rights, workers still complain about the deprivation of basic rights⁵⁵¹ such as access to food, shelter, and inadequate pay.⁵⁵² Such complaints raise the question of the extent of enforcement of those legislations. This research, therefore, will identify some key rights that private sector employees in the Maldives are entitled to and the extent to which they are

protected. This will ultimately help to determine the steps necessary to ensure the protection of rights of private sector employees. It focuses on all employees who fall within the ambit of the private sector, including workers in the tourism industry and migrant workers.

Research Methodology

Qualitative research design is utilized, as it is considered the most feasible methodology for this study. A thematic documentary analysis approach is employed to scrutinize information from secondary sources, such as articles and reports, on the current state of the private sector workforce. In addition to analyzing statutes and by-laws related to labor rights, interviews with private sector employees are conducted to gain insights into their experiences.

Rights of Private sector employees

Private sector employees are legally entitled to many labor rights. These rights are mainly laid down in the Constitution, and they are reinforced in the Employment Act and regulations. Regardless of the existence of these labor rights, there are questions as to whether private sector employees are fully afforded basic rights such as adequate pay, freedom from discrimination, fair working hours, safe working conditions and adequate accommodation.

(a) The right to fair wages

The right to fair wages for all workers is a constitutionally protected right,⁵⁵³ and the Employment Act⁵⁵⁴ elaborates this right with a recent amendment to establish a minimum wage.⁵⁵⁵ For government employees, the right to adequate pay is enforced within the regulatory framework of the Civil Service Commission in that civil servants can raise issues regarding their pay with the Commission, and the punctuality in payment is ensured as salaries are managed by the Ministry of Finance.

⁵⁴⁵ Aishath Shakeela and Chris Cooper, 'Human Resource Issues in a Small Island Setting: The Case of the Maldivian Tourism Industry' (2009) 34 Tourism Recreation Research 67.

⁵⁴⁶ Constitution of the Maldives 1932. Also see all subsequent Constitutions of the Maldives

⁵⁴⁷ Human Rights Commission of the Maldives, 'Rapid Assessment of the Employment Situation in the Maldives' (Human Rights Commission of the Maldives 2009).

⁵⁴⁸ Act No. 5/2007, The Maldivian Civil Service Act.

⁵⁴⁹ Constitution of the Republic of Maldives 2008.

⁵⁵⁰ Act No 2/2008 'The Employment Act.

⁵⁵¹ 'Afcons Muvazzafunnah Kaan Nudhy, Musaara Nudhey Kamuge Thuhumathu! - Vaguthu' <<https://vaguthu.mv/news/832045/>> accessed 23 April 2023.

⁵⁵² raajje.mv, 'Tourism dhaairaga masakkai kuraa muvazzafunge haqquthah hoadhai dhinumah majlis memberun govaalaifi' <<https://raajje.mv/45861>> accessed 23 April 2023.

⁵⁵³ Constitution of the Republic of Maldives 2008 ch II.

⁵⁵⁴ Employment Act.

⁵⁵⁵ Minimum Wage Order 2021.

The wages of private sector employees are not regulated through such a framework, and the pay depends on the policies of private companies, and punctuality and consistency of salaries depends on the supervisors and human resource departments of workplaces. This lack of supervision of private workplaces by authorities leaves employees vulnerable to being exploited by inadequate pay and remuneration. Private sector employees are sometimes not paid on time, or they are paid inadequately for the work they do. For instance, Maldivian employees often file issues over wages in the Employment Tribunal,⁵⁵⁶ sometimes regarding non-payment of commissions and decrease in salaries and benefits contrary to the Employment Act.⁵⁵⁷ Private sector employees were also the most affected by the delay of the government in establishing a minimum wage.⁵⁵⁸ Many workers were not paid adequately during the two period, and this exacerbated during Covid-19 where some workers were placed on unpaid leave and foreign workers were deported without being paid their wages.⁵⁵⁹ Foreign workers are particularly exploited as they have less access to regulatory authorities. For instance, 49 foreign workers employed by Jaah Investments filed their case with the Employment Tribunal over unpaid wages.⁵⁶⁰ Despite filing complaints with the police, the Labor Relations Authority, and the Human Rights Commission, no significant action was taken. Moreover, the minimum wage order excluded expatriate workers despite migrants consisting about 1/3rd of the Maldivian workforce.⁵⁶¹ Being excluded from the minimum wage meant that the wages received by migrant workers would have been insufficient for the work they do and vulnerable to exploitation.⁵⁶²

(b) The right to freedom from discrimination

⁵⁵⁶ *Aishath Maasha vs Strader Private Limited*, 146/VTR/2019; *Ali Thameem vs Rainbow Enterprises Private Limited*, 5/VTR/2019.

⁵⁵⁷ *Hawwa Huzma vs Ondhigo Private Limited*, 193/VTR/2019.

⁵⁵⁸ Minimum Wage Order 2021.

⁵⁵⁹ 'COVID-19: Over 11,000 Resort Employees Placed on Unpaid Leave' <<https://avas.mv/en/80534>> accessed 23 April 2023; Human Rights Watch, 'Maldives: Events of 2020', *World Report 2021* (2020) <<https://www.hrw.org/world-report/2021/country-chapters/maldives>> accessed 23 April 2023.

⁵⁶⁰ Lamy Abdulla, '49 Migrant Workers File Case with Employment Tribunal over Unpaid Wages' *The Edition* <<https://edition.mv/news/26716%202>> accessed 23 April 2023.

The freedom to be protected from discrimination based on gender, race, nationality, and disabilities is one of the most remarkable labor rights.⁵⁶³ Regardless of this constitutionally protected labour right, private sector employees are often excluded due to their nationality or disabilities and harassed due to their gender. While employees often face such issues, there are no mechanisms in place to report these problems and they are commonly met with inaction from supervisors.

The Maldivian workforce composes of many lower-skilled migrant workers from India and Bangladesh, many of whom are undocumented. Their undocumented status often exposes them to exploitation. A large portion of lower skilled, foreign, undocumented workers reveals the system issues of discrimination in the Maldivian workforce⁵⁶⁴ and recently, some foreign workers complained of the discrimination they faced based on their nationality.⁵⁶⁵ Workers also complain about feeling excluded due to the ableist nature of workplaces. An employee with an illness shared their experience of being excluded from their team and feeling isolated due to their inability to participate in team lunches due to a health condition where they had dietary restrictions and had to urinate frequently. They reported that there was no procedure to share their grievances with their superior workers nor did they attempt to address their difficulties.⁵⁶⁶

Gender based discrimination is the most prevalent type of discrimination in workplaces, where women are met with condescending attitudes, exclusion, and sometimes harassment from other workers and supervisors. A female employee shared her experience of being excluded from meetings early in her employment, while her male counterparts were called into the meeting. While this situation has changed since then and she is included in such meetings, she shared how she felt excluded earlier in her employment.⁵⁶⁷

⁵⁶¹ Human Rights Watch (n 23).

⁵⁶² 'Expatriate Workers with No Rights | Maldives Financial Review' (22 September 2022) <<https://mfr.mv/industry/expatriate-workers-with-no-rights>>.

⁵⁶³ Employment Act, Law No. 2/2008 s 4; Constitution of the Republic of Maldives 2008 art 37.

⁵⁶⁴ 'Expatriate Workers with No Rights | Maldives Financial Review' (n 26).

⁵⁶⁵ Abdulla (n 24).

⁵⁶⁶ Interview with Participant 03, Employee working in the private sector (Male', Maldives, 17 April 2023

⁵⁶⁷ Interview with Participant 01, Employee working in the private sector (Male', Maldives, 13 April 2023)

Another female employee also shared her experience of being patronized by male supervisors where their behavior suggested that she was less capable of understanding office procedures compared to her male counterparts.⁵⁶⁸ Several private sector employees also share their experiences with sexual harassment. A 2013 report by the Human Rights Commission of the Maldives showed that over a fifth of the women surveyed had been sexually harassed in their workplace. Sexual harassment in workplaces are not isolated events; it is part of the discrimination women face in the workplace. For instance, in July 2013, the CEO of the Sun Media Group, was charged with criminal offences for bringing girls into his office and having sexual relations with them after offering them jobs; and in November 2014, the former editor of V-news was arrested for assaulting a female colleague. While the harassment against women is widespread, many employees cannot report these incidents due to the lack of a proper framework and regulatory body within workplaces. Employees are more reluctant to report such incidents where the perpetrators are their superiors, for the fear of being terminated, ostracized, or subjected to further harassment.⁵⁶⁹

(c) The right to fair working hours

The Employment Act places a cap on the maximum number of working hours (48 hours) and the maximum number of consecutive workdays (six days).⁵⁷⁰ This is also a constitutionally protected labor right.⁵⁷¹ The working hours are fixed for government employees from 8 to 2 (6 hours), and overtime is also fixed and regulated by the Civil Service Commission and respective government offices. While government employees work beyond the designated hours, they are usually given leave on public holidays, and they are given an overtime. However, private sector employers have the liberty of establishing their own working hours and overtime. Subsequently, employees are often made to work longer hours without overtime pay or inadequate overtime pay. The lack of a regulatory framework and varying policies within private companies result in unfair working hours and compensation for private sector employees.

A private sector employee shared their experience with how workers in her office must come to work even on their designated off days, albeit having worked six consecutive days.⁵⁷² Another employee shared how managers often ask employees in their workplace to do work after official working hours during events without overtime. She also shared that employees are often made to work during public holidays, even on labor day, without additional wages although it is an established labor right.⁵⁷³ Another employee shared that the managers refused to establish official working hours during Ramadan to avoid calculating overtime, as a result of which one employee was forced to work long after the Iftar time and did not get the opportunity to go home and break their fast.⁵⁷⁴

(d) The right to safe working conditions

Employers must establish a safe workplace for their employees. Where employees are made to operate machinery, employers must obtain the necessary protective gear, tools and train their employees to operate the machinery safely. This is a critical labor right protected through the Constitution and the Employment Act. While workers must be provided with just and safe working conditions, the reality is anything but. The Public Interest Law Centre in a recent infographic video reported that work site safety issues are at an alarming level in the Maldives, where workers are at risk of being injured in several ways (falling, objects falling on them, sustaining injuries during heavy lifting etc.).⁵⁷⁵ It is not only private sector employees who are exposed to dangerous working conditions. Government employees also endure unsafe working conditions where workers have met with accidents, and one worker consequently passed away;⁵⁷⁶ however, these conditions are somewhat regulated and monitored by the government after such accidents. Private sector workers are more vulnerable due to the absence of a solid framework and a parent body to regulate working conditions.

Construction workers are often exposed to worksite accidents. In one incident, a worker at Thaa Atoll Dhiyamigili Island boatyard had his toes severed after an iron sheet fell on

⁵⁶⁸ Interview with Participant 02, Employee working in the private sector (Male', Maldives, 13 April 2023)

⁵⁶⁹ 'Workplace Sexual Harassment in the Maldives: The Struggle for Justice' (6 November 2017) <<https://maldivesindependent.com/society/workplace-sexual-harassment-in-the-maldives-the-struggle-for-justice-133995>> accessed 23 April 2023.

⁵⁷⁰ Employment Act, Law No. 2/2008 s 32.

⁵⁷¹ Constitution of the Republic of Maldives 2008 art 37.

⁵⁷² Interview with Participant 02.

⁵⁷³ Interview with Participant 01.

⁵⁷⁴ Interview with Participant 04, Employee working in the private sector (Male', Maldives, 5 April 2023)

⁵⁷⁵ Public Interest Law Centre, 'Work Site Safety Issues Are at an Alarming Level in the Maldives' (2023) <<https://www.facebook.com/watch/?v=815332063039012>> accessed 23 April 2023.

⁵⁷⁶ Avas, 'Man Injured in Port Accident Passes Away' (16 January 2021) <<https://avas.mv/en/94203>> accessed 25 April 2023.

his feet.⁵⁷⁷ Migrant workers are perhaps more vulnerable to such accidents. Many migrant workers are often made to lift heavy objects on their head without protective equipment, and following workplace incidents they have less access to healthcare. In one incident, a Bangladeshi worker was killed after he was hit by a falling stone in a construction site. New worker safety regulations were enacted in 2022 following this incident, where it was mandatory for employers to provide workers with safety equipment in construction sites.⁵⁷⁸ However, these regulations are seldom monitored and enforced by relevant authorities such as the Labor Relations Authority and the Construction Ministry. Work safety is also unfortunately not only confined to worksites involving heavy labor. An employee who worked in an office space shared that her workplace was unhygienic due a rat infestation. She also shared that she constantly got ill due to the accumulation of dust in her working space.⁵⁷⁹ Amid unsafe working conditions, The Public Interest Law Center has advocated for an Occupational Safety and Health Act to protect the rights of laborers working in dangerous conditions.⁵⁸⁰ While a bill was drafted and sent to the Parliament in 2022; it was passed by the Parliament and ratified after a yearlong delay.⁵⁸¹

(e) *The right to adequate accommodation*

Accommodation rights are a point of contention for workers. Accommodation is mostly provided for migrant workers. All foreign employees employed by the government are paid accommodation allowances while Maldivian workers usually do not get accommodation quarters or allowances. Many local workers have expressed displeasure regarding the discrepancy in the treatment between local workers and migrant workers especially by the government. When

Maldivian workers migrate to the capital Male' from other islands and are forced to pay a steep rent to work in Male', most of their income are paid to rent.

Nevertheless, migrant workers undeniably consist of about 1/3rd of the Maldivian workforce, and they usually carry out heavy labor in construction and other companies that require hard labor. These companies are usually in the private sector without a proper oversight framework. These workers are indubitably a significant part of the workforce and thus are entitled to accommodation given that many workers come from foreign countries, are often exploited by agents.⁵⁸² Migrant workers, especially those who work as laborers, are more vulnerable to unfair labor practices due a lack of access to regulatory authorities.

A recent amendment to the Employment Act and regulations made under the Employment Act established certain standards for providing accommodation quarters for migrant workers such as proper shelter, ventilation, lighting, clean sleeping arrangements, and access to bathrooms.⁵⁸³

However, the accommodation quarters provided to migrant workers often fall short of the legally established standards. Labor quarters in Male' are often congested, and during the worst waves of Covid-19, the severe congestion in accommodation quarters caused extreme difficulties in social distancing. Consequently, already vulnerable workers were at risk of exposure to the virus.⁵⁸⁴ In another incident, Afcons⁵⁸⁵ employees who worked on the *Thilamale' Bridge Project* protested their poor living conditions due to the subsequent damage caused when a fire broke out in their labor quarters.⁵⁸⁶ An employee in the Human Resource Department of another construction company also shared the substandard living conditions of their main labor quarters citing that "no human should live there." She reported that the living quarters were

⁵⁷⁷ 'Iron Sheet Falls on Worker's Feet, Severing Toes' (*Worksafemaldives*, 29 September 2022) <<https://worksafemaldives.com/iron-sheet-falls-on-workers-feet-severing-toes/>> accessed 23 April 2023.

⁵⁷⁸ 'Worker Killed in Construction Accident' (*Worksafemaldives*, 29 September 2022) <<https://worksafemaldives.com/worker-killed-in-construction-accident/>> accessed 23 April 2023.

⁵⁷⁹ Interview with Participant 02.

⁵⁸⁰ Public Interest Law Centre (n 39).

⁵⁸¹ Massakathuge maahauluge salaamathaai siyyhee rakkatheri kamuge bill; The President's Office, 'The President Ratifies the Occupational Safety and Health Act' (2 January 2024) <<https://presidency.gov.mv/Press/Article/29534>> accessed 25 April 2024.

⁵⁸² 'Expatriate Workers with No Rights | Maldives Financial Review' (n 26).

⁵⁸³ Regulation on Employees Accommodation Standards, Regulation, R-15/2021.

⁵⁸⁴ 'Maldives: Migrants Arrested for Protesting Abuses | Human Rights Watch' (24 July 2020) <<https://www.hrw.org/news/2020/07/24/maldives-migrants-arrested-protesting-abuses>> accessed 23 April 2023.

⁵⁸⁵ AFCONS Infrastructure is an Indian Construction company based in the Maldives, which is working on the Thilamale' Bridge project in the Maldives.

⁵⁸⁶ Ahmed Aidhu, 'މަލްދީވުގެ ބިރު ދަށުން ދިރިރައްކާ ވާ ބިރު ދަށުން' (Bridge Ge Massakaiyy Kuraa Afcons Ge Muvazzafun Gulhee Falhugai Hama Nujehun Hinganee)' <<https://adhadhu.com/article/32326>> accessed 23 April 2023.

congested, and the workers were forced to sleep on floor mats due to the sheer number of workers, although employers are required to provide beds for workers under the accommodation regulation. She also shared the unhygienic state of the living quarters where the place was infested with rats, and it had unclean bathrooms. It also did not have separate rooms for cooking.⁵⁸⁷

It is worth noting that the accommodation provided for staff working in the tourism industry, particularly in tourist resorts, is of a good standard. Most resorts offer air-conditioned rooms, private bathrooms, and other necessary amenities. In fact, many resorts began providing high-quality staff accommodations even before the current legal framework for staff housing was enacted. Currently, over 170 tourist resorts in the Maldives provide fairly a good quality accommodation and meals for all employees. These provisions are essential, as each resort is situated on a separate, uninhabited island, isolated from the local population.

However, it is important to clarify that workers in the resort construction industry are not provided with such facilities, as they are typically employed and managed by construction companies rather than resort management.

Recommendations

To enhance labor rights protection and improve working conditions, several key measures must be taken. First, regulatory bodies and other relevant parties should raise awareness about the constitutional and legal rights of workers to ensure employees understand their entitlements. Additionally, organizations such as the Labor Relations Authority, the Ministry of Economic Development, and the Ministry of Construction must more closely monitor the working conditions in the private sector, especially labor sectors under a clear legal mandate. Enacting specific mandates for regulatory bodies to oversee labor conditions will ensure consistent and effective oversight.

Increasing the budget for regulatory bodies is also crucial to enabling them to address labor rights infringements promptly and efficiently. Furthermore, these bodies must practice impartiality and avoid discrimination, especially when migrant workers seek their assistance. Such measures will foster trust and ensure equitable enforcement of labor rights.

Private sector employers must also take responsibility by establishing proper systems and procedures for employees to report grievances related to wages, discrimination, working hours, working conditions, and labor quarters. In addition, private companies should establish independent departments dedicated to human resource management to ensure proper handling of labor-related matters.

Employers must implement standardized working hours, allocate appropriate pay for overtime, and compensate employees for work performed on public holidays. It is also essential for employers to ensure that working conditions align with the standards set by the Employment Act and related regulations. Finally, employers should provide training for foreign workers (laborers) on maintaining labor quarters to promote cleanliness and hygiene, fostering a safe and comfortable living environment for all employees.

Conclusion

Many private sector employees are not entirely familiar with their labor rights. Consequently, employers exploit their workers due to the lack of this knowledge and often follow the Employment Act to the extent of their convenience. They make employment guidelines contrary to the Employment Act, especially in terms of pay, working hours and overtime. Although the Employment Tribunal has done a better job in securing the rights of private sector employees in recent years, regulatory authorities such as the Labor Relations Authority, the Economic Ministry, and the Ministry of Construction often fall short in their duty of monitoring labor conditions. They do not take the necessary action when knowledge of employee abuse surface or when such complaints are made. Subsequently, many employers are not penalized for such abuses. Migrant workers are especially dismissed when they seek the assistance of regulatory authorities. They are considered a threat while they attempt to acquire the rights they are constitutionally and legally entitled to. Thus, private sector employees are still unable to fully enjoy their labor rights; and migrant workers are particularly exploited with regards to pay and accommodation, especially those working in the labor sector.

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⁵⁸⁷ Interview with Participant 02.

Interviews

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