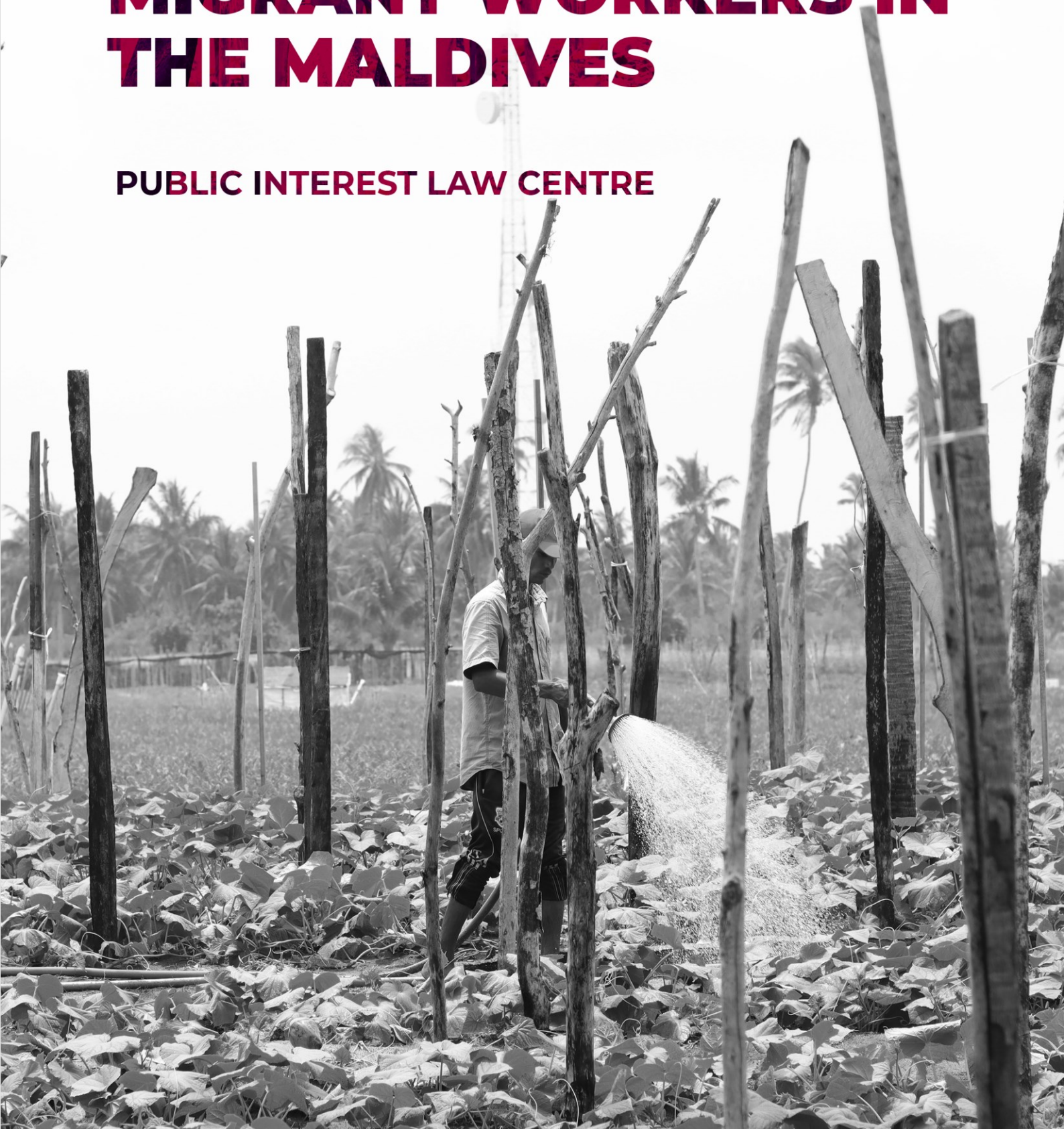


# **FROM VULNERABILITY TO EXPLOITATION : BANGLADESHI MIGRANT WORKERS IN THE MALDIVES**

**PUBLIC INTEREST LAW CENTRE**





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# ACRONYMS

ARC	Advocating the Rights of Children
ATO	Anti-Trafficking in Persons Office
AGO	Attorney General's Office
CIE	Certificate of Employment Intermediaries
CSOs	Civil Society Organisations
DFPRW	Declaration on Fundamental Principles and Rights at Work, 1998
GDP	Gross Domestic Product
HPA	Health Protection Agency
HIES	Household Income and Expenditure Survey
HRC	Human Rights Commission of the Maldives
HRW	Human Rights Watch
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organisation
IOM	International Organization for Migration
ISCED	International Standard Classification of Education
LRA	Labour Relations Authority
LGA	Local Government Authority
MBS	Maldives Bureau of Statistics
MI	Maldives Immigration
MPS	Maldives Police Service
MWSC	Maldives Water and Sewerage Company
MRC	Maldivian Red Crescent
MoD	Ministry of Defence
MED	Ministry of Economic Development
MoFA	Ministry of Foreign Affairs
MMWM	Mission for Migration Workers Maldives
NAHTSC	National Anti-Human-Trafficking Steering Committee
OSH	Occupational Safety and Health
PPE	Personal Protective Equipment
PHTA	Prevention of Human Trafficking Act
PGO	Prosecutor General's Office
PILC	Public Interest Law Centre
SAARC	South Asian Association of Regional Cooperation
SOP	Standard Operating Procedure
SOEs	State-Owned Enterprises
SPSS	Statistical Package for the Social Sciences
TIP	Trafficking in Persons
TM	Transparency Maldives
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
US DoS	United States Department of State

# FOREWORD

Labor migration presents people with the prospect of opportunity and a better life in an interdependent globalized world. However, beneath the veil of this progress lies the reality of human cost; the vulnerability and exploitation that countless migrant workers must endure. This study examines the underlying causes, mechanisms, and catastrophic effects of migrant worker exploitation to shed light on the systemic inequities that it presents.

The main objective of this study is to understand the challenges faced by the migrant community in the Maldives by exploring the interplay between migration, labour exploitation, and trafficking. This is analysed by identifying the current issues and challenges faced by Bangladeshi migrant workers.

The successful collaboration between the Public Interest Law Centre and The Asia Foundation enabled to conduct such a crucial study in order to increase understanding of and identify solutions to the challenges facing South Asian Labor Migrants in Maldives, focusing on the Bangladesh and Maldives labour corridor.

I admire and appreciate PILC researchers' hard work and devotion in carrying out this study and producing a comprehensive paper. This study has been instrumental in developing policy recommendations that directly address the identified challenges, providing a clear path towards actionable solutions. I extend my sincere gratitude to The Asia Foundation for their financial support and guidance which has been instrumental in ensuring the rigor and relevance of this study. Their collaboration has been invaluable, and I am excited about the prospect of future partnerships.

The findings of this study aim to inform policy analysis, evaluating current policies based on the lived experience. This will also provide insight for the stakeholders involved in protecting the rights of marginalised groups to address the issues and provide better assistance. This study fills a gap in the local literature on the subject by offering a baseline analysis of the challenges faced by migrant workers. I hope it serves as a catalyst and starting point for more extensive research in the future. Through collaborative action, we can challenge the system that enables exploitation, ensure safe migration with mutual benefit to the stakeholders and ensure all individuals are treated with dignity and respect.



**Uz. Hassan Hameed**

Co-Founder

Public Interest Law Centre

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We also thank the staff of PILC for their hard work and contributions at all stages of the study for their assistance in preparations, providing secondary and anecdotal information for the literature review, data collection and data entry.

This study could not have been completed without the efforts of the enumerators and supervisors involved in the data collection process, stakeholders and agencies who assisted in making logistical arrangements to aid us, and the Institute of Research and Innovation [IRI] which led the data analysis process.

Finally, we thank The Asia Foundation for providing us with the funding support and assistance to conduct this study.

# EXECUTIVE SUMMARY

Migration impacts and transforms not only individual lives, but also societies, and economies on a grandeur scale. The symbiotic and mutual impact of migration has been largely positive, wherein migration and socio-economic development are intertwined. This is evident in the case of Maldives, where for decades, migrant workers from the South Asian region, particularly Bangladesh, have played vital roles in national development and growth by filling the necessary gaps in low-skilled employment as locals venture into tertiary industries. Despite the steady influx of workers, the implementation of the legislative and institutional framework to accommodate foreign labour has continued to be lax.

Such paper-park policies and its enforcement are often not informed or reflected by the lived experiences of those who are impacted by it. The existing mechanism has been inadequate in addressing the resulting human rights and labour rights violations, ranging from wage theft, exploitative working and living conditions, confiscation of identification documents, to charging of abhorrent recruitment fees. The resulting issues and challenges faced by the migrant population continue to be viewed negatively, and has been considered a sensitive, political subject, often addressed with nationalistic ideologies.

This study delves into the issues and challenges faced by the migrant community within three key thematic areas: migration, labour exploitation and human trafficking, with the objective to grasp the prevalence of these issues, and its conceptualisation. Within this scope, the recruitment of workers, their legal statuses, working conditions, occupational safety, health and industrial action, and discrimination faced by workers are further explored. A quantitative questionnaire formulated based on the ILO Operational Indicators of Trafficking of Adults for Labour Exploitation, adopted to the local context, was utilised to collect information. 847 responses were collected from adult, Bangladeshi workers in the Maldives, which indicated the prevalence of human rights and labour rights violations. The findings of the study were reviewed in light of the literature and secondary data compiled, which implies that the current mechanism is inadequate to address the plights of the Bangladeshi migrant workers in the Maldives.

These experiences were evaluated based on a continuum, with the ILO's decent work principles at one end, and forced labour and trafficking at the other. Although it is likely that the majority of the responses cannot be classified at either end of the continuum, indicating that the experiences of workers fall among the continuum, the current mechanism disregards their lived experiences, and does not recognise exploitation, and infringement of rights at different levels. This creates a "hierarchy of suffering" among workers, wherein their issues are not acknowledged, and they are unable to access remedies unless they are subjected to severe exploitation.

Hence, this study sheds light onto the variety of experiences and highlights the need for a range of remedies and corrective measures. The findings are intended to contribute to the amendment of current policies, enactment of future policies and the framing of the relevant institutional mechanisms to adopt a rights-based and holistic approach to labour migration management and combatting trafficking in persons in the Maldives.

# 1: INTRODUCTION

The effects of globalisation and trade liberalisation have increased human mobility, particularly migration for employment purposes.<sup>1</sup> The International Labour Organisation [ILO] estimated that there were 272 million migrants worldwide in 2021, of whom 169 million were migrant workers or people who migrated seeking work. The number of migrants continue to increase with a consistent upward trajectory. The influx of individuals migrating to developed countries is likely to keep rising, attributed to the persistent disparities in less-developed countries' economic and social spheres.<sup>2</sup>

Migration is significantly related to the development of the country of origin (the source country) and the destination country (the host country).<sup>3</sup> It contributes to the labour market of the destination country, effectively aiding in the replacement of ageing workers and skills requirements, which positively impacts economic development by increasing national productivity and Gross Domestic Product [GDP] growth of the host country while adding to the country's federal revenue through remittance for the source country.<sup>4</sup>

The hardships brought on by the socioeconomic environment and climate of the origin country play a significant role and are identified as a push factor towards the decision to migrate. Meanwhile, the need to supplement countries' national skills and labour shortages acts as a pull factor that encourages migration,<sup>5</sup> with developed and developing countries such as Canada and Australia, Middle Eastern countries like Saudi Arabia and the United Arab Emirates, and even the Maldives, encouraging migration to meet their national skill shortages. Workers often originate from countries with high unemployment rates and relatively lower currency valuations.<sup>6</sup> These workers often fill crucial gaps in the labour market and take up jobs that locals are less inclined to undertake, such as 3-D (dirty, degrading, and dangerous) jobs.<sup>7</sup> As seen in the context of the Maldives, this entails that migrant workers complement rather than substitute the skill set and labour market of host countries.<sup>8</sup>

Although migration is not a prerequisite for development, it contributes to the development of both countries of origin and destination countries. In addition to easing the strain on the domestic

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<sup>1</sup> Peter Stalker, *Workers without Frontiers: The Impact of Globalization on International Migration* (International Labour Organization 2000).

<sup>2</sup> ILO, 'ILO Global Estimates on International Migrant Workers – Results and Methodology' (2021) Report <[http://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_808935/lang--en/index.htm](http://www.ilo.org/global/topics/labour-migration/publications/WCMS_808935/lang--en/index.htm)> accessed 19 November 2022.

<sup>3</sup> Florence Jaumotte, Ksenia Koloskova and Sweta Chaman Saxena, 'Impact of Migration on Income Levels in Advanced Economies' (International Monetary Fund 2016).

<sup>4</sup> Organisation for Economic Co-operation and Development (OECD), 'G20 Global Displacement and Migration Trends Report 2017' (Organisation for Economic Co-operation and Development (OECD) 2017) <<https://www.oecd.org/migration/mig/G20-OECD-migration.pdf>>.

<sup>5</sup> Judy Fudge and Fiona MacPhail, 'The Temporary Foreign Worker Program in Canada: Low-Skilled Workers as an Extreme Form of Flexible Labor' (2009) 30 *Immigr. & Nat'lity L. Rev.* 843.

<sup>6</sup> Anne-Sophie Bentz and Anouck Carsignol, 'Maldives' Migrants The Other Side of Paradise: Economic Exploitation, Human Trafficking and Human Rights Abuses' <<https://www.fondation-pierredubois.ch/wp-content/uploads/2021/03/2021-no3-Bentz.pdf>>.

<sup>7</sup> Jonathan Davies, 'From Severe to Routine Labour Exploitation: The Case of Migrant Workers in the UK Food Industry' (2019) 19 *Criminology and Criminal Justice* 294.

<sup>8</sup> Organisation for Economic Co-operation and Development (OECD) (n 3).

labour market, countries of origin benefit from remittances, and return migration.<sup>9</sup> Thus, the strengthening of migration policies further incentivises migration by reducing the expenses associated with human mobility.<sup>10</sup>

The influx of migrants to any host country will impact the country's social, economic, and physical dimensions, consequently having implications related to human rights provisions. Despite the broader positive impact, and the steady influx of migrants worldwide, countries have been slow to act and strengthen their local legislatures and policies to accommodate migrant workers and implement a robust, systematic framework. As such, migration continues to be viewed negatively and a sensitive issue on most policy agendas, based on the belief that migrant workers compete with locals for jobs and resources, contributing to the host countries' social, economic, and physical burden by straining the capacity for public services such as education, social protection, and infrastructure. Host countries have witnessed resulting increased anti-immigrant sentiments, xenophobia, and exploitation of migrants through unfair labour practices, leading to human trafficking and exploitation. Consequently, the public and policymakers often overstate the cost of migration with a greater emphasis on the social cost and downplaying of the benefits.

Frameworks and mechanisms implemented to cater to the increasing inflow of migrant workers have had unintended outcomes which exacerbate the situation of workers, resulting from the imposition of restrictive immigration policies, consequently motivating irregular migration forms.<sup>11</sup> Workers who migrate through irregular channels are more likely to be subjected to increased exploitative practices, as they are comparatively more vulnerable and marginalised. This has contributed to the increase in exploitative labour practices and the festering of the lucrative market of trafficking and smuggling of migrants for labour exploitation. This situation is no different within the Maldives, which needs dire attention and exploration.

## 1.1 Objective

The main objective of this study is to understand the experiences of the migrant community in the Maldives within the scope of migration, labour exploitation, and trafficking. This is analysed by identifying the current issues and challenges faced by Bangladeshi migrant workers. Given the topic's sensitive nature, it is particularly relevant for policymakers to grasp the relationship between these components, with reference to the lived realities of migrant workers. This would assist stakeholders in identifying key areas for improvement, including loopholes in the existing framework that exacerbate these adversities.

The findings of this study are intended to contribute to a policy analysis, by assessing the existing policies considering the collected data and literature. This study intends to provide a baseline depiction of the issues and challenges faced by Bangladeshi migrant workers, given the lack of

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<sup>9</sup> Organisation for Economic Co-operation and Development (OECD) (n 3).

<sup>10</sup> Briant Lindsay Lowell, Policy Responses to the International Mobility of Skilled Labour (ILO 2002).

<sup>11</sup> ILO's Bureau for Workers' Activities (ACTRAV), *Migrant Workers* (International Labour Organization, Geneva 2002) <[http://www.ilo.org/actrav/pubs/WCMS\\_111462/lang--en/index.htm](http://www.ilo.org/actrav/pubs/WCMS_111462/lang--en/index.htm)> accessed 19 May 2023.



existing local literature on this topic. Hence, it should be considered a foundation for future, large-scale research. The study's findings are intended to inform policy formulation and implementation, as data driven research is vital to ensuring that the objectives of such policies are achieved.

## 1.2 Rationale

Although discourses related to labour migration and trafficking in persons continue to be debated in different spheres, overviews of the situations informed by policy and labour market needs which capture the issues and challenges faced by the migrant community are limited. While developed countries have access to a continuously expanding body of research, it is more challenging for developing countries to formulate evidence-based policies. It is intended for such policies to ensure and promote decent work standards while allowing businesses the flexibility to run their operations efficiently and cost-effectively.<sup>12</sup> As the policies and mechanisms imposed within developed countries cannot be replicated in developing countries due to economic differences and historical implications, such as industrial development and labour history, there is a need for country specific studies in this area. Empirical data and evidence are essential for acquiring vital insights into how political dynamics influence policy development at macro and micro levels, and to guide and inform its implementation.<sup>13</sup>

Literature detailing labour migration, exploitation and human trafficking in the local context depicts the broader framework for managing migration and migrant workers in the Maldives. The existing literature, albeit few, includes research from the perspective of different nationals,<sup>14</sup> the systems in place for managing migrant workers,<sup>15</sup> as well as the profile of general migration in the Maldives, including internal and external migration, both inbound and outbound.<sup>16</sup> However, variation in the national data has hindered the accurate depiction and description of the migrant population. Comprehensive data with evidence highlighting the issues and challenges faced by migrant workers within the migration regime, especially in the current post-pandemic state, is yet to be published and considered in policy formulation.

As such, the legislative and institutional framework in the Maldives may be inadequate for addressing the entirety of the migrant population. Therefore, conducting research and disseminating findings with transparency convenes the technical discussions concerning labour migration in a national, subregional, and regional manner to better understand the policy implications. To this end

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<sup>12</sup> *ibid.*

<sup>13</sup> Gordon Betcherman, 'The Challenges of Regulating the Labor Market in Developing Countries' (*World Bank Blogs*, 26 August 2021) <<https://blogs.worldbank.org/jobs/challenges-regulating-labor-market-developing-countries>> accessed 21 May 2023.

<sup>14</sup> Miyuru Gunasinghe, 'Gilded Cage in an Ocean Paradise: Sri Lankan Labour Migration to the Maldives' (Law Society and Trust 2013) <[http://www.wedabima.lk/file/2015/01/Gilded\\_Cage.pdf](http://www.wedabima.lk/file/2015/01/Gilded_Cage.pdf)>; Asinur Reza, 'Bangladeshi Workers in the Maldives: The Thin Line between Migration and Trafficking - Maldives | ReliefWeb' (*The Asia Foundation*, 15 September 2022) <<https://reliefweb.int/report/maldives/bangladeshi-workers-maldives-thin-line-between-migration-and-trafficking>> accessed 21 May 2023.

<sup>15</sup> Simad Saeed, 'Maldives Migrant Worker System Assessment Report 2015' (Transparency Maldives 2015) <<https://transparency.mv/v17/wp-content/uploads/2016/06/Maldives-Migrant-Worker-System-Assessment-1-1.pdf>>.

<sup>16</sup> Piotr Plewa, 'Migration in Maldives: A Country Profile 2018' (2019) <<https://publications.iom.int/books/migration-maldives-country-profile-2018>> accessed 25 April 2023.

this study aims to contribute to the gap in knowledge and empirical evidence within the sphere of migration, labour, and trafficking by focusing on the Bangladeshi migrant population residing in the Maldives which makes up the largest percentage of migrant population.

### **1.3 Methodology**

A desk review of existing literature regarding migration, labour exploitation, and trafficking in person was initially conducted to capture the situation of labour migrants. To achieve this, previous research, reports, documents published by the State, international and local sources, newspaper articles, and information collected from cases undertaken by the Public Interest Law Centre [PILC] were reviewed.

Subsequently, the existing policy framework was summarised and analysed, with reference to the institutional mechanism through which the framework is implemented. Interviews with key stakeholders was carried out to evaluate the mechanisms and to study relevant local and international literature to identify gaps and systematic loopholes. The information was then evaluated considering the prevalent human trafficking indicators in the Maldivian context.

Subsequently, a quantitative survey was conducted using a purposive, convenient sampling method to identify the issues and challenges faced by the Bangladeshi migrant community and the prevalence of the problems identified by the initial literature. The survey instrument was based on the ILO Human Trafficking Indicators<sup>17</sup>, which was adapted to the scope of the study. The collected data was then analysed using Statistical Package for the Social Sciences [SPSS]. The findings of which will be discussed throughout this paper through thematic issues and challenges identified by literature within the scope of labour migration, human trafficking, and labour exploitation.

This approach is intended convey the prevalence of issues faced by the migrant community and to evaluate the interplay between migrant workers, employers, agencies, and stakeholders in formulating and exacerbating these issues and challenges. The interaction between the identified issues was analysed referencing existing legislation, policies, and their implementation. The three components are interlinked with a commonly shared underlying issue: violation of human rights and labour rights, exacerbated by systemic discrimination, racism, and xenophobia.

It should be noted that during this study, and the drafting of the paper, there were several shifts in the legislative and institutional framework, which could impact the applicability of the research at present. However, as these issues continue to prevail over the decades despite changes in the mechanisms and legislation, the framework was intentionally scrutinised as applicable to the data collection timeline to convey the sinister nature of exploitation and rights abuses despite

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<sup>17</sup> International Labour Organisation, 'Operational Indicators of Trafficking in Human Beings' <[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_105023.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105023.pdf)>.

changes in policy and mechanisms, which is not unique only to the Maldives but observed throughout the globe, references for which are made throughout this paper.

### 1.3.1 Sample population

The socio-economic situation in Bangladesh drives more Bangladeshis to migrate to the Maldives, among other countries, in search of employment.<sup>18</sup> It was highlighted that Bangladeshis are primarily preferred due to the relaxed legal requirements in their home country regarding migration and employment in a foreign country, compared to other countries such as Sri Lanka and India, where the recruitment process is comparatively formal.<sup>19</sup>

The Bangladeshi government has been in favour of the deployment of workers since the 1970s, with 783,000 registered Bangladeshi migrant workers as of 2022, indicative of a 12% increase in the number of Bangladeshi migrants across the globe from 2019.<sup>20</sup> The number of Bangladeshi migrant workers is likely to be higher as irregular migrant workers are not generally considered part of official records, whereby the remittance they sent would not be factored into published figures. Migrants remitting to their own countries can represent a significant share of household income for middle- to lower-income families.<sup>21</sup> It is evident that migrant workers are a vital part of the Bangladesh economy, as they contribute over 12% to their GDP and generate 9% of its employment, with an estimated 700,000 new workers migrating for employment to join foreign job markets every year.<sup>22</sup>

Although the population is subjected to discrepancies due to the unavailability of data, the target population of this study was set based on the available data. The resident Bangladeshi working-age population, projected at 187,290 at the time of data collection, is considered the target population for this study. A total of 847 responses from 17 locations were collected to capture an accurate depiction and maintain the validity and reliability of the data.

The respondents were recruited during the primary data collection stage based on their nationality, understanding of Dhivehi or English, and consent. Where a translator was available during the data collection process, they assisted in collecting data through their native Bangla language. The respondents were informed of the study, survey objectives and outcomes.

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<sup>18</sup> Asinur Reza (n 15).

<sup>19</sup> Simad Saeed (n 16).

<sup>20</sup> International Organisation for Migration, Bangladesh, 'DTM Bangladesh - Remittance Inflows to Bangladesh during Covid-19' <<https://dtm.iom.int/sites/g/files/tmzbd1461/files/reports/Bangladesh%20-%20Remittance%20Inflows%20to%20Bangladesh%20during%20COVID-19.pdf>>.

<sup>21</sup> Iliana Olivé and María Santillán O'Shea, 'The Role of Remittances in Promoting Sustainable Development' (2022) <[https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/702563/EXPO\\_IDA\(2022\)702563\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/702563/EXPO_IDA(2022)702563_EN.pdf)>.

<sup>22</sup> Staff Reports, 'COVID-19 Impacts on the Bangladeshi Diaspora' (BORGEM, 7 August 2021) <<https://www.borgenmagazine.com/covid-19-impacts-on-the-bangladeshi-diaspora/>> accessed 22 June 2023.

## 1.4 Limitations

The scope of this study is broad, and the issues and challenges identified are multi-dimensional, complex, and diverse. For which reason, an accurate depiction of the extent to which the migrant community is impacted is not fully conveyed by the findings. Future studies should be conducted to unravel in-depth aspects of the issues identified. Furthermore, given that the study delves into the experiences of the migrant community, a qualitative study is necessary to capture their plight fully.

Considering that the observation and narration of experiences depend on how respondents perceive their experiences, this may have impacted the study's outcome. It was also observed that respondents may have withheld information about their experiences given the sensitive nature of the study. Furthermore, the language barrier between the enumerators and the respondents proved challenging, as data collection had to be primarily limited to those who understood and spoke either Dhivehi or English enough to establish communication.

Considering the geographical dispersion of the country, it would be difficult to completely generalise the findings of this study due to the inadequacy of the data collected in providing accurate representative samples. Difficulties in accessing the migrant population who reside across islands also added to the limitations of the data collection approach, whereby the collected data was concentrated in the Greater Male' Region. As such, generalisations cannot be made about the type of work undertaken, as experiences may differ based on varied factors such as skill-level, educational qualifications, and experience. This limitation should be highlighted given that it was observed that the experiences of migrant workers drastically vary depending on the island they reside on, referencing the work prioritised by the island. Moreover, the attitude of locals towards the migrant community added to the challenges in collecting data, as migrant workers were less likely to cooperate if and where locals were hostile, and as such, the deep-rooted xenophobic ideologies shared by locals, which often resulted in discrimination against the migrant population, added to the limitations of this study.

It should also be acknowledged that the experiences of migrant workers residing in tourist resorts differ from those who reside on administrative islands.<sup>23</sup> Similarly, the findings cannot be generalised to encompass all types of employers, particularly given that most respondents worked for private employers. Furthermore, the lack of cooperation from relevant stakeholders in providing information and responding to queries also added to the difficulties in collecting the required secondary data for a study of this magnitude.

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<sup>23</sup> Ali Najeab, 'The Status of Migrant Workers in the Maldives: Precarious Workers' or "Labour Aristocrats"?' (2011) 11 Employment Relations Record 33.

## 1.5 Structure of the book

This book is divided into 13 chapters. Chapter 1 introduces the study, and the research methodology opted for by considering the scope of migration and the description of the migrant population in the Maldives. Chapter 2 considers labour migration within the Maldivian context, further informed by Chapter 3 which outlines the legislative and institutional frameworks in place by highlighting key agencies involved in the labour migration regime and their functions. The migration management system resulting from these frameworks are detailed in Chapter 4, considering the key parties involved in the migration process and how the system shapes their experiences regarding autonomy and scales of power between migrant workers and their employers.

Vulnerabilities and pathways to exploitation for migrant workers in the Maldives are subsequently discussed by venturing into the issues and challenges workers face within the scope of labour migration, categorised into distinctive areas. Prior to discussing the data, Chapter 5 details the demographic profile of the respondents to this study.

Chapter 6 delves into the recruitment of migrant workers by considering recruitment supply chains, and fraudulent recruitment practises such as quota trading, debt bondage accrued by recruitment fees, and deception workers are subjected to, such as deceit related to employment, employer, earnings, facilitation, and quality of accommodation, are discussed, considering the perception of deception by workers. Chapter 7 covers workers' legal status by factoring in regular and irregular migration, accounting for migration inflows, stocks of migrants, interventions by the State to remedy the legal statuses of workers, and outflows of migrants. This chapter also accounts for workers' knowledge of their legal status. This discussion contributes to the notion of sponsorship arrangements as the legal statuses of workers ties to their employers, impeding their autonomy.

The exacerbation of vulnerabilities discussed is detailed in terms of working conditions imposed on workers in Chapter 8, accounting for working hours, compensation, work satisfaction, and workers' employment terms. The findings are then analysed with regard to debt bondage accumulated by workers to obtain an abstract idea of how debt bondage impedes workers' human rights and labour rights, their autonomy, and how it shapes their migration experience. Chapter 9 considers this from the angle of occupational safety and health, by analysing reported incidents, prevalence, statistics, and safeguards ascribed, and by evaluating workplace disputes arising from labour rights violations.

The compounding of such vulnerabilities by xenophobia and discrimination faced by workers, as well as verbal and physical abuse that migrant workers experience, with a discussion of the effects of such problems on the migrant community is consequently discussed in Chapter 10.

The culmination of these issues and challenges and the collected data conveying the experiences of migrant workers are consequently analysed in Chapter 11 and 12, in terms of forced labour and trafficking in persons, with reference to the continuum of decent work and forced labour

by assessing the prevalence of indicators of forced labour and indicators of trafficking of adults for labour exploitation.

A summary of the discussed issues and challenges and their materialisation is detailed in Chapter 13, to remedy which broad policy recommendations to address the identified issues, challenges, exacerbations of vulnerabilities, and power imbalances will be detailed in the policy paper published following this study.

## 2: MIGRATION INTO THE MALDIVES

Labour migration is a central aspect of the subcontinent of South Asia. According to the ILO, the Asia and Pacific region ranks first as the origin of international migrants, specifically one-third of the 169 million international migrants worldwide.<sup>24</sup> Growing income inequality and economic hardships within and between South Asian countries led South Asians to explore income-earning opportunities in other countries at intra- and extra-regional levels, both temporarily and permanently. As a result, India (first), Bangladesh (fifth), Pakistan (seventh), and Afghanistan (eleventh) are listed as the world's top-20 source countries, accounting for regional migration and including both permanent and cyclic migration from regular and irregular channels.<sup>25</sup>

From the migration flow within the South Asian Association of Regional Cooperation [SAARC] countries, due to its specialised industries, India is classified as both a sending country and a receiving country, i.e., a country from which migrant workers originate and where migrant workers are accepted into the country, respectively, whereas Bangladesh, Sri Lanka, and Pakistan are mainly sending countries. In contrast, the Maldives is the only receiving country in the region. While most of the labour from these countries is “exported” to Gulf countries and other developed nations, the Maldives also receives a proportion of it.

### 2.1 Maldivian context

The Maldivian archipelago comprises 1,190 islands, including only 187 inhabited islands, grouped into nineteen atolls across 90,000 square kilometres.<sup>26</sup> The Maldives has experienced consistent economic growth over the years, owing to the tourism and related industries. This contributed to the GDP growth of 41.7% recorded in 2021, and 12.3% recorded in 2022. According to recent predictions, the Maldivian economy was expected to grow by 7.1% on average in 2023.<sup>27</sup> This growth is supported by additional investment in tourism and related sectors and an increase in foreign workers to supplement the labour force requirements. The COVID-19 pandemic stunted the nation's economic growth and development, with a GDP per capita of 37.4% in 2021, 8.0% in 2022, and a forecast of 2.8% in 2023.<sup>28</sup>

The Maldives has an open immigration policy compared to other South Asian nations. With the fast-growing economic development that the Maldives has experienced over the past few decades, migration has become a constant element of the Maldivian labour market. There has been

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<sup>24</sup> ILO, 'ILO Global Estimates on International Migrant Workers – Results and Methodology' (n 1).

<sup>25</sup> *World Migration Report 2022* (2020) <<https://publications.iom.int/books/world-migration-report-2022>> accessed 31 December 2023.

<sup>26</sup> Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (Maldives Bureau of Statistics) <<https://statisticsmaldives.gov.mv/nbs/wp-content/uploads/2020/12/Statistical-Pocketbook-2020-updated-12820.pdf>> accessed 4 December 2022.

<sup>27</sup> Asian Development Bank, 'Maldives and ADB: Economic Forecasts for the Maldives' (Asian Development Bank, 21 September 2022) <<https://www.adb.org/countries/maldives/economy>> accessed 18 September 2023.

<sup>28</sup> *ibid.*

an immense increase in international migrant labour in the Maldives over the past few years.<sup>29</sup> Although there is a lack of data available before the 1990s, it was reported that international migrants constituted 3.89% of the population in 1990, which rose to 25.87% by 2015.<sup>30</sup> Currently, the Maldives has the largest proportion of international migrants among locals in South Asia,<sup>31</sup> with 25.72% of the population comprising foreigners.<sup>32</sup>

Since the introduction of tourism in the 1970s, the Maldives has welcomed foreign labour owing to the high demand for skilled and technical labour, which the Maldivian labour market lacked. Through the decades since then, the development pace enjoyed by the Maldives has not matched with growth in the working-age population, and as such, there has been a constant demand for additional foreign labour. The increase in foreign labour was impacted further following the 2004 tsunami that devastated the Asian region. As a result of the loss of property and livelihood in many communities around the country, there was an urgent need for temporary accommodation, relocation, construction of permanent housing, and repairs to damaged resorts and infrastructure in the islands. The prioritisation of infrastructure development by the government and private sector to facilitate growth and increase economic activity contributed to the increase in migrant workers in the country. There was an increase of 59.6% from 2003 to 2005,<sup>33</sup> which further increased to 74% between 2006 and 2014.<sup>34</sup> Considering the number of projects to be conducted, the country could not cater to the labour requirements, given the locals' unwillingness to engage in low-skilled employment. The World Bank explained that deficiencies in soft skills and technical and vocational education shortcomings led to the high inflow of migrants, specifically in up-market tourism and commercial and financial activities.<sup>35</sup> As such, most of the migrant population in the Maldives performs low-skilled labour and is employed in the private sector.

## 2.2. The migrant population

As the data collection process was carried out during the Census 2022 period, updated data depicting the exact number of migrants residing in the country was unavailable. Therefore, data from various sources estimating the migrant population were referred, despite indications of notable distinctions in the estimates from one source to another. The key stakeholders in the field of migration for employment, such as the Ministry of Economic Development [MED] and Maldives

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<sup>29</sup> Maldives Bureau of Statistics, 'Statistical Yearbook of Maldives 2021' (Maldives Bureau of Statistics) <<http://statisticsmaldives.gov.mv/yearbook/2021/>> accessed 4 December 2022.

<sup>30</sup> Plewa (n 17).

<sup>31</sup> *ibid.*

<sup>32</sup> Maldives Bureau of Statistics, 'Census 2022: Combined Summary' (2023) Combined Summary <<https://census.gov.mv/2022/wp-content/uploads/2023/07/WPD2023.pdf>>.

<sup>33</sup> 'Census 2006: Analytical Report - Population and Housing Census' (Ministry of Planning and National Development 2006).

<sup>34</sup> *ibid.*; Plewa (n 17).; while the 2006 data was taken from the Census, as the MBS administrative records indicate significant undercounting of migrant workers during Census 2014, the data for 2015 was calculated from the information provided by World bank via IOM profile. As such, data for 2006 and 2014 is calculated from 53,901 and 94,086 respectively.

<sup>35</sup> World Bank, 'Maldives - Systematic Country Diagnostic: Identifying Opportunities and Constraints to Ending Poverty and Promoting Shared Prosperity' (World Bank Colombo Office 2015) Text/HTML <<https://documents.worldbank.org/en/publication/documents-reports/documentdetail/340571467992519800/Maldives-Systematic-country-diagnostic-Identifying-Opportunities-and-Constraints-to-Ending-Poverty-and-Promoting-Shared-Prosperity>> accessed 19 May 2023.



Immigration [MI], explained that the data discrepancies are due to the substantial number of undocumented workers residing in the Maldives.<sup>36</sup>

To calculate the sample size required to ensure the validity and reliability of the collected data, the 2016 Census data was initially considered as it remained the only recorded data depicting the migrant population, which indicated that only 63,637 workers were present in the country. However, MBS considered this figure to be underrepresented.<sup>37</sup> Therefore, the migrant population depicted in Table 2.1, obtained from the Maldives Bureau of Statistics [MBS] and the United States Department of State [US DoS], were considered.

Source	Total no. of migrants	Documented	Undocumented
Statistical Yearbook 2021	138,728	138,728	-
United States Department of State Trafficking in Persons Report 2022	169,000	109,000	60,000
Population Projection for the year 2022	187,290	-	-
Census 2022 (Preliminary results)	132,493	-	-

**Table 2.1: Data on the population of migrants residing in the Maldives (most recent)**

According to the MBS Statistical Yearbook 2021, there were 138,728 migrant workers employed across sectors in the country in 2020.<sup>38</sup> This figure only includes documented migrant workers residing in the country. The US DoS (2022) estimated 169,000 migrant workers, consisting of 109,000 documented and 60,000 undocumented workers.<sup>39</sup> The undocumented population is presumed to mainly consist of Bangladeshi and Indian men working in the construction and service sectors.<sup>40</sup> In contrast, the MBS population projection predicted that there would be 187,290 migrants living in the Maldives as of 2022.<sup>41</sup>

The number of migrant workers reported by MBS in the Statistical Yearbook and the figure provided by the US DoS are significantly different. This discrepancy could be because while the MBS statistics solely consist of documented migrant workers, the US DoS estimate includes all migrant workers, regardless of their legal status. It has been pointed out that the assessment conducted for the Trafficking in Persons [TIP] report is ambiguous, as the data sources and calculations deduced

<sup>36</sup> Plewa (n 17).

<sup>37</sup> Maldives Bureau of Statistics, 'Maldives Population and Housing Census 2014' Statistical Release: 1 Population & Households.

<sup>38</sup> Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (n 27).

<sup>39</sup> Bureau of Public Affairs Department of State. The Office of Website Management, '2022 Trafficking in Persons Report: Maldives' (Department of State The Office of Website Management, Bureau of Public Affairs 2023) Report.

<sup>40</sup> *ibid.*

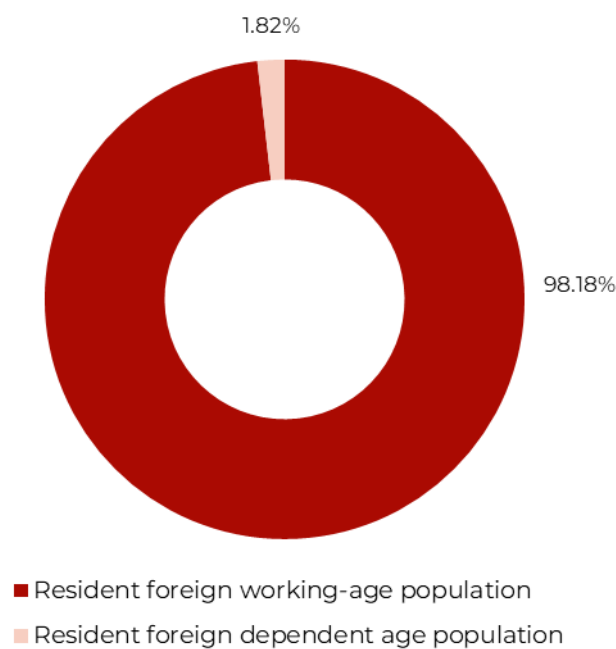
<sup>41</sup> Maldives Bureau of Statistics, 'Maldives Population Projections 2014-2054' <<https://statisticsmaldives.gov.mv/>> accessed 28 November 2022.

were not disclosed.<sup>42</sup> As such, the MBS's projection was preferred as it was estimated to be the most up-to-date data.<sup>43</sup>

Based on the MBS data, the sample size for this study was calculated. The MBS estimated the resident foreign population, consisting of foreigners who intend to reside in the Maldives for one year or more, whereby both the documented and undocumented populations are accounted for.<sup>44</sup> This projection was made based on the Maldives's 2014 Population and Housing Census data, where 63,637 migrants were enumerated.<sup>45</sup> The inflation of this number resulted from presumptions about future changes that the MBS predicted.<sup>46</sup> These assumptions were based on available administrative data and information on planned development projects, which will likely significantly impact population composition, growth, and distribution.

### 2.2.1 Resident working-age population

Based on the available data, the resident working-age population of the Maldives was estimated to consist of people between the ages of 15 and 65. This data, as projected, is illustrated in *Figure 2.1*.



**Figure 2.1: Composition of the resident foreign population for 2022**

<sup>42</sup> Zuraini Ab Hamid, Norjihhan Ab Aziz and Noor Shuhadawati Mohamad Amin, 'The Effectiveness of Trafficking in Persons Report in Combatting Human Trafficking' (2017) 3 International E-Journal of Advances in Social Sciences 293.

<sup>43</sup> Maldives Bureau of Statistics, 'Maldives Population Projections 2014-2054' (n 42).

<sup>44</sup> *ibid.*

<sup>45</sup> Maldives Bureau of Statistics, 'Maldives Population and Housing Census 2014' (n 38).

<sup>46</sup> Maldives Bureau of Statistics, 'Maldives Population Projections 2014-2054' (n 42).

As such, the projected resident foreign working-age population is calculated at 183,889 migrants in 2022,<sup>47</sup> as a cumulative figure of resident foreigners between the ages of 15 and 65, which is 98.18% of the total resident foreign population. For this study, it is assumed that every person within the resident foreign working-age population is employed.

## 2.3 Migration trends

During the post-tsunami rebuilding phase mentioned previously, quotas were easily granted to projects and establishments to meet the demand for labour supply.<sup>48</sup> During this time, the migration inflow increased drastically.<sup>49</sup> Since then, there has been a steady increase in the migrant stock residing in the Maldives.

It is challenging to accurately depict the rise in the migrant population over the last decade due to various institutional challenges. For this reason, data from the past five years has been used to provide insight into the migration trend. *Table 2.2* illustrates the migration trend from 2017 to 2021, which shows that there has been a steady increase in the number of migrant workers in the country.

	2017	2018	2019	2020	2021
Resident foreign population projection	131,981	145,862	161,202	178,156	182,666
Resident foreign working-age population projection	129,585	143,213	158,275	174,921	179,349

**Table 2. 2: Migration Trends from 2017 to 2021**

## 2.4 Characteristics of the migrant population

### 2.4.1 Nationalities

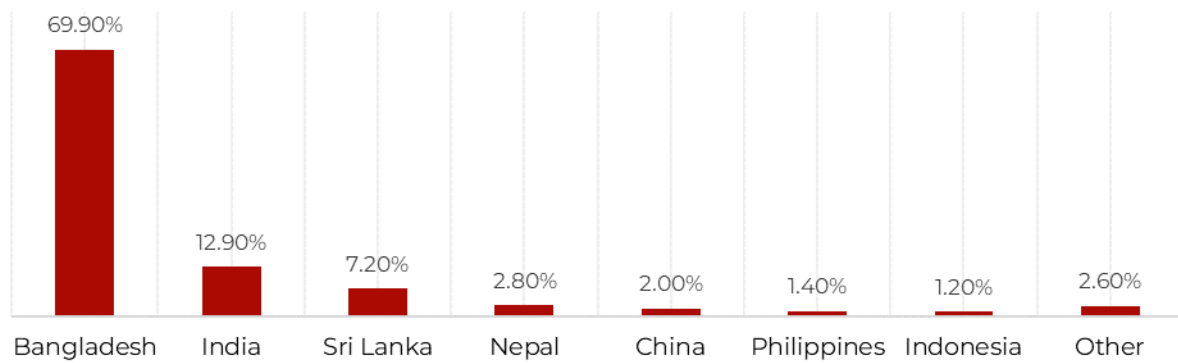
As stated above, the migrant population in the Maldives is predominantly composed of neighbouring countries such as India, Sri Lanka, Pakistan, and Bangladesh. According to the Statistical Yearbook, the number of nationalities migrating to the Maldives for employment has increased drastically, with a significant portion comprising Bangladeshi nationals.<sup>50</sup> This is depicted in *Figure 2.2*.

<sup>47</sup> *ibid.*

<sup>48</sup> UNDP, *Tsunami Impact Assessment* (United Nations 2005).

<sup>49</sup> Asian Development Bank (n 28); UNDP (n 49).

<sup>50</sup> Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (n 27).



**Figure 2.2: Statistics of migrant workers by nationality**

As illustrated above, the percentage of Bangladeshi resident foreign workers occupying valid work visas exceeded other nationalities, with 69.90% Bangladeshi workers, followed by Indian workers, which constituted 12.90% of the total population. Sri Lankan workers constituted 7.20%, 2.80% of Nepalese workers, 2.00% of Chinese workers, 1.40% of Filipino workers, and 1.20% of Indonesian workers.

Although in the initial days, Indian and Pakistani workers made up the majority of the migrant population, by the 1980s, admissions from Bangladeshi workers had increased to 47%.<sup>51</sup> Since then, the proportion of Bangladeshi migrants continued to grow exponentially until, in 2019, a year-long ban was imposed on recruiting Bangladeshi workers.<sup>52</sup> The ban was imposed following a Cabinet decision, whereby a quota of 150,000 per source country was instituted, and the maximum quota was reached for Bangladesh. It was reported that this ban was not extended following the expiration of the period.<sup>53</sup>

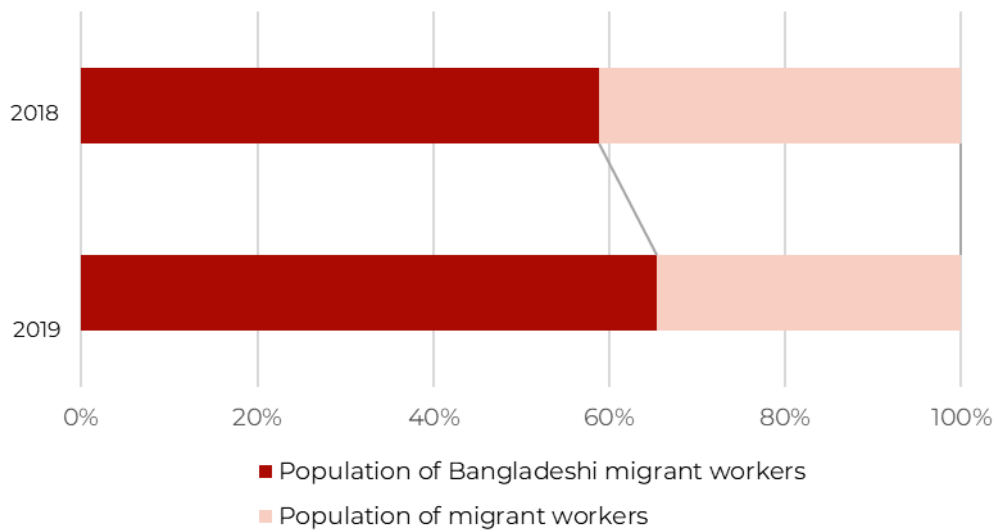
Data on Bangladeshi migrant workers residing in the country across a period of 2 years (2018–2019) demonstrate that there has been a significant increase in the percentage of documented Bangladeshi migrant workers within the total migrant population residing in the country.<sup>54</sup>

<sup>51</sup> Plewa (n 17) 32.

<sup>52</sup> Mariyam Shahida Mohamed, 'Protecting Migrant Workers in Maldives' <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms\\_776391.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_776391.pdf)>; Ahmed Aiham, 'Maldives Extends Temporary Ban on New Bangladeshi Labour Recruits' *The Edition* (August 2020) <<http://edition.mv/immigration/18617>> accessed 23 May 2023.

<sup>53</sup> Avas News, 'Did Not Extend Ban on Recruiting Unskilled Labourers, Says Ministry' *Avas News* (22 August 2020) <<https://avas.mv/en/87725>> accessed 22 May 2023.

<sup>54</sup> Maldives Bureau of Statistics, 'Statistical Yearbook of Maldives 2019' (Maldives Bureau of Statistics) <<http://statisticsmaldives.gov.mv/yearbook/2020/>> accessed 4 December 2022; Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (n 27); Note: comparison was made between the Statistical Yearbooks 2019 and 2020.



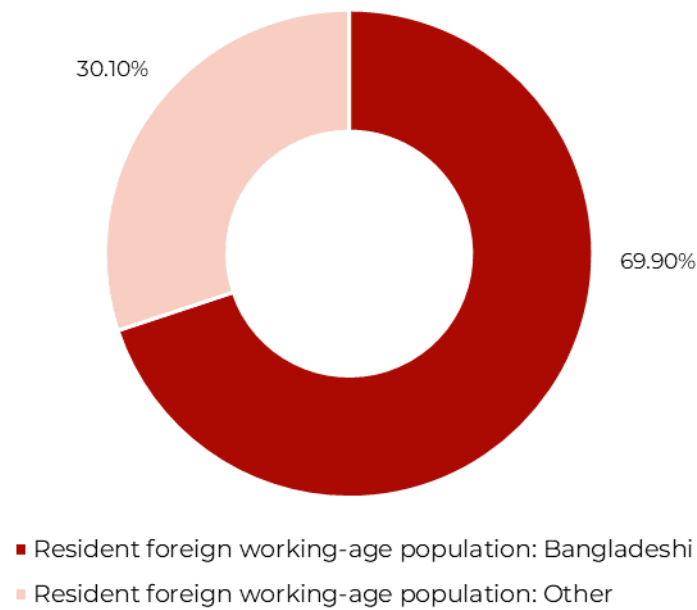
**Figure 2.3: Composition of Bangladeshi workers within the total migrant population**

The above *Figure 2.3* illustrates the increase in Bangladeshi migrant workers in the Maldives in two years. Out of 114,981 migrant workers recorded in 2018, 60,692 workers were Bangladeshi migrant workers, and of 157,560 migrant workers recorded in 2019, 110,084 were Bangladeshi migrant workers. This indicates that the number of Bangladeshi migrant workers increased by 180%. As the data on the nationalities of workers have not been published post-2019, an accurate depiction of the increase in Bangladeshi migrants could not be captured. This became increasingly difficult following the temporary ban.<sup>55</sup>

As the statistics provided only account for documented migrant workers, and the target population of this study encompasses both documented and undocumented migrant workers, it should be noted that the percentage of Bangladeshi migrant workers may differ when the undocumented population is accounted for. Despite this, due to the lack of available, up-to-date data, the percentage of Bangladeshi migrant workers, as provided by MBS is favoured.<sup>56</sup>

<sup>55</sup> Aiham (n 53).

<sup>56</sup> Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (n 27).



**Figure 2. 4: Estimated population of resident Bangladeshi workers, compared to other resident foreign workers**

Based on the collected information, the estimated population of resident Bangladeshi workers is compared to the total population of resident foreign workers. Hence, as it was reported by MBS in 2019 that 69.90% of the resident foreign working-age population consists of Bangladeshi migrant workers,<sup>57</sup> which is considered the target population for this study, this same percentage was used to estimate the number of Bangladeshi workers from the foreign working-age population. Conclusively, the resident Bangladeshi working-age population, estimated at 128,538, is considered the target population for this study.

#### 2.4.2 Sex composition

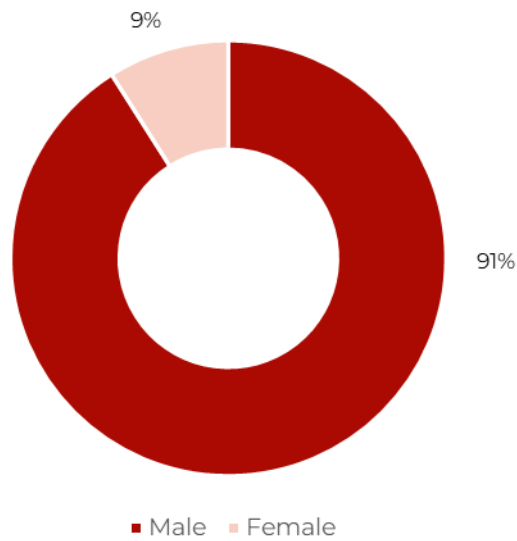
It was noted that the male migrant population in the Maldives has been increasing more drastically than the female migrant population. The gender gap stood at 55:45 in 1990, which widened to 70:30 by 2015.<sup>58</sup> The Census 2022 reports the gender gap among migrant workers as of 2022 at 89:11.<sup>59</sup> This increase could have resulted from unequivocal demand and supply factors concerning male workers, such as the increased demand for construction workers. With the high percentage of Bangladeshi workers employed in the construction industry, the 2014 Census noted that around 99% of Bangladeshi migrant workers were men. It was noted that the relocation policies boosted residential construction in response to the 2004 tsunami and increased housing and infrastructure projects in the Greater Male' Region, notably Hulhumale'.<sup>60</sup> The projected sex composition of the total resident foreign population for 2022, as provided by MBS, is illustrated in *Figure 2.5*.

<sup>57</sup> *ibid.*

<sup>58</sup> Plewa (n 17).

<sup>59</sup> Maldives Bureau of Statistics, 'Census 2022: Combined Summary' (n 33).

<sup>60</sup> Plewa (n 17).



**Figure 2.5: Projected sex composition of the total foreign residents**

The projected data accounts for sex composition for the entirety of the resident foreign population and not specifically for nationalities. The most recent statistics on the sex composition of Bangladeshi migrant workers residing in the Maldives, as provided by MBS,<sup>61</sup> are illustrated in [Table 2.3](#). As of 2020, the total number of Bangladeshi migrant workers enumerated by MBS stood at 110,084.<sup>62</sup>

Male	Female	Total
109,685	399	110,084

**Table 2.3: Sex composition of Bangladeshi migrant workers**

### 2.4.3 Geographic distribution

Similar to the local population, the migrant population is scattered across the country, with a significant portion concentrated in the Greater Male' Region. To capture the dispersion of the population, the population projection by MBS for 2022 was referred to. It is estimated that 41.16% of the total foreign resident population is concentrated in the Greater Male' Region, with a population of 77,092. The remaining 58.84% of the foreign resident population is scattered across the remaining islands, as is illustrated in [Table 2.4](#).

<sup>61</sup> Maldives Bureau of Statistics, 'Statistical Pocketbook of Maldives 2020' (n 27).

<sup>62</sup> *ibid.*

	Migrant population	%
Greater Male' Region	77,092	41.16
Haa Alif (HA)	3,740	2.00
Haa Dhaalu (H Dh)	3,265	1.74
Shaviyani (Sh)	2,392	1.28
Noonu (N)	5,195	2.77
Raa (R)	4,571	2.44
Baa (B)	10,424	5.57
Lhaviyani (Lh)	5,601	2.99
Kaafu (K)	23,554	12.58
Alifu Alifu (AA)	6,575	3.51
Alifu Dhaalu (A Dh)	9,518	0.01
Vaavu (V)	1,097	0.59
Meemu (M)	1,946	1.04
Faafu (F)	1,351	0.72
Dhaalu (Dh)	4,702	2.51
Thaa (Th)	2,695	1.44
Laamu (L)	4,375	2.34
Gaafu Alifu (GA)	6,243	3.33
Gaafu Dhaalu (G Dh)	4,148	2.21
Gnaviyani (Gn)	1,559	0.83
Seenu (S)	7,246	3.87
<b>Total</b>	<b>187,290</b>	<b>100</b>

**Table 2. 4: Dispersion of migrant workers across atolls<sup>63</sup>**

The data depicted in *Table 2.4* differs from the latest statistics provided by Statistical Yearbook 2022 accounting for the dispersion of migrant workers across the country. The differences in data were also reported by atoll and local councils who reported different figures, based on the data collected amidst the COVID-19 pandemic.

The latest available Census records of 2014 were also considered, which reported that, resorts (59%) and the capital, Male (16%) were home to the highest percentage of foreign residents, while the remaining administrative islands had 8% of the workforce. Given the discrepancies in data, it is unclear whether there has been a shift in the spatial distribution of workers with the change in the economy and the increase in worker demand. Therefore, the findings of this study cannot account for the differences in experiences of Bangladeshi migrant workers based on their residence. This is therefore identified as scope for further studies.

<sup>63</sup> Maldives Bureau of Statistics, 'Maldives Population Projections 2014-2054' (n 42).



## 2.4.4 Industries

The MBS data on the distribution of migrant workers across industries only indicates the documented migrant population as a whole, which was enumerated as 138,728 at the time.<sup>64</sup> As the figures are not segregated by nationality, it is challenging to estimate the number of Bangladeshi migrant workers employed in each industry. Nevertheless, the dispersion of workers across industries is illustrated to provide an overview to obtain a general understanding of migrant employment trends.

Industry	No. of migrant workers	%
Construction	52,369	37.75
Tourism	24,749	17.84
Wholesale and retail trade	11,190	8.07
Hotels and restaurants	10,568	7.62
Manufacturing	9,835	7.09
Other community, social and personal services	8,358	6.02
Domestic	5,114	3.69
Government work type	4,098	2.95
Transport, storage and communication	3,099	2.23
Health and social work	3,009	2.17
Education	2,011	1.45
Agriculture	1,456	1.05
Real estate, renting and business activities	1,152	0.83
Electricity, gas and water supply	823	0.59
Fisheries	442	0.32
Financial intermediation	304	0.22
Company operators	67	0.05
Recycling	37	0.03
Others	47	0.03
<b>Total</b>	<b>138,728</b>	<b>100</b>

**Table 2.5: Expatriate employment by industry, as provided in Statistical Yearbook 2021**

As detailed in *Table 2.5*, Construction (37.75%), tourism (17.84%), and wholesale, retail, and trade (8.07%) were the industries with the highest percentages of migrant workers employed.

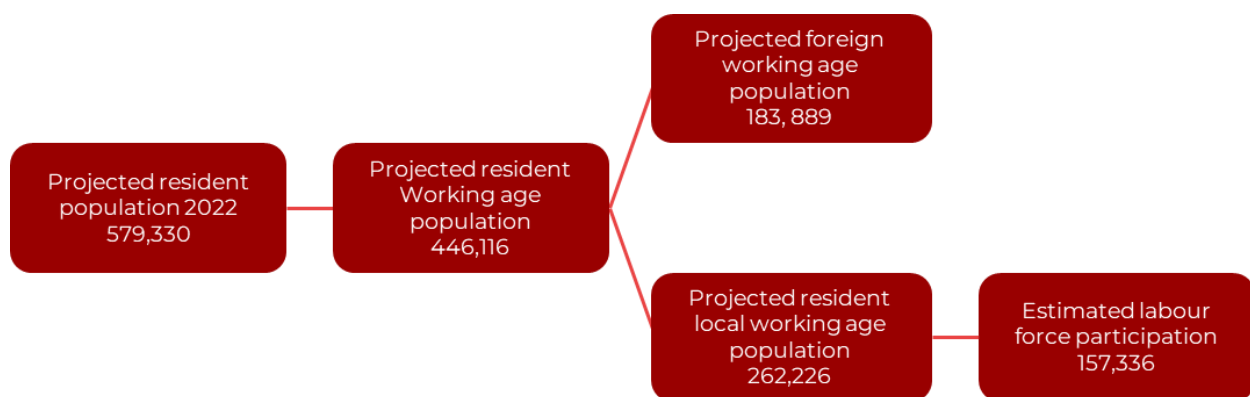
<sup>64</sup> Maldives Bureau of Statistics, 'Statistical Yearbook of Maldives 2021' (n 30).

## 2.5 The labour market of the Maldives

According to the Household Income and Expenditure Survey [HIES] 2019, 70% of the total population (317,482 persons) accounted for the working-age population. Out of which, 60% (191,270 people) were in the labour force (actively engaged in the labour market). Of persons in the labour force, 57% (181,144) were employed, whereas 3% (10,127) remained unemployed.<sup>65</sup>

Statistics show that 40% of the working-age population (126,212 persons) resides outside the labour force, of which 6% (18,808) is included in the potential labour force (those who are not employed primarily due to existing conditions that restrict their availability or ability to search for jobs).

The population projection was chosen to capture an accurate, up-to-date depiction of the composition of the labour market. The foreign working-age population and the Maldivian working-age population are considered in terms of the total working-age population of the Maldives to understand the role of migrant workers in the Maldivian labour market, illustrated in *Figure 2.6*.



**Figure 2. 6: Breakdown of the projected resident population 2022**

The projected data calculated by MBS shows that the total resident population of the Maldives is estimated to be around 579,330 as of 2022, of which 446,116 are estimated to constitute the working-age population (aged 15 to 64).<sup>66</sup> The total working-age population consists of foreigners and locals, of which 262,226 are resident locals and 183,889 are working-age foreigners.

The data provided under HIES 2019 was referenced to obtain labour force participation, which assumes that 60% of the projected resident working-age population will be active in the labour market, of which the labour force participation of resident locals in the labour market is 157,336.

<sup>65</sup> Maldives Bureau of Statistics, 'Household Income and Expenditure Survey 2019 - Employment Summary' <<https://statisticsmaldives.gov.mv/nbs/wp-content/uploads/2022/04/Employment-Summary.pdf>> accessed 2 January 2023. Note: According to MBS, an employed person refers to individuals who spend at least 1 hour per week in economic activity. In contrast, an unemployed person is defined to include available persons and those actively seeking employment.

<sup>66</sup> Maldives Bureau of Statistics, 'Maldives Population Projections 2014-2054' (n 42).

Constructing the migrant population in this manner illustrates the contribution of migrant workers to the Maldivian labour market and, consequently, the economy.

## 2.6 Data discrepancies

The national Census provides insight into the country's general population at any given time, including its demographic, social, and economic characteristics. In addition, valuable labour market information such as labour force status, education, economic activity, occupation, and status in employment is also collected. The existing literature and supporting analysis, particularly regarding the labour market, are based on the results of the 2014 Census, which is outdated as of now.

For this reason, the trends that emerge from the 2022 Census, which commenced after the initiation of this study, will provide a more comprehensive overview of the situation. Despite this, it should be noted that the enumeration of the required data posed various challenges. The migrant population residing in the Maldives has not been accurately depicted in the Census until 2022. The post-data collection statistics following the Census 2022 shows that the resident foreign population consists of 132,493 persons, which proved to be contrastingly different from the projected population.

The unwillingness to share collected data across agencies and the reluctance to publish it makes it difficult to obtain accurate snapshots of the current situation. Administrative records such as population registers, emigration clearances, issuance of work permits, visas, embarkation, and disembarkation include data relevant to migration. Such sources can be captured where administrative systems have adequate coverage, high-quality reporting, and well-maintained data.

Maintaining accurate information is particularly challenging in the Maldives, given the geographical dispersion of the country, frequent changes in policies, systems, and structures, and the in-migration of migrant workers, particularly concerning the decentralised administrative system, which requires better monitoring, enforcement, and record-keeping.

There were 157,560 migrant workers employed in the Maldives in the year 2019,<sup>67</sup> in contrast to 138,728 migrant workers that were accounted for in the year 2020,<sup>68</sup> despite having repatriated and regularised 19,892 migrant workers (out of 43,787 who registered)<sup>69</sup> across 2019 and 2020, which accounts for inconsistencies in statistics provided by the two agencies. The number of work permits issued should also be factored into the change in the number of migrant workers between 2019 and 2020. The MED issued 8,965 work permits in 2021, 11,198 permits in 2020, and 42,567 in 2019.<sup>70</sup> These figures only indicate permits issued to persons outside of the Maldives (thereby, they do not include

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<sup>67</sup> Maldives Bureau of Statistics, 'Statistical Yearbook of Maldives 2021' (n 30).

<sup>68</sup> *ibid.*

<sup>69</sup> Ministry of Economic Development (Maldives), 'Regularization Programme Status' <<https://trade.gov.mv/uploads/12/newweb/reports-and-publications/regularization-programme-status-22082022.pdf>>.

<sup>70</sup> Ministry of Economic Development (Maldives), 'Labour Statistics 2013 - 2021' (Ministry of Economic Development (Maldives) 2021).

changes in employment, regularisation, or transfer from business visas). This suggests an addition to the total number of migrant workers.

The Auditor General's Office noted in 2012 that the change in the border control system used to generate immigration data resulted in the discontinuity of consistent records.<sup>71</sup> Moreover, official records fail to capture many undocumented migrant workers residing in the country. This accounts for the inconsistencies in data reported by different agencies. Hence, it is challenging to capture accurate overall statistics of migrant workers residing in the country. As a result, the actual number of migrants is likely much higher than recorded.

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<sup>71</sup> Auditor General's Office, 'Control of Expatriate Workers - Performance Audit Report' (2015) Audit Report PER-2015-01 <<https://www.audit.gov.mv/Uploads/BulkUpload/Control-of-Expatriate-Workers-Performance-Audit-Report-E.pdf>> accessed 21 March 2023.

## 3: LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

Migration and the employment of migrant workers continue to make headlines as a recurrent topic within the social and political sphere. Although there is a strong commitment around the world to protect human rights, few discourses consider the phenomena of migration, labour exploitation, and human trafficking from a rights-based perspective<sup>72</sup>. The global framework concerning migration, employment, and trafficking of migrants elaborates on and builds on the international instruments and treaties, to some of which the Maldives is signatory. As a result, national laws and rules in this area also closely follow these international agreements.

### LEGISLATIVE FRAMEWORK

#### 3.1 International Framework

The international instruments on human rights function as the foundation upon which integrated and sustainable national and international policies are structured. The provisions in these instruments depict guidelines to ensure a safe society and community for locals and migrants alike, and that their rights, freedoms, respect, dignity, and cultural identity are upheld.

International instruments are considered a tertiary source of law in the Maldives, following the Constitution and local legislation. The Maldivian Constitution stipulates that the international treaties to which the Maldives is a party shall be considered in interpreting and applying the rights and freedoms enshrined in local law.<sup>73</sup> Thus, this chapter considers and describes the international instruments by the UN [United Nations], ILO [International Labour Organisation], and SAARC [South Asian Association for Regional Cooperation] in conceptualising the international mechanism:

##### 3.1.1 United Nations [UN]

The Maldives is a party to six main UN instruments and the optional protocols that ensue as a matrix for ensuring fundamental rights, as detailed in *Table 3.1*.

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<sup>72</sup> Anne T Gallagher and Nicole Karlebach, 'Prosecution of Trafficking in Persons Cases: Integrating a Human Rights-Based Approach in the Administration of Criminal Justice' (2011) 4 Office of the High Commissioner for Human Rights, Geneva Switzerland.

<sup>73</sup> Constitution of the Republic of Maldives 2008 art 68.

	Instrument	Ratification date
ICCPR	International Covenant on Civil and Political Rights	19 September 2006
ICCPR - OP1	Optional Protocol to the International Covenant on Civil and Political Rights	19 September 2006
ICCPR - OP2	Second Optional Protocol to the International Covenant on Civil and Political Rights	-
ICESCR	International Covenant on Economic, Social and Cultural Rights	19 September 2006
ICESCR - OP	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	23 December 2020
CERD	International Convention on the Elimination of All Forms of Racial Discrimination	24 April 1984
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	01 July 1993
CEDAW - OP	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	13 March 2006
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	20 April 2004
CAT-OP	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	15 February 2006
CRC	Convention on the Rights of the Child	11 February 1991
CRC-OP-AC	Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict	29 December 2004
CRC-OP-SC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	10 May 2002
ICRMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Not ratified

**Table 3. 1: Ratification of UN Instruments**

Despite the expressed commitment to protect the rights of migrant workers and their families,<sup>74</sup> the Maldives has yet to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families [ICRMW], with or without reservations, due to concerns based on the country's cultural, traditional, and religious beliefs.

### 3.1.2 International Labour Organisation [ILO]

The 11 core conventions of ILO, encompassing six broad categories: abolition of forced labour, elimination of child labour, trade union rights, non-discrimination, equality of treatment in employment and occupation, and workplace health and safety are further promoted by the ILO Declaration on Fundamental Principles and Rights at Work, 1998 [DFPRW].<sup>75</sup> The Maldives ratified 10 conventions, consisting of two technical and eight fundamental conventions, as detailed in [Table 3.2](#).

<sup>74</sup> Mohamed Naseem, 'Bidheysee masakkaiytheringe hagguthah Raajjeyn himaayaiy kuraane: Fayyaz (transl: Maldives will protect rights of migrant workers: Fayyaz)' *Mihaaru* (4 November 2020) <<https://mihaaru.com/news/82512>> accessed 23 June 2023.

<sup>75</sup> ILO, 'Declaration on Fundamental Principles and Rights at Work', [1998] adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Annex revised 15 June 2010) <<http://www.ilo.org/declaration/lang--en/i/index.htm>> accessed 25 June 2016.

	Instrument	Ratification date
<b>Core conventions</b>		
C029	Forced Labour Convention, 1930 (No. 29)	04 January 2013
P029	Protocol of 2014 to the Forced Labour Convention, 1930	Not ratified
C087	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	04 January 2013
C098	Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	04 January 2013
C100	Equal Remuneration Convention, 1951 (No. 100)	04 January 2013
C105	Abolition of Forced Labour Convention, 1957 (No. 105)	04 January 2013
C111	Discrimination (Employment and Occupation Convention, 1958 (No. 111)	04 January 2013
C138	Minimum Age Convention, 1973 (No. 138)	04 January 2013
C155	Occupational Safety and Health Convention, 1981 (No. 155)	Not ratified
C182	Worst Forms of Child Labour Convention, 1999 (No. 182)	04 January 2013
C187	Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)	Not ratified
<b>Technical Conventions ratified by the Maldives</b>		
	Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185)	05 January 2015
	Maritime Labour Convention, 2006 (MLC, 2006)	07 October 2014

**Table 3. 2: Ratification of ILO instruments**

It should be noted that the Maldives has not yet signed important instruments prioritising the rights and freedoms of migrant workers, including the ILO Migration for Employment Convention and the ILO Migrant Workers (Supplementary Provisions) Convention.

### 3.1.3 South Asian Association for Regional Cooperation [SAARC]

In addition to international treaties and conventions, regional instruments act as binding agreements between States in a particular region, which assists in localising and contextualising international standards. As such, regional intergovernmental organisations such as SAARC are used to negotiate such agreements. *Table 3.3* details the SAARC Convention, to which the Maldives is a party.

Instrument	Ratification date
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution	04 September 2003

**Table 3. 3: Ratification of SAARC instrument**

### **3.1.4 Application of the International Obligations**

These instruments require that the rights facilitated therein are safeguarded for nationals and non-nationals by reflecting the provisions of these instruments within national legislation. The Maldivian Constitution comprehensively reflects the fundamental human rights protected by the instruments and provides the foundation on which the requisite local legislative and institutional frameworks are incorporated into the system. The provisions are considered binding if reflected as such within the local framework.

## **3.2 Local Framework**

The 2008 Constitution built on its previous versions, following a democratisation process that saw the Maldives consider international treaties and adopt best practices of other countries, resulting in the introduction of new protections for fundamental rights, and listing of civil, political, socioeconomic, cultural, and environmental rights in detail.<sup>76</sup>

### **3.2.1 The Constitution of the Republic of Maldives**

The Maldivian Constitution extensively covers internationally recognised fundamental rights, including labour rights provided for migrant workers alongside citizens of the Maldives. A list of these rights and freedoms is illustrated in [Table 3.4](#).

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<sup>76</sup> Ahmed Nazeer, 'The Maldives: From Dictatorship to Constitutional Democracy and the Quest for Consolidation' (PhD Thesis, University of Portsmouth 2022).



Constitution of Maldives: Fundamental Rights and Freedoms			
Article		Article	
16	Guarantee of Rights	43	Fair administrative action
17	Non-discrimination	44	Personal liability
18	Duty of the State	45	No unlawful arrest or detention
19	Freedom from restraint	46	Power of Arrest and Detention
20	Equality	47	Search and seizure
21	Right to life	48	Rights on arrest or detention
22	Protection of the environment	49	Release of accused
23	Economic and social rights	50	Prompt investigation and prosecution
24	Privacy	51	Rights of the accused
25	No slavery or forced labour	52	Confessions and illegal evidence
26	Right to vote and run for public office	53	The assistance of legal counsel
27	Freedom of expression	54	No degrading treatment or torture
28	Freedom of the media	55	No imprisonment for non-fulfilment of contractual obligation
29	Freedom of acquiring and imparting knowledge	56	Right to appeal
30	Freedom to form political parties, associations, and societies	57	Humane treatment of arrested or detained persons
31	Right to strike	58	Compensation
32	Freedom of assembly	59	Retrospective legislation
33	Right to protect reputation and name	60	Prohibition of double jeopardy
34	Right to marry and establishment of the family	61	Publication of acts and regulations
35	Special protection to children, young, elderly, and disadvantaged people	62	Retention of other rights
36	Right to education	63	Voidance of laws inconsistent with fundamental rights
37	Right to work	64	Non-compliance with unlawful orders
38	Right of pension	65	Application to court to obtain a remedy
39	Right to participate in cultural life	66	Voidance of laws inconsistent with rights and freedoms
40	Right to acquire and hold property	67	Responsibilities and Duties
41	Freedom of movement and establishment	68	Interpretation
42	Fair and transparent hearings	69	Non-destructive interpretation of the Constitution

**Table 3. 4: Fundamental rights and freedoms provided by the Maldivian Constitution**

To ensure that the rights and freedoms as applicable in governing labour migration, based on which anti-trafficking efforts were formulated, three key legislations were enacted to govern three distinct, but interlinked areas; that is migration, employment, and anti-human trafficking, to ensure that the rights ascribed in the Constitution are further safeguarded.

### 3.2.2 Migration

The Immigration Act (1/2007) governs emigration and immigration in and out of the country, stipulating procedures to be followed in the immigration of migrant workers, their departure, and deportation. Further requirements for migration, including obtaining quotas, permits, and visas, are

detailed in the Work Visa Regulation (2010/R-09), the Crossing Border by Air Regulation (2010/R-4), and the Regulation on Employment of Expatriate Workers in the Maldives (2023/R-111). *Table 3.5* depicts this framework.

Legislation	Regulations
Immigration Act (01/2007)	Work Visa Regulation (2010/R-09)
	The Crossing Border by Air Regulation (2010/R-4)
	Regulation on Employment of Expatriate Workers in the Maldives (2023/R-11)

**Table 3. 5: Act and regulations on migration**

### 2.2.3 Employment

The Employment Act (2/2008) outlines the legal framework that governs the rights and obligations of employers and workers. The Act ensures the rights of the employees are protected by establishing legislation that assures that they are provided just and favourable remuneration and working conditions without any discrimination while prohibiting forced labour. The regulations made pursuant to this Act, and the resulting framework governing employment in the Maldives is illustrated in *Table 3.6*, depicted below.

Legislations	Regulations
Employment Act (2/2008)	General Regulation on Employment (2021/R-63)
	Regulation on Resolution of Disputes between Employers and Employees (2011/R-12)
	Regulation on Employment Agencies (2022/R-63)
	Regulation on Employment of Expatriates in the Maldives (2023/R-111)
	Service Charge Regulation (2021/R-41)
	Tribunal Governing Regulation (2022/R-14)
	Regulation on general standards for the accommodation of expatriate workers (2021/R-15)
	Regulation on general assembly rules of the Employment Tribunal (2021/R-112)

**Table 3. 6: Act and regulations on Employment**

The General Regulation on Employment (2021/R-63), Regulation on Resolution of Disputes between Employers and Employees (2011/R-12), and the Service Charge Regulation (2021/R-41) further govern labour matters, while the Tribunal Governing Regulation (2022/R-14) and the Regulation on General Assembly Rules of the Employment Tribunal (2021/R-112) regulate the operation of the Employment Tribunal. The Regulation on Recruitment Agencies (2022/R-63) governs recruitment of workers, including overseas recruitment of migrant workers, while the Regulation on Employment of Expatriates in the Maldives (2023/R-111) regulate migration and employment of migrant workers in the Maldives, and the Regulation on General Standards for the Accommodation of Expatriate

Workers (2021/R-15) stipulates standards and mandates provision of accommodation facilities for migrant workers.

## 2.2.4 Anti-Human Trafficking

The Prevention of Human Trafficking Act, enforced in 2013, includes provisions for the prevention of persons being trafficked, prosecution of perpetrators, severe penalties to deter violations of trafficking and labour exploitation, granting protection assistance, and protection of victims.<sup>77</sup> *Table 3.7* depicts the legislative framework governing the anti-human trafficking in the Maldives.

Legislation
Prevention of Human Trafficking Act (12/2013)

**Table 3. 7: Act and regulations on prevention of trafficking in persons**

## INSTITUTIONAL FRAMEWORK

There have been several structural changes to the institutional framework in the past few years owing to legislative and political changes within the Maldives. Government institutions dominantly carry out functions relating to migration and the employment of migrant workers, although civil society has been more involved in advocacy and provision of assistance in such matters recently. The key stakeholders relevant to this study, classified into policymakers, enforcement and regulatory authorities, and support organisations and the areas in which they are involved, are considered to provide an overview of the institutional framework on migration, employment, and anti-trafficking efforts.

## 3.3. Policymakers and Advisors

Key institutions and organisations	Migration	Employment	Anti-trafficking
People's Majlis	✓	✓	✓
Attorney General's Office	✓	✓	✓
Ministry of Economic Development	✓	✓	
Ministry of Foreign Affairs	✓		
National Anti-Human-Trafficking Steering Committee			✓

**Table 3. 8: Policymakers and advisors**

<sup>77</sup> Prevention of Human Trafficking Act (Maldives) (12/2013).

The People's Majlis is the legislature branch of the government, as detailed by the Constitution, and has the authority to enact, amend, and revise laws.<sup>78</sup> Regulations made pursuant to laws enacted by the Parliament are made by Ministries, of which the MED is the central ministerial agency with the labour portfolio and has the mandate to regulate businesses, trade, and foreign employment services (migrant employment facilitation services), as the primary stakeholder related to migration and employment. The anti-trafficking mandate is supervised by the National Anti-Human-Trafficking Steering Committee [NAHTSC], including the establishment of programmes at a national level, monitoring the implementation of policies and programmes, aiding NGOs working in this field, coordinating with international agencies to acquire technical assistance, and facilitating coordination with all stakeholders to create awareness of this issue.<sup>79</sup>

The Attorney General's Office [AGO] seeks advice of the detailed stakeholders in creating and implementing regulations and guidelines. The AGO is also mandated to coordinate the government's policies on human rights and is one of the central government bodies overlooking human rights issues within the country, and is tasked with preparing periodic reports and reviews for international human rights treaties and conventions to which the Maldives is a signatory.<sup>80</sup> The Ministry of Foreign Affairs [MoFA] is also identified as an advisory stakeholder, as the Ministry promotes international cooperation between the Maldives and other countries through bilateral and multilateral engagements within the region and globally.<sup>81</sup>

### 3.4 Enforcement and Regulatory Authorities

Key institutions and organisations	Migration	Employment	Anti-trafficking
Local Government Authority	✓	✓	✓
Maldives Immigration	✓		✓
Prosecutor General's Office	✓		✓
Health Protection Agency	✓	✓	
Labour Relations Authority		✓	
Employment Tribunal		✓	
Anti-Trafficking in Persons Office			✓
Maldives Police Service			✓

**Table 3.9: Enforcement and regulatory authorities**

<sup>78</sup> Constitution of the Republic of Maldives art 5.

<sup>79</sup> Ministry of Defence, 'Maldives National Anti-Human Trafficking Action Plan 2020-2022' <<https://www.gov.mv/dv/files/maldives-national-anti-human-trafficking-action-plan-2020-2022.pdf>> accessed 2 January 2023.

<sup>80</sup> AGO, Maldives, 'Attorney General's Office - About Us' (*Attorney General's Office*) <<http://www.agoffice.gov.mv/#/About%20Us/Our%20Vision,%20Mission%20and%20Core%20Values>> accessed 23 June 2023.

<sup>81</sup> 'About Ministry' (*Ministry of Foreign Affairs (Maldives)*) <<https://foreign.gov.mv/index.php/en/ministry/about-ministry>> accessed 23 June 2023.

The primary regulatory body that monitors the borders of the Maldives is MI, which is also responsible for administering and protecting borders to prevent illegal entry into the Maldives.<sup>82</sup> The MI is authorised to issue work visas for migrant workers, monitor immigration, emigration and the stock of migrant workers residing in the country. This monitoring function is delegated through the Local Government Authority [LGA], a state institution established under the Decentralisation Act (7/2010) to regulate, develop, and oversee the local governance system stipulated by the Constitution of the Maldives<sup>83</sup> to Atoll Councils and Local Councils.<sup>84</sup>

The MED oversees the Labour Relations Authority [LRA] established under the Employment Act, with the responsibility to ensure compliance with the Employment Act and any regulations made pursuant to it.<sup>85</sup> Their mandate includes conducting inspections of workplaces and accommodation facilities, raising awareness to ensure compliance, providing technical information and advice required by employers and employees, investigating and mediating issues related to employer and employee relations. Some aspects of the occupational safety and health [OSH] mandate falls with the Health Protection Agency [HPA] in addition to LRA, which has the primary role of providing an integrated approach to protect the public health of the overall community through community interventions and multi-stakeholder coordination.<sup>86</sup> In addition to LRA and HPA, employment-related issues, including OSH-related issues, can be submitted to the Employment Tribunal formulated under the Employment Act. The primary function of the Tribunal is to examine and adjudicate legal matters within the scope of labour laws.<sup>87</sup>

Where issues involve criminal components, the Prosecutor General's Office [PGO] is involved to initiate prosecution on behalf of the State.<sup>88</sup> Within the scope of this study, matters related to migration and trafficking in persons are handled by the PGO, as forwarded by the Maldives Police Service [MPS], the leading law enforcement body investigating potential trafficking-related cases under a specialised department for trafficking under the name Anti-Human Trafficking Unit, comprises of a division for investigating cases and conducting training sessions and awareness programmes.<sup>89</sup> Such cases are often forwarded to the MPS by the Anti-Trafficking in Persons Office [ATO] established under the Ministry of Defence [MoD], tasked with implementing the purview established by the NAHTSC.

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<sup>82</sup> Maldives Immigration, 'Immigration About Page' (*Maldives Immigration*) <<https://www.immigration.gov.mv/about/>> accessed 23 June 2023.

<sup>83</sup> Constitution of the Republic of Maldives art 230.

<sup>84</sup> Decentralisation Act (Maldives) (7/2010).

<sup>85</sup> Employment Act (Maldives) (2/2008), art 79.

<sup>86</sup> Ministry of Health, 'Ministry of Health - Mandate' (*Ministry of Health MV*) <<https://health.gov.mv/en/publications/ministree-of-helthuge-mendeyt>> accessed 23 June 2023.

<sup>87</sup> Employment Act (Maldives) art 87.

<sup>88</sup> Prosecutor General's Office, 'Prosecutor General's Office | Mandate' <<http://pgoffice.gov.mv/en/mandate>> accessed 22 July 2023.

<sup>89</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, '2015 Trafficking in Persons Report: Maldives' (Department Of State The Office of Website Management, Bureau of Public Affairs 2015) Report.

### 3.5 Support functions

Key institutions and organisations	Migration	Employment	Anti-trafficking
Maldives Red Crescent	✓	✓	✓
Transparency Maldives	✓	✓	✓
Human Rights Commission of the Maldives	✓	✓	✓
Public Interest Law Centre	✓	✓	✓
Mission for Migrant Workers Maldives	✓	✓	
Employment Agencies	✓	✓	
Bangladesh High Commission	✓		
Maldives Trade Union Congress		✓	
National Federation of Maldivian Employers		✓	
Advocating for the Rights of Children			✓
International Organisation for Migration	✓		✓

**Table 3. 10: Support functions**

Civil Society Organisations [CSOs], private businesses, and High Commissions provide support to the policymakers, advisors, and enforcement and regulatory authorities in carrying out their mandates. This includes employment agencies providing recruitment, work permit management, and manpower supply services,<sup>90</sup> which are crucial in bridging the gap between job seekers and employers. The interests of employers, including those employing migrant workers, are represented by organisations such as the National Federation of Maldivian Employers,<sup>91</sup> while the interests of employees, including migrant workers, are represented by trade unions and other NGOs, including the Maldives Trade Union Congress, a confederation of the currently active worker associations at the forefront of advocating for workers' rights across the Maldives.<sup>92</sup>

Additionally, support is provided by government auxiliaries such as the Maldivian Red Crescent [MRC], an independent, voluntary humanitarian organisation established by the Maldivian Red Crescent Act.<sup>93</sup> MRC focuses on establishing community teams at a local level to conduct programmes and build capacities within the community in varied areas ranging from emergency response, first aid, psychosocial support, and violence prevention, and assists NGOs operating in the Maldives, such as the PILC, Mission for Migration Workers Maldives [MMWM], and Transparency Maldives [TM].

<sup>90</sup> Employment Agency Regulation (Maldives) (R-63/2022) art 6.

<sup>91</sup> 'National Federation of Maldivian Employers - About Us' <<https://www.nfme.mv/about-us>> accessed 11 January 2024.

<sup>92</sup> Meeting with Maldives Trade Union Congress (Male', Maldives, 9 Nov 2021)

<sup>93</sup> 'Our Story - Maldivian Red Crescent' (*Maldivian Red Crescent (MRC)*) <<http://redcrescent.org.mv/category/about-us/articles/6-our-story>> accessed 22 July 2023.

Within the scope of PILC's work, an initiative titled "Migrants Matter" was established to provide pro bono legal aid and services, and to conduct advocacy and awareness initiatives for migrant workers.<sup>94</sup> PILC works closely with MMWM, the first registered NGO in the Maldives, working specifically for the rights of migrant workers, including raising awareness regarding the well-being of migrant workers. IOM Maldives operates in a similar capacity to promote humane and orderly migration, whereas Transparency Maldives [TM] is a non-partisan organisation that promotes collaboration and awareness and undertakes initiatives to improve governance and eliminate corruption, acting as a catalyst for reforms to improve transparency and accountability.<sup>95</sup>

Advocating the Rights of Children [ARC] is also an established NGO, with its main areas of work covering advocacy and raising awareness of children's rights through national and international outreach, which includes raising awareness to combat child trafficking.<sup>96</sup> In this regard, ARC represents CSOs and NGOs in the Anti-Human Trafficking Steering Committee. Additional support is provided by the Human Rights Commission of the Maldives [HRCM], established under the Human Rights Commission Act (6/2006), mandated to protect, promote, and sustain human rights in the Maldives following national, regional, and international law and to undertake complaints alleging human rights violations.<sup>97</sup> The Bangladeshi Consulate in the Maldives also provides a wide range of consular services to Bangladeshi migrant workers, including assistance in passport and visa applications and the issuance of emergency travel documents, in addition to administrative assistance.

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<sup>94</sup> 'PILC | Who We Are' (*Public Interest Law Centre*) <<https://www.pilcmv.org/who-we-are>> accessed 22 July 2023.

<sup>95</sup> 'Transparency Maldives | About Us' (24 May 2016) <<https://transparency.mv/about-us/>> accessed 22 July 2023.

<sup>96</sup> Advocating the Rights of Children (ARC), 'ARC | About Us' (*Advocating the Rights of Children (ARC)*) <<https://www.arc.org.mv/about-us/>> accessed 22 July 2023.

<sup>97</sup> Human Rights Commission Act (Maldives) (6/2006).

## **4: LABOUR MIGRATION MECHANISM**

The culmination of the resulting legislative and institutional framework detailed in Chapter 3, resulted in the formation of a labour migration mechanism to cater to the increase in labour migrants, and to ensure cooperation and understanding among the key parties involved. It is necessary to consider the parties and the complex relationships involved in migration to facilitate adequate and regular channels for migration, prevent and reduce irregular migration, ensure that workers' labour rights are safeguarded, and enhance efforts to combat human trafficking, migrant smuggling, and other crimes affecting migrants. Therefore, the migration management system adopted in the Maldives is considered to further assist in the conceptualisation and analysis of the issues and challenges faced by the migrant community. Humane and orderly migration management is essential to protecting and ensuring all parties' interests while prioritising human rights. To this end, the key parties involved, and the system governing labour migration resulting from the afore-discussed framework is highlighted in this chapter.

### **4.1 Key parties**

To fully grasp the structure and operation of the migration mechanism and related issues, key parties, such as migrant workers, employers, representatives, and recruiters, must be considered.

#### **4.1.1 Migrant workers**

Migrant workers are defined as individuals who engage in a remunerated activity in a country or state in which they are not citizens or nationals.<sup>98</sup> To provide further clarification in terms of this study, a description of migrant demographics and their explanations are included to assist in conceptualisation of the target participants. Despite being the primary party within this discourse, migrant workers have a limited role in migration management in the Maldives, with more responsibilities and obligations put on employers and recruiters.

#### **4.1.2 Employers**

Provided that they meet the criteria outlined, local individuals, sole proprietors, State institutions, courts, agencies, the People's Majlis, political parties, organisations, independent institutions, and legal entities such as private and public companies, state-owned enterprises [SOEs], re-registered companies, local authority companies, partnerships, and cooperative societies are permitted to employ migrant workers.<sup>99</sup> Employers are permitted to recruit migrant employees either by their initiative or through registered recruitment agencies.

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<sup>98</sup> Convention C097 - Migration for Employment Convention (Revised), 1949 (No. 97) 1949 (C097).

<sup>99</sup> Regulation on Expatriate Employment (Maldives) (R-111/2023) app 1 (art 4b).



### 4.1.3 Recruiters

Where employers resort to employing third parties to assist in recruiting migrant workers, the Expatriate Employment Regulation stipulates that it must be delegated to registered or licenced recruitment agencies established under and regulated by the Regulation on Employment Agencies (2022/R-63), enacted according to the Employment Act (2/2008). MED is tasked with regulating and monitoring recruitment agencies, in addition to being responsible for the overall labour migration mandate.<sup>100</sup>

The Regulation on Recruitment Agencies specifies three services employment agencies can provide: recruitment services, work permit management services, and supplication of manpower.<sup>101</sup> Recruitment agencies are considered a sub-type of employment agencies, as evident from the categories detailed in the Regulation, subject to which categorisation, agencies are permitted to provide services, as detailed in [Table 4.1](#).<sup>102</sup>

Category	Service	Deposit (MVR)	Deposit (USD)
A	Recruitment and work permit management	4,635,000.00	71,471,700.00
B	Work permit management	772,500.00	11,911,950.00
C	Manpower supply	46,350,000.00	714,717,000.00

**Table 4. 1: Categorization of Employment Agencies**

Licences are issued provided that agencies pay deposit fees according to the category.<sup>103</sup> Provision of these services without acquiring a license as detailed in the Regulation which would result in penalisation.<sup>104</sup> Licenses issued will remain valid for the periods ascribed in the Regulation, provided the requirements are met.<sup>105</sup> Businesses registered and operating within the capacity of employment agencies are only permitted to perform the functions of the category under which they are registered.<sup>106</sup>

These agencies must work with licensed employment agencies and agents from source countries to recruit workers to match demand and supply in compliance with the legislation enacted in the source and destination countries. They are also tasked with establishing a communication channel between the migrant employee and their employer.<sup>107</sup>

<sup>100</sup> 'Mandate - Ministry of Economic Development' <<https://www.trade.gov.mv/vision-mission-mandate>> accessed 1 March 2023.

<sup>101</sup> Employment Agency Regulation (Maldives).

<sup>102</sup> *ibid* 6.

<sup>103</sup> *ibid* 10.

<sup>104</sup> *ibid* 8(g).

<sup>105</sup> *ibid* 9.

<sup>106</sup> *ibid* 13.

<sup>107</sup> *ibid* 27.

Over the years, it was noted that the agents administering irregular migration include local and foreign employment agencies and agents.<sup>108</sup> It can be attributed to the constant changes to the policies and delegation of roles of the agencies to substitutes such as companies and individuals. Increasing governability of recruitment agencies by eliminating private recruitment and implementing a strengthened supervisory and enforcement mechanism in line with international standards to ensure the incorporation of recruitment agencies within the process could assist in minimising recruitment fraud resulting labour exploitation through the imposition of conditions of forced labour using means of debt bondage and confiscation of identification documents. To recapitulate, recruitment agencies are yet to be practically and fully included in the recruitment process despite the enactment of the Employment Agency Regulation.<sup>109</sup>

## THE MECHANISM GOVERNING LABOUR MIGRATION

The mechanism governing labour migration further details the procedures that must be followed in facilitating and regulating labour migration. These procedures have traditionally been and continue to be formulated only nationally, without long-term strategic planning, or adequate regard for the cross-border nature of the phenomena of labour migration and trafficking. Moreover, there is also a noticeable absence of empirical evidence, which could contribute towards formulating more sustainable policies through comprehensive and cohesive data and information.

The State initially adopted a migration system in the 1990s to facilitate and monitor labour migration. This system has since been upgraded and has continued to be subject to rapid changes and overhauls to accommodate the growing population of migrant workers in the Maldives. However, the mechanism could not foresee the industry boom and the consequent demand and need for migrant workers despite such adaptations.<sup>110</sup>

As a result, the changes to the system continue to be reactionary, whereby issues must initially arise for the system to address them. This led to the creation of gaps and loopholes that have been exploited to instigate corruption and fraudulent practices, adding to the formulation and conceptualisation of additional issues and challenges for the migrant population.<sup>111</sup> Consequently, as each succeeding framework did not address problems with the previous system or the issues the immigrant community had to bear, new migration management rules and systematic issues continue to develop.

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<sup>108</sup> Andrea Salvini, Michele Bruni and Eleonora Castagnone, 'Measures to Increase Employment of Nationals in Expatriate Dominated Occupations and Promote Decent Work among All Workers' (International Labour Organisation 2016) <<https://bit.ly/3n2Q1rb>> accessed 21 March 2023.

<sup>109</sup> Meeting with Maldives Association for Employment Agencies (Male', Maldives, 8 Dec 2022)

<sup>110</sup> World Bank (n 36).

<sup>111</sup> Simad Saeed (n 16).

## 4.2. The migration management system

The migration management system is primarily guided by the Regulation on Employment of Expatriate Workers in the Maldives, made pursuant to Article 65(a) of the Employment Act (2/2008). The system underwent a recent overhaul with the implementation of the new Regulation on Employment of Expatriate Workers in the Maldives (R-11/2023) in May 2023. This regulation marks the third in a series of regulations to be issued within the last five years, as the initial regulation with the same title was issued in 2020 and repealed in 2021. As such, significant changes have been made to guidelines delineating the recruitment, migration, facilitation of accommodation, and employment of migrant workers within a short period of time.

However, the absence of statistics, empirical data, labour market research, and a lack of studies on the implications of implementing the policies in place and audits of existing systems have resulted in formulation of policies that do not serve their intended purpose. Nevertheless, new policies continue to be formulated and amended. Most recently, changes have been brought to categories of quotas, requirements for obtaining quotas and permits, and responsibilities of the parties involved, all of which are carried out and monitored through the system.

## 4.3 The migration process

In the Maldives, MI issues all types of visas as part of their immigration control mandate. For those migrating for labour, their entry requirements needed to be fulfilled across two stakeholders: the MED to obtain a quota and work permit and the MI to obtain a work visa, as the law requires.<sup>112</sup>

Online platforms such as the IMUGA portal and the XPAT Online system were established to enable easy access to services provided for migration management and contribute to interagency coordination. The MI established the XPAT system, which was later moved to MED. It is now required for all functions and communications related to migration management to be made through the system.<sup>113</sup>

### 4.3.1 Quota

Employers must obtain quotas from MED to employ migrant workers as stipulated in the Regulation on Employment of Expatriate Workers (2023/R-111).<sup>114</sup> Businesses, entities, or individuals requesting quotas must be registered in the XPAT system and have a registered worksite. Quotas are allocated based on various factors detailed in the Regulation,<sup>115</sup> either permanently or for specific projects.<sup>116</sup> The validity period for quotas depends on the category for which quotas are allocated; quotas allocated for projects expire at the end of the project as opposed to permanent quotas.<sup>117</sup> Upon

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<sup>112</sup> Regulation on Expatriate Employment (Maldives) art 47.

<sup>113</sup> *ibid* 3.

<sup>114</sup> *ibid* 14.

<sup>115</sup> *ibid* 22(a).

<sup>116</sup> *ibid* 23(a).

<sup>117</sup> *ibid*.

project completion, employers can shift the employee to a permanent quota or a quota allocated for a different project and notify the Ministry of changes in the worksite accordingly.<sup>118</sup>

Business activity of worksites, the required migrant workforce, availability of labour within the local labour market, existing workforce of the business, qualifications of required employees, category for which quota is requested, and the employer's financial capacity are considered by the Ministry in allocating quotas.<sup>119</sup> Where the employer has existing migrant employees, it is required for them to abide by the Regulation and to have not been found in contravention of legislation enacted and in force in the country, specifically the Immigration Act, the Employment Act, and the Prevention of Human Trafficking Act. It is also required for members or directors of entities to be vetted for similar contraventions or offences.<sup>120</sup>

Employers are only permitted to recruit or hire migrant workers if locals with the required qualifications and experience do not respond to the vacancy.<sup>121</sup> The Regulation also specifies that the Ministry has the discretion to withhold quotas where employers have pending payments or fines that must be paid to the Ministry.<sup>122</sup> The 2021 amendment to the Expatriate Employment Regulation introduced a quota fee as a guarantee to limit fraudulent applications and over-applications. Therefore, to utilise quotas, employers must pay the fee of USD 129.70 (MVR 2,000) per month for at least twelve months, totalling USD 1,556.42 (MVR 24,000).<sup>123</sup> Where employers opt for scheduled fee payments or instalments, the quota allocated can be used once the initial payment is made.<sup>124</sup> Quotas will remain valid, provided that the required fee payments are made<sup>125</sup> or until the temporary quota's project period expires.<sup>126</sup>

### 4.3.2 Deposits

Work permit deposits are a prerequisite for employers to recruit and employ migrant workers to cover potential expenses that may have to be borne by the State to repatriate or deport their migrant employee<sup>127</sup> If additional costs must be borne by the State beyond the deposit fee, employers must reimburse the State for such expenses.<sup>128</sup>

Initially, deposits were held for individuals but later changed to a bandwidth for which money is pooled and allocated depending on the number of migrant workers.<sup>129</sup> This was later changed per the most recent amendment; deposits are currently allocated for individual migrant workers.<sup>130</sup> The frequent changes in the mechanism have made it difficult to monitor amounts paid for individual

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<sup>118</sup> *ibid* 44.

<sup>119</sup> *ibid* 22(a).

<sup>120</sup> *ibid* 25(e).

<sup>121</sup> *ibid* 28.

<sup>122</sup> *ibid* 22(b).

<sup>123</sup> *ibid* 29(a).

<sup>124</sup> *ibid* 29(c).

<sup>125</sup> *ibid* 30(a).

<sup>126</sup> *ibid* 30(b).

<sup>127</sup> *ibid* 48(a,b).

<sup>128</sup> *ibid* 49.

<sup>129</sup> Regulation on the entry of foreigners into the Maldives for employment (repealed) (R-22/2011) app 2.

<sup>130</sup> Regulation on Expatriate Employment (Maldives) art 48.

migrant workers as deposits, particularly considering the deposit fee has changed over the past 20 years, making allocating funds difficult. It was reported that the rapid changes in the process of collecting and maintaining deposits resulted in mismanagement of information, and there were previously reported instances in which the regulation had not been followed.<sup>131</sup> It was also reported that deposits are not consistently refunded to employers as required, nor are any repayments recorded to replenish employers' deposits for additional payment by the state. Concerns and issues have also been raised regarding how deposit funds were allocated for the large repatriation efforts recently conducted by the State.

### 4.3.3 Permits

Following the issuance of quotas, the Regulation states that a migrant worker can only reside in the Maldives for employment after initially obtaining a work permit entry pass and subsequently obtaining a work permit and the required work visa for their employment in the Maldives.<sup>132</sup> The Regulation also specifies that employers can be penalised for non-compliance.<sup>133</sup> The categories under which work permits can be issued are listed per the Regulation, as illustrated in [Table 4.2](#).

	Professional and managerial	Non-professional	Domestic
Definition <sup>134</sup>	Jobs which require a Certificate of level 7 as determined by MQA OR a Certificate of level 5 or 6 as determined by MQA, with five years of experience in a related field.	Jobs which require a Certificate of level 5 as determined by the MQA, OR have qualifications of a similar level, OR minimum experience whereby employees can follow instructions and acquire the necessary fundamental skills.	List of jobs published by the Ministry under the domestic category.

**Table 4. 2: Categories of work permits**

#### **Work permit entry pass**

Work permit entry passes are issued to migrant workers who meet the criteria to obtain work permits under the Regulation to enter the country for employment. The duration for which work permit entry passes remain valid is detailed in the pass itself.<sup>135</sup> Entry passes are considered an extension of the work permit; thereby, workers who have entry passes will be considered documented until the expiration of the pass. The Regulation requires to obtain a work permit

<sup>131</sup> Auditor General's Office (n 72).

<sup>132</sup> Regulation on Expatriate Employment (Maldives) art 34(a).

<sup>133</sup> *ibid* 34(d).

<sup>134</sup> *ibid* 4, art 6.

<sup>135</sup> *ibid* 34(c).

before the expiration of the entry pass,<sup>136</sup> within a maximum of thirty days post-migration.<sup>137</sup> Where work permits are not sought within the allocated period, an additional 15-day period is granted with a penalty of USD 3.24 (MVR 50) per day.<sup>138</sup>

Failure to obtain work permits as required will result in penalisation.<sup>139</sup> If a migrant worker fails to obtain a work permit during the prescribed period, they will be considered undocumented. It has been noted that workers are often susceptible to becoming undocumented despite travelling on work permit entry passes, as work permits are not obtained within the ascribed time.<sup>140</sup>

### **Work permit**

Work permits will remain valid provided that the stipulated fee of USD 350 (MVR 5,407.50) per month is paid.<sup>141</sup> In contrast, work permits would be considered expired where conditions related to work permits are not met or a document submitted to obtain a work permit expires.<sup>142</sup> Workers must obtain conditional work permits where employer change is requested, or workers may request regularisation until work permits are acquired.<sup>143</sup> Conditional work permits would remain valid for thirty days after the deposit is paid.<sup>144</sup> Employers can be penalised if work permits are not acquired before the expiration of the conditional work permit.<sup>145</sup>

Permits can be cancelled upon request of the employer, where the employer changes, where the migrant worker goes missing or absconds from employment, upon the death of the migrant worker, in instances where the permit becomes invalid due to unfulfilled requirements, or where the migrant worker occupying the permit becomes undocumented. In addition to judicial directives, permits may be revoked in cases where migrant workers fail to comply with investigative authorities or ministries upon the death of their employers, in cases where legal entities dissolve, or if migrant workers make a request to cancel their permits.<sup>146</sup> The Regulation specifies that workers who cancel their work permits can only be issued new permits after six months, or if their previous employers provide a letter of no objection.<sup>147</sup>

The previous regulation specified that permits would remain valid even when a worker absconds from employment for as long as the employer does not report the worker as missing or absconded. Work permits issued were considered cancelled when workers migrated back to

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<sup>136</sup> *ibid* 34(d).

<sup>137</sup> *ibid* 36(b).

<sup>138</sup> *ibid* 4, art 14.

<sup>139</sup> *ibid* 34(d).

<sup>140</sup> Stakeholder Conference on Labour Migration within the Bangladesh-Maldives Corridor (Male', Maldives, 16 Nov 2022)

<sup>141</sup> Regulation on Expatriate Employment (Maldives) art 36(a).

<sup>142</sup> *ibid* 38(a).

<sup>143</sup> *ibid* 35(a).

<sup>144</sup> *ibid* 35(b).

<sup>145</sup> *ibid* 35(c).

<sup>146</sup> *ibid* 46.

<sup>147</sup> *ibid*.

their home. In contrast, the new regulation requires for employers to request for cancellation of work permits upon the departure of their migrant employees.<sup>148</sup>

The Regulation on Employment of Expatriate Workers also states that employers are responsible for making arrangements for the repatriation of any migrant worker brought to the Maldives at the end of their employment or the expiry of their work permits.<sup>149</sup> Where the employer fails to make the necessary arrangements for repatriation, the government may step in and take up the cost of sending the migrant worker back to their home country.<sup>150</sup> The Regulation ensures that employers take responsibility for repatriating foreign workers and preventing exploiting workers who may be stranded in the Maldives after their employment has ended.

#### 4.3.4 Visas

The Maldives issues eight types of visas: tourist, diplomatic, student, business, dependent, work, resident, and 'special' visa.<sup>151</sup> As this study focuses on labour migration, work visas are considered the most relevant to this analysis. In addition to this, tourist visas are factored into account for irregular migration. As such, [Table 4.3](#) shows the characteristics of work visas and tourist visas. Initially, the work visa's characteristics are conceptualised to better understand the requirements set forth.

Visa Characteristics		
Purpose	Work	Tourist
Criteria	Invitation by an employer	Complete travel itinerary, return journey confirmed ticket, prepaid confirmed hotel booking at a registered hotel, or proof of financial means to support the stay
Validity	One year (renewable)	30 days
Permissible status adjustments	To Resident (spouse) visa From Business, special, and dependent visa	-
Fees	USD 16.21 (MVR 250) for every three months + USD 3.24 (MVR 50) for the permit card (one-time payment)	-

**Table 4.3: Characteristics of work visa and tourist visa<sup>152</sup>**

Work visas are issued for foreigners to stay in the Maldives for employment purposes. It is required for migrant employees to have been appointed for a specific job to obtain a work visa, which

<sup>148</sup> *ibid.*

<sup>149</sup> *ibid* 61(b).

<sup>150</sup> *ibid* 62.

<sup>151</sup> Immigration Act (Maldives) (1/2007).

<sup>152</sup> Plewa (n 17).

ties the employee to their employer.<sup>153</sup> The Regulation specifies that parties listed on a work permit as employers will be considered employers for the Regulation.<sup>154</sup> However, this does not extend to employment-related disputes or purposes, as evident from judicial precedents.

The MI issues work visas, granted that all the documents are in order, in the form of a stamp on the passport, which remains valid as long as the prerequisite payments are made.<sup>155</sup> The onus for which falls onto the employer, and as such, migrant employees cannot be asked to bear the cost directly or indirectly.

Although work visas are required to reside in the country for employment purposes, it has been noticed that workers are sometimes misled and consequently migrate on tourist visas, which they are led to believe are 'open visas' for the same purpose. Workers are told that this exempts them from the sponsorship arrangement and does not restrict their residence period in the country. While it is possible to request status adjustments to shift certain visas to another without leaving the country, adjustments cannot be made to shift from a tourist visa to a work visa or vice versa. The difficulties in maintaining their legal status without the assistance or cooperation of their employer and the difficulties in obtaining residency visas add to the underlying economic and social power imbalance for the migrant community.

#### 4.3.5 Representatives

Representatives are designated to conduct business on behalf of employers via the XPAT portal; in doing so, they are entrusted with the obligations the employer is legally bound to fulfil. Employers can register employment agencies, locals they employ, and agents they appoint as representatives.<sup>156</sup> However, employers would remain responsible for activities conducted by the representative on their behalf.<sup>157</sup>

To ensure representatives are informed and educated to bear the responsibility, the Regulation on Employment Agencies requires representatives to complete the Certificate of Employment Intermediaries [CIE] and obtain an Employment Intermediary Licence.<sup>158</sup> Despite this, the Regulation allows representatives to register and perform duties until a certain date after which certification is required, in anticipation of the CIE course's impending implementation.<sup>159</sup> Generally, users must take responsibility for transactions made via their respective accounts.<sup>160</sup> However, as representatives are authorised, per the law, to act in the capacity of employers, employers can be held responsible by extension for transactions made by their representatives.<sup>161</sup> Including users in

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<sup>153</sup> 'Work Visa' (*Maldives Immigration*) <<https://www.immigration.gov.mv/work-visa/>> accessed 12 August 2023.

<sup>154</sup> Regulation on Expatriate Employment (Maldives) art 43(c).

<sup>155</sup> 'Work Visa' (n 156).

<sup>156</sup> Regulation on Expatriate Employment (Maldives) art 8.

<sup>157</sup> *ibid* 13.

<sup>158</sup> *ibid* 5(b).

<sup>159</sup> *ibid* 5(c).

<sup>160</sup> *ibid* 13(a).

<sup>161</sup> *ibid* 13(b).



admitting responsibility or carrying the burden for transactions is intended to act as a deterrent to prevent sharing information and access to accounts from third parties.<sup>162</sup>

According to the regulation, local employees of employers, employment agencies with category A or B licences, or individuals appointed by employers can be registered as representatives of employers.<sup>163</sup> An individual representative can represent up to five employers. In contrast, employers can appoint up to two individuals as representatives.<sup>164</sup>

#### **4.4 Data Management and Coordination**

Several shifts in the operation and management of the XPAT system have been observed since its establishment. Although the current system has improved on its previous features, past mistakes and flaws found by the only and most recent system audit, which was done in 2015, were still not fixed.<sup>165</sup> The issues found by the 2015 audit include errors and mismanagement resulting in data loss, including biometric data and work permits that expired and remained uncanceled. Additionally, outstanding visa fee payments resulting from lack of implementation, poorly imposed penalties, and instances where deported workers had re-entered the country were also recorded. It was further noted that the accuracy of the recorded data in the XPAT System could not be ensured as of 2015. Therefore, the data of those who have remained in the country for a prolonged time could still be unavailable.

The data collected through the system has been maintained at an institutional level, whereby information is maintained separately and is not integrated with any other database within the institution or the administration. While confidentiality and sensitivity of information are often cited as the reasons why access to the database is not integrated or provided for other stakeholders, the inability to access such information continues to be one of the reasons why interagency coordination is interrupted and cannot be maintained or improved. As a result, this prevents timely action based on available data or inability to take action due to unavailable data.<sup>166</sup> Gathering information is time-consuming as it requires sending data requests, comparing the obtained data with the agency's existing records, and analysing them accordingly for various purposes. It proves to be disruptive and prevents the achievement of the objectives of agencies and the migration management system. Such issues prevent the introduction and implementation of an integrated system. Therefore, employers who violate labour laws can obtain additional quotas while penalties are imposed, and pending payments or fees to government agencies or employees are not considered as they cannot be accounted for.

Employers and organisations that the LRA has blacklisted are not permitted to bring in additional personnel, as no additional quotas or work permits will be issued. Since quotas are non-

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<sup>162</sup> *ibid* 13(c).

<sup>163</sup> *ibid* 8(a).

<sup>164</sup> *ibid* 8(b,c).

<sup>165</sup> Auditor General's Office (n 72).

<sup>166</sup> Plewa (n 17).

transferable, such employers cannot have migrant employees working for them. However, anecdotal evidence from different stakeholders showed that quotas were previously given out in a way that did not follow these rules. Some employers flagged for such violations now have several migrant workers working for them on top of the free quotas they have saved up and can use to bring in more workers. Businesses may even try to circumvent the quota system by bringing in workers on tourist visas or employing them without proper documentation. There has also been a prevalent trend where, upon being blacklisted, shareholders form another company with little change to operate in the same or similar industry to obtain more quotas. This indicates that fraudulent documents are submitted, and quota requests are approved without due diligence. The Auditor General's Office's study reported on the development of paper companies as such, which emphasises this trend even more.<sup>167</sup> Despite scrutiny by identified stakeholders, such criticism is rarely factored in when formulating laws and policies. With such considerations, the number of quota issues cannot indicate an exact figure to capture labour migration trends.

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<sup>167</sup> Auditor General's Office (n 72).



## 5: RESPONDENTS' PROFILE

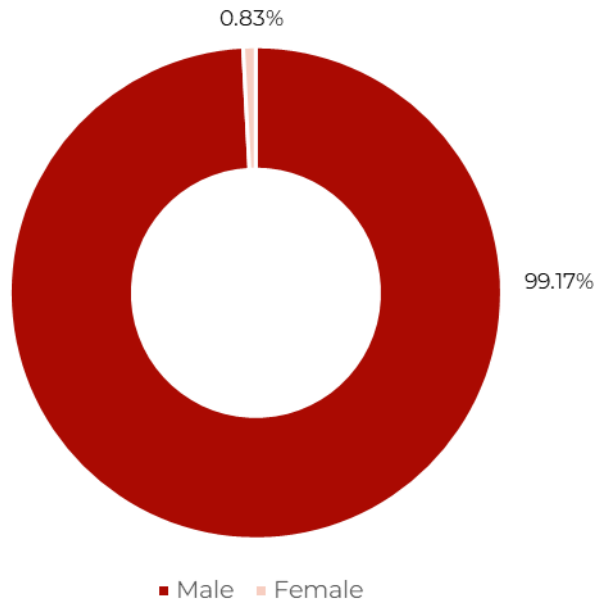
As previously discussed, despite being a worldwide phenomenon, migration is a sensitive topic for most countries. While some developed countries welcome migration to fill their skill requirements, others consider it a matter of national security and one that challenges their sovereignty. The Maldives is no different. This has become even more evident in recent years, considering the policy measures taken by the Maldivian government. With the issue of migration and migrant workers on the national agenda, the focus has been more on the national security aspect due to the high migrant population, particularly the undocumented population, than on implementing measures to reduce and prevent the exploitation of the mechanisms that have led to the high number of the migrant population. The Maldivian government has implemented various policy decisions and programmes to mitigate this, including country-specific quotas, arrival bans for individual countries, raids, mass repatriation, re-registration, and reintegration.

The existing local literature provides various perspectives on labour migration, ranging from economic, social, development, and rights perspectives. However, there are limited resources on the legal and policy front, which also capture the issues and challenges migrant workers face. There is a need for empirical evidence that points out the issues and challenges faced by migrant workers within the migration regime and the prevalence of human trafficking indicators, especially in light of the mitigation measures taken by the government. Therefore, to understand the prevalence of issues related to the three thematic areas of this study: labour migration, labour exploitation, and human trafficking, the sample population was calculated based on the statistics of the Bangladeshi migrant population described in Chapter 2.

To capture an accurate, representative sample, 847 responses were obtained for the quantitative survey from adult Bangladeshi migrant workers living in the Maldives, which allowed for an overall depiction of the target population. This section provides a demographic profile of the study respondents, which helps understand the scope of the data collection process to ensure a representative sample.

## 5.1 Sex Composition

Out of 847 respondents, 840 were male, whereas seven were female, as illustrated in *Figure 5.1*.

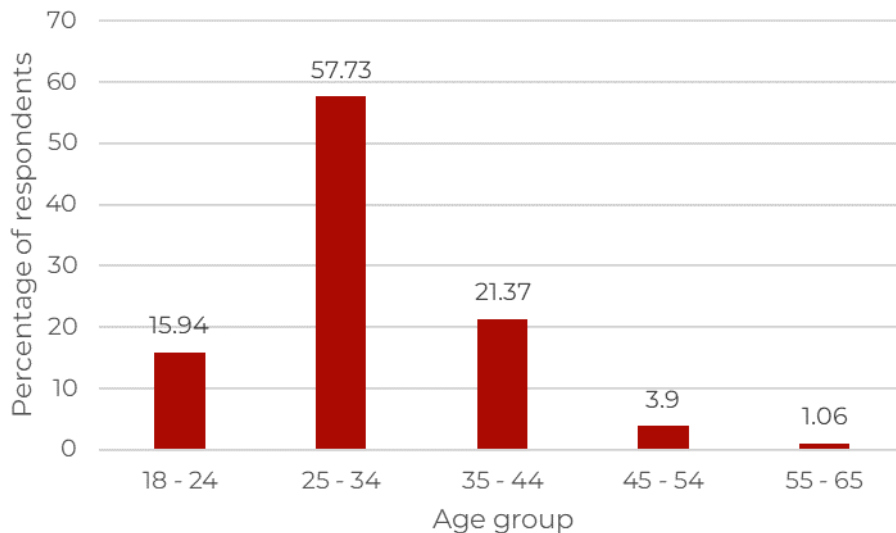


**Figure 5.1: Distribution of respondents by sex**

Although this is a considerable discrepancy, the MBS corroborates the sex composition of Bangladeshi migrant workers (*Figure 2.3*), where 99.17% of the Bangladeshi migrant population was male and 0.83% of the total Bangladeshi migrant population was female. This figure is also consistent with the statistics reported by the 2014 Census, which indicated that 0.36% of the Bangladeshi migrant population consisted of female workers, while the remaining 99.64% accounted for male migrant workers. Therefore, the findings of this study can be generalised to the Bangladeshi population in this aspect.

## 5.2 Age Composition

Bangladeshi migrant workers over 18 years of age, residing in the Maldives, were interviewed as the target participants of this study. Therefore, the age composition of the respondents is illustrated in *Figure 5.2*.



**Figure 5.2: Distribution of respondents by age**

15.94% of respondents fall between 18 and 24. Most respondents were aged between 25 and 34, which amounted to 57.73%. This indicates that there has been a shift in the population composition of migrant workers based on age. It was reported that most migrants residing in the Maldives in 2013 comprised workers aged 36 to 65 years, with a noted decrease in 20 to 34 years.<sup>168</sup> It was also reported that 21.37% of the respondents were aged 35 to 44. 3.90% of the respondents are between 45 and 54, and 1.06% are between 55 and 65, respectively.

## 5.3 Geographic distribution

Data collection locations were selected primarily based on the availability of resources. The geographical dispersion of the country proved to be challenging in collecting a representative data sample. The research team travelled to 7 locations, which were chosen based on the highest enumerated population of migrant workers during the pandemic based on the information provided by local councils. Additionally, enumerators were brought on board to assist in the data collection process, through which responses were collected based on the location of enumerators. The 847

<sup>168</sup> DESA-Population Division and UNICEF, *Migration Profiles - Common Set of Indicators* (United Nations 2014).

responses received were from 17+ islands dispersed throughout the country, classified into nine atolls. As such, the geographical distribution of respondents is classified in *Table 5.1*.

Atoll	Island	No. of respondents	%
Haa Dhaalu (HDh)	Island 1	1	0.12
Raa (R)	Island 2	2	0.24
Baa (B)	Island 3	7	0.83
Kaafu (K)	Greater Male' Region	616	72.73
	Island 4	7	0.83
	Island 5	22	2.60
	Island 6	12	1.42
Laamu (L)	Island 7	57	6.73
	Island 8	1	0.12
	Island 9	51	6.02
Gaafu Alifu (GA)	Island 10	2	0.24
Gaafu Dhaalu (G Dh)	Island 11	5	0.59
Gnaviyani (Gn)	Island 12	37	4.37
Seenu (S)	Island 13	25	2.95
	Island 14	1	0.12
Other		1	0.12
	<b>Total</b>	<b>847</b>	<b>100</b>

**Table 5. 1: Geographical distribution of respondents**

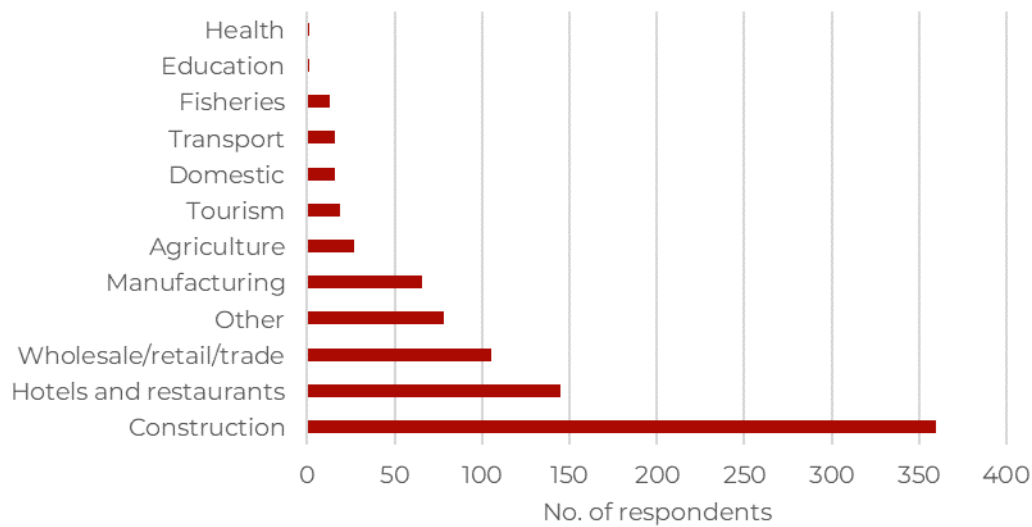
Most respondents sampled were residing in the Greater Male' Region (72.73%), which is consistent with the statistics provided by MBS as it is the most densely populated region in the country. It was noticed that there were a lot more migrant workers working on construction projects in the central region than in other atolls.

In contrast to this, it was observed that the employment of migrant workers, particularly in terms of sector and job classification, depended on the primary occupation or focus area of the island, which brought the most income to the atoll or island. For example, it was noted that islands primarily invested in agriculture and employed a considerable population of workers in the agricultural sector. Therefore, considering that workers' plights may differ from industry to industry, it is evident that the

experiences, working conditions, and living conditions of workers may vary based on their geographical location and the prevalent sector at the specific site. Additional studies should be conducted to capture the variances of experiences further, focusing on geographical location and industries.

## 5.4 Industries

Respondents were further categorised based on the industry they were employed in. The responses obtained are illustrated in *Figure 5.3*.



**Figure 5.3: Distribution of respondents by industries**

Most respondents (42.50%) were employed in the construction industry, owing to the high percentage of migrant workers in this industry, as per MBS,<sup>169</sup> and the volume of data collected from the Greater Male' Region, which is characterised by industrial and infrastructural development. For this reason, although it was reported that the tourism industry employed the second highest percentage of workers, these workers could not be included in the study due to the geographical dispersion of the country and the nature of tourist resorts which do not allow persons to enter the premises without permission.

However, data was collected from a significant portion of respondents (17.12%) employed in the hotel and restaurant industry, representative of the statistics published by MBS, indicating that a significant portion of workers are employed in this sector (7.6% of the total documented migrant population).<sup>170</sup> It was also noted that the islands from which data were collected were primarily involved in local tourism, which explains the significant proportion of respondents employed in this industry. Following this, the highest percentage of respondents were employed in the wholesale,

<sup>169</sup> Maldives Bureau of Statistics, 'Statistical Yearbook of Maldives 2021' (n 30).

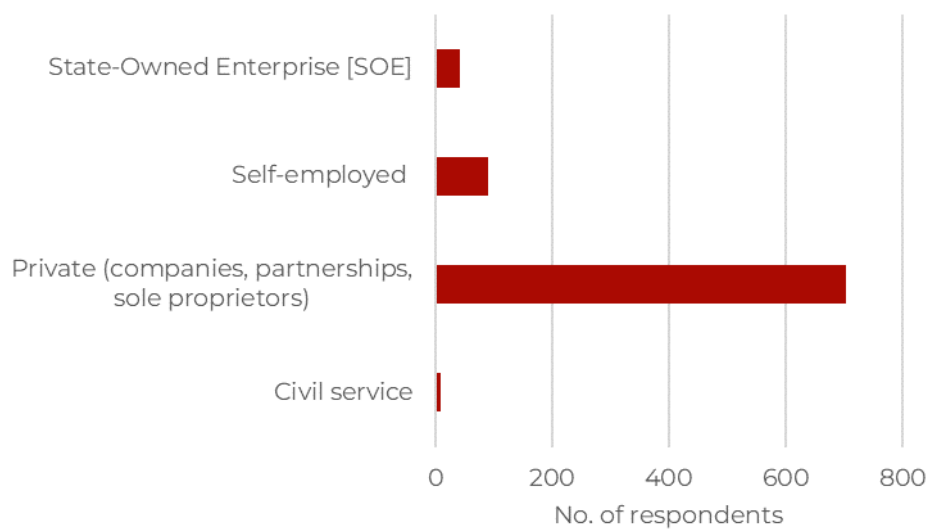
<sup>170</sup> *ibid.*



retail, and trade industries, consistent with the statistics published by MBS.<sup>171</sup> The least number of respondents were employed in the education sector, which comprises just 0.12% of the respondents. The same percentage of workers were employed in the health industry as well, owed to a lack of accessibility for Bangladeshi workers employed in these respective industries.

## 5.5 Types of Employers

Statistics of workers segregated by type of employer are not yet available in the Maldives. However, the Global Estimate indicates that most workers are employed in the private sector, because of which 63% of cases of forced labour are imposed by private actors (excluding commercial sexual exploitation).<sup>172</sup> Respondents were asked about the type of employer they were employed with to collect this information, as illustrated in *Figure 5. 4*.



**Figure 5. 4: Distribution of respondents by type of employer**

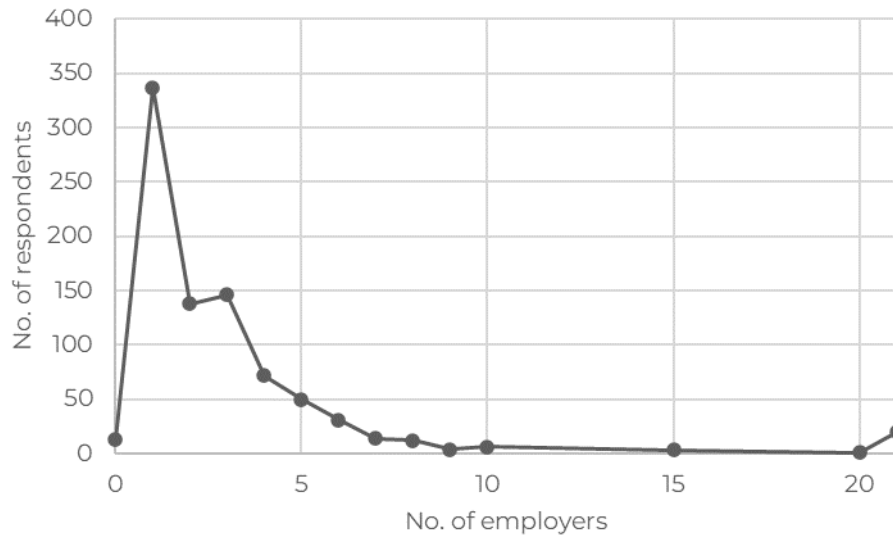
The collected data illustrates that 83.12% of the respondents work in the private sector, which includes those who work for sole proprietorships, partnership companies, etc., consistent with the Global Estimate. Followed by 10.74% of respondents who were self-employed in data collection, of which 21.37% spent 3 years and 18.0% spent 4 years working in the Maldives. Only 1.06% were employed as civil servants, whereas 5.08% of respondents reported they were working for SOEs.

<sup>171</sup> *ibid.*

<sup>172</sup> ILO, 'ILO Global Estimates on International Migrant Workers – Results and Methodology' (n 1).

## 5.6 The number of employers

Respondents were also queried on the number of employers they have worked for since migrating, the results of which are illustrated in *Figure 5.5*. As the sponsorship arrangement facilitated in the Maldives ties the migration and legal status of workers to their employment and, consequently, their employer, this data was collected intending to assist in the indication of the likelihood of respondents being documented.

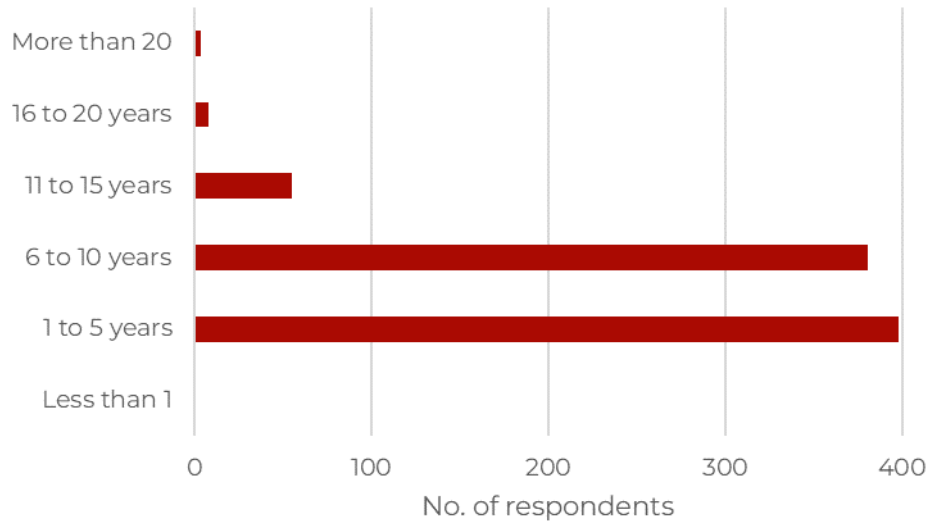


**Figure 5.5: No. of employers respondents worked for**

The findings of this study indicate that only 39.79% of respondents had worked for one employer during their stay. This, however, is not indicative that the same respondents are documented as it is possible for workers who travelled on tourist visas to have had worked for one employer. The 1.53% of respondents who reported that they had not worked for an employer would have been self-employed for the entirety of their stay. This indicates that these respondents could have migrated on tourist visas, which are often explained to them as “open visa”, following the acquisition and migration on which they are expected to find employment, or are told that they can switch employment without it having any implications on their legal status. It is also likely for workers who migrated on work visas and were not facilitated with employment to include the 1.53% of respondents discussed here. It should be noted that the data collection process deliberately avoided questions about their legality to ensure the continuity of the data collection process and a holistic demographic profile of the respondents.

## 5.7 Years spent in the Maldives

To capture their lived experiences, respondents were questioned about the number of years spent in the Maldives, which is illustrated in *Figure 5.6*.



**Figure 5.6: Distribution of respondents by the number of years spent in the Maldives**

46.99% of respondents reported having worked in the Maldives for 1 to 5 years, and 44.98% reported having worked for 6 to 10 years. The 2014 Census revealed that most workers stayed in the country for 1 to 2 years, followed by those who stayed for 5 to 9 years, indicating that observed trends regarding the length of stay of workers remained similar. 6.49% of respondents reported having spent 11 to 15 years in the Maldives, while 0.94% spent 16 to 20 years, and only 0.47% spent over 21 years working in the Maldives.

58.8% of respondents reported having switched employers. The likelihood of these respondents occupying legal status decreases with the increase in the number of employers they have worked for. This is inferred from the migration management system in place, the regularisation mechanism facilitated by legislation, and the regularisation programme initiated by the State. PILC has reported that the facilitation of regularisation is highly bureaucratic, thus making it difficult for migrant workers and their employers to navigate this mechanism, which makes this a long and tedious process.<sup>173</sup> As a result, employers and employees are less likely to opt for regularisation, because of which workers remain undocumented.

<sup>173</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

## 5.8 The average period of employment

By dividing the total number of employers for which all respondents worked by the sum of all the years they worked for each employer, it was possible to calculate the average length of employment.

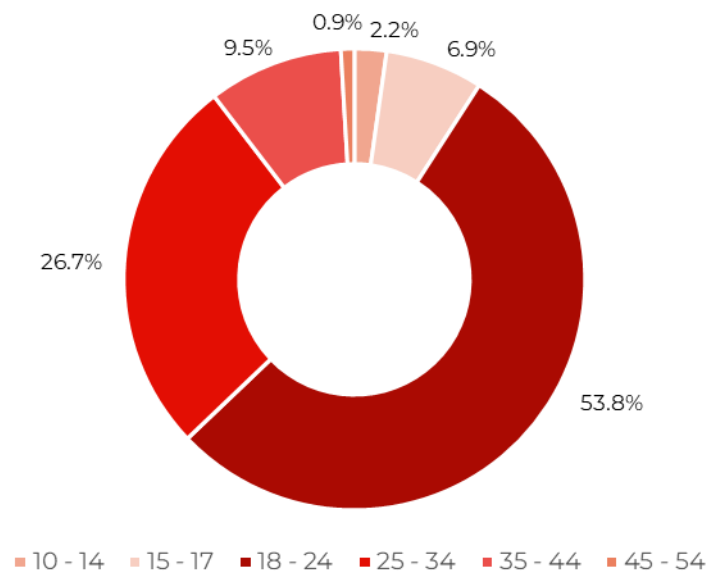
$$\frac{\text{Sum of years spent in the Maldives}}{\text{sum of employers all respondents worked for}} = \text{Average length of employment}$$

Calculations show that respondents worked for the same employer for an average of 2.07 years before switching to a new employer, which increases the likelihood that these respondents may become undocumented in the future.

## 5.9 Age at migration

The age of respondents at the time they migrated was calculated to gain further insight into their migration experience by subtracting the years they spent in the Maldives from their current age. The results obtained are illustrated in *Figure 5.7*.

$$\text{Age of respondents} - \text{No. of years spent in the Maldives} = \text{Age of respondents at migration}$$



**Figure 5. 7: Age of respondents at migration**

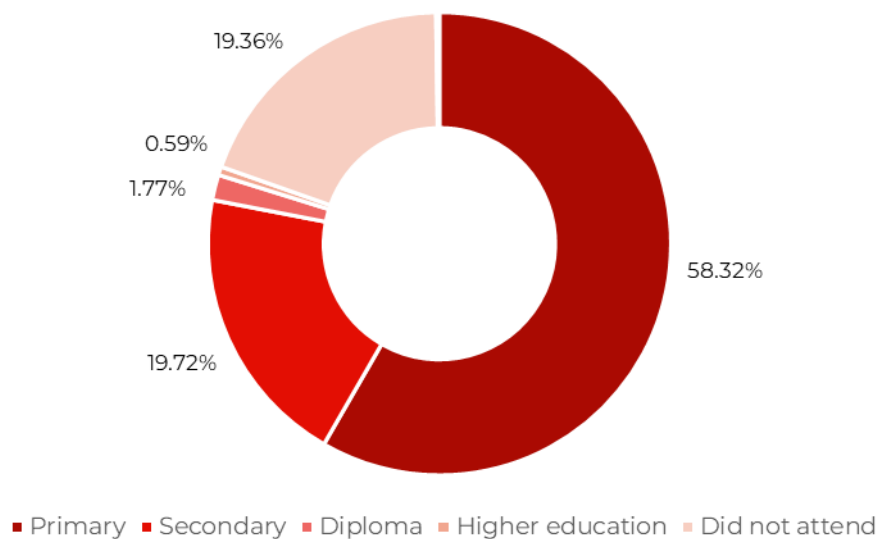
2.20% of respondents were between 10 and 14 years of age when they migrated, while 6.90% of respondents were between 15 and 17 years old, entailing that 9.1% (77 respondents) migrated to the Maldives for employment purposes before they were of legal age, which contravenes the

Employment Act (2/2008).<sup>174</sup> Although respondents' experiences from the time they migrated are captured; they are not analysed from a child-specific or child-labour lens. However, it should be highlighted child labour in the Maldivian context should be further studied and is identified as a grave concern.

The data shows that the prime age range for migration within the Bangladesh-Maldives corridor is between 18 and 24 years, during which 53.8% of respondents migrated, in contrast to the prime age of migration as identified by the Global Estimate,<sup>175</sup> cited as 25 to 64 years of age. This indicates that the composition of Bangladeshi migrant workers in the Maldives could be slightly different compared to global statistics. Following this are 26.7% of respondents who migrated between the ages of 25 and 34. 9.5% of respondents migrated between the ages of 35 and 44, while 0.9% migrated after age 45, with the eldest age being 54. It is possible for the age at which workers migrate and their age at data collection to have implications on the experiences and perceptions of workers.<sup>176</sup>

## 5.10 Educational qualifications

Respondents were also asked about their educational qualifications based on the International Standard Classification of Education [ISCED], which are illustrated in *Figure 5.8*.



**Figure 5.8: Educational qualifications of respondents**

19.72% of respondents had completed their secondary education (Level 2 of basic education), following most respondents (58.32%) who had completed their primary education. 1.77% of respondents completed their diploma, while 0.35% completed their bachelor's degree. 0.12% of respondents earned their master's degree, and 0.12% completed their Ph.D. Whereas 19.6% reported

<sup>174</sup> Employment Act (Maldives) art 6.

<sup>175</sup> ILO, 'ILO Global Estimates on International Migrant Workers – Results and Methodology' (n 1).

<sup>176</sup> Helena Honkaniemi and others, 'Psychological Distress by Age at Migration and Duration of Residence in Sweden' (2020) 250 *Social Science & Medicine* 112869.

not attending formal schooling, and 0.24% of respondents did not specify their educational qualifications.

## 5.11 Sample Population

Referencing the national statistics and projections on migration, focusing on Bangladeshi migrants where information is available, the target population of this study is estimated to be 187,290. The composition of workers segregated by sex was then analysed, representing 91% of the total resident foreign population of male migrant workers, compared to 9% of female workers. Although this accounts for the sex composition of the total migrant population, the composition separated by nationality could not be deduced due to a lack of available data. The dispersion of workers across the country was then considered. The displacement of workers is indicative of labour force needs; it is indicated that 37.75% of workers were employed in the construction industry, followed by the tourism industry and the wholesale/retail/trade industry.

A representative sample of the target population, containing 847 responses were obtained, of which 99.2% accounted for male Bangladeshi migrant workers, while 0.83% comprised female migrant workers. Most respondents sampled were between the ages of 25 and 34, and a considerable percentage (57.73%) of respondents were indicated to have resided in the Greater Male' Region at data collection. In line with the statistics provided by MBS, the highest percentage of respondents were employed in the construction industry (42.50%), followed by the hotels and restaurants industry and the wholesale, retail, and trade industry. It was also noted that private parties employed 83.12% of respondents, while 39.79% reported having worked for one employer since migrating. 1.53% reported never working for an employer, and the remaining respondents reported having switched employers.

This was assessed in terms of the number of years spent in the Maldives by respondents, of which it was recorded that most respondents (46.99%) spent 1 to 5 years in the country, with 2.07 years spent with the same employer on average. The age of respondents at the time of migration (with the highest percentage of respondents reported having been 25 to 34 years of age) and the educational qualification of respondents were factored in as they may impact the experiences and perceptions of workers regarding the issues and challenges faced.

Overall, the characteristics of the migrant population, derived from the data collected and analysed for this study provides an overview of the conceptualisation of issues, challenges, and exacerbations of vulnerabilities further discussed in this study.

## 6: RECRUITMENT

With the opening of economies and the subsequent development of the global labour market, the labour recruitment industry flourished while facilitating an increase in the inflow of temporary labour migrants. Recruitment, as defined by the ILO, includes advertising, information dissemination, selection, transport, placement into employment, and, for migrant workers, return to the country of origin where applicable.<sup>177</sup> While this applies to both recruitment within and across national borders, in the context of this study, only the recruitment of foreign labour across borders is considered.

As recruitment is considered as the initial phase of migration for employment, the experience during this stage often shapes the overall migration journey for workers. Over the years, the prominent role of recruitment parties and employers have come under scrutiny with the prevalence of exploitative migration patterns and abusive recruitment practices. Local legislation such as the Regulation on Employment of Expatriate Workers (2023/R-111) and the Regulation on Employment Agencies (2022/R-63) enacted pursuant to the Employment Act (2/2008) provides the framework based on which recruitment is facilitated in the Maldives. Despite the framework, exploitative recruitment practices are observed, where workers are often lured to indebting themselves to secure purportedly lucrative employment, resulting in them being subjected to labour violations, forced labour, and, in some instances, trafficking.<sup>178</sup>

### RECRUITMENT IN THE MALDIVES

As a primary function of the labour market, recruitment involves three key strategies, which, in different combinations, are utilised by employers to recruit workers. This includes direct recruitment through job announcements, screening through public employment services or private intermediaries such as recruitment agencies and hiring through social networks.<sup>179</sup>

The legislative framework in the Maldives allows recruitment by individuals and entities permitted to employ migrant workers, as previously detailed. These networks remain unregulated because of which leeway is provided for irregular, unregistered parties to get involved in the recruitment process. This is particularly observed where work is delegated to freelance recruiters to recruit individuals from villages and remote areas.

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<sup>177</sup> International Labour Organisation, 'General Principles and Operational Guidelines for Fair Recruitment' <[http://www.ilo.org/global/topics/labour-migration/projects/WCMS\\_536263/lang--en/index.htm](http://www.ilo.org/global/topics/labour-migration/projects/WCMS_536263/lang--en/index.htm)> accessed 25 April 2023.

<sup>178</sup> Nils Melzer, 'Visit to Maldives Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Nils Melzer' <<https://www.ohchr.org/en/documents/country-reports/ahrc4626add1-visit-maldives-report-special-rapporteur-torture-and-other>>.

<sup>179</sup> Jennifer Gordon, 'Global Labour Recruitment in a Supply Chain Context' (International Labour Organisation 2015) <[https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_377805.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_377805.pdf)>.

## 6.1 Recruitment Supply Chains

The recruitment system in the Maldives includes four key actors: employers, recruiters in the destination country, recruiters in the source country, and workers. Such operations heavily rely on personal or professional connections established in the source and destination country, resulting in the involvement of more actors assuming the role of brokers which further complicates the recruitment supply chain.

As additional parties are introduced, the employer's role in the recruitment process decreases, whereby crucial information gets lost within the supply chain, which gives rise to deceptive recruitment. The unreliability associated with complex supply chains adds to the uncertainty on whether the recruited workers meet the employers' expectations and job skill set requirements, and vice versa. Hence, it is likely that workers may not get adequate information about their job description, salary, living arrangements, working conditions, etc.

Recruiters and recruitment agencies often leverage the vulnerabilities of migrant workers, by capitalising on the significant advantage they have over migrants and exploiting the socioeconomic status of workers by recruiting a substantial population from rural communities, thus resulting in the community's reliance on the inflow of remittances for its stability. Generally, low-skilled workers are prone to being subjected to exploitative recruitment practices in comparison to high-skilled workers.<sup>180</sup>

For these reasons, it is essential to understand how recruitment chains work to fully understand how this affects migrant workers and to build accountability and safety for workers. More research must be conducted to fully understand the complex relationships involved in the recruitment process, to assist in the evaluation of current policies and implementation mechanisms, and to inform future policies.

In the absence of local literature, research conducted on recruitment supply chains and their operations and malpractices in Asia and GCC countries with similar migration mechanisms was studied. Highlighted issues include charging excessive fees,<sup>181</sup> undisclosed recruitment cost,<sup>182</sup> debt

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<sup>180</sup> Ray Jureidini, 'Ways Forward in Recruitment of Low-Skilled Migrant Workers in the Asia-Arab States Corridor' (2016) ILO white paper.

<sup>181</sup> Mizanur Rahman, 'Recruitment of Labour Migrants for the Gulf States: The Bangladeshi Case' [2011] SSRN Electronic Journal <<http://www.ssrn.com/abstract=1938176>> accessed 21 April 2024.

<sup>182</sup> Jureidini (n 185); Fay Faraday, 'Profiting from the Precarious' (Metcalf Foundation 2014).



incurred due to exorbitant fees,<sup>183</sup> withholding or confiscation of passports,<sup>184</sup> corruption,<sup>185</sup> complex recruitment supply chains,<sup>186</sup> quota trading,<sup>187</sup> dissemination of misinformation regarding migration and employment, and ineffective complaint and grievance procedures.<sup>188</sup>

If left unsupervised and where adequate penalties are not imposed, such practices would exacerbate workers' vulnerability, compounding exploitative labour practices and the trafficking of migrant workers. It is noted that a common way in which workers' vulnerabilities are compounded is shifting the burden of recruitment costs onto workers by charging exorbitant recruitment fees.

## 6.2 Recruitment Fees and Related Costs

The ILO General Principles and Operational Guidelines for Fair Recruitment define the term "recruitment fees and related costs" to include "any fees or costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing, or location of their imposition or collection".<sup>189</sup> This study relies on this definition as local legislation does not define what constitutes recruitment fees.

### 6.2.1 Cost of recruitment

The cost of recruitment generally varies depending on the country of origin and the sector or type of work. In the Maldives, the average cost of recruitment was estimated based on data provided by the International Organization for Migration [IOM] Country Profile<sup>190</sup> by accounting for data or figures that may have changed over time, as depicted in [Table 6.1](#).

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<sup>183</sup> International Labour Organisation, *Recruitment Fees and Related Costs: What Migrant Workers from Cambodia, the Lao People's Democratic Republic, and Myanmar Pay to Work in Thailand* (2020) <[http://www.ilo.org/asia/publications/WCMS\\_740400/lang--en/index.htm](http://www.ilo.org/asia/publications/WCMS_740400/lang--en/index.htm)> accessed 15 January 2024.

<sup>184</sup> Asian Development Bank Institute, Organisation for Economic Co-operation and Development, and International Labour Organization, 'Safeguarding the Rights of Asian Migrant Workers from Home to the Workplace' (2017) <<https://www.think-asia.org/bitstream/handle/11540/8314/adbi-safeguarding-rights-asian-migrant-workers.pdf?sequence=1#page=30>>; Sarah Paoletti and others, 'Migrant Workers' Access to Justice at Home: Nepal' [2014] Migrant Workers' Access to Justice Series (Open Society Foundations) 14; Amarjit Kaur, 'Labour Migration Trends and Policy Challenges in Southeast Asia' (2010) 29 *Policy and Society* 385.

<sup>185</sup> Verité, 'An Exploratory Study on the Role of Corruption in International Labor Migration' (2016) <<https://freedomfund.org/our-reports/an-exploratory-study-on-the-role-of-corruption-in-international-labor-migration/>> accessed 25 April 2023.

<sup>186</sup> Gordon (n 183).

<sup>187</sup> Asian Development Bank Institute, Organisation for Economic Co-operation and Development, and International Labour Organization (n 190).

<sup>188</sup> *ibid.*

<sup>189</sup> International Labour Organisation, 'General Principles and Operational Guidelines for Fair Recruitment' (n 181).

<sup>190</sup> Plewa (n 17).

The average cost of recruitment for Bangladeshi migrant workers	
Quota fee	USD 129.70 (MVR 2,000)
Ticket	USD 330 - USD 933 (MVR 5088.6 - 15,312.06)
Medical examination	USD 51.88 (MVR 800) annually
Health Insurance	USD 51.88 (MVR 800) annually
Work permit fee	USD 23 (MVR 350) monthly
Deposit	USD 518.81 (MVR 8,000) (variable)
Average cost	USD 1,406.77 (MVR 21,692.39)

**Table 6. 1: The average cost of recruitment for Bangladeshi migrant workers**

The average cost of recruitment for Bangladeshi migrant workers includes their transportation costs (air ticket(s)), medical examination costs,<sup>191</sup> health insurance fees,<sup>192</sup> work permit fees,<sup>193</sup> quota fees,<sup>194</sup> and deposits<sup>195</sup>. The Bank of Maldives' conversion rate of USD 1 to MVR 15.42 was the basis for these figures. The accumulation of these costs indicates that the average cost of recruitment is USD 1,406.77 (MVR 21,692.39).

In violation of laws and regulations, employees frequently pay for these expenses, as workers are often unaware that the law prohibits charging recruitment fees or related costs to migrant workers. They are usually charged a lump sum with no breakdown of the charges, while some workers are given the option to pay the fees incurred in instalments either directly to the facilitator or to different parties involved. It is also common for the receipt of payment not to be provided in return.

Yet, sufficient penalties and monitoring mechanisms are yet to be established to ensure that this burden is not shifted to workers in adherence to laws. Hence, the charging of recruitment fees remains a common practice in the Maldivian foreign labour market, despite it being an indicator of forced labour as it leads to debt bondage.

## 6.2.2 Debt Bondage

Debt bondage exists where workers are required to work for an employer to pay off their debt.<sup>196</sup> To pay these fees, migrant workers and their families are compelled to take loans through formal and informal channels, oftentimes resorting to signing over personal properties as mortgages

<sup>191</sup> *ibid.*

<sup>192</sup> Ministry of Economic Development (Maldives), 'Registered Work Permit Medical Insurance Service Providers' ([xpat.egov.mv](https://xpat.egov.mv), March 2021) <<https://xpat.egov.mv/Home/ViewAnnouncement/68>>.

<sup>193</sup> Regulation on Expatriate Employment (Maldives) app 4, art 18.

<sup>194</sup> Regulation on Expatriate Employment (Maldives).

<sup>195</sup> Work Visa Regulation (Maldives) 21/2016, art 7.

<sup>196</sup> Roger Plant, *Modern Slavery: The Concepts and Their Practical Implications* (ILO 2014).

or collateral. Since a large proportion of the migrant workforce comes from middle- to low-income backgrounds and holds primary or secondary occupations, they often resort to extreme measures to finance their migration, such as borrowing money from lenders or selling family assets such as land, property, livestock, and jewellery. Migrant workers from developing countries are believed to be more susceptible to exploitation, deception, and fraudulent practices due to their vulnerability while seeking better employment opportunities.<sup>197</sup> For instance, in Bangladesh, money lenders charge high interest rates of approximately seven to ten percent per month on migrant loans, which can quickly lead to a multiplication of debts to double or triple the amount in less than two years.<sup>198</sup>

Such debts are generally owed to those facilitating the migration service and are often paid immediately after or before the migration journey is successful. To ensure payment by those involved, families that are left behind become susceptible to threats and violence, burdening migrant workers with immense pressure to repay the fees by any possible means, leaving them vulnerable to exploitative practices in destination countries.<sup>199</sup>

Exploitative practices are further exacerbated by temporary labour migration programmes, specifically sponsorship programmes that tie workers to specific employers, and fraudulent or deceptive employment practices that result in irregular payment or wage theft, which further facilitates debt bondage.<sup>200</sup> This, coupled with the commonly practiced confiscation and retention of passports, leads to workers getting stuck in the destination country with no way to return home. Employer-provided accommodations, particularly for live-in domestic workers, aggravate this even further.<sup>201</sup>

The PHTA outlines several specific situations that can be considered debt bondage, which may include situations where a person is forced into an agreement where the person is forced to provide labour or services in exchange for paying off a debt. Such instances include cases where the remuneration for the labour or services is undetermined, as is the debt amount that must be paid. The Act also notes that the nature of the work and its duration or limits may be undetermined in such circumstances.<sup>202</sup> When switching of employers is considered, it is important for new employers and businesses to take the initiative and report such violations to the appropriate authorities upon learning about the debts employees have accumulated because of exploitative recruitment practices.<sup>203</sup>

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<sup>197</sup> Katherine L Christ and Christine V Helliard, 'Blockchain Technology and Modern Slavery: Reducing Deceptive Recruitment in Migrant Worker Populations' (2021) 131 *Journal of Business Research* 112.

<sup>198</sup> *ibid.*

<sup>199</sup> Ulf von Lilienfeld-Toal and Dilip Mookherjee, 'The Political Economy of Debt Bondage' (2010) 2 *American Economic Journal: Microeconomics* 44; Isabelle Guérin, Govindan Venkatasubramanian and Santosh Kumar, 'Debt Bondage and the Tricks of Capital' [2015] *Economic and Political Weekly* 11.

<sup>200</sup> Migrant Forum in Asia, 'Reform of the Kafala (Sponsorship) System | Policy Brief No. 2 (2012)' <<https://mfasia.org/policy-brief-no-2-reform-of-the-kafala-sponsorship-system/>> accessed 10 October 2023.

<sup>201</sup> Fabiola Mieres and Christiane Kuptsch, 'Temporary Labour Migration: Unpacking Complexities: Synthesis Report' <<https://www.voiced.edu.au/content/ngv:96015>> accessed 15 January 2024.

<sup>202</sup> Prevention of Human Trafficking Act (Maldives) art 16.

<sup>203</sup> Convention C189 - Domestic Workers Convention 2011 (C189) 7–8; Recommendation R188 - Private Employment Agencies Recommendation, 1997 (No. 188) para 15.

However, migrant workers are often warned not to disclose the fees paid or deny having paid any, which contributes to the anxiety and hesitancy of workers to discuss and report fraudulent or exploitative recruitment practices for fear of repercussions, consequently providing leeway to foster further deceptive and exploitative practices.

### **6.3 Deceptive and fraudulent recruitment practices**

In addition to debt bondage, other deceptive and fraudulent practices compound vulnerabilities of workers, which at times result in workers becoming trapped in situations of forced labour and, in some instances, trafficking.<sup>204</sup> Migrant workers often find that they were promised jobs that do not exist, misled with a job paying a lower salary, and forced to work for different employers at different worksites without proper legal documentation. The discrepancy between the promised and actual working and living conditions is one of the most pervasive forms of deception that migrants encounter.

This situation is further complicated as many are unfamiliar with the language in which their contracts are written, leaving them unaware of the contract's terms beyond the promised wages. In many cases, workers do not even sign a contract, relying on their work permit entry passes to dictate the terms of employment.<sup>205</sup> Although a Letter of Appointment is required to be submitted to process visas and permits workers are often unaware of this. Migrant workers become highly vulnerable to exploitation and manipulation by unscrupulous employers due to their limited knowledge and unfamiliarity with their rights in the destination country and low bargaining power during the recruitment process.<sup>206</sup> Despite this, migrants tolerate such less than favourable working and living conditions rather than return home empty-handed.

Fraudulent and deceptive migrant exporting and importing schemes, through which several people profit such as quota trading, are rampant and contribute to the human trafficking phenomenon.<sup>207</sup> Quota trading occurs where quotas allocated for a specific employer (Employer A), facilitates the recruitment of migrant workers, and "lends" the worker to another employer (Employer B) for a fee. Practices such as this complicate employment, are against the local sponsorship policy, and often result in confusion among the workers about their employer and working situation, which complicates the process where workers want to file grievances.

### **6.4 Fair recruitment**

The reliability of recruitment service providers has diminished due to such practices, resulting in a tarnished reputation even for recruitment parties that operate within the scope of the

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<sup>204</sup> International Labour Organisation, 'General Principles and Operational Guidelines for Fair Recruitment' (n 181).

<sup>205</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

<sup>206</sup> Christ and V Helliar (n 204).

<sup>207</sup> United Nations Office on Drugs and Crime (UNODC), 'The Role of Recruitment Fees and Abusive and Fraudulent Recruitment Practices of Recruitment Agencies in Trafficking in Persons' (United Nations Office on Drugs and Crime, Vienna 2020) <<https://migrationnetwork.un.org/resources/role-recruitment-fees-and-abusive-and-fraudulent-recruitment-practices-recruitment>>.

law. This has led to the Maldives allowing options other than recruitment agencies to recruit migrant workers from source countries, resulting in additional issues of fraudulent activities and confusion on which party is to be held responsible in such cases. This, in turn, highlights the importance of enacting and implementing fair recruitment principles and considering labour migration and matters related to it from a rights-based perspective.

Although there is no internationally agreed-upon definition of fair recruitment, it can be generally understood to encompass recruitment within the scope of the law, in adherence with international labour standards, without discrimination, to respect human rights, and to protect workers from abusive situations. The ILO's "Fair Recruitment Initiative" focuses on the importance of cross-country and multi-agency collaboration to achieve fair and ethical recruitment objectives founded on international human rights and labour rights standards.<sup>208</sup> States are recommended to adhere to these principles in their commitment to ban recruitment fees through this initiative, whether they are paid upfront or through deductions, which can lead to debt bondage and forced labour, and assist in the prevention of deceptive and fraudulent recruitment practices.<sup>209</sup>

#### **6.4.1 Responsibilities of parties involved**

The ultimate responsibility of promoting fair recruitment falls onto the State by enacting and establishing relevant laws, including the implementation of appropriate monitoring mechanisms.<sup>210</sup> The most recent Regulation on Employment of Expatriate Workers (2023/R-111) was enacted to harmonise the responsibilities and functions of the State, stakeholders, recruitment agencies, employers, and employees as delineated in the Regulation on Employment Agencies (2022/R-63). While this is intended to yield positive changes, the changes in the framework over the years have been shifting responsibilities that the State should bear to other private actors. Years of non-enforcement and implementation of the previous versions of the regulations have also created and aggravated recruitment related issues that need to be addressed. A significant contributing factor is that recruitment agencies are not adequately recognised to accommodate the magnitude of their responsibilities as they remain excluded from the consultative processes.

Despite the enactment of new regulations and shifts in responsibilities over the years, States' attempts to regulate labour recruitment practices have proven ineffective, with various rampant allegations of government officials colluding with recruitment agencies and agents over the decades. Such events reported by the media suggests that these shifts in regulations and mechanisms were made to curb corruptive practices among State officials, which enable migrant workers to be recruited through deceptive, fraudulent, and sometimes coercive practices, which

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<sup>208</sup> 'Fair Recruitment Initiative (Fair Recruitment)' <<https://www.ilo.org/global/topics/fair-recruitment/fri/lang-en/index.htm>> accessed 19 January 2024.

<sup>209</sup> *ibid.*

<sup>210</sup> International Labour Organisation, 'General Principles and Operational Guidelines for Fair Recruitment' (n 181).

have resulted in workers burdened with the accumulation of large sums of recruitment fees incurred to facilitate their migration and employment, triggering a cycle of debt bondage and servitude.<sup>211</sup>

The State also established a national task force, distinct from NAHTSC, namely, the “National Task Force on Issues Related to Migrant Workers” in September 2019, mainly to formulate policy on all issues relating to migrant workers, expatriate trafficking, and illicit employment, along with several other issues related to migrants with representation from all relevant key stakeholders.<sup>212</sup> However, the task force's composition, other than the high level government officials, including the responsibilities, main works carried out, and convening frequency of the task force, is unknown and not published on public platforms. While it was highlighted that one of the main outputs of the task force has been the banning of the recruitment of unskilled Bangladeshi workers for a year, changes in policies did not stop local businesses from bringing employees on tourist visas.<sup>213</sup> The government's lack of accountability and monitoring of such parties' activities has likely increased labour exploitation, poor working and living conditions, and added vulnerabilities for migrant populations residing in the country.

It should also be noted that regulating recruitment processes contributes to more than simply avoiding the negative impacts of unfair recruitment; it also contributes to optimising one of the most important aspects of a business by ensuring that the best possible candidates are brought on board. As such, the responsibilities of employers in guaranteeing proper guidelines are followed are intended have a positive impact not only on employees but on employers as well. While most employers rely on agents for recruitment due to time restraints and limited human resources, some employers use recruitment agents to excuse themselves from specific responsibilities, while larger companies have recruitment agencies registered under their umbrella. In certain instances, employers report not knowing whether agents-imposed fees on workers or if other parties were involved in the recruitment process apart from the designated agent.<sup>214</sup> This indicates a lack of due diligence on the part of employers as sponsors of their migrant employees.

However, given the cross-border nature of recruitment, it would be extremely difficult for employers to reach out to their target audience without utilising third parties. Consequently, it is difficult for employers to monitor and ensure fair recruitment processes are followed. Similarly, as

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<sup>211</sup> Simad Saeed (n 16); Bentz and Carsignol (n 11); Department of State. The Office of Website Management, '2022 Trafficking in Persons Report: Maldives' (n 40); Ahmedulla Abdul Hadi, 'Big Business: Recruitment and Exploitation of Migrant Workers' *Sun.mv* (21 July 2019) <<https://en.sun.mv/54466>>; United States Department of State, 'Trafficking in Persons Report' <<https://www.state.gov/trafficking-in-persons-report/>> accessed 17 December 2022.

<sup>212</sup> Zunana Zalif, 'Govt to Form National Task-Force on Issues Related to Migrant Workers' *Raajje.mv* <<https://raajje.mv/62898>> accessed 9 October 2023; Human Rights Commission of the Maldives, 'National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21 - February 2021' <<https://hrcm.org.mv/storage/uploads/8ro00xwP/1mvd1qet.pdf>>; Thilmeeza Hussain, 'Maldives Plenary Address' (International Migration Review Forum 2022, New York, 19 May 2022) <<https://migrationnetwork.un.org/system/files/docs/Maldives%20Plenary%20Statement.pdf>> accessed 6 March 2023.

<sup>213</sup> MV+, 'މަދިބުގެ މިގްރެޓްޕްލޭޝަން: ރިޕޯޓް' (transl: Report: The story of the migrant population)' *MV+* <<https://www.plus.mv/news/32199/>> accessed 6 September 2023.

<sup>214</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

more parties get involved, it becomes increasingly difficult for the State to monitor recruitment chains.

Over time, hesitancy on the part of the State to delegate authority to local governments has curtailed the ability and effectiveness of the decentralised system in performing to the best possible standard, specifically in exercising supervisory roles. Even where responsibility is delegated, it is evident that capacity-building initiatives on the subject and service provision focusing on transparency and integrity in providing services must be conducted before local governments are ready to take on such responsibility. The reluctance, coupled with the institutional framework and design in place to implement the regulatory framework, has created an institutional rivalry between the established authorities. The conflict within the state at the main ministerial level, across key stakeholders, and between the local governments needs to be understood to critically analyse the issues and challenges posed by the framework and system itself.

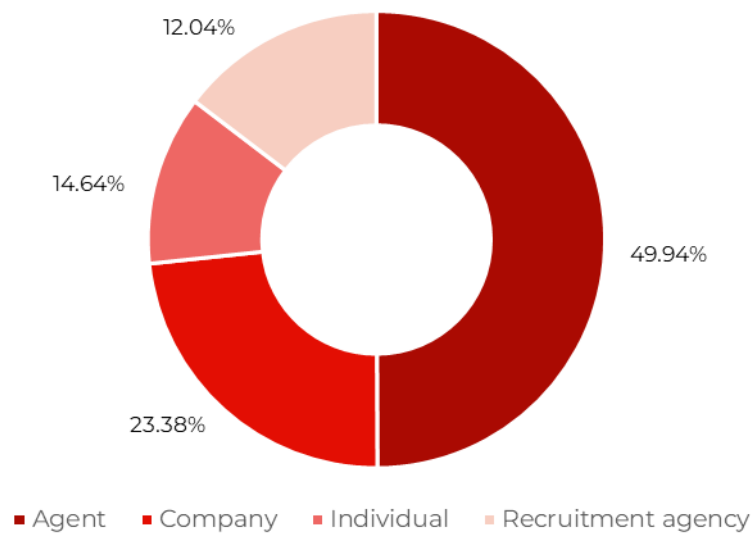
Furthermore, the lack of available statistics and literature on labour migration, particularly recruitment of workers, including recruitment supply chains, recruitment fees, means of financing fees, and the prevalence of deceptive practices hinders efforts to create and facilitate better recruitment processes. Particularly when the volume driving the industry is considered, it is evident that recruiters lack the incentive to invest, promote, and opt for ethical methods to consider a rights-based approach central to their business model, to ensure that the issues arising through recruitment are addressed.

## **RECRUITMENT OF RESPONDENTS**

The data collected for this study provides a baseline understanding of how recruitment is facilitated, recruitment fees are charged and paid, common deceptive practices, and the consequent aggravation of issues and challenges faced by Bangladeshi migrant workers in the Maldives, with consideration to the aforementioned factors highlighted by literature.

### **6.5 Facilitation of Recruitment**

The main recruitment parties were considered, i.e., companies, recruitment agencies, agents, and individuals, which had broad coverage to include relatives and returnees were considered in designing the research instrument to capture recruitment facilitation. Respondents were asked about the party that enabled their employment in the Maldives, the results of which are illustrated in [Figure 6.1](#).



**Figure 6.1: Parties which facilitated recruitment to the Maldives**

From the responses received, 49.94% reported that their recruitment was facilitated through agents. While agents are considered separate from recruitment agencies, it is unclear whether such agents operate officially as representatives of recruitment agencies. Further clarification from the respondents during the data collection process found that it was migrant workers operating as informal agents that facilitated the recruitment of. Respondents often expressed negative sentiments such as anger and frustration when questioned about agents. It was also observed that respondents were more eager to participate in the research to explain and narrate their negative experiences during recruitment, specifically regarding parties who facilitated their recruitment.

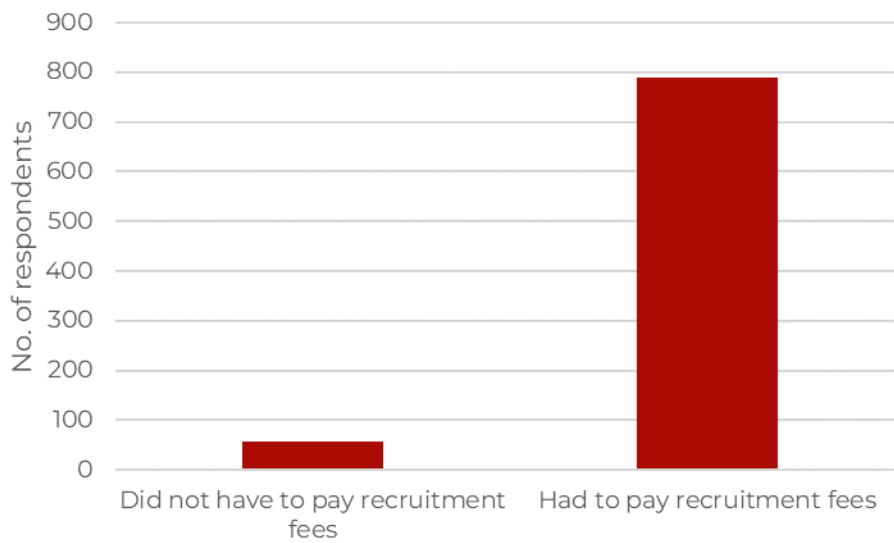
Following this, 23.38% of respondents reported that their recruitment was facilitated by a company. While this may be indicative that direct hiring is preferable to using subcontractors, it is unclear whether respondents hired through this chain are currently working for the same employer. Similarly, 12.04% of respondents who stated that an individual had recruited them did not specify whether the person who had recruited them was also their employer.

Only 14.64% reported that recruitment agencies facilitated their recruitment, which is the legal course through which recruitment must be facilitated per the Regulation on Employment of Expatriate Workers where third parties are employed. It should be noted that the collected information does not indicate whether the reported agencies that facilitated their recruitment were based in the source or destination country.

## 6.6 Payment of recruitment fees

As shifting the burden of the cost of recruitment to workers contributes to fraudulent behaviour within the recruitment industry, respondents were asked whether they had to pay recruitment fees to facilitate their migration. The data obtained, illustrated in Figure 6.2, shows the prevalence of charging recruitment fees.





**Figure 6. 2: Parties who facilitated recruitment to the Maldives**

It was found that the overwhelming majority (93.15%) of respondents reported having to pay recruitment fees in contravention of local laws, whereas only 6.85% responded that they did not have to pay any recruitment fees. The data was examined to assess patterns and prevalences in respondents who did not have to pay recruitment fees, particularly to assess which parties facilitated their recruitment, and respondents who were required to pay recruitment fees in terms of parties that facilitated their recruitment and recipients of recruitment fees, which is illustrated in [Figure 6.3](#).



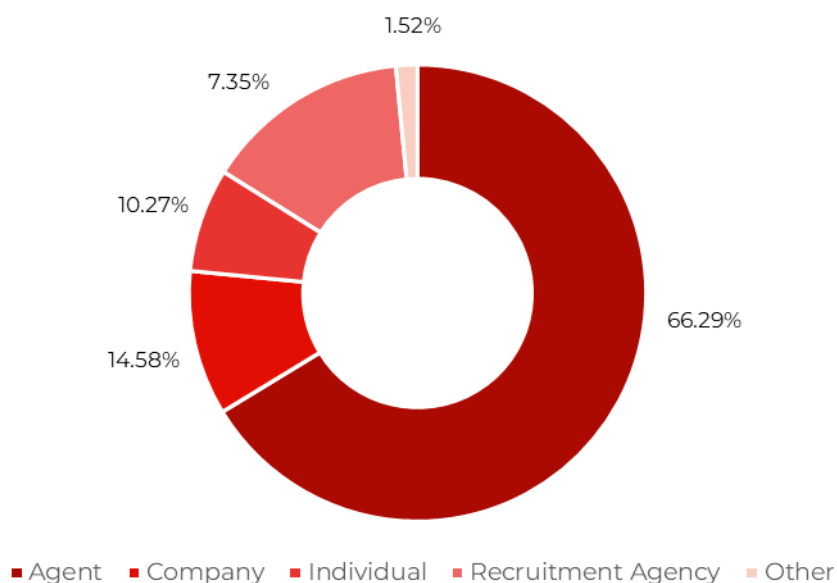
**Figure 6. 3: Recruitment facilitator and payment of recruitment fees**

It was found that all the respondents who had their recruitment facilitated by agents reported having had to pay recruitment fees. The highest percentage of respondents who did not have to pay recruitment fees had their recruitment facilitated by companies, which amounts to 26.11% of respondents whose recruitment was facilitated by companies. Following this, 17.24% of

respondents whose recruitment was facilitated by individuals reported not having to pay recruitment fees, whereas 1.64% of respondents whose recruitment was facilitated by recruitment agencies did not have to pay recruitment fees. This indicates that the shifting of the burden of paying recruitment costs and charging extra fees is common within the Maldivian foreign labour market, in contravention of laws guiding the recruitment of migrant workers.

### 6.6.1 Recipients of recruitment fees

Respondents who reported having paid recruitment fees were also asked which party they had to pay their recruitment fee to gain insight into the prevalence and patterns of fees charged. The responses obtained are illustrated in [Figure 6.3](#).



**Figure 6. 4: Recipients of recruitment fees**

66.29% of respondents reported having paid recruitment fees to agents, while 14.58% of respondents reported paying their recruitment fees to a recruitment agency. 10.27% of respondents reported paying recruitment fees to companies, while 7.35% of respondents reported they had to pay recruitment fees to individual parties. The remaining 1.52% of respondents did not specify the party to which they paid their recruitment fees.

### 6.6.2 Facilitation of recruitment and payment of recruitment fees

The collected data of respondents who paid recruitment fees was then analysed with reference to the data depicting who facilitated their recruitment, and parties they paid their recruitment fees to, as illustrated in [Table 6.1](#). This analysis depicts whether respondents paid their recruitment fees to parties who facilitated their recruitment and provides insight into whether certain parties were more likely to charge recruitment fees.

Recruitment fees paid to:												
	Agent		Company		Individual		Recruitment agency		Other		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Agent	406	51.46	3	0.38	0	0	12	1.52	2	0.25	423	53.61
Company	79	10.01	74	9.38	2	0.25	0	0	2	0.25	157	19.9
Individual	19	2.41	4	0.51	56	7.1	0	0	8	1.01	87	11.03
Recruitment agency	19	2.41	0	0	0	0	101	12.8	2	0.25	122	15.46
Total	523	66.29	81	10.27	58	7.35	113	14.32	14	1.77	789	100

**Table 6. 2: Facilitation of recruitment and recipient of recruitment fees**

53.61% of respondents who paid recruitment fees reported that an agent facilitated their recruitment, of which 51.46% paid their recruitment fees to their agents. The remaining respondents had paid their recruitment fees to other parties, such as a company (0.38%), a recruitment agency (1.52%), or unspecified parties (0.25%). This suggests that most respondents who had their employment facilitated by an agent had to pay their recruitment fees to an agent. Additionally, it was observed that a greater proportion of respondents (66.29%) paid recruitment fees to agents as opposed to those (53.61%) who had their recruitment facilitated by an agent. Therefore, those whose recruitment was facilitated by other parties may have paid their recruitment fees to agents, as per the data.

In contrast, only 9.38% of the respondents had to pay recruitment fees to companies and had their recruitment facilitated by a company. The remaining 10.52% paid their recruitment fees to other parties, such as agents (10.01%), individuals (0.25%), and unspecified parties (0.25%). This indicates that among those whose employment was facilitated by a company, the majority of those who had to pay recruitment fees had paid them to a party other than the company that facilitated their employment.

Similarly, 7.10% of respondents had their recruitment facilitated by an individual and reported having paid recruitment fees to an individual. In contrast to this, 2.41% of these respondents paid their recruitment fee to an agent, 0.51% paid the recruitment fee to a company, and 1.01% of respondents paid recruitment fees to a party that was not specified.

15.46% of respondents who had to pay recruitment fees reported having their recruitment facilitated by recruitment agencies, indicating that although this is the legal course through which third parties are to be involved in the recruitment process, a significant percentage of respondents still had to pay recruitment fees. Most of these respondents (12.80%) had to pay the recruitment fee to the recruitment agency, while 2.41% paid to an agent and 0.25% to unspecified parties.

The findings of this study are consistent with the literature, which details that workers are compelled to pay recruitment fees. This also indicates that they were charged recruitment fees even though their recruitment was facilitated through the legal channels. This illustrates the need to study recruitment supply chains within the Maldives-Bangladesh labour corridor to address recruitment-related issues.

## 6.7 Recruitment Fees

With reference to the prevalence of charging recruitment fees, respondents were subsequently asked about the amount paid as recruitment fees and additional costs. The collected data is illustrated in *Table 6.3*.

		No. of respondents	%
Total recruitment fee (\$)	1 - 500	18	2.79%
	501 - 1,000	30	4.65%
	1,001 - 1,500	71	11.01%
	1,501 - 2,000	207	32.09%
	2,001 - 2,500	146	22.64%
	2,501 - 3,000	90	13.95%
	3,001 - 3,500	40	6.20%
	3,501 - 4,000	16	2.48%
	4,001 - 4,500	11	1.71%
	4,501 - 5,000	7	1.09%
	5,001 - 5,500	1	0.16%
>5,500	8	1.24%	
<b>Total</b>	<b>645</b>	<b>100%</b>	

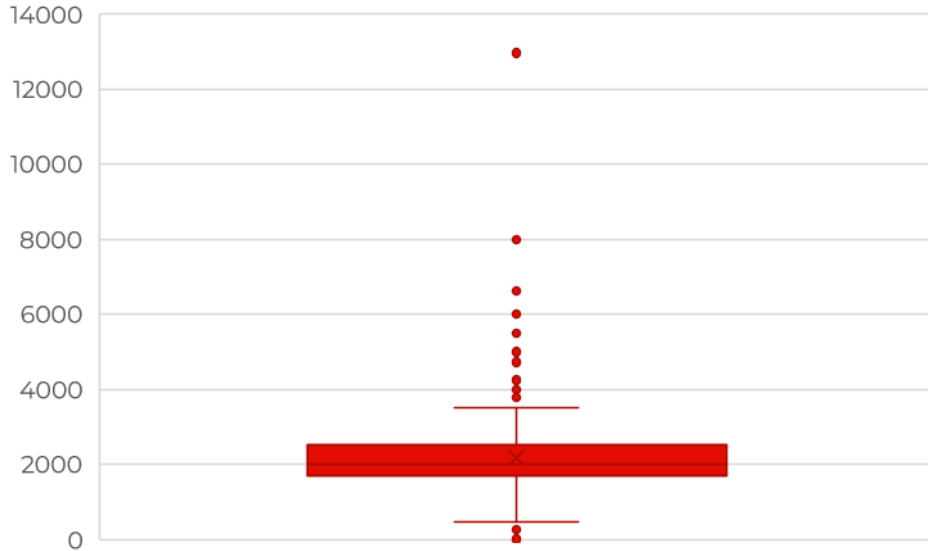
**Table 6.3: Recruitment fee paid by respondents**

2.79% of respondents reported paying less than USD 500, whereas 4.65% reported paying between USD 501 and USD 1,000. A comparatively higher percentage (11.01%) said they paid between USD 1,001 and USD 1,500. The highest percentage of respondents (32.09%) reported paying an amount between USD 1,501 and USD 2,000 as recruitment fees. 22.64% reported that they paid between USD 2,001 and 2,500, whereas 13.95% of respondents specified that they paid between USD 2,501 and 3,000. 6.20% paid between USD 3,001 and 3,500, and 2.48% paid between USD 3,501 and 4,000. 1.71% of respondents reported paying between USD 4,001 and 4,500. 1.09% reported paying between USD 4,501 and 5,000, and 0.16% reported paying between USD 5,001 and 5,500. 1.24% of respondents had to pay over USD 5,500.

This illustrates that workers are often charged hefty sums as recruitment fees. While variances in fees charged may be related to factors such as channel of migration, socioeconomic status, nature of the job, and location, these factors could not be considered in terms of recruitment costs in this study and are highlighted as scope for further research.

### 6.7.1 The average recruitment fee

The distribution of the total recruitment fees paid by respondents is illustrated in Figure 6.5.

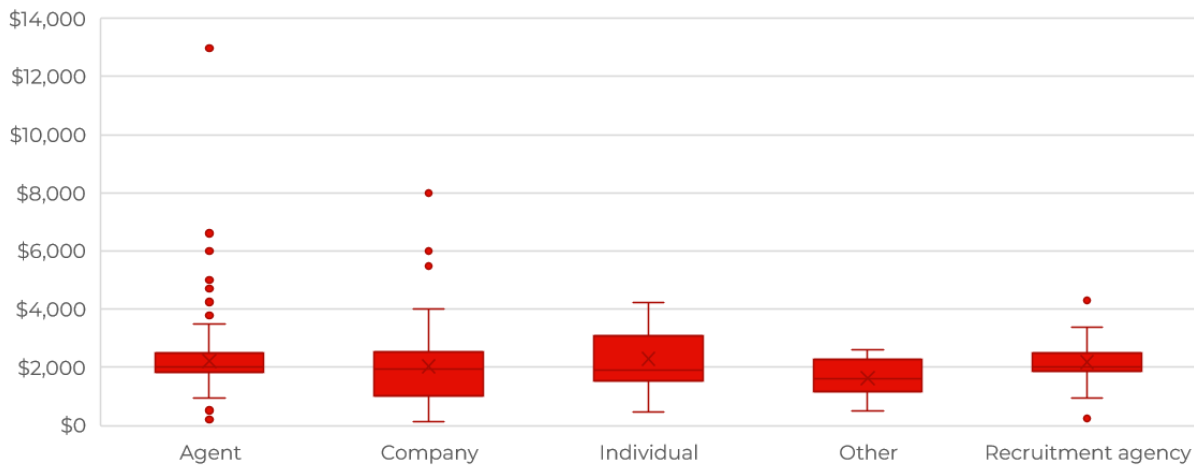


**Figure 6.5: Recruitment fees paid by respondents**

While the average recruitment cost recorded is USD 1,406.77, respondents paid USD 2,194.71 as recruitment fees on average. While 62.34% of respondents paid recruitment fees below the average cost of recruitment, 36.60% paid fees below the average fee charged, and 43.80% paid above the average value.

### 6.7.2 Total recruitment cost in terms of the recipient of recruitment fee

The collected data was then analysed regarding the recipient of recruitment fees to examine the cost of recruitment and variances in figures based on the recipient of fees.



**Figure 6.6: Total recruitment cost in terms of the recipient of the recruitment fee**

Figure 6.6 illustrates the distribution of recruitment costs in terms of the party who facilitated the recruitment. The lowest recruitment fees paid to a party involved include USD 120 paid to a company, USD 200 paid to an agent, USD 250 paid to a recruitment agency, USD 454 paid to an individual, and USD 519 paid to an unspecified party. These descriptions of fees charged in terms of recipients are further detailed in Table 6.4.

Stats	Agent	Company	Individual	Recruitment agency	Other
Minimum	200	120	454	250	519
Quartile 1	1,842.5	1,038	1,597	1,869	1,291.5
Median	2,030.00	1,936.00	1,917.50	2,000.00	1,605.00
Quartile3	2,502	2,465.25	2,880.25	2,500	2,079.5
Maximum	12,970.00	8,000.00	4,249.00	4,300.00	2,594.00

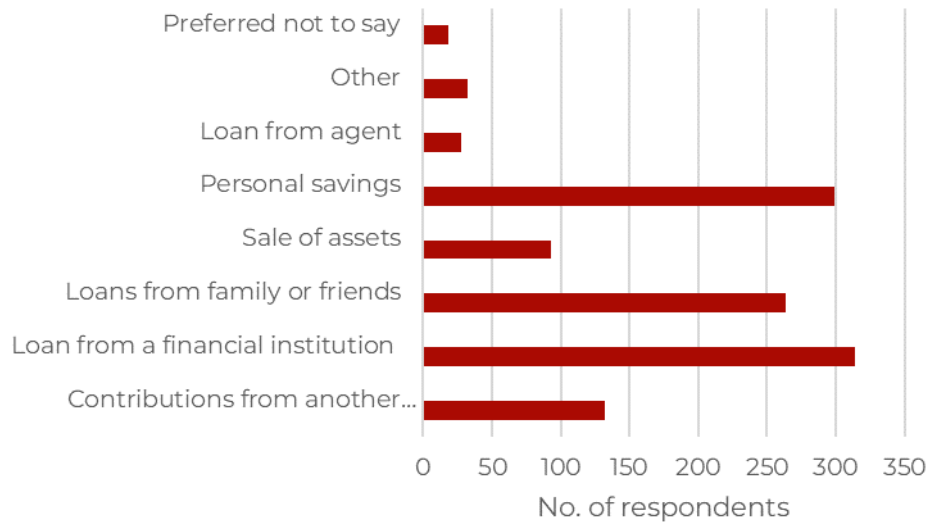
**Table 6. 4: Total recruitment cost in terms of the recipient of the recruitment fee**

Respondents whose recruitment was facilitated by agents incurred the highest average cost, amounting to USD 2,030. Additionally, out of the 423 respondents whose hiring was facilitated by agents, 49.22% paid more than the median cost. These respondents were comparatively more scattered than those who paid less than the median cost, with amounts ranging from USD 2,031 to USD 12,970. Most respondents had to bear expenses ranging from USD 1,842.5 to USD 2,502, where agents facilitated recruitment. The median cost of recruitment of respondents recruited by companies was USD 1,936, with the majority of respondents paying between USD 1,038 and USD 2,465.25, while the median cost of recruitment of respondents by individuals was USD 1,917. The median cost of recruitment via agencies was USD 2,000, with most respondents paying between USD 1,869 and USD 2,500. Whereas the median cost of recruitment by other parties was USD 1,605, with most respondents paying between USD 1,291.5 and USD 2,079.5.

The highest recruitment fees were paid to agents, followed by companies, recruitment agencies, individuals, and subsequently, other parties who facilitated recruitment. A significant disparity of USD 4,970 existed between the highest recruitment cost charged by an agent, USD 12,970, and the highest recruitment cost charged by a company, USD 8,000. This indicates that workers who pay recruitment fees to agents will likely bear higher costs than workers whose recruitment is facilitated through other avenues.

## 6.8 Financing of recruitment fees

To finance these exorbitant recruitment fees, workers are often compelled to borrow money. To understand how migrant workers in the Bangladesh-Maldives labour corridor sponsored their migration, respondents were asked how they financed their payments. The responses obtained are illustrated in [Figure 6.7](#).



**Figure 6. 7: Methods of financing recruitment fees**

It was observed that respondents had opted for multiple methods of financing their payments and chose answers to reflect all the methods they chose. The highest percentage of respondents (26.60%) resorted to loans from financial institutions, followed by 25.30% of respondents who utilised their savings and 22.40% who opted for loans from their family or friends. 11.20% of respondents financed their recruitment payments with contributions from other people, 7.90% resorted to selling their assets, and 2.40% reported taking loans from agents. 2.70% of respondents specified that they opted for other forms of financing, while 1.50% stated that they preferred not to disclose how they financed their payment.

Overall, 51.36% of respondents reported taking loans from different parties. This indicates that interest and the amount borrowed would have accumulated for these respondents. While debt can be sourced from a network of family and friends based on typically informal loan agreements with low-interest obligations (if any), borrowing from financial institutions, agencies, or agents often results in the accumulation of high interest rates.<sup>215</sup> However, the wage gap between the source and destination countries and the promise of well-paid jobs encourage migrants to resort to such risky

<sup>215</sup> Slobodan Djajić and Alexandra Vinogradova, 'Liquidity-Constrained Migrants' (2014) 93 *Journal of International Economics* 210.



forms of financing migration.<sup>216</sup> Additionally, the high exchange rate between the countries also contributes to the decision to seek risky financing options, especially with hopes of high returns.

Even where respondents did not resort to taking loans but accepted contributions from friends and family, it is plausible that they would feel indebted to those who assisted them. Furthermore, those who earn disproportionate salaries and wages compared to their recruitment fees find borrowing money through legal channels challenging. As a result, they are more likely to resort to illegal channels to borrow money.<sup>217</sup> Their extended family may provide financial support in some cases, whereas in other cases, they may borrow money from the recruitment facilitators themselves. Excessive compound interest is incurred when money is borrowed through formal and informal channels. To avoid this, some migrant workers resort to selling their properties. Where respondents' families sold their assets, such as property or land, or used their savings to finance their payments, respondents expressed that they felt pressured to compensate for it.

Overall, the collected data on recruitment fees and how they were financed indicates that workers sold or bargained for their entire livelihood to finance their migration, making them more vulnerable to exploitative practices. Although fees incurred for recruitment practices are unremarkable when considered in terms of USD, the actual impact they have on workers can only be grasped when they are considered in terms of the local currency of the source country (Bangladeshi Taka).<sup>218</sup>

### **6.8.1 Duration of work needed to cover the recruitment fee**

Where the burden of covering recruitment costs is shifted to migrant workers, [Table 6.1](#) illustrates that they would have to pay an estimated USD 2,194.71. The collected data was further analysed to gauge the debt respondents would have incurred and how large amounts of debt increase the likelihood of being subjected to bonded labour, trigger debt cycles, and lead to or increase poverty. The practice of workers paying for recruitment services has been the norm for decades, which resulted in the creation of a culture of payment expectations, subsequently leading to increased debt bondage, as previously discussed. [Table 6.5](#) shows the average recruitment costs borne by respondents, estimated at USD 2,000, considered in terms of the median salary of respondents, calculated at USD 422 per month.

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<sup>216</sup> *ibid.*

<sup>217</sup> Maryann Bylander, *Debt and the Migration Experience: Insights from South-East Asia* (International Organization for Migration 2019).

<sup>218</sup> Faraday (n 188).

The median recruitment fee	Median salary	% of salary		Salary equivalence in months of work needed to match recruitment fee
USD 2,000	USD 422	100%	USD 422	4.74 months
USD 2,000	USD 422	50%	USD 211	9.48 months
USD 2,000	USD 422	25%	USD 105.5	18.96 months

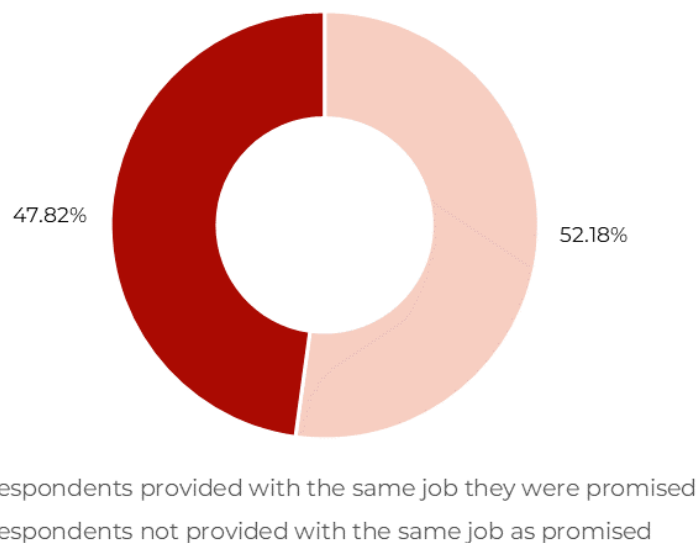
**Table 6. 5: Duration of work needed to cover the cost of recruitment fee**

Assuming respondents are regularly compensated, if the respondents were to spend their entire paycheck to pay off recruitment debts incurred, it would still take them 4.74 months to ultimately pay off their debts. However, it is improbable that they can afford to spend all their earnings to keep up with debt payments. Hence, the period it would take for respondents to pay off their debts if they spent 50% of their salary was then calculated. As such, it was estimated that it would take 9.48 months on average to pay off their debts in this manner. Further calculations found that respondents would take 18.96 months to pay off their debts if they spent 25% of their salary. The increased period would result in compounded interests, leaving respondents more vulnerable and susceptible to forced labour practices due to debt bondage. However, these calculations do not account for interests that would be acquired with time.

## 6.9 Deceptive and fraudulent practices

### 6.9.1 Deception Related to Employment

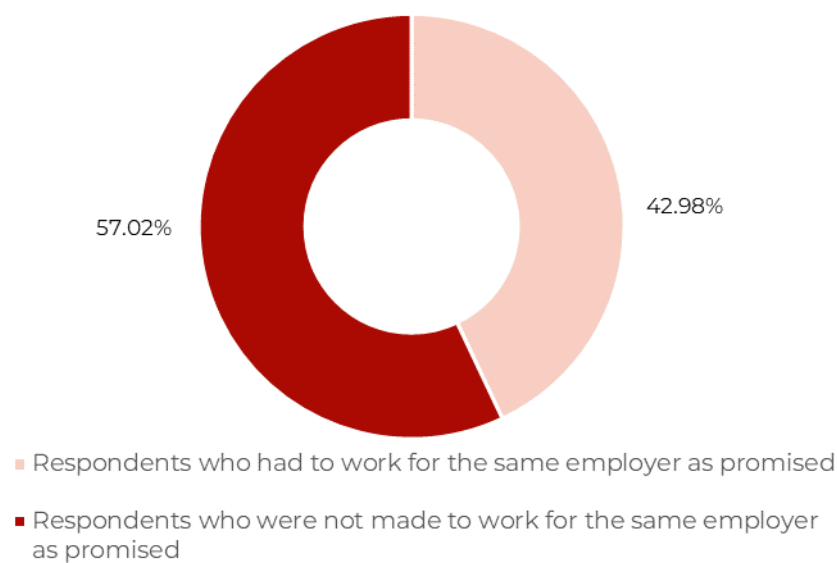
Respondents were also asked about their experiences and reflections post-migration in terms of recruitment to grasp the prevalence of deceptive and fraudulent recruitment practices and how they further compounded workers' vulnerability. Initially, respondents were asked whether they were given the job they were promised.



**Figure 6. 8: Deception related to employment**

Figure 6.7 illustrates that 47.82% of respondents reported that they were not given the same job they were promised. These respondents were either required to work for the same employer but given a different job than promised, or employment was not facilitated at all. It was observed that workers who migrate intending to work in a specific area (e.g., the capital city) are sometimes required to work on another island upon arrival. This poses a challenge, particularly for seasonal workers such as those who work in the agriculture or construction industry, as they are often required to migrate within the country. It was noted that the responses were further skewed when respondents were asked whether they had to work for the same employer as promised.

### 6.9.2 Deception related to Employer

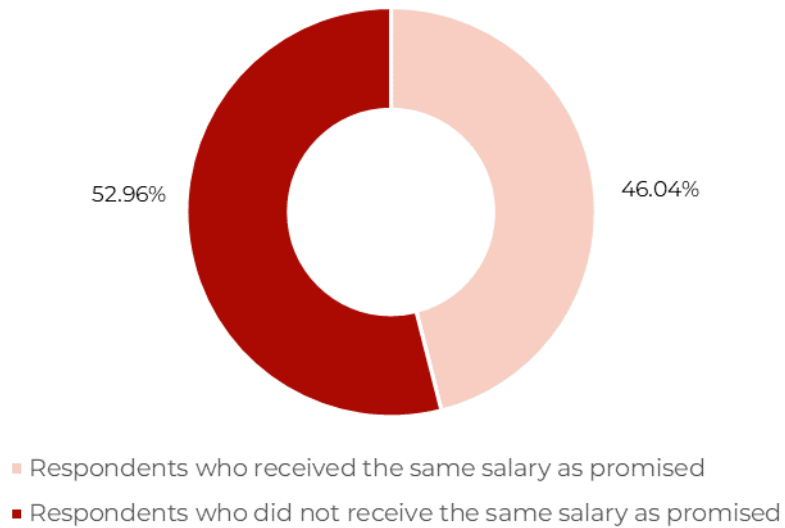


**Figure 6. 9: Deception related to employer**

Figure 6.9 depicts that 42.98% of respondents reported having had to work for the same employer as promised. In contrast, the remaining 57.02% reported that they did not work for the same employer as promised initially. However, this does not indicate whether respondents were made to work for the same job, or within the scope of the same career as promised.

### 6.9.3 Deception related to earnings

Respondents were subsequently asked whether they received the same salary they were promised pre-migration to grasp the magnitude of recruitment fraud.

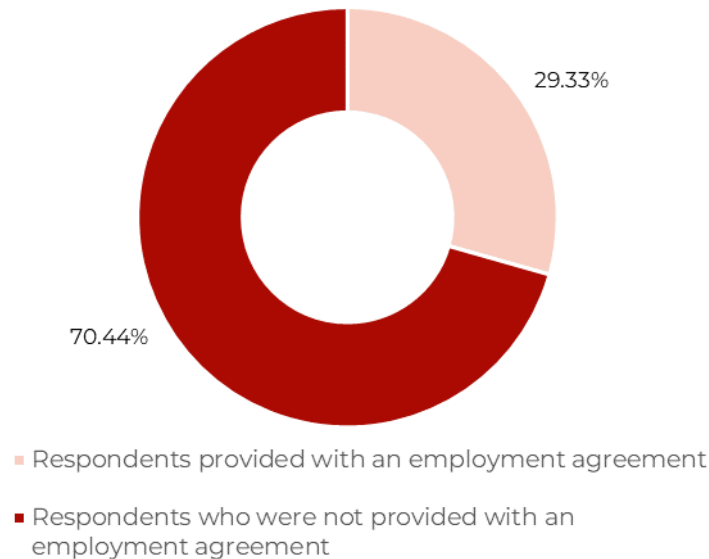


**Figure 6.10: Deception related to salary**

Figure 6.10 illustrates that 46.04% of respondents reported that they were given the same salary as promised, while 53.96% indicated that they did not receive the promised salary. It should be noted that this included the response of some respondents who had initially not been informed of an amount as their salary, as they considered that they were not deceived about it. Hence, the data is not indicative that the recruiters had breached a promise made to the respondents.

### 6.9.4 Employment Agreements

Respondents were then further asked about the terms of their employment. The results obtained are illustrated in [Figure 6.11](#).



**Figure 6. 11: Respondents provided with employment agreements**

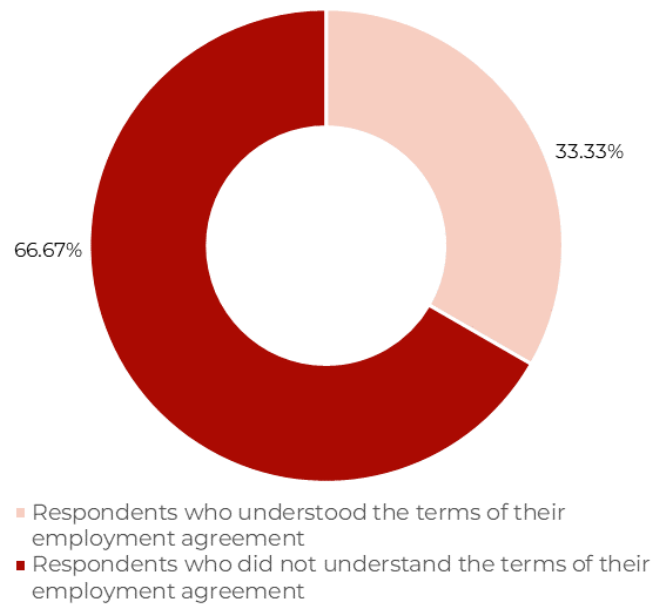
It was found that 29.33% of respondents reported that they were provided with an employment agreement. In contrast, 70.44% of respondents reported not receiving an employment agreement despite it being required by the Employment Act and the Regulation on Employment of Expatriate Workers.

The significance of this was emphasised by the PILC, who noted that the majority of the cases they received and lodged with the Employment Tribunal posed difficulties in terms of proof and navigation as formal employment agreements were required for claimants to establish the terms and conditions of their employment.<sup>219</sup> Although the laws and guidelines established in the Maldives do not require the submission of written employment agreements to lodge disputes, this added to the increasing difficulties faced by the PILC as they often had to refer to work permits or work permit entry passes of workers to establish their employer and basic salary. However, with practices such as quota trading, it is difficult to establish whether the employer stated on the permits or entry passes is the person employing workers. This led to further disputes, prolonging the adjudication period.

Respondents who stated that they were provided with employment agreements were additionally asked whether they understood the terms and conditions of their employment and what was written in their employment agreement.

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<sup>219</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)



**Figure 6.12: Respondents who understood their employment agreement**

Figure 6.12 illustrates that of the 249 respondents who responded that they were provided with employment agreements, 66.67% reported that they understood what was written in their employment agreement. This suggests that either the respondents understood the contents of the agreements or that someone translated or explained them to them.

### 6.9.5 Deception related to facilitation or provision of accommodation

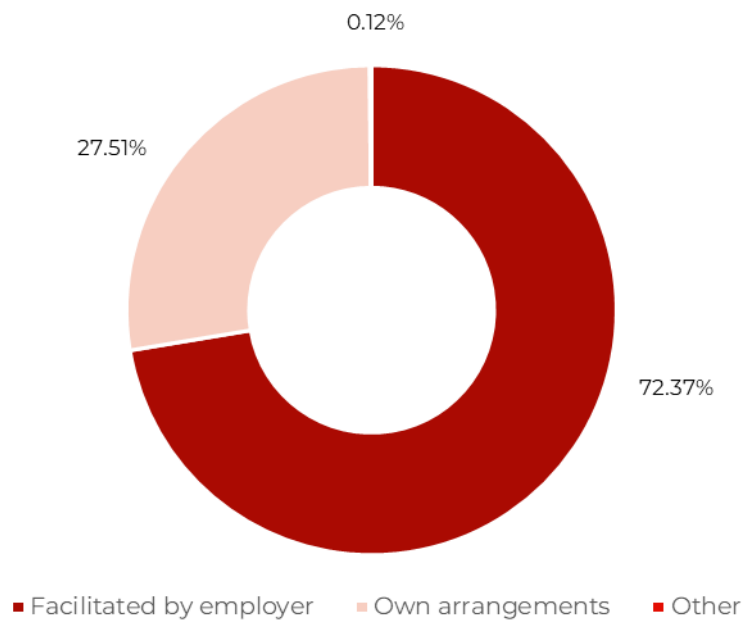
The policy on the provision of accommodation for migrant workers made pursuant to the Regulation on Employment of Expatriate Workers (2023/R-111) mandates employers to provide accommodation facilities as detailed in the Regulation.<sup>220</sup> Failing to comply with this would result in penalties for the employer.<sup>221</sup> To ensure that requirement is fulfilled, employers are required to provide documentation as proof of facilitation of accommodation to complete the employees' work permit request.<sup>222</sup> This indicates that accommodation has to be facilitated for workers before they migrate. To capture the extent to which these requirements are complied with, respondents were asked how their accommodation was facilitated. The results obtained are depicted in Figure 6.13.

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<sup>220</sup> Regulation on Expatriate Employment (Maldives) app 6, art 3.

<sup>221</sup> *ibid* 6, art 13.

<sup>222</sup> *ibid* 6, art 6.



**Figure 6. 13: Accommodation arrangements of respondents**

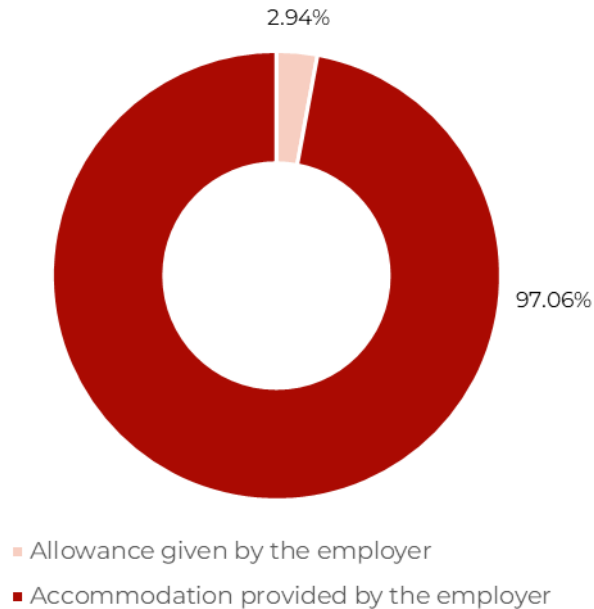
Most respondents (72.37%) reported that their employer facilitated their accommodation by providing them with an allowance or an accommodation facility. As the data collected does not reflect the status of accommodation facilities, it could not be assessed whether the facilities met the criteria for housing to be considered adequate. Given that the existing literature which details the living conditions of workers was limited, particularly because reports on investigations carried out by the LRA are not published, an overview of the situation could not be adequately captured. Similarly, although the law requires accommodation providers to be registered with the MED, this could not be assessed through the information collected. It should also be noted that a list of registered accommodation providers is not available to the public.

Although local laws mandate employers to provide or facilitate accommodation for their migrant employees, 27.51% of the respondents stated that they had to make their own living arrangements. However, it cannot be concluded that all these respondents were denied accommodation by their employers, as it could have been their preference to opt out of such arrangements. In contrast, 0.12% of respondents reported that they resorted to other mechanisms to facilitate their accommodation.

The Employment of Expatriate Workers Regulation also requires employers to arrange accommodation facilities for workers independently or via registered accommodation facilitators.<sup>223</sup> The only exemption is provided for those employed in the professional category, who may be required to arrange their accommodation themselves. The Regulation does not ascribe a specific way payment for accommodation facilities has to be made. Therefore, employers may either directly pay accommodation facilitators or provide stipends for workers, from which they can pay for such

<sup>223</sup> *ibid* 4, art 15.

facilities. To capture this, the 613 respondents who reported that their employers facilitated their accommodation were subsequently asked about the means of facilitation. The data obtained is illustrated in [Figure 6.14](#).



**Figure 6. 14: Means of facilitation of accommodation**

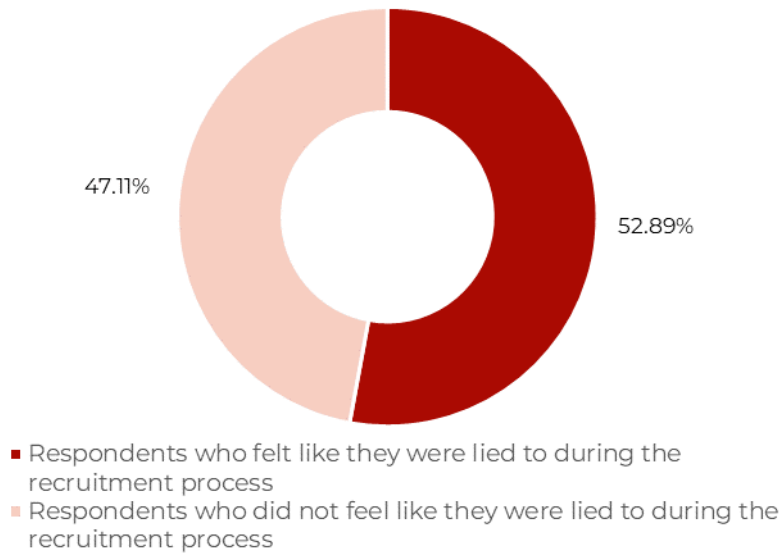
97.06% of these respondents reported that employers provided accommodation for them. It was observed that a significant proportion of workers are provided accommodation facilities within their workplace, allowing employers to exert undue power over their migrant employees, which sometimes includes imposing restrictions on their mobility. 2.94% of the respondents received an allowance for accommodation purposes. However, as the expenditure on rent was not recorded, rent as a percentage or ratio of income or allowance could not be evaluated to assess whether accommodation arrangements align with international guidelines.

Even where workers facilitate their own arrangements, depending on the stipend provided, it is usually insufficient for renting appropriate accommodation and maintaining a healthy diet. This contributes to the unending cycle of poverty; hence, finding better living arrangements may be challenging for most workers. For this reason, it is common for multiple workers to share accommodation spaces to split the cost. This further compound the deceptive and fraudulent practices workers are subjected to.

## 6.10 Perception of deception

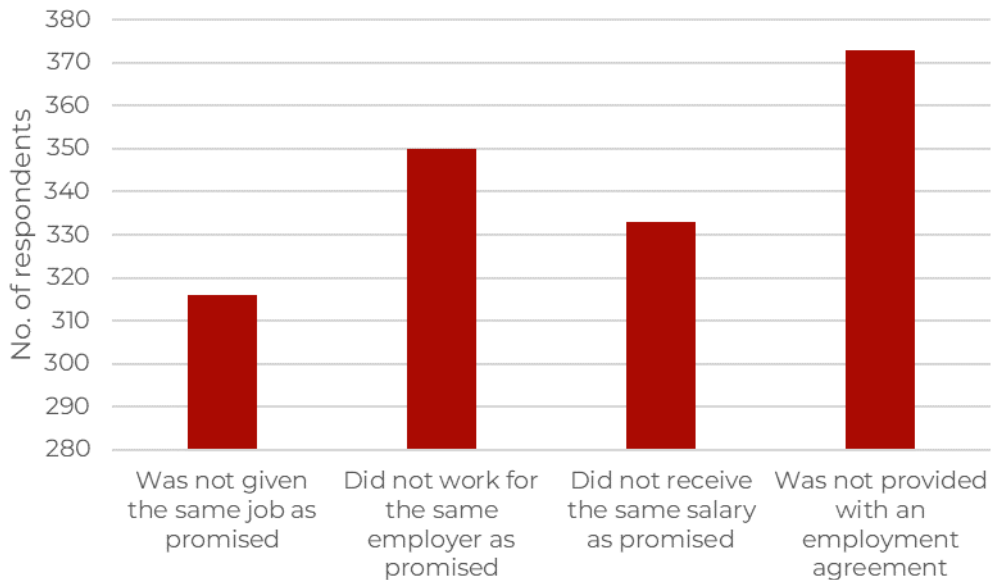
Respondents were also asked whether they felt lied to during the recruitment process to ascertain whether the compounded types of recruitment fraud and deception impacted how they perceived their recruitment process. The results are shown in [Figure 6.15](#).





**Figure 6. 15: Perception of deception**

Approximately half of the respondents alluded that they were deceived, with 52.89% of respondents reporting feeling lied to during the recruitment process. The data was further considered to understand the implications of recruitment fraud on respondents' perceptions, as illustrated in Figure 6.16. It should be noted that the provision of accommodation could not be accounted for due to a lack of information on the housing arrangements of workers and whether it met the ascribed criteria and complied with regulations.



**Figure 6. 16: Deception throughout recruitment process**

Of the 47.82% of respondents who said they were not given the job they were promised, 37.31% said they felt deceived during the hiring process. This means that 10.5% of all respondents did

not think their experiences were related to deception, even though they were not given the job they were promised. 41.32% of those who said they did not have to work for the same employer as promised felt like they were lied to during the hiring process. Only 15.68% of those who said they had to work for a different employer than what they were promised did not feel like they were lied to. Of the 54% of respondents who did not receive the same salary as promised, only 39.32% stated that they felt like they were lied to during the recruitment process, which indicates that 14.68% of respondents did not feel like they were deceived, despite not being paid the same salary as promised. Akin to this, of the 70.6% of respondents who reported that they were not provided with an employment agreement, 43.92% stated that they felt like they were lied to during the recruitment process, indicating that 26.68% of respondents who were not provided with an employment agreement did not perceive themselves as having been deceived.

As the perception of exploitation is subjective, this indicates that respondents who did not perceive themselves to have been misled may be unwilling or less incentivised to leave or be removed from exploitative situations. This poses one of the biggest challenges to combating such practices.

This is primarily owed to the absence of a harmonised understanding of exploitation, mainly because it is highly likely that the exploited persons receive some level of benefit from being used. For instance, although respondents were not provided with the same salary as promised, as long as they make some amount of money from which they can cover necessities such as housing and food expenses and what is left of the leftover money for their families, they might consider themselves to be in a comparatively better situation than their counterparts, who do not receive any money at all. This could also be observed from respondents who entered exploitative conditions, which afforded them comparatively more benefits. This may include respondents who are paid above the median salary but are required to work every day of the week or are not facilitated with any off days or leaves.

Although all Bangladeshi migrant workers cannot be considered a homogenous group, it is plausible that workers' perception relies on external factors such as socioeconomic status, culture, education, and race. Employers are likely to favour workers they can keep in line, especially those who belong to more "submissive" groups. This is evident in the Maldivian context, where it was observed that employers often prefer Bangladeshi workers as they consider them to be more docile in comparison to Indian workers, who are more likely to demand their rights or riot in the face of exploitation. This could be one of the reasons why Bangladeshi workers are favoured over workers of other nationalities.

## 7: LEGAL STATUS

The rise in demand for migrant labour, changes in labour migration policy, and the inefficacy of structural mechanisms to keep up with the changes have resulted in the rise of undocumented workers. In recent years, there has been a shift in what is considered “irregular” from juridical and socio-political perspectives.<sup>224</sup> Irregular migration challenges all parties involved, including the destination country, source country, and workers. It is increasingly challenging to depict accurately, as workers may become irregular post-migration for several reasons, the conceptualisation of which is ever-changing with policy changes.

When migrants do not fall within the legal category as defined by law, their exploitability increases, rendering them an attractive instrument for those who benefit from the exploitation.<sup>225</sup> Despite the urgency of remedying human rights abuses that undocumented workers are often subjected to, the migrant population continues to be discussed primarily in terms of legality, documentation, remittance, and crimes committed by a few of those who belong to the migrant community. Their plights are not prioritised or highlighted in the discourse, which has resulted in increased occupational safety and health accidents, denial of healthcare, threats posed to migrant workers, unsuitable living conditions, debt bondage, conditions of forced labour, and human trafficking. Nevertheless, how workers become undocumented largely remains ignored.

It is difficult to quantify how much this impacts the migrant population due to the lack of available local literature. However, considering the difficulties migrant workers face in attaining legal status, it is evident that dimensions and conditions of legality and irregularity play a crucial role in determining the conditions of migrant workers in the destination countries and the source countries. Despite this, the State's proposed, initiated, and implemented remedies fail to consider the issues and challenges faced by the migrant population in such terms. While there is no “one size fits all” policy to address or remedy irregular migration, the root causes and reasons contributing to workers becoming undocumented must be identified to formulate appropriate policies addressing these issues.

### REGULAR AND IRREGULAR MIGRATION

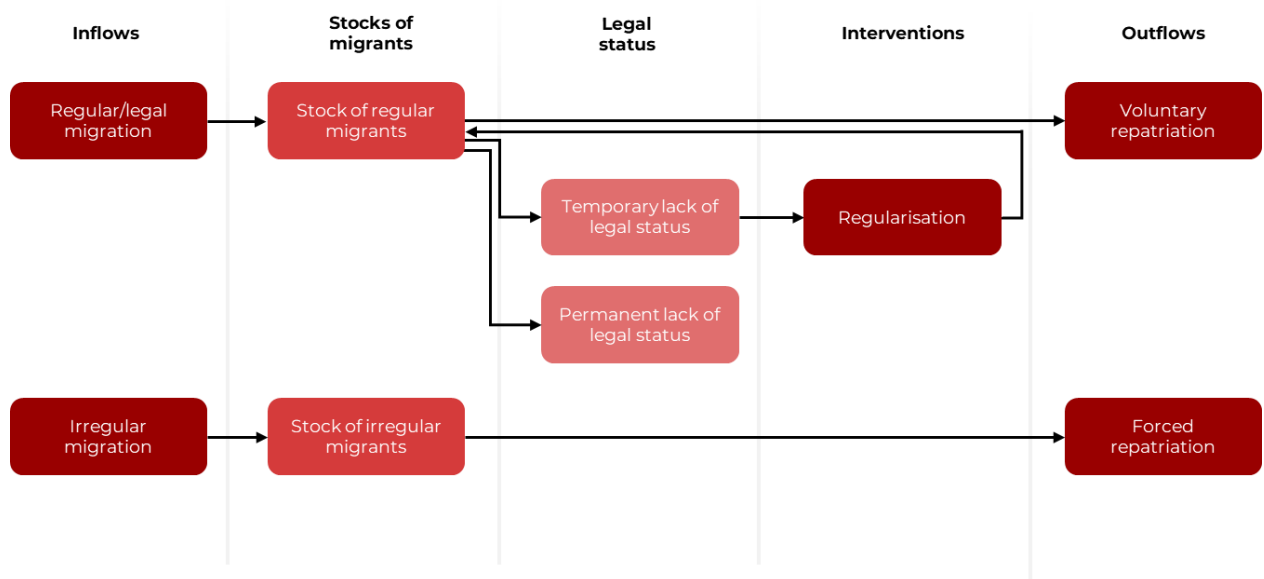
As migration is multi-directional, the inflows and outflows of migration and the interventions in place must be factored into an overall depiction of labour migration as it relates to regular and irregular migration. Conceptualising what is considered regular and irregular migration and what constitutes an undocumented person varies between States and can only be assessed based on each state's legislative framework. The depictions included in this section are intended to provide insight

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<sup>224</sup> Sarah S Willen, 'Toward a Critical Phenomenology of "Illegality": State Power, Criminalization, and Abjectivity among Undocumented Migrant Workers in Tel Aviv, Israel' (2007) 45 *International Migration Review* 8.

<sup>225</sup> Global Migration Group, 'Exploitation and Abuse of International Migrants, Particularly Those in an Irregular Situation: A Human Rights Approach' <[https://www.unodc.org/documents/human-trafficking/2013/2013\\_GMG\\_Thematic\\_Paper.pdf](https://www.unodc.org/documents/human-trafficking/2013/2013_GMG_Thematic_Paper.pdf)>.

into migration flows in the Maldives, which would assist in understanding how the legal statuses of workers and the shift are determined.



**Figure 7.1: Migration inflows, stocks, and outflows**

Figure 7.1 describes the stocks and flows of regular and irregular migrants in the Maldivian context, highlighting possible ways workers become undocumented during their migration journey and the remedies available for such workers.

## 7.1 Inflows

Due to their geographical structure, the Maldives has extensive borders and a predominately oceanic environment. However, MI had previously reported low risk of irregular migration through this route.<sup>226</sup> Therefore, airports are considered the only entry gateways for this study. While this narrows down the ports of entry, managing migration through this channel has reportedly been challenging, resulting in irregular migration, thereby increasing the number of undocumented workers.

Workers are considered to have migrated through regular channels where they acquire work permit entry passes before migration and have the required valid documentation. Migration inflow is considered irregular when workers migrate on tourist visas with falsified documents; therefore, those who migrate through such channels for work would be considered part of the stock of irregular migrant workers and remain irregular throughout the migration cycle unless state-led interventions or remedies are offered.

According to MI, there are three main reasons why potential irregular migrants at the point of entry go unidentified: there are not enough resources to keep up with the irregular migration

<sup>226</sup> Auditor General's Office (n 72).

occurrences; limited availability of training, mainly in terms of how often and what it covers; and routine staff rotations and turnover, which result in new groups of MI officers being introduced to the subject, whereby new staff has to be trained frequently.<sup>227</sup> MI also reported that age tampering is one of the main challenges, and little can be done as sufficient evidence is often absent to prove or disprove the legitimacy of passports.<sup>228</sup> While efforts were made to obtain statistics on irregular entries, the available data were insufficient to provide an accurate depiction.

### **7.1.1 Factors Impacting Legal Status**

It is possible for workers who migrate through regular channels to have their legal status changed post-migration. Figure 7.1 depicts how such changes may occur post-migration. Workers can become irregular by overstaying their visas if their visas or permits are cancelled or invalid. Workers also often become irregular due to failure on the part of employers to keep up with the required payments or because of practices such as quota trading. Instances where migrant workers switch employers or cases where workers are reported as having absconded also impact workers' legal status, as their status is tied to their employer through the sponsorship system.<sup>229</sup> In such instances, their permits and visas would be considered invalid as the information in the documents would no longer be accurate.

### **7.1.2 Consequences of Irregularity**

Vulnerabilities of workers become exacerbated as a consequence of becoming undocumented, though the framework adopted by the Maldives does not exclude undocumented or irregular workers from ensuring and protecting several rights by including all workers within the labour regime to promote decent work standards for workers despite their status and allowing for workers to pursue legal action regardless of their legal status.

This does not entail that there are no disparities in vulnerabilities and access to services based on legal statuses. For instance, although workers can access healthcare regardless of their legal status, health insurance is not easily accessible for those who are undocumented. As a result, it is likelier for undocumented workers to be unable access basic health services as prices are often inflated for foreigners in the Maldives. Although employers are required to pay for insurance coverage for their foreign employees in the Maldives,<sup>230</sup> it has been observed that employers often neglect this responsibility, opting only to pay the initially required amount to complete the migration process (the payment required to obtain work permits), which provides workers with health insurance for one year.

Migrant workers are among the most disadvantaged groups, vulnerable to chronic illnesses, contact diseases, and occupational and safety risks while also being subjected to substantial health

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<sup>227</sup> *ibid.*

<sup>228</sup> *ibid.*

<sup>229</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

<sup>230</sup> Regulation on Expatriate Employment (Maldives) app 4, art 14.

inequality,<sup>231</sup> which highlights the need for timely and quality healthcare. Reports indicate that migrants are likely to be more at risk of different levels of injuries and even death due to unsafe working and living conditions.<sup>232</sup> Therefore, ensuring equal access to health care becomes a priority in communities with a high number of migrant workers.

These disparities prevail as workers remain bound by immigration laws and the labour migration mechanism, and can consequently be detained, repatriated, or deported, depending on the worker's circumstances, if they were to raise concerns of human rights and labour rights violations.

### 7.1.3 Interventions

Despite complexity of issues and their exacerbation due to workers' legal statuses, attempts to gain control over the migration management system primarily involve raids, resulting in detention and deportation, which only address the outcome of the problem arising from the labour migration framework and not the course through which migrants become irregular. As gaps in legislation and implementation leave room for more and more workers to fall into irregular status, in response to this, the Maldivian State allows specific categories of irregular or undocumented migrants to remedy their legal status. This process is referred to as "Regularisation", which is "any state procedure through which non-nationals who are illegally residing or otherwise in breach of national immigration rules in their current country of residence are granted legal status".<sup>233</sup>

The requirements and functionalities of the programme is delineated in the Regulation on Employment of Expatriate Workers, which ascribes a short period where irregular workers can remedy their legal status.<sup>234</sup> At the end of the regularisation process, a new employer is designated to manage the affairs of the worker as their employer and sponsor. This intervention is also offered where businesses dissolve and upon the employer's death. However, it was noted that generally few migrants opt for this remedy for a combination of reasons, such as a lack of awareness of navigating the process and the bureaucracy of the procedure.<sup>235</sup>

Concern have been raised regarding the implications of these programmes on broader migration policies, specifically in terms of prevention, border control, surveillance, and return.<sup>236</sup> As such, the programme leaves issues with the structure of labour markets and the gist of irregular

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<sup>231</sup> Sally C Moyce and Marc Schenker, 'Migrant Workers and Their Occupational Health and Safety' (2018) 39 Annual Review of Public Health 351.

<sup>232</sup> Kawon Lee, Connor McGuinness and Tsuyoshi Kawakami, *Research on Occupational Safety and Health for Migrant Workers in Five Asia and the Pacific Countries: Australia, Republic of Korea, Malaysia, Singapore and Thailand* (International Labour Organization 2011) <[http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_170518.pdf](http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_170518.pdf)> accessed 15 October 2023.

<sup>233</sup> Martin Baldwin-Edwards and Albert Kraller (eds), *REGINE - Regularisations in Europe* (Amsterdam University Press 2009) <<https://www.academia.edu/download/53229905/show.pdf>> accessed 12 September 2023.

<sup>234</sup> Regulation on Expatriate Employment (Maldives) app 9.

<sup>235</sup> Stakeholder Conference on Labour Migration within the Bangladesh-Maldives Corridor (Male', Maldives, 16 Nov 2022)

<sup>236</sup> Albert Kraller, 'Regularisation: A Misguided Option or Part and Parcel of a Comprehensive Policy Response to Irregular Migration' [2009] IMISCOE Working Paper.

migration unaddressed. This stresses the importance of reforming policies and mechanisms to prevent workers from falling into irregularity, instead of relying on interventions.

As such, regularisation is encouraged and regarded as an exceptional measure. Despite its shortcomings, it should be highlighted that regularisation provides a remedy to prevent the further marginalisation and exploitation of an already vulnerable group, as it contributes to regulating the informal labour market and assists in getting migrant workers out of the shadow economy.<sup>237</sup> To indicate this, regularisation programmes in the Maldives are now called “reintegration” programmes. Migrant workers who have become undocumented can only be legally employed after regularisation.<sup>238</sup> To promote this initiative, a special quota named “R Quota” is afforded to employers who want to regularise migrant workers,<sup>239</sup> provided that the requirements detailed in the Regulation and the Policy on Regularisation are met.

The most recent regularisation programme in the Maldives was launched in September 2019, for which 43,787 migrant workers registered,<sup>240</sup> indicating that this number of migrant workers was undocumented. The statistics of undocumented migrant workers by source country illustrate that 99.14% of migrant workers registered under the regularisation programme were Bangladeshi migrant workers.<sup>241</sup> This supports the US DOS's assumption that Bangladeshi workers make up the majority of the undocumented population.<sup>242</sup> However, the findings of this study indicate that workers are unaware of their legal statuses, which proves as a barrier to regularisation. It was noticed that irregular migration is often detected when migrants attempt to depart from the country instead of when they are inbound.

## 7.2 Outflows

Since the Maldives only facilitates temporary labour migration, workers' return is integral to completing the migration cycle. Two types of repatriation are considered to capture the status and outflows of migrant workers in the Maldives.

### 7.2.1 Voluntary Repatriation

Voluntary repatriation is simply referred to as “repatriation,” which occurs where workers decide to return independently of their own free will.<sup>243</sup> As this can only refer to instances in which

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<sup>237</sup> International Labour Office, ‘Regularization and Employer Sanctions as Means towards the Effective Governance of Labour Migration, Russian Federation and International Experience’ (International Labour Organization Moscow 2009) <[https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms\\_308873.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-moscow/documents/publication/wcms_308873.pdf)>.

<sup>238</sup> *ibid* 9.

<sup>239</sup> Regulation on Expatriate Employment (Maldives) art 70.

<sup>240</sup> Ministry of Economic Development (Maldives), ‘Regularization Programme Status’ (n 70).

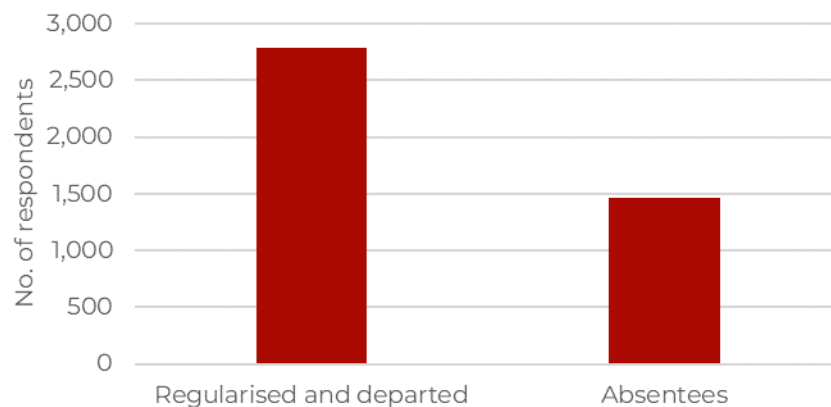
<sup>241</sup> *ibid*.

<sup>242</sup> Bureau of Public Affairs Department of State. The Office of Website Management, ‘2021 Trafficking in Persons Report: Maldives’ (Department of State The Office of Website Management, Bureau of Public Affairs 2022) Report.

<sup>243</sup> Piyasiri Wickramasekara, ‘Effective Return and Reintegration of Migrant Workers with Special Focus on ASEAN Member States’ (ILO ASEAN Triangle Project, International Labour Organization, Bangkok 2019) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3579358](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3579358)> accessed 14 October 2023.

persons with a legal basis for remaining in the destination country freely choose to return to the source country,<sup>244</sup> it is further required that they are free from detention and have their rights respected.<sup>245</sup>

A recent surge in repatriation numbers was observed following the regularisation and repatriation programme launched during the COVID-19 pandemic.<sup>246</sup> It was reported that the MI issued 3,428 tokens to migrant workers who requested voluntary departure in 2021, of which 1,464 workers departed after the tokens were issued. It was further mentioned that of the total number of workers for which tokens were issued, 2,785 were regularised. The number of workers who departed voluntarily was not specified.<sup>247</sup> This data is depicted in **Figure 7.2**.



**Figure 7. 2: 2021 Annual statistics of voluntary departure by MI**

Although statistics for 2022 are yet to be published by the MI, MED provided statistics detailing the number of workers who voluntarily departed through the regularisation programme initiated by the Ministry as of August 2022. It was reported that out of 43,787 migrant workers, 8,938 voluntarily returned to their home country under the Ministry's voluntary return programme. This figure includes 8,724 migrant workers who initially registered for the regularisation programme.<sup>248</sup>

## 7.2.2 Reintegration

Reintegration is possible only where workers return voluntarily, free of coercion, with consideration of sufficient and valid alternatives to get regularised or lawfully remain in the country. It is also mandatory for the return to not be expedited as a means to evade mistreatment and

<sup>244</sup> European Council on Refugees and Exiles (ECRE), 'Position on Return by the European Council on Refugees and Exiles' (2003) <<https://www.unhcr.org/media/unhcr-protection-training-manual-european-border-and-entry-officials-7-return-persons-not-14>> accessed 14 October 2023.

<sup>245</sup> Office of the High Commissioner for Human Rights (OHCHR), 'Background Paper, Expert Meeting on Protecting the Human Rights of Migrants in the Context of Return' (2018) <<https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/Return/BackgroundPaper.pdf>>.

<sup>246</sup> United States Bureau of Democracy, Human Rights and Labor, 'Maldives 2021 Human Rights Report' (Bureau of Democracy, Human Rights and Labor, United States Department of State 2021) <<https://mv.usmission.gov/wp-content/uploads/sites/212/MALDIVES-2021-HUMAN-RIGHTS-REPORT.pdf>> accessed 21 December 2022.

<sup>247</sup> Maldives Immigration, 'Annual Statistics 2021' (Maldives Immigration 2022) Annual Statistics <[https://www.immigration.gov.mv/wp-content/uploads/2022/08/2021\\_Annual\\_Stat-updated.pdf](https://www.immigration.gov.mv/wp-content/uploads/2022/08/2021_Annual_Stat-updated.pdf)>.

<sup>248</sup> Ministry of Economic Development (Maldives), 'Regularization Programme Status' (n 70).



exploitation in the country of destination.<sup>249</sup> While there is no universally agreed definition of reintegration, the Return Migration and Development Platform of the European University Institute defines reintegration as “the process through which a return migrant participates in the social, cultural, economic, and political life of the country of origin”.<sup>250</sup> It is recognised that the objective of reintegration is the universal enjoyment of human rights, including political, civil, economic, social, and cultural rights.<sup>251</sup>

Safely and respectfully reintegrating workers back into their families, communities, economies, and societies after they have met their migration goals is an important part of effective return migration and reintegration. As such, the cycle of migration and the motives of return, such as return due to the successful completion of their migration objectives or targets or return after incomplete or interrupted migration cycles, would have different implications for workers.<sup>252</sup>

### 7.2.3 Forced Repatriation

Forced return is defined as the “act of returning an individual, against his or her will, to the country of origin, transit, or a third country that agrees to receive the person, generally carried out based on an administrative or judicial act or decision”.<sup>253</sup> This includes deportation, defined as the removal of a foreign citizen from a country’s territory.<sup>254</sup> In the local context, forced repatriation is often referred to as “deportation”, which is implemented if a worker is found to violate the Maldives Immigration Act or the Constitution, following which bans are imposed on returning to the Maldives, which vary depending on the offence committed.<sup>255</sup>

Workers found to be irregular, those who do not qualify for regularisation initiatives, and those given the option of voluntary return and rejecting it are removed from the country. Such return is facilitated by the deposit fees accrued by the State from employers, which are kept explicitly for such purposes. In 2021, the MI reportedly deported 305 migrants to the Maldives.<sup>256</sup> This was noted as a 23% increase from the year 2020. In some instances, workers deported from one country may not be able to migrate to other countries for employment, indicating that workers are subjected to detriments when they are more than simply being forced to return to their home country.

Forced migration, including deportation programmes, has been on the rise to combat the issue of irregular migrants. Yet, data on return migration is not adequately maintained, often

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<sup>249</sup> UN General Assembly, ‘Global Compact for Safe, Orderly and Regular Migration’ <[https://refugeesmigrants.un.org/sites/default/files/180713\\_agreed\\_outcome\\_global\\_compact\\_for\\_migration.pdf](https://refugeesmigrants.un.org/sites/default/files/180713_agreed_outcome_global_compact_for_migration.pdf)> accessed 14 October 2023.

<sup>250</sup> Jean-Pierre Cassarino, ‘Glossary’, *Reintegration and Development, CRIS Analytical Study* (European University Institute).

<sup>251</sup> Amadou Tijan Jallow, Celine (ed.) Heinbecker and Sajjad Malik, *Handbook for Repatriation and Reintegration Activities* (UNHCR 2004).

<sup>252</sup> Jean-Pierre Cassarino, ‘Bridging the Policy Gap between Reintegration and Development’, *Reintegration and Development, CRIS Analytical Study* (European University Institute).

<sup>253</sup> Alice Sironi, Céline Bauloz and Milen (eds) Emmanuel, *Glossary on Migration, International Migration Law, No. 34* (International Organization for Migration (IOM) 2019) <<https://publications.iom.int/books/international-migration-law-ndeg34-glossary-migration>> accessed 11 February 2024.

<sup>254</sup> *ibid.*

<sup>255</sup> Immigration Act (Maldives).

<sup>256</sup> Maldives Immigration (n 257).

capturing only the baseline information, thus making it difficult to assess the current situation due to the considerable diversity in return migration patterns.

### **7.3 Restriction of migration flows and internal labour market mobility**

The afore-discussed factors that influence and determine migration flows were then construed considering the legislative framework governing labour migration and the resulting mechanisms. Literature depicts that the employer-employee relations resulting from the execution of these policies restrict internal labour market mobility.<sup>257</sup>

This highlights issues that stem because policy interventions backfire, and consequently impede the exercising of the fundamental human rights and labour rights of migrant workers, which contributes to their existing vulnerabilities as their legal status is tied to their employer. This is exacerbated by a common exploitative and oppressive practice that plagues labour migration relationships and transactions; the confiscation and retention of identification documents, such as passports and work permits, of migrant workers. As a result, migration flows and workers autonomy are significantly restricted. A person lacking proper documentation cannot travel through legal channels at the most basic level, which allows employers or recruitment parties to control the workers' internal labour market mobility and overall freedom.

Although the Prevention of Human Trafficking Act [PHTA] prohibits the withholding or destruction of identification of travel documents,<sup>258</sup> the Employment Agency Regulation (2022/R-63) specifies that such documents may be retained for procedures such as the renewal of visas and permits.<sup>259</sup> Employers often cite this Regulation as a basis for the retention of identification documents of their migrant employees. Regardless of the specified purpose, this ultimately adds to the power imbalance between migrant workers and their employers, allowing employers to exercise undue control over workers by hindering the employee's freedom of movement or preventing them from leaving employment, thus infringing their agency.

It is vital to draw attention to the fact that workers do not have access to these personal documents on demand and are often unable to contact the party who confiscated or retained their documents, as they do not have their details. It was noted that migrant workers could not travel within the country (from island to island) without identification documents, which decreased their ability to access services that are unavailable in remote islands.

By restricting movement, many undocumented workers find themselves unable to return to their home countries or to regularise themselves within the ascribed period due to difficulties in accessing their passports or because of the lengthy period it takes to acquire a new passport. In the

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<sup>257</sup> ILO, 'Employer-Migrant Worker Relationships in the Middle East: Exploring Scope for Internal Labour Market Mobility and Fair Migration' (International Labour Organization, Regional Office for Arab States - Beirut 2017) (White paper; Feb 2017) <[https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms\\_552697.pdf](https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_552697.pdf)>.

<sup>258</sup> Prevention of Human Trafficking Act (Maldives) art 10(e).

<sup>259</sup> Employment Agency Regulation (Maldives) art 36(c).

meantime, the pool of undocumented workers residing in the country continues to grow, and workers are forced to resort to irregular avenues of seeking unemployment. Inevitably, a large percentage of these workers are subjected to precarious living and labour conditions, making them vulnerable to labour exploitation, forced labour, and, at times, human trafficking.<sup>260</sup>

## THE LEGAL STATUS OF RESPONDENTS

The data collected for this study is intended to provide an overview of regular and irregular migration as it relates to Bangladeshi migrant workers and to assess migration channels, legal statuses, and knowledge of legal status by asking questions about their work visas and work permits. Various combinations of the questions posed were referred to provide probable answers, guided by the Regulation on Employment of Expatriate Workers (2023/R-III).

### 7.4 Visas Occupied at Migration

Respondents were initially asked about the visas they occupied during migration to determine the legality of migration channels. The responses obtained are illustrated in [Table 7.1](#).

Visa occupied at migration		Legality of migration channel	
	No. of respondents	%	
Work visa	604	71.31	Migrated through legal channels
Tourist visa	180	21.25	Migrated through irregular channels
Do not know	63	7.44	Cannot assess whether migration channel is legal or illegal
<b>Total no. of respondents</b>	<b>847</b>	<b>100</b>	

**Table 7.1: Visa possessed at migration and legality of migration channel**

Of the 847 respondents surveyed, 71.31% reported migrating through regular channels (on work visas). In contrast, 21.25% migrated through irregular channels (on tourist visas). 7.44% of respondents could not be assessed due to a lack of information, as they indicated they did not know the type of visa they had occupied at the time of migration.

This indicates that most Bangladeshi workers migrate to the Maldives through regular channels and become undocumented post-migration for various reasons. The percentage of workers who migrated through irregular channels cannot be regularised and, therefore, would remain undocumented as part of the stock of irregular workers unless they re-enter the country after obtaining legal documentation.

<sup>260</sup> Stakeholder Conference on Labour Migration within the Bangladesh-Maldives Corridor (Male', Maldives, 16 Nov 2022)

## 7.5 Visas Occupied at Data Collection

The comparison of respondents' visas at the time of data collection with their visas at the time of migration further supported the assumption that most workers migrate through regular channels.

Table 7.2 contains the responses obtained.

Visa occupied at migration	Visa occupied at data collection	No. of respondents	%
Work visa	Work visa	481	56.79
	Tourist visa	10	1.18
	Do not know	27	3.19
	Do not have a visa	86	10.15
Tourist visa	Work visa	73	8.62
	Tourist visa	58	6.85
	Do not know	10	1.18
	Do not have a visa	39	4.6
Do not know	Work visa	12	1.42
	Tourist visa	4	0.47
	Do not know	23	2.72
	Do not have a visa	24	2.83
	<b>Total</b>	<b>847</b>	<b>100</b>

**Table 7. 2: Visa occupied respondents at the time of migration and data collection**

Although 71.31% of respondents reported migrating to the Maldives on work visas, a lesser percentage (56.79%) reported occupying work visas during data collection, which signifies a 14.52% decrease. Following this, 10.15% of respondents reported migrating on work visas and specified that they did not occupy a visa during data collection. Their visas had likely expired or become invalid post-migration. 1.18% of respondents who reported occupying a work visa at migration and subsequently switching to a tourist visa post-migration were likely unaware of laws governing labour migration, as switching from a work visa to a tourist visa and vice versa is not permitted by legislation. Lack of awareness is also indicated by the 3.19% of respondents who reported not knowing which visa they occupied.

Although 21.25% reported migrating on tourist visas, only 6.85% reported having tourist visas at the time of data collection. These respondents are likely unaware that tourist visas would only remain valid for a specific period and are likely under the assumption that tourist visas operate on the concept of an "open visa," as previously discussed. Like those who migrated on work visas and reported occupying tourist visas at data collection, it is possible that respondents who reported migrating on tourist visas and switching to work visas are unaware of the legislative framework, and it is probable that they had been deceived about their legal status or were told they could become

documented despite migrating via irregular channels. Additionally, it is possible that the 4.60% of respondents who migrated on tourist visas and reported they did not have a visa at data collection knew or had learned that tourist visas would become invalid within the specified period or because they realised they had been deceived pre-migration.

Contrastingly, the 7.44% of respondents who stated that they did not know which visa they migrated on could not be factored into the analysis to depict the likelihood of their legal status by referencing their migration flows.

### 7.5.1 Work Visa Status

The 481 respondents who migrated on work visas and occupied a work visa at data collection were further questioned regarding their work visa status. The results obtained are illustrated in [Table 7.3](#).

Validity of work visa	No. of respondents	%
Valid	394	81.91
Expired	59	12.27
Could not assess	28	5.82
<b>Total</b>	<b>481</b>	<b>100</b>

**Table 7.3: Status of work visa occupied by respondents at data collection**

81.91% of respondents reported that their work visas were valid during data collection. In contrast, 12.27% reported that their visas had expired. It was deduced that those occupying expired visas are considered undocumented. The remaining 5.82% of respondents who stated they did not know their work visa status could not be further assessed to infer their legal status.

### 7.5.2 Validity of Work Permits

Subsequently, 394 respondents who reported having migrated on work visas and occupied valid work visas at data collection were further inquired about the validity of their work permits. The responses are represented in [Table 7.4](#).

Validity of work permits	No. of respondents	%
Valid	336	85.28
Invalid	58	14.72
<b>Total</b>	<b>394</b>	<b>100</b>

**Table 7.4: Validity of work permits**

85.28% of respondents reported having valid work permits at data collection, whereas 14.72% reported that their work permits had become invalid post-migration. Respondents occupying valid work permits were subsequently questioned on whether their work permits included correct, up-to-date information, as this is factored in determining the validity of their permits, in addition to the maintenance of documents and upkeep of payments. Their responses are illustrated in [Table 7.5](#).

Do permits include correct, up-to-date information?	No. of respondents	%
Yes	319	94.94
No	17	5.06
<b>Total</b>	<b>336</b>	<b>100</b>

**Table 7. 5: Information within work permits**

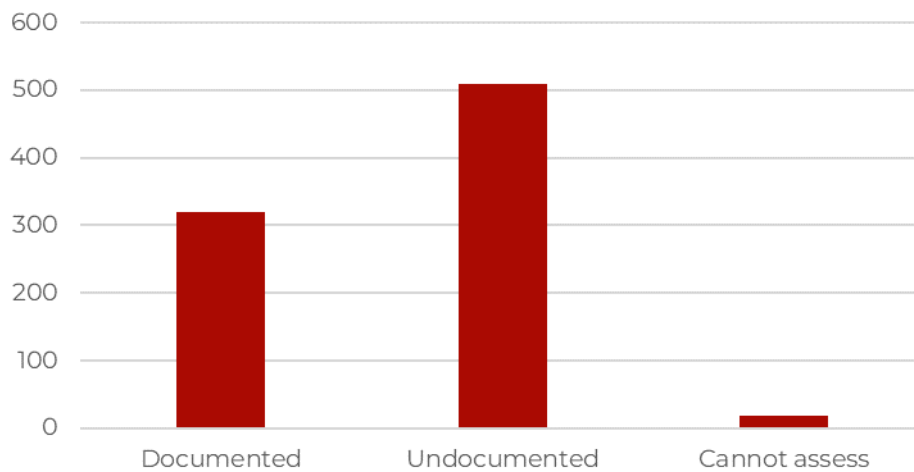
It was found that responses were further skewed when the information included in permits was factored in, as 94.94% of the 336 respondents who had migrated on work visas, occupied valid work visas at data collection, and reported that their work permits were valid stated that their permits included correct, up-to-date information, 5.06% disclosed that the information on their permits was incorrect.

Furthermore, it is noted that the responsibility to cancel workers' work permits upon resignation or termination from employment lies with the employer. However, it has been observed that some employers cancel work permits unduly as a tactic to prevent migrant workers from returning to the country, often due to personal grievances.<sup>261</sup> As part of their investigative efforts, the LRA examines such cases and requests the ministry cancel the work permits of these migrant workers, allowing them to re-enter the country under a new work permit for new employment.

## 7.6 Legal Status

Combinations of the previously analysed data discussed above were utilised to presume the legal statuses of respondents and indicate the respondents' likelihood of being documented or undocumented. [Figure 7.3](#) describes the data acquired from the analysis.

<sup>261</sup> Meeting with Labour Relations Authority (Male', Maldives, 27th February 2022)



**Figure 7. 3: Legal statuses of respondents**

Respondents who occupied a work visa at migration and continued to occupy a valid work visa and a valid work permit at the data collection point are considered documented. Respondents who occupied a valid work visa at migration but had an expired work visa or invalid work permit for any reason at data collection are considered undocumented.

Although this portion of the study was intended to capture the possible composition of documented and undocumented Bangladeshi migrant workers, 2.24% of respondents could not be classified into either category as they responded that they did not know the information related to their work visa or work permit. Of the 847 respondents sampled, it is presumed that only 37.66% were documented, while 60.09% were recorded as undocumented. This entails that out of the 828 respondents that could be assessed, 5 out of every 8 respondents are undocumented.

The data was further analysed to evaluate whether respondents were undocumented at migration, i.e., migrated through irregular channels or had become undocumented post-migration. **Table 7.6** depicts the result of the analysis.

	No. of respondents	%
Migrated via irregular channels	224	44.01
Undocumented post-migration	285	55.99
<b>Total no. of undocumented</b>	<b>509</b>	<b>100</b>

**Table 7. 6: Origin of undocumented status**

44.01% of the 509 respondents presumed to be undocumented reported migrating through irregular channels, which indicates that the majority (55.99%) of respondents who were undocumented at data collection had migrated through regular channels and became undocumented post-migration.

### **7.6.1 Awareness of Respondents on their Legal Status**

Overall, the data and the resulting analyses depict that respondents are often unaware of their legal status. An overt lack of awareness is conveyed by respondents who reported that they do not know about the visa they occupy or the status of their work visa. Similarly, respondents who migrated on work visas and responded that they occupied tourist visas at data collection are considered to not know about their legal status as they believe they could have shifted from work visas to tourist visas. The same is indicated vice versa, as respondents cannot migrate on work visas and switch to tourist visas. Lack of adequate knowledge is also indicated by those who reported that they do not know which visa they occupied at migration or data collection.

However, respondents who reported occupying expired visas or permits are considered to be aware of their legal status. Whereas respondents who reported to have migrated on tourist visas or occupied tourist visas at data collection are either unaware of their legal status, as tourist visas cannot be occupied by those who migrate for employment, or they understand that they could migrate on tourist visas, be undocumented, and continue working in the Maldives. However, the respondents who fall under this category cannot be assessed to determine which percentage of respondents fit into either sub-category.

It has been discussed that the unawareness of migrant workers as to their legal status contributes to how they become and remain undocumented. For instance, workers without knowledge of their legal status would not seek to get regularised. Similarly, migrant workers who are incorrectly informed that their work visas have been changed to “open” visas, technically tourist visas, are less likely to seek remedies.

The findings of this study highlight that irregular migration has become an increasingly high-priority issue on a local level, which, due to the cross-border nature of migration, has an impact on a global level as well. This chapter sought to explain the nature of regular and irregular migration by considering the legal status of the respondents to this study, their circumstances, and how it has shaped and constrained their labour migration experience. Furthermore, it is emphasised that illegality transcends mere legal and political considerations; it is exacerbated by legal loopholes and insufficient policies that fail to address the practicalities of unauthorised migration. As a result, workers' legal status is often a by-product of policies and programmes.

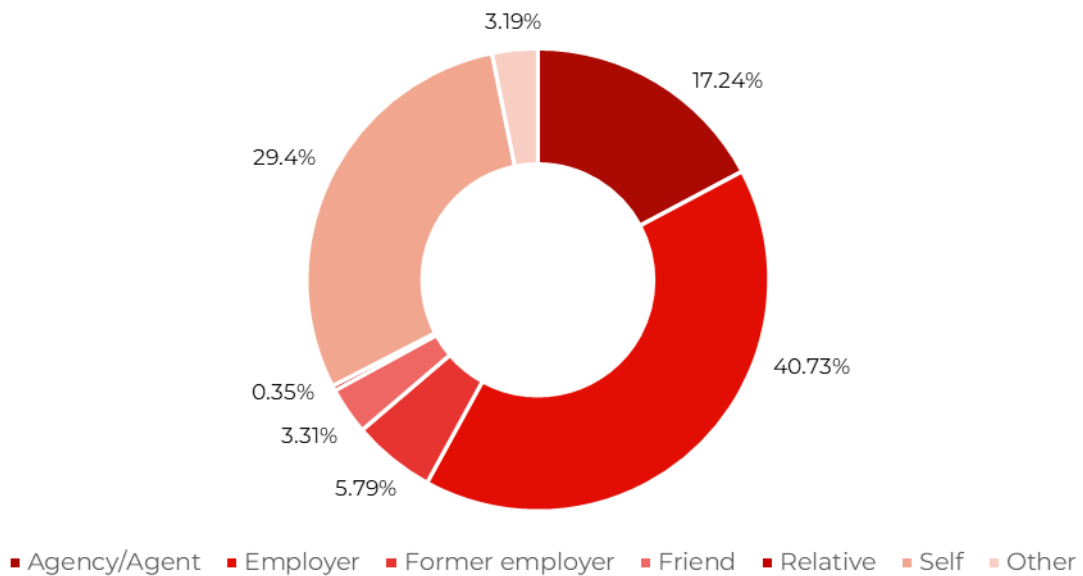
### **7.7 Retention of Identification Documents**

While this study shows that 60.09% of respondents are undocumented, workers must know their legal status and the means to remedy it to either regularise themselves or return to their home country. To further understand their circumstances and gauge whether workers can pursue regularisation if they qualify or return to their home country without being deported, respondents were asked about parties who had their identification documents to grasp the resulting changes to migration outflow and labour market mobility.



### 7.5.1 Retention of Passports

To capture this, respondents were asked who had their passports. The results obtained are depicted in [Figure 7.4](#).



**Figure 7. 4: Parties in possession of respondents' passports**

3.31% of respondents reported that their passports were in the possession of their friends, and 0.35% stated that their relatives had them. In contrast, 3.19% said their passports were in the possession of other people who were not classified, such as embassies. 40.73% of respondents stated that their passport was in the possession of their employer at the time of data collection, while 5.79% reported that their former employer had retained their passport. 17.24% of respondents stated that their passports were with their relatives. Overall, most respondents (70.50%) reported that other parties (i.e., employer past or present, friend, relative, and agency) retained their passports. Whereby, only 29.40% said their passport was in their possession.

While the Regulation on Employment Agencies specifies that recruitment agencies may retain workers' passports within the scope of the law, it is required that agencies provide a written document signifying that the agency had their passports, indicating worker's consent in handing over their passport.<sup>262</sup> However, it was noted that this is not commonly practised, as cases where agencies seemingly retain passports under the guise of the law, retain passports for a prolonged period, or do not return passports have been noted.<sup>263</sup> This provides employers with undue influence over workers, which is sometimes used to subject workers to exploitative practices. Where former employers retained workers' passports, it has been noted that it is increasingly difficult to take back their passports without legal assistance or State intervention.

<sup>262</sup> Employment Agency Regulation (Maldives) art 15.

<sup>263</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

The prevalence of confiscation of passports and the consequent issues raised by this practice were also reported by the HRCM and PILC. To identify common themes regarding the retention of passports, 91 cases filed with the PILC from January 2021 to December 2022 concerning the retention or confiscation of passports were analysed. It was found that workers were often instructed or required to pay to get their passports back, the amount for which ranged from USD 129.70 to USD 324.25. It is not confirmed whether payment of the sum demanded always results in the return of passports.

Of the 91 workers who lodged complaints, 3.29% had employers willing to assist their migrant employees in getting the identification documents back. The same employers also expressed interest in regularising their workers. Only 9.25% were stated as resolved, and passports were handed back to the migrant workers.<sup>264</sup> Detailing the process they follow in handling the cases, PILC explained that they initially attempted to contact the party who confiscated their clients' passports (such as employers, former employers, agencies, agents, etc.). The case is considered resolved when the concerned party hands over the passport. Where the NGO cannot contact the party or refuses to hand over the documents, a case is filed with the Employment Tribunal.

Furthermore, it was also recognised that some workers were denied access to essential healthcare services such as vaccination from health centres, despite specific instructions by the State to facilitate vaccination for all workers regardless of their legal status. It should also be highlighted that passports are required to access insurance policies allocated for workers, which must be afforded to all documented workers, for which employers must keep up with annual payments. It was also observed that a handful of workers could not return to their home country after taking tickets to facilitate their migration, as their employer did not give back their passports in due time.

The accumulation of such practices results in an imbalanced relationship between employers and their migrant employees, contrasting with international labour standards and consequently impeding internal labour market mobility. It is noted that arrangements that place high responsibility on employers increase their burden, which has resulted in exploitative labour practices, which are further discussed in the following chapter.

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<sup>264</sup> *ibid*

## 8: WORKING CONDITIONS

The ILO's Decent Work Agenda highlights the importance of evaluating labour policies and their implementation due to the benefits associated with proper working conditions and costs associated with poor-quality conditions.<sup>265</sup> Safeguarding workers' labour rights is of importance given that paid work constitutes an essential aspect of life that impacts its quality as it provides a source of income to sustain oneself.<sup>266</sup> While workplaces facilitate avenues for earning income, personal development, and socialising, the opportunities available to different groups classified within employment vary significantly. As working conditions adversely differ from the local population to migrant workers, it is vital to consider the implications of these factors on the migrant community.

Studies show that immigration status and unskilled labour add to the risks of unfair, unsafe, and unhealthy working environments.<sup>267</sup> This can be seen in practice, with a significant number of complaints and cases lodged by migrant workers with the LRA.<sup>268</sup> However, the working conditions the migrant community is subjected to is yet to be studied substantially. Policy objectives of achieving decent work conditions and worker well-being can be achieved with reliable data, providing insight into the current situation. Hence, statistics and data related to the working conditions of workers need to be collected and analysed to understand the extent to which workers are subjected to or exposed to risks.

### LABOUR STANDARDS

The labour standards ensured by the Employment Act (2/2008) echo the fundamental rights and freedoms safeguarded by the Constitution, which factor the fundamental principles set by the ILO. As such, labour standards detailing time spent at work, compensation, the minimum wage, and terms of employment are delineated. Data was collected based on the labour standards set by the Act, through which the concept of work satisfaction is further delved in this study.

#### 8.1 Time spent at work

The Maldivian Employment Act covers maximum work hours, overtime, annual leave, sick leave, and family responsibility leaves. According to the Act, employees cannot be required to work more than 48 hours per week. However, it is explicitly stated that this does not constitute the number of hours an employee may work overtime. Employees must also be given a 24-hour break if they are

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<sup>265</sup> Eurofound and International Labour Organization, *Working Conditions in a Global Perspective* (Publications Office of the European Union, Luxembourg, and International Labour Organisation, Geneva 2019).

<sup>266</sup> Joseph E Stiglitz, Amartya Sen and Jean-Paul Fitoussi, 'Report by the Commission on the Measurement of Economic Performance and Social Progress'.

<sup>267</sup> Michael Marmot and others, 'WHO European Review of Social Determinants of Health and the Health Divide' (2012) 380 *The Lancet* 1011.

<sup>268</sup> Meeting with Labour Relations Authority (Male', Maldives, 27 February 2022)

made to work six days consecutively.<sup>269</sup> As such, it is estimated that a worker can be required to work for 8 hours per day if they work six days a week. In the absence of a local law detailing guidelines on overtime hours, the Hours of Work (Industry) Convention, 1919 (No. 1), was referred to, which stipulates that the 8 hours per day may be exceeded in exceptional circumstances followed by specific considerations, but even then, working hours should not exceed 56 hours, including overtime.<sup>270</sup>

Furthermore, employees cannot be required to work overtime unless agreed upon and stipulated in the employment agreement,<sup>271</sup> and must be compensated with 1.25 times their hourly working wage. Employees required to work overtime on a Friday or a public holiday must be paid 1.50 times their hourly working wage as overtime.<sup>272</sup> Employers must also maintain records of workers' working hours and overtime to be readily available for labour inspectors or officers.<sup>273</sup> In addition to weekends, workers are entitled to leaves such as annual leave, sick leave, maternity leave, paternity leave, and family responsibility leave as detailed in the Employment Act.<sup>274</sup>

Despite this, Human Rights Watch [HRW] reported that migrant workers in the Maldives are frequently required to work long hours with no off days.<sup>275</sup> This is consistent with a study conducted by HRCM, which further detailed that 84.15% of the migrant informants reported receiving less than four days of paid monthly leave.<sup>276</sup>

## 8.2 Compensation

Compensation is a vital core element of job quality and an essential work condition. The ILO's Decent Work Agenda and UN SDGs also promote "adequate earnings and productive work" as a core element.<sup>277</sup> The importance of paying and receiving earnings correlated to output and productivity, as well as the time and effort of workers, is not only crucial in providing remuneration and ensuring work satisfaction, but it also promotes justice and empowerment of individuals as well as households by ensuring fair distribution, which contributes to the reduction of income inequalities and promotes sustainable economic growth.<sup>278</sup>

In the private sector of the Maldives, remuneration is typically determined per the terms outlined in the employment contract or agreement made by the employer. In contrast, the public

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<sup>269</sup> Employment Act (Maldives) art 32 (a).

<sup>270</sup> Convention C001 - Hours of Work (Industry) Convention, 1919 (No. 1) 1919 (C001).

<sup>271</sup> Employment Act (Maldives) art 37 (a).

<sup>272</sup> *ibid* 32(b).

<sup>273</sup> *ibid* 32 (e).

<sup>274</sup> *ibid* 39–49.

<sup>275</sup> Human Rights Watch, 'Maldives: Covid-19 Exposes Abuse of Migrants' (*Human Rights Watch*, 25 August 2020) <<https://www.hrw.org/news/2020/08/25/maldives-covid-19-exposes-abuse-migrants>> accessed 20 November 2022.

<sup>276</sup> The Human Rights Commission of the Maldives, Family Protection Authority and the United Nations Development Programme in the Maldives, 'Reflecting 15 Years: The "Rights" Side of Life 2020' (The Human Rights Commission of the Maldives, Family Protection Authority and the United Nations Development Programme in the Maldives 2020) <<https://hrcm.org.mv/storage/uploads/kKYy9YRy/2020RSL3Report.pdf>> accessed 16 June 2022.

<sup>277</sup> 'Decent Work Indicators for Asia and the Pacific: A Guidebook for Policy-Makers and Researchers' (2008) Report <[http://www.ilo.org/asia/publications/WCMS\\_099163/lang--en/index.htm](http://www.ilo.org/asia/publications/WCMS_099163/lang--en/index.htm)> accessed 12 February 2024.

<sup>278</sup> International Labour Organisation, *Productivity and Decent Work: A Workers' Manual* (International Labour Organization).

sector relies on fixed rates for similar work, governed by policies by the National Pay Commission. Access to adequate and regular earnings is not guaranteed in the country, partly due to the absence of a minimum wage regulation applicable to migrant employees and due to rampant non-payment or wage theft incidents.

Although the Employment Act mandates all employees to be paid at least monthly,<sup>279</sup> delayed payment reports continue to rise.<sup>280</sup> To ensure compliance, employers are required to provide information on the total compensation offered at the beginning of the contractual relationship, detailing the period employees are paid and details of deductions made from earnings.<sup>281</sup> Prohibited actions in connection with salaries are also detailed, including compelling employees to sign receipts that they received a sum of money above that which has been paid, in addition to preventing employers from doing anything that poses an obstacle to the employee's freedom of action in connection with their compensation.<sup>282</sup> Furthermore, instances in which deductions can be made from wages or salaries are also detailed.<sup>283</sup>

Despite the increased enactment of legislation and policies guiding remuneration, monitoring, and implementation of wages and wage policies continue to be lax. For example, in 2016, an amendment to the Employment Act was proposed to mandate employers to open bank accounts for each migrant worker and submit salary payments to the account, which would help the authorities identify payment frequency. However, implementing this clause was repeatedly put on hold and repealed. The lack of monitoring of earnings contributes to the lack of statistics, which impacts data-backed, informed policymaking.

### 8.2.1 Minimum Wage for migrant workers

A minimum wage is vital to protect workers from disproportionate salaries for the same or similar labour and work. The disparity in the allocation of salaries can worsen vulnerabilities faced by migrant workers and create obstructions in using opportunities that may improve their standard of living and access to better services like health care and accommodation. Taking control of such fundamental aspects of their lives can also be directly correlated with the de-commodification of migrant workers.

Although there is an immense need to set up a minimum wage for migrant workers, the minimum wage order does not apply to migrant workers and only covers Maldivian employees, as it

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<sup>279</sup> Employment Act (Maldives) art 50 (a).

<sup>280</sup> Hussain Makhthoom, 'Musaara Nudhey Massalaigai Bidheysee Masakkatherin Fuluhah (Trans. Migrant Workers to Police over Nonpayment of Wages)' *thePress.mv* (24 February 2019) <<https://thepress.mv/100372>> accessed 26 February 2024; Ahmed Mizyal, 'Jausa ge baeh muvazzafun musaara nudhey kamah bune ihuthijaaaju koffi (trans: Jausa workers strike claiming unpaid wages)' (9 December 2022) <<http://dhauru.com/post/news/14004>> accessed 26 February 2024; Ahmed Mizyal, 'JAAH ge muvazzafunge udhaas: "Mi thibee varah haalugai" (trans. Woes of JAAH workers: "We are in great distress")' (14 December 2022) <<http://dhauru.com/post/news/14115>> accessed 26 February 2024; Muaviath Anwar, '600 ehhaa bidhyseen Musaara nulibi haalugai, Hulhu falhaigen dhane! (trans. Anger boiling over, with about 600 migrant workers with unpaid wages)' <<https://sun.mv/139623>> accessed 26 February 2024.

<sup>281</sup> Employment Act (Maldives) art 54 (a).

<sup>282</sup> *ibid* 55.

<sup>283</sup> *ibid* 20,54 and 55.

has been decided that the migrant population will remain excluded from the policy indefinitely.<sup>284</sup> Hence, an exact figure of the minimum salary payable to migrant employees could not be factored. As such, the analysis was made based on the minimum wage set for locals, as shown in [Table 8.1](#).

Sector	Classification	Hourly (MVR)	Hourly (USD)	Daily (USD)	Monthly (USD)
Private sector	Small	21.63	1.40	11.22	280.54
	Medium	33.65	2.18	17.44	435.93
	Not classified as small or medium	38.46	2.49	19.95	498.83
	Not classified	21.63	1.40	11.22	280.54
Public sector		33.65	2.18	17.46	436.45

**Table 8.1: Minimum wage in the Maldives, classified by sector**

According to the Minimum Wage Order, the private sector businesses identified as “micro-enterprises” are exempt from the minimum wage. The hourly USD rate in the above table is calculated at the fixed bank rate of MVR 15.42. The daily rate is calculated based on the general 8-hour day, while it is estimated that each month has 25 working days.

## 8.2.2 Deductions and Wage Manipulation

Deductions of wages are permitted only to the extent allowed by laws, collective agreements, and case laws. This highlights the importance of establishing limits to permissible deductions and the vitality of specifying conditions based on which deductions can be made. Generally, workers must be informed of any deductions from their wages, as detailed in the Employment Act. Unlawful deductions from wages or withholding of wages constitute wage theft, of which common forms include total or partial non-payment, systematically delayed payments, payment below the minimum wage or contractually agreed rate, non-payment of overtime, non-payment of benefits and entitlements, non-payment of severance pay, and unlawful deductions.<sup>285</sup>

Although some companies deliberately withhold, delay, or deny the wages of their migrant employees to accrue additional benefits, this could also be due to business practices detrimental to workers. For instance, long and complex sub-contracting supply chains are considered the norm in the Maldives, which may result in delayed payments or non-payments due to disruptions caused higher up in the chains. Although this could lead to insolvency and encourage employers to pay their workers only when paid, this issue remains unresolved.

<sup>284</sup> Ali Faaig, ‘Minimum Wage for Foreigners Postponed Indefinitely’ *The Times of Addu* (21 September 2022) <<https://timesofaddu.com/2022/09/21/minimum-wage-for-foreigners-postponed-indefinitely/>> accessed 26 February 2024.

<sup>285</sup> International Labour Office, ‘Guidance Note: Wage Protection for Migrant Workers’ (2023) Publication <[http://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_878456/lang--en/index.htm](http://www.ilo.org/global/topics/labour-migration/publications/WCMS_878456/lang--en/index.htm)> accessed 15 October 2023.

### 8.3 Terms of Employment

These factors and literature highlight the dire need to provide and promote agreements to ensure that all workers have written contracts in a language they can understand, as well as the importance of explaining the terms of employment as per their contracts. Workers must be informed of the rights prescribed to them under the terms of their employment, wages payable, overtime, and other employment conditions. The necessity for employers and employees to have a written employment agreement is also emphasised within the local framework through the Employment Act (2/2008).<sup>286</sup> The agreements are further required to cover essential details such as the employee's name, whether the employment is permanent or temporary, date of commencement, salary and other benefits, leaves, and dismissal from employment (among others). Employers are also required to provide each employee with a job description.<sup>287</sup>

This leads to the question of how forced labour practices can arise where workers have provided consent to be engaged in employment, either in writing or verbally. It is important to consider that the existence of formal consent does not always guarantee the free will of workers. For instance, where workers consent under threat of penalty (such as the threat of denunciation to authorities) or direct or indirect coercion, this interferes with their autonomy to consent.

Thus, the importance of considering the autonomy of migrant workers, particularly concerning debt bondage, is stressed, as it may impact or negate workers' consent. Workers required to work overtime, contradicting local legislation and international standards, may comply for fear of dismissal.<sup>288</sup> In some cases, this may be the only way migrant workers can earn a liveable wage. Although workers can refute work in theory, their exacerbated vulnerabilities may mean they feel they do not have a choice and are obliged to comply.<sup>289</sup> This also means that companies or employers that compensate their employees well above the average salary earned may still be conditioning their workers to forced labour practices if they are not free to leave their employment for any reason. Therefore, it can be argued that the current legislative framework governing migration and employment in the Maldives (with its sponsorship features) may be subjecting workers to forced labour practices consequent of policies implemented by the State.

### 8.4 Work Satisfaction

Ensuring that the terms of employment are upheld contributes to work satisfaction, defined as any combination of psychological, physiological, and environmental circumstances that cause a person to consider their working conditions satisfactory.<sup>290</sup> The role of employees in the workplace

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<sup>286</sup> Employment Act (Maldives) art 13.

<sup>287</sup> *ibid* 13–15.

<sup>288</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

<sup>289</sup> Sandro Mezzadra, (ed), 'The Gaze of Autonomy : Capitalism, Migration and Social Struggles', *The contested politics of mobility: borderzones and irregularity* (First issued in paperback, Routledge Taylor & Francis Group 2012).

<sup>290</sup> Robert Hoppock and Samuel Spiegler, 'Job Satisfaction: Researches of 1935-1937' (1938) 16 *Occupations: The Vocational Guidance Journal* 636.

and how people feel about their jobs and their various aspects are also considered in the different definitions offered for this term.<sup>291</sup> Overall, it has been agreed that working conditions are correlated with work satisfaction, particularly concerning compensation, hours worked, and days worked.<sup>292</sup> These categories are not exhaustive; workers are also likely to experience multiple derivations of these categories. To address this, it has been highlighted that employers need to provide the right mix of wages and non-pecuniary job characteristics to achieve and maintain employee work satisfaction.<sup>293</sup>

## WORKING CONDITIONS OF RESPONDENTS

The collected data were analysed by referencing the labour standards set by local legislation as discussed. The research instrument prioritised and included areas such as time spent at work, compensation, and terms of employment, as secondary sources depict these as the most prevalent labour issues migrant workers are subjected to. The respondents' work satisfaction was consequently analysed to understand how they received and considered labour standards and violations.

### 8.5 Time spent at work

#### 8.5.1 Hours worked per day

To assess the working conditions of Bangladeshi migrant workers in terms of hours worked, respondents were queried on the time spent at work per day, including overtime, depicted in [Figure 8.1](#).

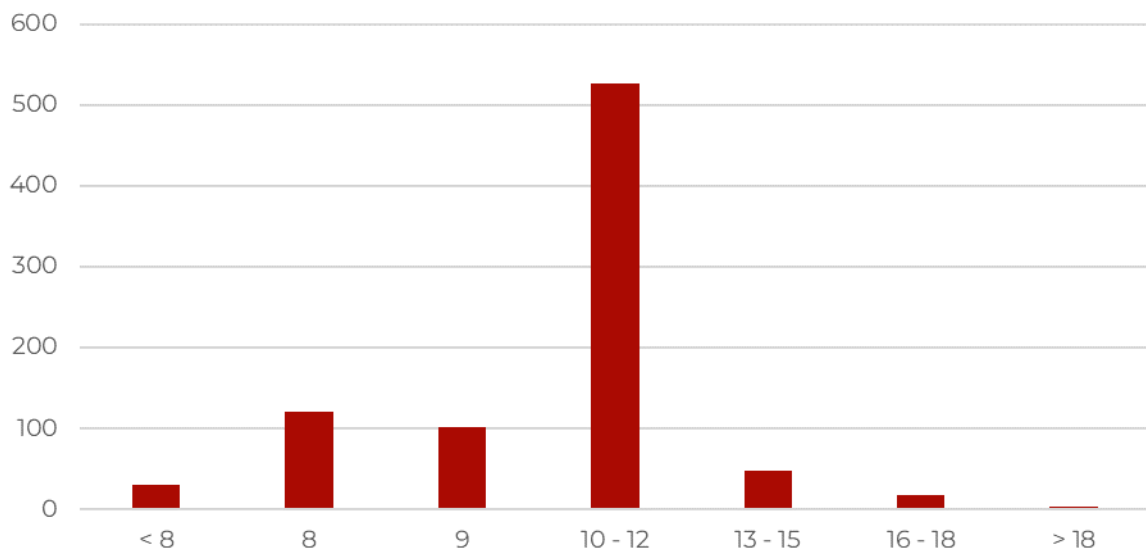
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<sup>291</sup> Laurenz L Meier and Paul E Spector, 'Job Satisfaction' in Cary L Cooper (ed), *Wiley Encyclopedia of Management* (1st edn, Wiley 2015) <<https://onlinelibrary.wiley.com/doi/10.1002/9781118785317.weom050093>> accessed 15 October 2023.

<sup>292</sup> Neeraj Kumari and M Rachna, 'Job Satisfaction of the Employees at the Workplace' (2011) 3 *European Journal of Business and Management* 11.

<sup>293</sup> Robert J Flanagan, George Strauss and Lloyd Ulman, 'Worker Discontent and Work Place Behavior' (1974) 13 *Industrial Relations* 101.





**Figure 8. 1: Number of hours worked by respondents**

Respondents often promptly stated that they work 8 hours when asked about their daily working hours. However, when questioned about when they usually start and end work, the total number of hours exceeded this figure. Therefore, this approach was employed to accurately gauge the actual duration of work, assuming that workers were instructed by their employers to claim they worked 8 hours when questioned by anyone.

As such, the study's findings show that 3.54% of respondents worked less than 8 hours per day, while 14.17% worked 8 hours. This entails that 17.71% of respondents worked 48 hours or less per week and did not work overtime. 11.92% of respondents worked 9 hours per day, which implies that they could have worked one additional hour as overtime, totalling 54 hours per week. Therefore, the working hours of 29.63% of respondents were in line with the international standards set forth by the ILO if respondents had worked six days per week.

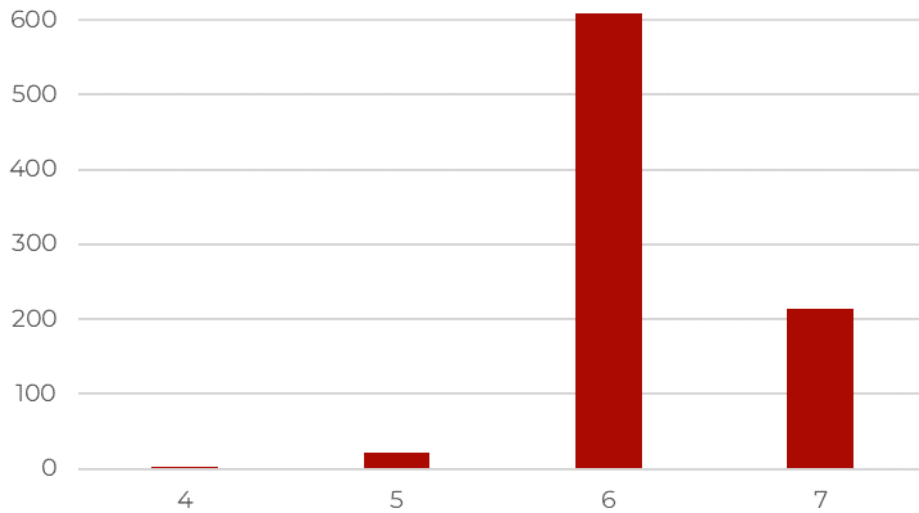
It is concerning that more than half of the respondents (62.22%) worked 10 to 12 hours per day, amounting to 60 to 72 hours per week if they had worked six days. The analysed data collected for this study also found that 5.67% of respondents worked 13 to 15 hours per day, which adds up to 78 to 90 hours per week per this standard. It was also noted that 2.13% of respondents worked 16 to 18 hours per day, totalling 96 to 108 hours per week, followed by 0.35% of respondents who worked more than 108 hours per day.

The findings of this study are dissimilar to the findings reported by HRCM, which stated that 61.2% of their respondents worked 4 to 8 hours per day, while 14.9% worked 9 to 10 hours per day, and 7.5% worked more than 12 hours per day,<sup>294</sup> if they specified their official working hours rather than time spent at work.

<sup>294</sup> The Human Rights Commission of the Maldives, Family Protection Authority and the United Nations Development Programme in the Maldives (n 286).

### 8.5.2 Working days

Respondents were also asked about the number of days worked per week. The results obtained are illustrated in [Figure 8.2](#).

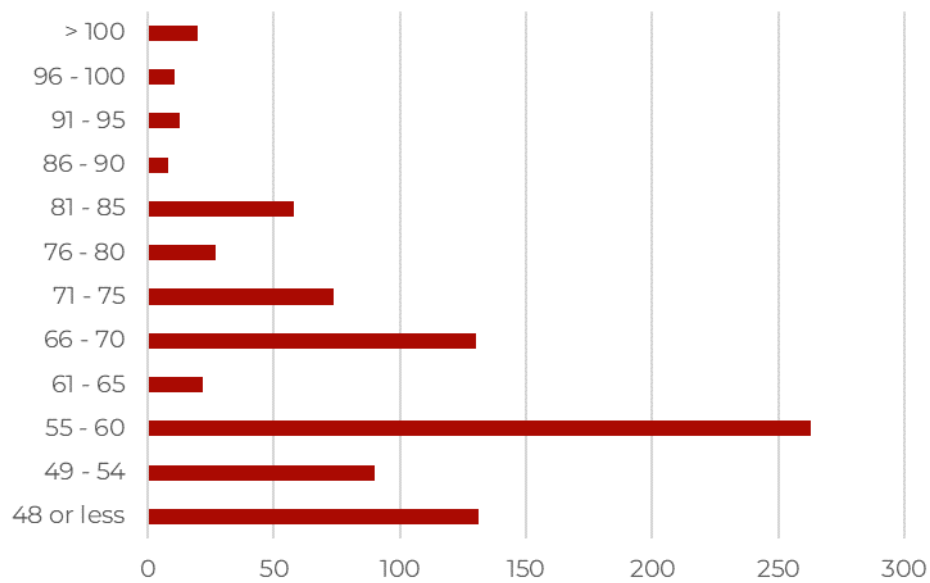


**Figure 8. 2: Number of days worked per week**

Most respondents (71.90%) worked six days per week, whereas 2.60% reported working less than six days per week. Therefore, 74.5% of respondents work 6 days or less, per the legislation governing working hours. However, 25.27% of respondents reported working seven days a week, contravening local laws and international instruments.

### 8.5.3 Hours worked per week

Based on the data illustrated in [Figure 8.1](#) and [Figure 8.2](#), the number of hours worked per respondent was calculated, as depicted in [Figure 8.3](#).



**Figure 8. 3: Number of hours worked per week per respondent**

15.47% of respondents worked 48 hours or less per week in compliance with the Employment Act (2/2008). Where employees work overtime, international standards dictate that they should not be made to work more than 54 hours per week. It was found that 10.63% of respondents worked between 49 and 54 hours per week, indicating that they were made to work in compliance with the international standard, assuming they worked overtime.

The remaining 73.91% of respondents worked in contravention of the Employment Act and international standards, as they responded that they worked for more than 54 hours per week. Of these respondents, 31.05% worked 55 to 60 hours per week, 2.60% worked 61 to 65 hours per week, 15.35% worked 66 to 70 hours per week, 8.74% worked 71 to 75 hours per week, and 3.219% worked between 76 and 80 hours per week. In comparison, 6.85% worked 81 to 85 hours per week, 0.94% worked 86 to 90 hours per week, 1.53% worked from 91 to 95 hours per week, 1.30% worked from 96 to 100 hours, and 2.4% worked more than 100 hours per week.

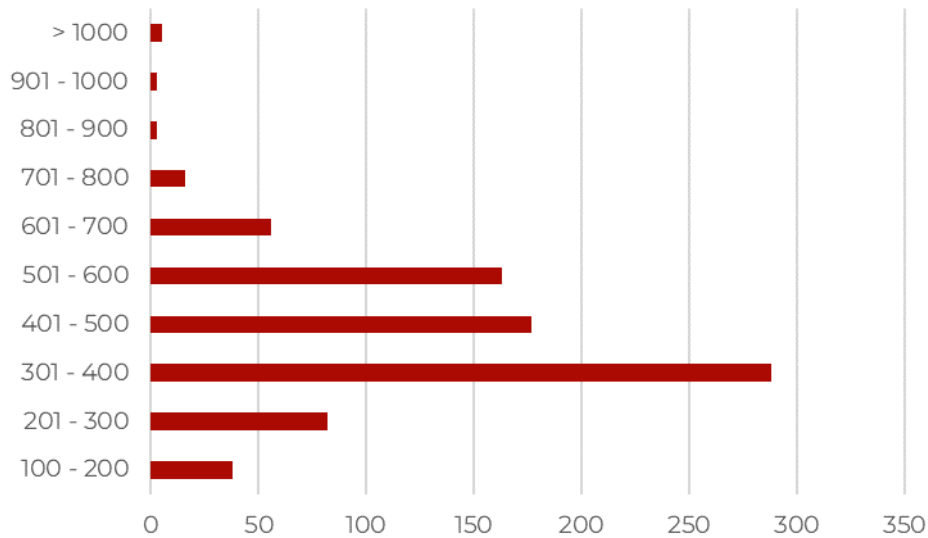
Based on this data, it was found that respondents worked 64 hours per week on average, which amounts to an estimated 11 hours per day. Excessive working hours are classified as an indicator of labour exploitation and forced labour practices, which highlights the importance of monitoring and enforcement initiatives targeted at migrant workers, as they are more susceptible to being subjected to exploitative practices than their local counterparts.<sup>295</sup>

<sup>295</sup> Davies (n 5).

## 8.6 Compensation

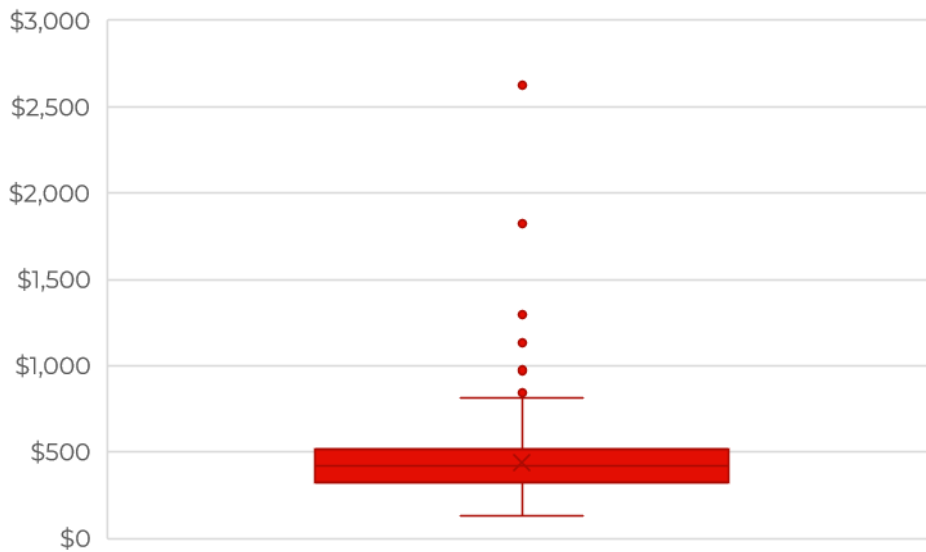
### 8.6.1 Salary

To capture the earnings of Bangladeshi migrant workers residing in the Maldives, respondents were asked how much they are compensated monthly. The results obtained from the data analysis are shown below in [Figure 8.4](#).



**Figure 8. 4: Salary earned by respondents**

Of the 847 respondents who were questioned, 16 did not want to disclose how much they were compensated. 4.49% of respondents reported being compensated less than USD 200, with the lowest amount recorded at USD 129 per month, while 9.68% reported earning between USD 201 and USD 300 per month. The highest percentage of respondents were compensated with an amount ranging from USD 301 to 400 per month (34.00%), followed by USD 401 to 500 per month (20.54%) and USD 501 to 600 per month (19.24%). 6.61% reported being compensated between USD 601 and 700, while 0.35% of respondents reported being compensated between USD 801 and 900 and USD 901 and 1000, respectively, whereas 0.59% reported being compensated more than USD 1000.



**Figure 8. 5: Distribution of salary earned by respondents**

The distribution of salaries earned by respondents is illustrated in Figure 8.5. The median salary recorded is USD 422 per month. It was also noted that 48.29% of respondents earned less than the median salary calculated. The salaries of respondents who received more than the median figure (44% of respondents) were comparatively more scattered. This could be due to differences in job categories and industries respondents are engaged in, which impact respondents' salaries. For instance, many respondents are employed in the construction, wholesale, retail, and trade industries, often not offering high salaries for lower-tier jobs. As this study did not factor in job classifications within industries, an accurate depiction of the variances of salaries and median salaries by industries. Therefore, it is highlighted that further, industry-specific studies would have to be conducted to grasp these values.

### **8.6.2 Comparison of salary with hours worked daily**

Based on the results obtained regarding their salary and the number of hours worked per day, a separate linkage was created to establish the correlation between these two variables. The main objective for this was to ascertain the salary range obtained by migrant workers in relation to the number of hours worked per day and, therefore, determine if salaries increased with the increase in hours worked.

	No. of hours worked per day							Total
	<8	8	9	10-12	13-15	16-18	>18	
100-200	1	19	1	10	0	0	0	<b>31</b>
201-300	1	21	20	37	7	2	1	<b>89</b>
301-400	10	45	28	180	15	8	2	<b>288</b>
401-500	6	12	35	115	8	1	0	<b>177</b>
501-600	5	11	7	127	9	4	0	<b>163</b>
601-700	1	8	9	34	4	0	0	<b>56</b>
701-800	1	0	0	13	2	0	0	<b>16</b>
801-900	1	0	0	2	0	0	0	<b>3</b>
901-1000	2	1	0	0	0	0	0	<b>3</b>
>1000	1	2	0	0	0	2	0	<b>5</b>
	<b>29</b>	<b>119</b>	<b>100</b>	<b>518</b>	<b>45</b>	<b>17</b>	<b>3</b>	<b>831</b>

**Table 8. 2: Salary earned by respondents in comparison to the number of hours worked per day**

The data illustrated in Table 8.2 demonstrates that the majority of the respondents who earned between USD 100 and 200 worked for 8 hours, while the majority of respondents who earned USD 201 to 300 (4.37%), USD 301 to 400 (21.25%), USD 401 to 500 (13.58%), USD 501 to 600 (14.99%), USD 601 to 700 (4.01%), USD 701 to 800 (1.53%), and USD 801 to 900 (0.24%) worked for 10 to 12 hours per day. From the respondents who earned a salary between USD 901 and 1000, the majority (0.24%) worked for less than 8 hours, while the majority of those who earned more than USD 1000 (0.24%) worked for 8 hours and 16 to 18 hours.

### 8.6.3 Minimum wage

It is likely that even if the minimum wage is implemented for migrant workers, it will differ compared to locals. To factor this in, the lowest wage limit set for locals in the private sector (USD 11.22) was initially considered the bar for comparison. By this measure, 10% of respondents are paid less than the lowest wage limit.

The lack of official data related to migration and employment of migrant workers, particularly the classification of businesses that employ migrant workers, proves to be a barrier to accurately analysing minimum wage standards. However, it is safe to assume that small businesses in the private sector are less likely to bring and employ a considerable number of migrant workers, as it is less likely that quotas will be afforded to such businesses in bulk, based on observations made throughout this study.

Therefore, it is reasonable to assume that many migrant workers could be eligible for the minimum wage set for medium businesses in the private sector. By this measure, 53.5% of respondents are compensated less than the minimum wage set for such enterprises. The minimum wage set for small and medium enterprises could be considered the minimum threshold, so enterprises not classified as small, or medium were not considered. The public sector was not factored in, as respondents employed there were considerably less, as it stood at 1.1%.

This connotes that the full range of earnings received by all migrant workers (migrant pay) and the full range of earnings received by locals (nationals' pay) could be starkly different in the Maldives, contributing to an imbalanced wage structure and increased vulnerabilities of migrant workers, making workers more susceptible to commodification.

#### 8.6.4 Average earnings

Based on the analysed data, the average number of hours and days worked, and the average earnings were calculated as shown in [Table 8.3](#).

<b>Average days worked per week</b>	6
<b>Average days worked per month</b>	24
<b>Average hours worked per day</b>	10.7
<b>Average hours worked per week</b>	64.2
<b>Average hours worked per month</b>	256.8
<b>Average wages per day (USD)</b>	18.3
<b>Average salary (USD) per month</b>	438.4

**Table 8.3: The average number of hours and days worked and average earnings by respondents**

The data shows that respondents, on average, worked six days per week and 24 days per month, with an average of 10.7 hours worked per day. When extended to a weekly basis, the average hours worked per week increased to 64.2, and over a month, respondents worked an average of 256.8 hours. The financial aspect of their work revealed an average daily wage of USD 18.3, resulting in an average monthly salary of USD 438.4.

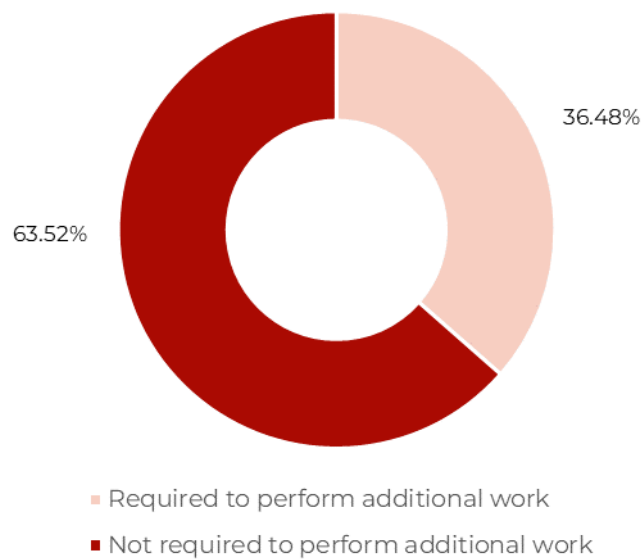
Although the average hours worked to account for any overtime work performed by respondents, the wages and salaries provided by the respondents do not include any deductions that could have been made. Respondents were asked a series of questions to capture an overall depiction of all the factors that should be considered in assessing the compensation afforded, which is depicted below.

## 8.7 Deductions and Wage Manipulation

Subsequently, respondents were asked about deductions and wage manipulations they were subjected to by inquiring whether they were compensated for additional work, provided with accommodation, and whether wage deductions were imposed as a penalty. Payment delays, access to payment, and control over spending were also factored into accounting for this.

### 8.7.1 Additional work

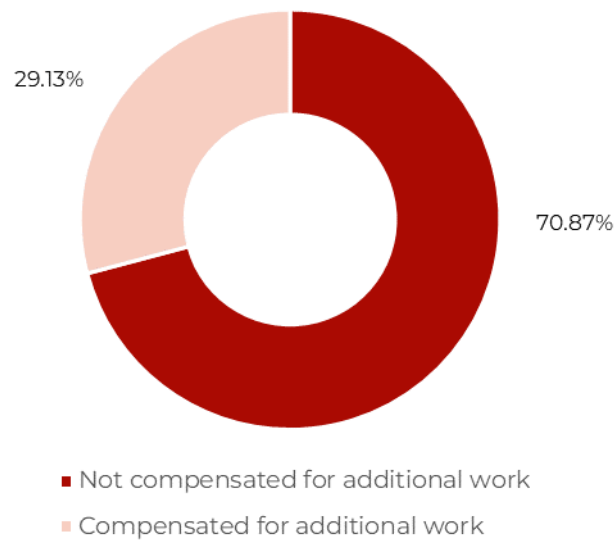
Initially, respondents were asked whether they had been required to perform tasks outside the scope or unrelated to their employment. The results obtained are illustrated in [Figure 8.6](#).



**Figure 8.6: Requirement to perform additional tasks not related to employment**

36.48% of respondents reported that they were asked to carry out work not related to their employment. To assess whether this could have impacted the compensation provided, these respondents subsequently asked whether they were compensated for their additional work, as illustrated in [Figure 8.7](#).





**Figure 8. 7: Compensation for additional tasks unrelated to employment**

Out of the 309 respondents who reported that they were required to do additional work, 70.87% reported that they were not compensated for it. This indicates that the wages earned by more than a quarter (29.13%) of the respondents fall short of the work performed and their productivity. This indicates the prevalence of wage theft, which constitutes unpaid overtime work.

### **8.7.2 Accommodation and Food**

To comprehensively capture the compensation provided with deductions for necessities, respondents were also asked whether accommodation and food expenses were deducted from their salary, the results of which are shown in [Figure 8.8](#).



**Figure 8. 8: Deduction from the salary of the respondents for accommodation and food expenses**

6.97% of respondents reported that their employer deducts living and/or food expenses from their salary. This contravenes the Policy on Arranging Accommodation for Migrant Workers, which places the onus on employers to provide accommodation for their migrant employees.

### 8.7.3 Penalty deductions

Respondents were then questioned as to whether employers deduct from their salary as a penalty. The results obtained are illustrated in Figure 8.9.

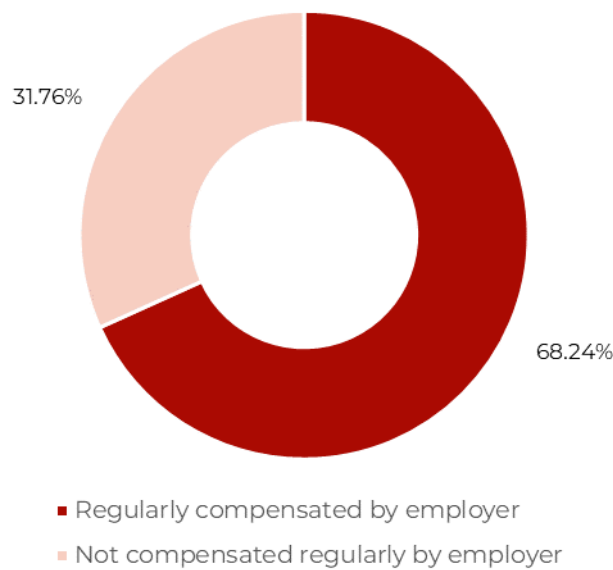


**Figure 8. 9: Deduction from the salary of respondents as a penalty**

8.97% of respondents stated that their employers deducted from their salary as a penalty, which further contributes to inequities in terms of compensation. This connotes that the low earnings of migrant workers are subjected to further deductions in various forms.

### 8.7.4 Delays in payment

It was also noted that cases related to delayed payments and non-payments have increased, whereby migrant workers are either given partial compensation or not compensated at all. To capture the extent to which this is prevalent, respondents were asked whether their employers pay them regularly, as shown in Figure 8.10.



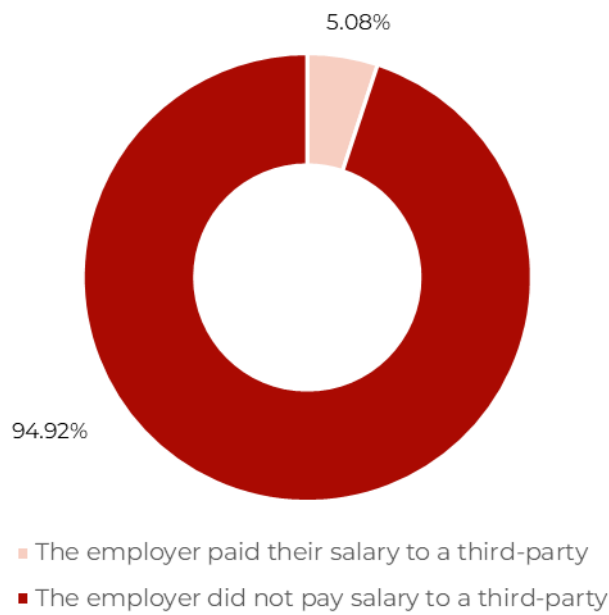
**Figure 8.10: Regularity of compensation by employers**

It was found that 31.76% of respondents are not regularly compensated for their work. As respondents were not further probed to speculate on the average duration for which wages are delayed and where non-payment was noted, previous cases filed at the LRA and Employment Tribunal by PILC were considered in assessing this. Such reports are classified as cases related to wage theft and constitute a form of forced labour.<sup>296</sup>

### 8.7.5 Access to payment

To further grasp the extent to which employers have undue control over their migrant employees, respondents were asked whether their employer pays their salary to someone else and controls their spending. The results are depicted in Figure 8.11.

<sup>296</sup> International Labour Organisation, *Combating Forced Labour: A Handbook for Employers and Business* (2015) <[http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_101171/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_101171/lang--en/index.htm)> accessed 20 April 2023.

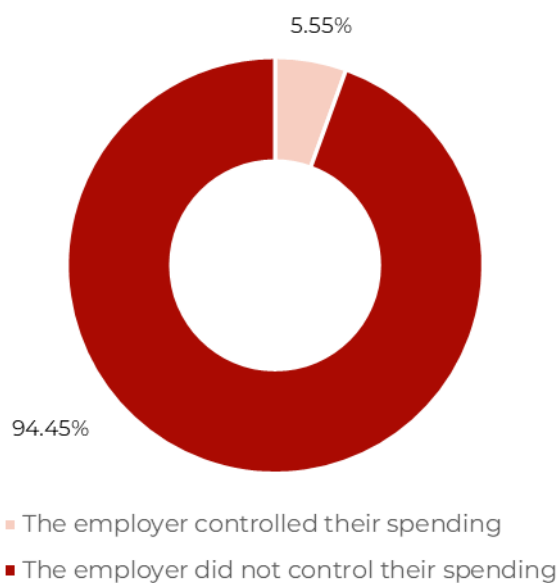


**Figure 8. 11: Respondent's salaries paid to a third party by the employer**

5.08% of respondents reported that their employer had paid their salary to a third party. This could contribute to workers' vulnerabilities by exacerbating factors contributing to poverty as they do not have access to the wages earned. This is indicative of undue control exercised by others over migrant workers.

### 8.7.6 Control over spending

To further assess the prevalence of other ways such control is exercised, respondents were asked whether their employer controlled their spending habits, as illustrated in [Figure 8.12](#).

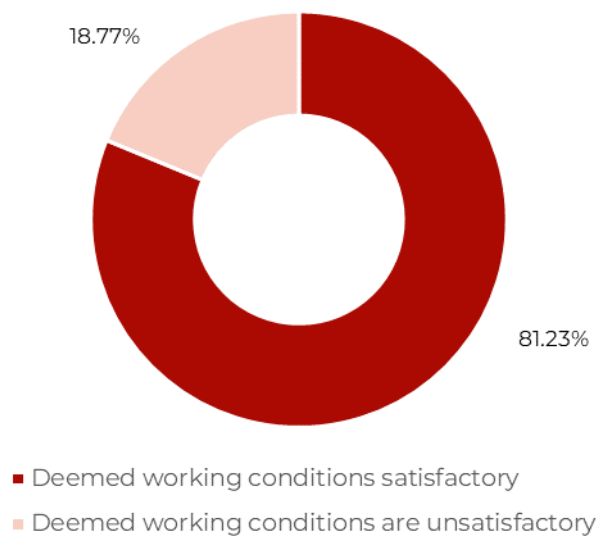


**Figure 8. 12: Controlling of spending habits**

5.55% of respondents responded that their employer controlled their spending, often by dictating items on which they could spend money or imposing strict budgets on employees. This indicates that respondents were subjected to various forms of wage abuse.

## 8.8 Work satisfaction

As discussed, work satisfaction is correlated with working conditions, particularly compensation and time spent at work. Based on these factors, respondents were asked whether they were satisfied with their working conditions compared to the reported working conditions to assess their work satisfaction. The results are illustrated in [Figure 8.13](#).



**Figure 8.13: Work satisfaction of respondents**

In contrast to 18.77% of respondents who considered their working conditions unsatisfactory, 81.23% of respondents considered their working conditions satisfactory, despite several evident violations of labour laws they were subjected to. It should be noted that the indebtedness of workers may contribute to their willingness to accept bad working conditions to repay their debt.

Perception only indicates the understanding or interpretation of participants regarding their working conditions. As experiences may be perceived differently depending on lived experiences, environmental influences, and descriptive factors such as age, education level, culture, and media, perceived satisfaction is not accurately indicative of the situation of workers.

## 8.9 Terms of employment

As reported, respondents were asked whether they were provided with employment contracts and whether they understood the contents of the contract to assess whether they understood their terms of employment.

The majority of workers (70.44%) were not provided with employment agreements. It should be noted that the findings of this study do not depict the validity of agreements, nor does it assess whether the agreements provided include the necessary provisions. Therefore, this is identified as a scope for further research. This poses the possibility that respondents who answered that they were provided employment agreements did not have contracts in line with local laws.

Of the 249 respondents who stated that they were provided with agreements, 33.33% stated they did not understand the contents of the agreement, while 66.67% reported that they understood what was written in the contract. Although this data does not indicate compliance with agreements, the absence of employment agreements indicates forced labour practices, resulting in exacerbated vulnerabilities of migrant workers. This, however, does not connote that workers who are provided with employment agreements cannot be subjected to forced labour practices.

## 9: WORKPLACE PROTECTIONS AND INCIDENTS

While migrant workers are often employed and engaged in what is known as a 3D job, i.e., dirty, dangerous, and demeaning work,<sup>297</sup> they are more exposed to occupational hazards such as heavy physical work, increased risk of injuries and exposure to toxic substances, and poor psychosocial working conditions such as low job autonomy and negative social interactions with xenophobia and racism. Workers often endure substandard living conditions, compounding the infringement of their rights, which presents risks to their overall health and welfare. Globally, 2.3 million people around the world experience work-related injuries or illnesses every year, with over 6,000 work-related deaths every day.<sup>298</sup> Based on this global figure and frequent media reports on workplace incidents, it is evident that this is a concern in the Maldives.

Occupational safety and health [OSH] is the study of predicting, recognising, evaluating, and controlling hazards in or from the workplace that could harm workers' health and well-being, as well as the effects these hazards might have on the community and the environment.<sup>299</sup> "Workplace" is defined by the ILO to include "all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer",<sup>300</sup> indicating that in addition to premises in which employees perform employment, employer-provided accommodations also fall within the scope of the term. Given the vast domain encompassed, coordinating, and implementing OSH systems to ensure worker protection requires a wide range of structures, skills, knowledge, and capabilities.

Evidence suggests that such encounters harm workers' well-being,<sup>301</sup> highlighting the importance of considering the implications of occupational safety and health for migrant workers regarding their health, working conditions, and autonomy. To advocate for these rights, workers also must be provided with avenues to pursue legal action, bargaining power, and improved access to justice.

### OCCUPATIONAL SAFETY AND HEALTH

The Employment Act provides employers and employees with the minimum guidance to meet OSH standards by protecting employees' safety without charging fees and outlining their duties, requiring the provision of the right tools and machinery to meet OSH standards, checking the equipment given, wearing protective gear, and providing proper medical care. In the absence of adequate regulations detailing strict guidelines for OSH standards, key stakeholders continue to

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<sup>297</sup> Alexis A Aronowitz, Gerda Theuermann and Elena Tyurykanova, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (OSCE Office to the Special Representative and Co-ordinator for Combating Trafficking in Human Beings 2010).

<sup>298</sup> Lee, McGuinness and Kawakami (n 240).

<sup>299</sup> Benjamin O Alli, *Fundamental Principles of Occupational Health and Safety* (2nd ed, International Labour Office 2008).

<sup>300</sup> Recommendation R164 - Occupational Safety and Health Recommendation 1981.

<sup>301</sup> Jukka Takala and others, 'Global and European Work Environment—Numbers, Trends, and Strategies' (2009) 35 *Scandinavian journal of work, environment & health* 15.

report difficulties in assessing OSH standards due to the lack of guidelines. Despite legislation stipulating that the Ministry could determine an incident related to OSH, trainings and workshops have been undertaken on this topic over the years since the implementation of the Employment Act. However, it is unclear whether the State undertook any action in implementing these provisions, and official records of OSH accidents remain unaccounted for locally.

## **9.1. Worksites**

As such, the implications and results of such incidents also remain unknown in an official capacity. Although HPA, LRA, and MED are identified as line ministries, reports, or information regarding their work in this area is unavailable. Accurate reporting of occupational injuries and fatalities cannot be ensured due to the infrequency of site visits, inspections, results analysis, and record maintenance. Reports on enforcement mechanisms, penalties for non-compliance, or remedies afforded to victims of OSH incidents were also not accessible, thus making it difficult to accurately depict the frequency and details of OSH incidents.

### **9.1.1 OSH Incidents at Worksites**

In the absence of official data, newspaper articles from local news sources (with keywords such as migrant worker, accident, migrant, death, injury, etc.) were systematically collected as secondary data to capture the OSH incidents that occurred over five years (from 2018 to 2022). It should be noted that the data depicted does not fully capture the OSH hazards, injuries, and prevalence of incidents; this data only accounts for incidents reported by the media, whereby coverage is limited mainly to fatalities.

Initially, the data was studied to assess the prevalence of reported OSH incidents and the number of people injured based on the location of the worksite. The Greater Male' Region is represented separately due to the high concentration of the migrant population residing in the area. The results are depicted in [Table 9.1](#).

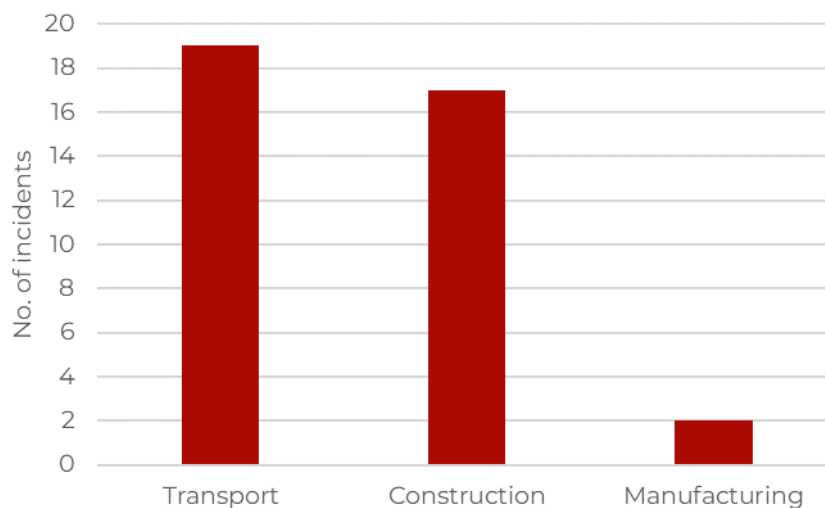


Location	No. of incidents	No. of people
AA	1	1
A Dh	1	3
GA	3	4
G Dh	1	2
HA	1	1
Greater Male' Region	26	104
K	3	5
N	4	5
R	2	2
<b>Total</b>	<b>42</b>	<b>97</b>

**Table 9. 1: Prevalence of OSH incidents by location of worksite**

As illustrated, most incidents were recorded within the Greater Male' Region, with 26 incidents accounting for 61.90% of the total incidents in the past five years, resulting in 104 injured people. Following this, four incidents occurred in Noonu Atoll, where five people were injured. Similarly, it was reported that five people were also injured in three incidents reported in Kaafu Atoll.

The collected data was then analysed to assess whether incidents were reported in specific industries, as illustrated in Figure 9.1. As the statistics were collected via newspaper articles, incidents in certain industries or different employment avenues may have been underreported or not reported. For instance, it would be difficult for such reports to capture incidents that may have occurred within the domestic industry.

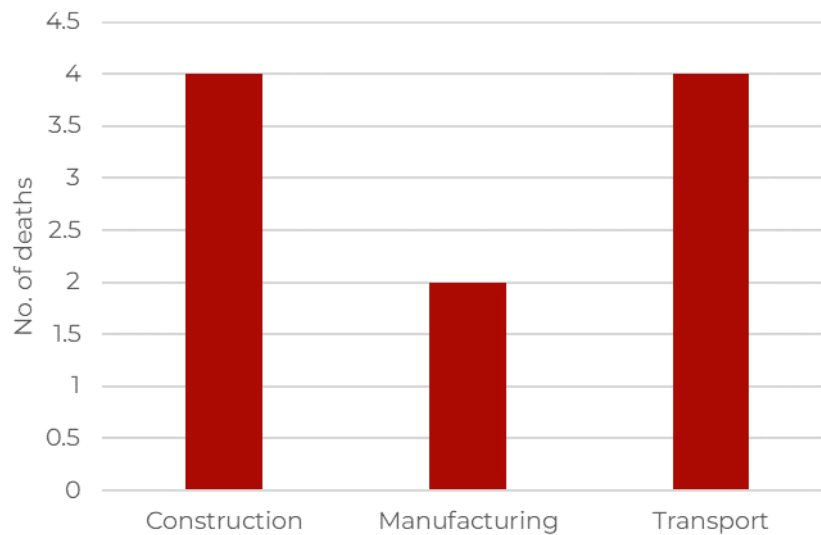


**Figure 9. 1: Reported OSH incidents classified by Industry**

It was noticed that newspaper articles only reported OSH incidents within three industries: transport, construction, and manufacturing. While this could be owed to the significant percentage

of the migrant population employed in these industries, it could also be tied to the fact that more incidents were reported from locations where these industries were primarily established.

28 of the reported incidents resulted in injuries ranging from back pain, cuts, and open wounds to being impaled and casualties, including fractures, head injuries, burns, smoke inhalation, and internal haemorrhage.



**Figure 9.2: Reported OSH deaths classified by industry**

It was reported that the remaining 10 incidents resulted in the victims' deaths, as illustrated in Figure 9.2. The data was further assessed to identify the prevalence of reported OSH-related deaths across industries, from which it was found that 4 deaths had occurred in the construction and transport industry, whereas 2 deaths had occurred in the manufacturing industry within the past 5 years.

## 9.2. Employer-provided accommodations

Although international labour standards state that it is “not desirable” for employers to directly provide housing for their workers unless in cases where their work site is located far from populated areas and where work requires workers to be available at short notice,<sup>302</sup> the Maldivian migration management system and the consequent sponsorship system do not adhere to this. The local law mandates employers to arrange or provide accommodation for their migrant employees.

To guide this, the Regulation on Employee Accommodation Standards (15/2021) outlines the basic standards and requirements employers must adhere to when providing accommodations for their employees in the Maldives, geared towards ensuring the health and safety of migrant workers in their living quarters. The regulation further delineates the requirements that employee accommodation facilities must meet per international human rights standards. However, the efficacy

<sup>302</sup> Recommendation R115 - Workers' Housing Recommendation 1961.

of the guidelines, with the required monitoring and enforcement efforts, remains unknown as the regulation is relatively new.

Furthermore, it should be noted that workers only have access to the accommodations provided by their employers for their employment period. It is plausible for workers to be asked to move out of the employer-provided living arrangement after reaching the end of the employment period, which may occur either at the end of their ascribed employment or when workers resign or are terminated. In such instances, they may be evicted by the employer without prior notice, as there are no laws establishing safeguards for migrant employees in this regard.

In some instances, employer-provided accommodations are established on their worksites, because of which a fixed environment is determined as their place of residence because of which they eat, sleep, live, and work at the same place. It has been observed that employers often assign accommodation sites closer to the work sites, with employer-provided travel arrangements and other schedules, to restrict the mobility of their migrant employees. This restriction on movement could be reinforced through physical restraints such as taller walls and guarded entrances. In most cases, even though the physical restrictions are not in place, the workers do not leave their work sites due to instilled fear.<sup>303</sup> It is not uncommon for workers who reside in employer-provided accommodations in workplaces to either seek permission before going out or for workers to be accompanied by a supervisor.<sup>304</sup> It has been noticed that restrictions on movement are particularly prevalent for domestic workers.

### **9.2.1 State of Accommodation Facilities**

In the absence of official documents and statistics reporting compliance or lack thereof, the news continuously reports issues arising from squalid living arrangements provided for migrant employees. These issues were especially evident during the COVID-19 pandemic when the State and the public became aware of the congested living conditions of migrant workers with the detection of clusters of cases in accommodation facilities, which shed light on employers' lack of compliance with the accommodation standards set by legislation and the State's lack of implementation of monitoring mechanisms.

During this period, inspections revealed the existence of 200 overcrowded dwellings shared by migrant workers; fourteen of these were placed on a list requiring immediate relocation. Deplorable accommodation facilities provided for workers connote that some may live on sites they are employed to build in temporary or unfinished structures.<sup>305</sup> 25 to 50 individuals collectively occupied some of these living spaces, measuring 12 by 13 feet, and many were notably even smaller in size, forcing occupants to allocate schedules for sleeping.<sup>306</sup> It was also highlighted that some

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<sup>303</sup> Sarah Swider, 'Building China: Precarious Employment among Migrant Construction Workers' (2015) 29 *Work, Employment and Society* 41.

<sup>304</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

<sup>305</sup> Human Rights Watch (n 285).

<sup>306</sup> Mariyam Malsa, 'State Zeroes in on 200 Crowded Quarters for Expatriates' *The Edition* (Maldives, 6 April 2020) <<https://edition.mv/search/15977>> accessed 15 October 2023.

facilities do not allow workers to access necessities such as running water, electricity, and adequate toilet facilities.<sup>307</sup>

HRW reported that employers often make 12 to 15 workers share accommodation in rooms measuring 2.5 by 3.5 metres,<sup>308</sup> while the UN Special Rapporteur on Torture stated that employers often make migrant workers share accommodation facilities with up to 200 other workers, requiring workers to sleep in shifts and subjecting them to deplorable hygienic conditions.<sup>309</sup> In 2020, MRC reiterated this after inspecting labour quarters in Male', reporting that each facility housed approximately 200 workers, with 6 to 7 individuals sharing rooms of 100 square feet. In some instances, workers had to resort to sleeping in bathrooms and balconies due to a lack of space. These facilities reportedly did not have adequate spaces for cooking and were often structurally unsound and, therefore, unsafe.<sup>310</sup>

MED also reported this, describing accommodation facilities as clustered, revealing that at times, 50, 30, or 25 migrant workers shared such spaces, and groups had to allocate separate periods for sleeping in some places, and further disclosed that several of these rooms were approximately 12 by 13 feet or were smaller in size. Such arrangements expose workers to fire hazards, pest and rodent infestations, and unstable infrastructure with leaky roofs and mouldy walls.

## 9.2.2 OSH Incidents at Accommodation Facilities

Given the lack of available, published data by stakeholders depicting the living conditions of the migrant population in the Maldives, similar to OSH incidents within the employment sphere, newspaper articles were sourced to capture an overview of the situation.

Year	Location	Type of incident	No. of people injured	No. of deaths
2022	Gulhifalhu	Fire	74	0
2022	Gulhifalhu	Fire	0	0
2022	Male'	Fire	Not reported	10
2019	Hulhumale	Fire	0	0

**Table 9. 2: Reported OSH incidents in accommodation facilities**

All non-compliance and resulting incidents are not reported by the media; instead, they opt to report catastrophes only. As such, four fire incidents were reported, resulting in an estimated 74 injured persons and 10 deaths. The number of casualties emphasises the need for strict adherence to workers' rights and workplace safety rules, laws, and guidelines.

<sup>307</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022); stakeholder conference November 2022

<sup>308</sup> Human Rights Watch (n 285).

<sup>309</sup> Melzer (n 182).

<sup>310</sup> United States Bureau of Democracy, Human Rights and Labor (n 256).

Incidents that illuminate the deplorable housing conditions of migrant workers are exemplified through social media videos and images that depict the substandard quality of the meals provided by employers, consisting of unhealthy food past expiration dates. Incidents such as health concerns arising from unsafe living conditions and the consumption of expired products remain unaddressed, as workers are not provided with avenues to access adequate medical assistance.

This indicates that, in addition to apparent incidents, issues such as ill health resulting from exposure to unsafe environments and chemicals contribute to unreported OSH incidents. Although these issues were debated and highlighted as grave concerns during the pandemic, they are no longer a topic of concern following the pandemic's end, remain unaddressed, and are often not reported by the media.

### **9.3 Monitoring, inspection and reporting**

Without adequate monitoring and inspections, the system relies heavily on employees to report OSH violations and related complaints to the LRA or lodge them with the Tribunal in case of an incident similar to other employment-related violations. However, this has proven ineffective, primarily because of the relationship and power imbalance between migrant workers and their employers, the lack of awareness of labour laws and regulations, and insufficient mechanisms to report violations. The language barrier between migrant workers and locals further contributes to this, as translators are often unavailable in an official capacity at institutions where complaints and grievances can be filed.<sup>311</sup>

Workers who are engaged in precarious jobs or are undocumented workers without an employment agreement are usually hesitant to inform the authorities of the safety hazards at the workplace.<sup>312</sup> Given that a considerable percentage of respondents were undocumented and were not provided with employment agreements, it is likely that these respondents would be hesitant to inform authorities or file complaints. In turn, such workers are more associated with an increase in injuries at the workplace. Workers often worry about the consequences of reporting such safety hazards for fear of losing their jobs. Reports stated that supervisors occasionally informed workers that they had to purchase safety equipment using their money if they required it.<sup>313</sup> Similarly, issues arising from accommodation and lodging provided for migrant workers illustrate the similar haphazard implementation, monitoring, and enforcement at a domestic level.

The lack of training, poor communication of safety standards, and the absence of adequate OSH standards adopted by employers and companies also indicate labour exploitation and, in some instances, forced labour practices, and, in a few cases, have also affected bystanders. Such incidents often spark debate on the safety and security of workplaces, while public reprehension over the poor enforcement of safety practices at work sites continues, pressuring the State to enact proper

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<sup>311</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)

<sup>312</sup> Marc B Schenker, 'A Global Perspective of Migration and Occupational Health' (2010) 53 *American Journal of Industrial Medicine* 329.

<sup>313</sup> Human Rights Watch (n 285).

guidelines and improve enforcement. However, the urgency to take such actions fizzles as days pass. Guidelines and requirements are yet to be published, and inspection efforts have not been adequately improved.

As a result, stakeholders highly depend on NGOs such as PILC and Transparency to carry out advocacy efforts and on MRC in an unofficial capacity to translate, as it is often the only available avenue for translation. Such difficulties in conveying crucial information put the migrant population at risk. Despite this, marginalised and vulnerable populations such as migrants are not adequately factored into policymaking, even though their well-being and overall health also affect the entire population, as is evident from the lack of consideration afforded to the undocumented migrant population in the formulation of the various policies by government agencies that directly impact migrant workers over the past few years.

## 9.4 Access to healthcare

Despite the prevalence of OSH incidents and resulting injuries, a mechanism through which migrant workers can systematically access adequate healthcare is yet to be established, which further exacerbates the vulnerabilities of the migrant population. Although the Health Services Act (29/2015) mandates the provision of health services by the State or private institutions, requiring non-discrimination based on race, nationality, colour, etc., in providing healthcare services, and the policy on the issuance of work permits requires the provision of health insurance for migrant workers,<sup>314</sup> it is evident that workers face difficulties in accessing healthcare, which is further exacerbated by additional factors such as their legal status, line of employment, nationality, etc.

The noted difficulties are also due to the sponsorship system's inefficacy, particularly where employers fail to keep up with insurance payments. Consequently, this presents a pressing issue for undocumented workers, especially those who migrated through irregular channels, as they would not have acquired health insurance in the first place.

Although policies permit undocumented workers to acquire health insurance, workers are often unaware of this. The findings of this study depict that 60.09% of respondents were undocumented, which indicates that these respondents likely do not have health insurance. Instances where healthcare service providers deny workers access to healthcare based on their legal status, including refusing treatment for those without identification documents or work permits, continue to be prevalent, occasionally leading to fatalities.<sup>315</sup>

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<sup>314</sup> Regulation on Expatriate Employment (Maldives) app 4, art 14.

<sup>315</sup> Maldives Independent, 'Undocumented Workers Denied Healthcare' *Maldives Independent* (Maldives, 17 January 2019) <<https://maldivesindependent.com/society/undocumented-workers-denied-healthcare-143492>> accessed 15 October 2023.

Furthermore, with the introduction of "Bandeyri Pay," State institutions such as hospitals no longer accept cash payments, requiring migrant workers to make digital payments only,<sup>316</sup> cementing an additional barrier for a significant population of migrant workers who do not have bank accounts and, therefore, require assistance. Consequently, this entails that where workers are required to pay any amount out of pocket, regardless of whether they have insurance or their legal status, they may not be able to access healthcare.

Therefore, even where workers are documented and have identification documents, valid work permits, and insurance, they may still face barriers to accessing healthcare. A notable barrier prevails where employers often confine workers to their worksites or accommodation facilities, requiring supervision to exit the premises. It is also common for employers to require them to work even when they are ill.<sup>317</sup> Compounding labour violations and restrictions on accessing necessities such as healthcare have resulted in several disputes and industrial actions organised by workers. However, investigations of such issues, particularly by delving into the prevalence of OSH-related incidents, are not adequately carried out, because of which policy formulation and implementation are not often data-driven and, therefore, fall short of amply redressing grievances.

## **OCCUPATIONAL SAFETY AND HEALTH OF RESPONDENTS**

Although the data collected for this study cannot portray an accurate level of compliance or reflect the prevalence of incidents, questions were targeted to capture the safeguards established to ensure workers' health and well-being and protect them from OSH incidents to the extent governed by the Employment Act.

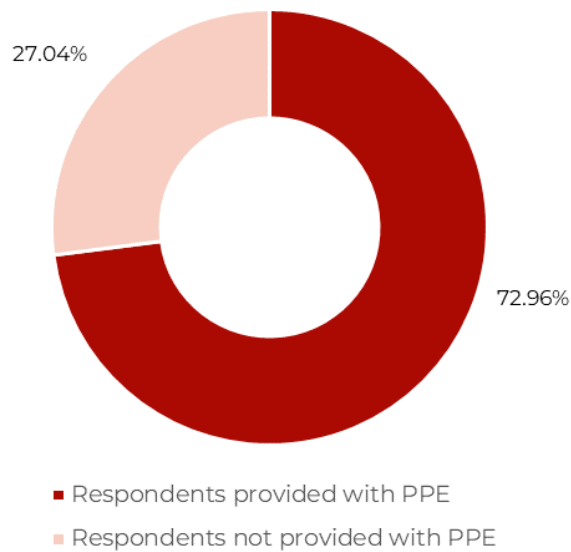
### **9.5 Provision of personal protective equipment**

As such, respondents were asked whether their employers or supervisors provided them with the necessary personal protective equipment [PPE] to assess whether their workplaces complied with the law. The results obtained are illustrated in [Figure 9.3](#).

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<sup>316</sup> Ministry of Finance, 'Circular on Initiation of Bandeyri Utility Portal' <<https://www.finance.gov.mv/media/public-finance-circulars/bandeyri-utility-portal-feshumaai-gulhey>> accessed 3 March 2024.

<sup>317</sup> Meeting with Public Interest Law Centre (Male', Maldives, 26 February 2022)



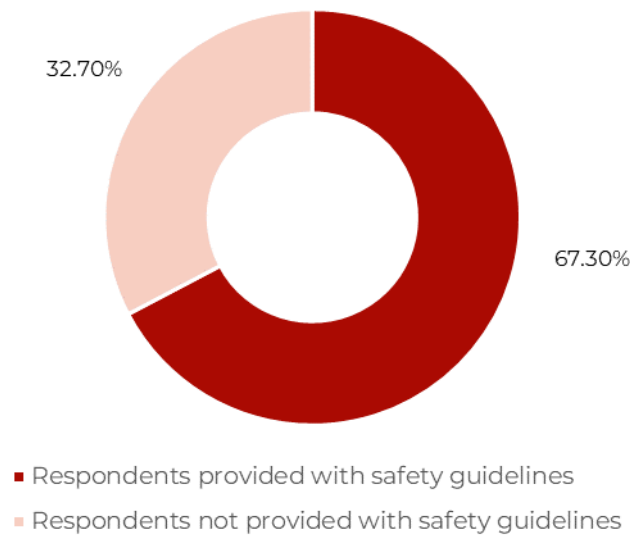
**Figure 9. 3: Provision of PPE**

72.96% of respondents answered that they were provided with the necessary equipment, while the remaining 27.04% stated they were not provided with the required equipment. Despite the high percentage of respondents who reportedly were not provided with PPE and several incidents of injury and death due to OSH hazards, most local sources, such as the afore-discussed newspaper articles, do not mention PPEs or the lack of it. Identifying incidents due to a lack of equipment, training, or instructions and the lack of proper reporting of such incidents to the public can lead to a lack of accountability, contributing to repetition.

## 9.6 Provision of safety guidelines

In the absence of adequate national policies and regulations on occupational safety and health, standards and rules set by companies and institutions to be followed internally are increasingly important. To capture whether such standards are established, respondents were further questioned on whether they were provided with safety guidelines that had to be followed in their respective workplaces, of which the results are depicted in [Figure 9.4](#).





**Figure 9. 4: Provision of safety guidelines**

67.30% of respondents answered that they were provided with safety guidelines, while 32.70% reported that they were not provided with safety guidelines. This indicates that more respondents were provided with PPE than the percentage of respondents provided with safety guidelines.

The collected data was further analysed to assess whether those provided with PPE were given accompanying information or safety guidelines.

	Safety guidelines provided		Safety guidelines not provided	
	No. of respondents	%	No. of respondents	%
<b>PPE provided</b>	551	65.05	67	7.91
<b>PPE not provided</b>	19	2.24	210	24.79

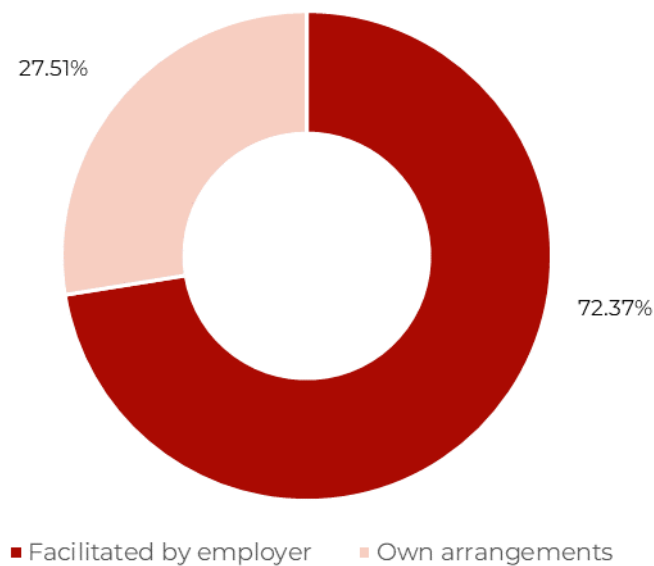
**Table 9. 3: Accompanying information provided along with PPE**

It was found that 65.05% of respondents were provided with equipment and guidelines as required by law. However, 7.91% of respondents reported that although they were provided with protective equipment, they were not provided with guidelines, indicating that they may not have been well informed on how to use the equipment provided. In contrast, 2.24% of respondents reported that they were provided with safety guidelines but not PPEs, and 24.79% reported that they were neither provided with equipment nor guidelines.

It should also be noted that follow-up articles reporting the aftermath of incidents regarding employers' accountability are rare. Some articles mentioned the launch of further investigation; however, not all circumstances mention the results of this investigation.

## 9.7 Facilitation of accommodation

As this study considers employer-provided accommodation as part of the “workplaces” of employees, respondents were asked about their living arrangements, particularly about the party who facilitated their accommodation and the available facilities at their residence. The questions were structured based on the reviewed literature and the legislative framework guided by the Regulation on Employee Accommodation Standards by Employers. The collected data is illustrated in [Figure 9.5](#).

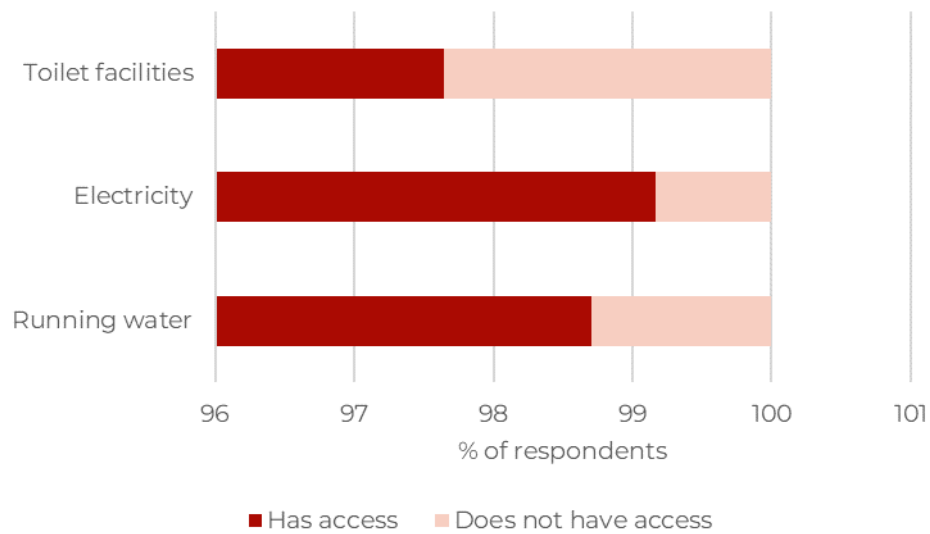


**Figure 9. 5: Facilitation of Accommodation**

27.5% of respondents reported having to facilitate their accommodation. However, it cannot be concluded that all these respondents were denied accommodation by their employers, as it could have been their preference to opt out of such arrangements. In contrast, most respondents (72.37%) mentioned that their employer facilitated their accommodation by providing them with an allowance or arranging a facility. As the data collected does not reflect the status of accommodation facilities, it could not be assessed whether the facilities met the criteria for housing to be considered adequate or whether they were safe for respondents to inhabit.

### 9.7.1 Access to Amenities

As such, even where employers provide accommodation and amenities, the collected data does not fully capture the level of compliance. However, the data indicates whether respondents were provided access to three necessary amenities: running water, bathroom facilities, and electricity, as illustrated in [Figure 9.6](#).



**Figure 9. 6: Access to amenities**

Overall, most respondents reported having access to these amenities, as 98.70% reported having access to running water, 99.17% reported having access to electricity, and 97.64% reported having access to toilet facilities. The data illustrates that of the detailed amenities, the comparatively lowest percentage of respondents reported having access to toilet facilities, indicating that 2.80% of respondents did not have access to toilet facilities, followed by 1.30% who did not have access to running water and 0.83% who did not have access to electricity.

While this data provides a baseline understanding of accessibility, it should be noted that this does not imply adequate provision, safety, or quality of service. For instance, accessibility to toilet facilities does not indicate that the facilities meet hygiene requirements. Ensuring the quality of such facilities is essential, as a lack thereof can lead to several health issues, such as the spread of preventable and communicable diseases.

Similarly, although most respondents reported having access to running water, this does not indicate water quality, particularly whether the available water was safe for consumption. Although the Maldives Water and Sewerage Company [MWSC] claims the quality of the water matches international drinking water guidelines endorsed by WHO, the utility provider can only ensure the quality until the boundary of the living establishment. Therefore, quality assurance regarding water provided to migrant living establishments cannot be guaranteed.

The quality of such facilities and accessibility could also depend on the accommodation facilities' quality. It is often reported that accommodation facilities for migrant workers, or substitute facilities, are often old and dodgy buildings, the quality of which is not evaluated or maintained adequately. This could also impact the quality of electricity available at accommodation facilities. As such, the data does not indicate whether electricity was available constantly or periodically.

## 9.8 Mitigating disaster

The human, social, and economic costs of OSH accidents, injuries, diseases, disasters, and compensation remain high and a constant source of concern at all levels, from individuals, households, and workplaces to the level of nations and international organisations. Although the Maldives has developed measures and strategies to ensure the general communities' and workers' health and well-being, improvement has been slow. In the meantime, occupational accidents, diseases, and the subsequent rise in cost in terms of human suffering and the economic burden continue to increase in the form of loss of earnings, other compensations, lost working time, decreased productivity, increased training, retraining, and medical expenses persist.

To mitigate these damages, ensuring the health and well-being of the migrant communities, particularly unskilled workers living in congested living conditions and those subjected to occupational safety and health hazards, is equally important as ensuring the local population's health. This chapter illustrates the utmost importance of addressing the situation by providing better protection to workers in imminent danger, as these conditions place foreign workers at an increased risk of occupational injuries and fatalities compared to local workers, even those employed in the same job in the same industry.

The impact of workplace incidents on workers and their families also needs urgent attention. A mechanism for worker compensation for such incidents needs to be developed and implemented due to the workers' inability to earn and, where necessary, long-term healthcare needs, especially since the impact of this on the livelihood of both locals and migrant workers is vast.

## 10: DISCRIMINATION AND ABUSE

To cater to the increasing diversity resulting from migration, States continue to work on adapting to the realities of multi-ethnic societies by adopting political, legal, social, and economic interventions. However, such initiatives are often met with increased resistance, which stems from prejudiced beliefs and biases, resulting in discrimination and violence directed at migrants and non-nationals. Consequently, xenophobia, racism, and abuse perpetuated as a result continue to persist and increase. As such, this is noted as a significant global challenge for migrant workers, such that it is recognised as a migration-related stressor that may affect the mental health of migrants.<sup>318</sup>

Similarly, migrant workers in the Maldives face prejudice and discrimination and are subjected to stereotypes resulting from differences in cultural, traditional, and societal beliefs. As a result, these overt and covert biases manifest in written policies and procedures and during implementation. Such structural mechanisms contribute to and operate on such partisanship, perpetuating discrimination and resulting in them becoming the target of internal disputes on nationalism, national security, and overall safety. Being subject to such biases and abuses shapes the labour migration experience of migrant workers and contributes to their vulnerabilities.

However, the true extent to which this impacts the migrant community at a local level remains unknown due to a lack of available information and literature that captures the scale of discrimination and abuse. This study aims to fill a gap in the literature with its findings supported by presented secondary data.

### DISCRIMINATION IN THEORY

Discrimination is considered present where a person cannot enjoy their human rights or labour rights equally with others due to unjustified distinctions made in policy, law, or treatment.<sup>319</sup> This could occur based on different characteristics such as sex, age, race, religion, immigration status, and employment.

#### 10.1 Grounds of Discrimination

Racial discrimination is based on race, colour, descent, national or ethnic origin, and other similar characteristics, of which discrimination based on nationality is subset. Meanwhile, discrimination based on immigration involves the person's immigration status instead of their country of origin. Conversely, individuals may also be discriminated against based on their

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<sup>318</sup> International Labour Office, International Organisation for Migration, and Office of the High Commissioner for Human Rights (OHCHR), 'International Migration, Racism, Discrimination and Xenophobia' (2001).

<sup>319</sup> Amnesty International, 'What Is Discrimination?' (*Amnesty International*) <<https://www.amnesty.org/en/what-we-do/discrimination/>> accessed 3 March 2024.

employment status, occupation, scope of work, job title, and other factors related to their employment.<sup>320</sup>

The interplay of these characteristics as bases of discrimination plays a significant role in how migrant workers are seen as "others," different from locals.<sup>321</sup> Whereby relationships in and outside of work are guided by the idea of advantaged and disadvantaged groups in mind, perpetuating internalised racism. To promote and safeguard the right to non-discrimination, workers, regardless of nationality, race, and legal status, are provided equal protection under the local law, specifically labour laws. Despite these safeguards, discrimination and propagated abuse remain prevalent in the Maldivian community.

The pervasiveness of discrimination, particularly racial discrimination against migrant workers, is commonly observed in day-to-day interactions and is observed to be more prevalent for Bangladeshis residing in the Maldives, as Bangladeshi workers are in greater numbers compared to other nationalities. This is evident from the terms *'bangaalhi'* or *'bondhu'*<sup>322</sup> used to refer to all migrant workers regardless of their nationality, despite these terms referencing people from Bangladesh, either as an abbreviation or per the local language, or the term *'ori'* used to refer to Sri Lankans.<sup>323</sup> Such terms are known to be used with negative connotations, often to demean migrant workers, and therefore are generally considered slurs. As most Bangladeshi workers are engaged in low-skilled employment, the entirety of the population is often generalised to similar occupations.

Despite such observations on social and legal bases, racial motives are not considered aggravating circumstances as per the penal law, nor have there been any recorded cases in which cases of racial discrimination have been lodged with courts or other relevant bodies.

Similar to the generalisation of race and the type of employment migrant workers are engaged in, it is believed that the majority of the migrant population in the Maldives is undocumented, despite the absence of published empirical evidence that states as such thus far. Discourse related to the undocumented population is often discussed either in terms of the rise in crime, such as assault, civil disobedience, theft, sexual assault, and drug abuse or in terms of unregistered businesses carried out by migrants.<sup>324</sup> Such prejudice is evident, as migrant workers are often threatened with denunciation and deportation. Employers use particularly harsh reprimands for undocumented workers under this premise, which enables exploitation of the dependence of

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<sup>320</sup> Convention on the Elimination of Racial Discrimination 1965.

<sup>321</sup> Yao-Tai Li, "It's Not Discrimination": Chinese Migrant Workers' Perceptions of and Reactions to Racial Microaggressions in Australia' (2019) 62 Sociological Perspectives 554.

<sup>322</sup> Dhen.mv, 'އަބަދުގެ ބަންދު' (Trans: "Bonduns" entering legally and living illegally is more bothersome)' *Dhen.mv* (8 June 2020) <<https://dhen.mv/5431>> accessed 3 March 2024.

<sup>323</sup> Abdul Latheef, '!! ދިވެހިރާއްޖޭގެ ސަލާމަތީގައި ބަންދުގެ އަދަދުގައި ހިމާލުގެ ސަލާމަތީގައި ބަންދު' (trans: There is no peace in the country without moving "bangalhees" to Gulhifalhu)' *Miadhu Daily* (25 November 2016) <<https://miadhu.mv/article/read/20278>> accessed 3 March 2024; Abdul Latheef, '!! ދިވެހިރާއްޖޭގެ ސަލާމަތީގައި ބަންދުގެ އަދަދުގައި ހިމާލުގެ ސަލާމަތީގައި ބަންދު' (trans: There is no greater national threat than the abundance of 'Bangaalhees' in the country!)' *Miadhu Daily* (18 June 2017) <<https://miadhu.mv/article/read/26760>> accessed 3 March 2024.

<sup>324</sup> Simaha Naseem, '!! ރާއްޖޭގެ ސަލާމަތީގައި ބަންދުގެ އަދަދުގައި ހިމާލުގެ ސަލާމަތީގައި ބަންދު' (trans: Whats missing for migrant workers is only ID card now!)' *Raajje.mv* (15 October 2021) <<https://raajje.mv/107961>> accessed 3 March 2024.

workers on their employers to maintain their legal status.<sup>325</sup> It is typical for workers' basic human and labour rights to be denied on these grounds. In contrast, employers and co-workers often justify their actions because illegality or wrongdoing should not be rewarded.<sup>326</sup>

## 10.2 Discrimination and abuse in practice

Prejudiced distinctions are also observed against migrant workers in workplaces and within communities. While this does not explicitly include segregation, racial and xenophobic undertones are observed. As such, different types of discrimination and abuse manifest differently at various levels. Therefore, a distinction must be made in how it occurs in the workplace, within employee-employer relationships, among coworkers, and across general society.

### 10.2.1 Discrimination and abuse in the workplace

Workers, especially those employed in unskilled employment, are more likely to be subject to precarity and discrimination than to be free from it, as they are more likely to be concentrated in comparatively exploitative industries.<sup>327</sup> Such workers are more likely to be bullied at work, subjected to various forms of harassment, subjected to racism, mistreatment, and exploitative working conditions, among others.<sup>328</sup> It is also believed that certain groups are deemed more "obedient" and are considered for specific workplaces and retained based on this belief, as it may be comparatively more straightforward to compel them to work longer hours without additional pay, safety equipment, and other incentives.<sup>329</sup>

Where workers choose to stay on the job, accepting maltreatment, they may become accustomed to such practices. However, in some cases, workers may find alternative employment in the Maldives through legal or illegal means. Abysmal treatment of migrant workers contributes to why migrant workers abscond from employment, as not all workers would be complicit, which consequently increases the number of undocumented workers, as changing employment without following due procedure would result in workers becoming irregular, which contributes to the festering of the informal employment sector. As such, exploitative labour practices are sanctioned by prejudice and discriminatory ideologies.<sup>330</sup>

While the victim's or employer's perspective is often considered in the literature on workplace discrimination and abuse, it is crucial to take into account how third parties perceive and reflect such abuse, as abusive employers may motivate different third-party reactions.<sup>331</sup> Literature depicts that

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<sup>325</sup> Bridget Anderson, 'Migration, Immigration Controls and the Fashioning of Precarious Workers' (2010) 24 *Work, Employment and Society* 300.

<sup>326</sup> *ibid.*

<sup>327</sup> Najeeb (n 24).

<sup>328</sup> Andrés A Agudelo-Suárez and others, 'The Effect of Perceived Discrimination on the Health of Immigrant Workers in Spain' (2011) 11 *BMC Public Health* 652.

<sup>329</sup> Li (n 332).

<sup>330</sup> Ismail Shakir, 'މަސައްސަދާ ފަރާތްތަކުގެ ދެމިހެން ބަލާލުން: ދިވެހިރާއްޖޭގައި ދިރިރައްކިތެއް ގެތެރެއިން ހުރި ބަލަވާލުމުގެ ބަލަވާލުން' (trans: Migrant workers are being severely mistreated: HRCM) (18 December 2012) <<https://sun.mv/25259>> accessed 3 March 2024.

<sup>331</sup> Kenneth J Harris and others, 'An Investigation of Abusive Supervision, Vicarious Abusive Supervision, and Their Joint Impacts' (2013) 153 *The Journal of Social Psychology* 38.

responses depend on their evaluation of the target of abuse.<sup>332</sup> Therefore, coworkers of migrant workers whose ideologies are tainted with xenophobia or discriminatory sentiments against migrant workers may perpetuate further abuse. As such, respondents who reported verbal or physical abuse from employers could have likely reported similar abuse on a different scale from their co-workers.

### **10.2.2 Discrimination and abuse in the community**

It is prevalent in Maldivian society to maintain the status quo of local privilege and secure group positions to maintain stability. As such, literature shows that locals are likely to be unaware of discrimination, as racial bias is automatic, ambiguous, and ambivalent, to the extent that it is difficult for people to identify it themselves.<sup>333</sup> However, such biases may be comparatively more noticeable for outsiders.

This was noted as some islands where data was collected had separate hotels, cafes, and leisure areas, such as parks, for migrant workers, preventing them from using or sharing local facilities, which locals did not view as discriminatory or contributing to segregation because they were considered the "norm." This is also seen in the arguments that arise following the recurrent decisions by relevant authorities to charge migrants for using public parks.<sup>334</sup>

Given the dispersion of populations and the newly instilled decentralised mechanism of governance, where migrant workers resort to grievance redressal mechanisms such as filing a complaint with the local police or with the local council, it is likely that they are subjected to further harassment in such instances. It was observed that island communities have a sense of solidarity, which, coupled with xenophobic sentiments, aggrieves them when a person they consider an "outsider" retaliates against one of their own. In such scenarios, migrant workers may opt to stay quiet or tolerate such abuse, fearing further repercussions, especially from people well-respected within the community or by those in power. The "us-against-them" mentality is often shared across communities and other stakeholders who operate on a decentralised level.

Incidents where employers file complaints against their migrant employees for speaking to locals, particularly social assistance providers such as mobilised teams from the PILC, were commonly reported. Ideologies that instigated such practices often had themes of presumed commodification of workers, whereas workers were considered properties and were not allowed to engage with the community without prior permission.

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<sup>332</sup> Marie S Mitchell, Ryan M Vogel and Robert Folger, 'Third Parties' Reactions to the Abusive Supervision of Coworkers.' (2015) 100 *Journal of Applied Psychology* 1040.

<sup>333</sup> Mahzarin R Banaji, Susan T Fiske and Douglas S Massey, 'Systemic Racism: Individuals and Interactions, Institutions and Society' (2021) 6 *Cognitive Research: Principles and Implications* 82.

<sup>334</sup> Fathmath Isha and Hassan Moosa, "'Migrant Workers Keep out!': A Day at Rasrani Park' *Maldives Independent (archived)* (5 September 2017) <<https://archive.mv/en/articles/Vj8Q0>> accessed 3 March 2024.



### 10.3 Propagation of discrimination

Such ideologies and biases are further fuelled by visible policing practices, institutions perpetuating institutionalised racism, and the media portraying migrant workers in a negative light, which breeds mistrust, creates societal stratification between communities, incites violence, and creates a barrier to ensuring democratic processes. There have been several instances wherein discriminatory and xenophobic ideologies have been propagated through broadcast, print, online media, and fictional characters in entertainment under the guise of freedom of speech and entertainment. This has likely resulted in increased aggression towards migrants, which may lead to unsafe living and working conditions. It can be concluded that pushing forth such ideologies within society further instils the ongoing narrative that migration causes more social deterioration than contributes to the growth and prosperity of the country.

### 10.4 Systematic discrimination

Considering how such structures shape individual minds, what perpetuates societal and individual discrimination needs to be stressed. The inbuilt and intrinsic operations of society's structures cemented systematic discrimination, particularly racism, against the migrant community.<sup>335</sup> This highlights the importance of considering the connection between individual, interactional, institutional, and societal discrimination, which cements systematic discrimination that results in formulating and implementing discriminatory policies and practices.

As such, it should be questioned whether various forms of racism have persisted in the Maldives despite the improvement or revision of immigration and employment policies enacted to facilitate multiculturalism or because of it. For instance, while local employment laws are applicable for all residents, regardless of nationality or legal status, discrimination is noted on a policy level as migrant workers are excluded from certain social security benefits, such as the minimum wage and salary structures. The findings of this study illustrate that a significant percentage of respondents were paid below the minimum wage, stressing the importance of including migrant workers in the wage policy to ensure that workers are adequately compensated. The exclusion of migrant workers from adopted salary structures prevents safeguards that ensure workers are paid equally for work of equal value.

Similarly, various government administrations have expressed discriminatory sentiments while discussing the facilitation of housing arrangements for migrant workers. Advocates for the segregation of migrant workers from the local community, particularly in the Greater Male' Region, have been lobbying to move all migrant accommodation to a nearby island, of which development is underway.<sup>336</sup> The idea behind it is to ensure migrant workers are isolated from the community to

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<sup>335</sup> Banaji, Fiske and Massey (n 344).

<sup>336</sup> Abdul Latheef, *هناك عدم استقرار في البلاد، لا يمكن تحقيق السلام في البلاد إلا بالنزوح* (trans: There is no peace in the country without moving "bangalhees" to Gulhifalhu)' (n 334).

ensure the safety of locals, founded on the principle that migrant workers threaten national security.<sup>337</sup>

Although most discriminatory practices are subtle, blatant discrimination is sometimes observed following the implementation of policies, such as the reception of the public towards the implementation of the policy to provide free vaccination regardless of their legal status and facilitate free quarantine services for migrant workers amidst the pandemic.<sup>338</sup>

## 10.5 Perception of discrimination

Despite the prevalence of discrimination and abuse, it is difficult for victims to identify such behaviour as it is often normalised,<sup>339</sup> due to which the oppressed often develop internalised racist ideologies and values.<sup>340</sup> Although the local law stipulates that the onus lies with employers to prove that they did not discriminate against workers at the adjudication stage, they would need to initially identify discrimination to file a case or complaint with the relevant authority.

Those who are subjected to discrimination are more likely to have worse self-perceived health,<sup>341</sup> higher prevalence of chronic diseases,<sup>342</sup> and possibly increased mental health issues,<sup>343</sup> eliciting perceived harm and negative emotions such as fear and anger. This impacts the recipient's psyche, where each interaction with the abuser, whether positive or negative, becomes a source of stress. The perception of abuse by victims and oppressed groups in general contributes to the adverse impact.

Overall, mistreatment such as this significantly impacts the psychological and physical health of migrants, either as direct effects that happen right after an aggressive interaction or as long-term effects after repeated exposure. Prolonged exposure could result in the development of chronic mental health impairments such as mood disorders, anxiety disorders, addiction, or feeling suicidal. Such impacts indubitably multiply, considering that victims reside in a foreign country away from their families and support structures.

To ensure the health and well-being of the migrant community, combating and learning to cope with discrimination and other migration-related stressors is important.<sup>344</sup> To achieve this, the

<sup>337</sup> Abdul Latheef, 'مردودوں کی تعداد سے زیادہ ہے! (trans: There is no greater national threat than the abundance of 'Bangaalhees' in the country!)' (n 334).

<sup>338</sup> Fazeena Ahmed, 'مردودوں کی تعداد سے زیادہ ہے! (Trans: What is the attitude towards migrant workers?)' *Mihaaru* (7 May 2020) <<https://mihaaru.com/report/73584>> accessed 3 March 2024.

<sup>339</sup> Global Migration Group (n 233).

<sup>340</sup> Rita Kohli, 'Unpacking Internalized Racism: Teachers of Color Striving for Racially Just Classrooms' (2014) 17 *Race*.

<sup>341</sup> Elizabeth Pascoe and Laura Richman, 'Perceived Discrimination and Health: A Meta-Analytic Review' (2009) 135 *Psychological bulletin* 531.

<sup>342</sup> Gilbert C Gee and others, 'A Nationwide Study of Discrimination and Chronic Health Conditions Among Asian Americans' (2007) 97 *American Journal of Public Health* 1275.

<sup>343</sup> Wisdom Powell Hammond, Marion Gillen and Irene H Yen, 'Workplace Discrimination and Depressive Symptoms: A Study of Multi-Ethnic Hospital Employees' (2010) 2 *Race and social problems* 19.

<sup>344</sup> Noraini Noor and Muhamad Shaker, 'Perceived Workplace Discrimination, Coping and Psychological Distress among Unskilled Indonesian Migrant Workers in Malaysia' (2017) 57 *International Journal of Intercultural Relations* 19.

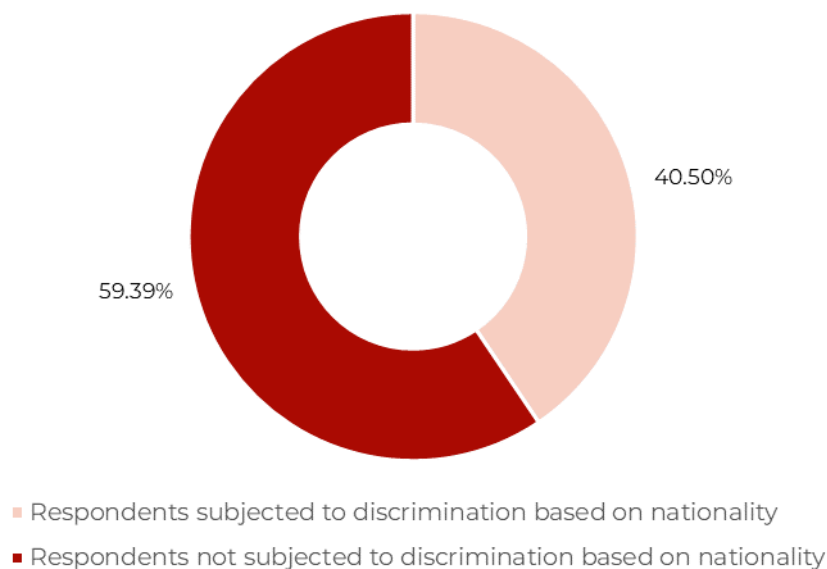
perception of discrimination and its reception by different groups of workers also must be factored in. For instance, research suggests that while female migrant workers may be subjected to more discriminatory practices, male migrant workers are more negatively affected by discrimination.<sup>345</sup> This could be owed to collectivist cultures that are still patriarchal, in which males are seen as heads of the family (including extended families) and, therefore, responsible for taking care of the rest of the family, thus increasing the chances of having higher levels of psychological distress.

## DISCRIMINATION AND ABUSE REPORTED BY RESPONDENTS

As cases regarding discrimination constantly make headlines, this study focused on assessing the prevalence of different types of discrimination at different avenues and analysing respondents' outlooks on such issues. This study accounts for overt and subtle forms of discrimination, discussed in terms of verbal abuse, physical abuse, discrimination based on race, and discrimination based on legal status, as perceived, and reported by respondents. It should be noted that this study's findings largely depend on how experiences are perceived rather than how they are in reality.

### 10.6 Discrimination based on nationality

To capture this, respondents were initially asked whether they were subjected to discrimination based on their nationality. [Figure 10.1](#) represents the data collected.



**Figure 10. 1: Discrimination based on nationality**

Out of the 847 respondents, 40.50% reported experiencing discrimination based on their nationality, whereas most respondents (59.39%) stated that they did not face such discrimination, and

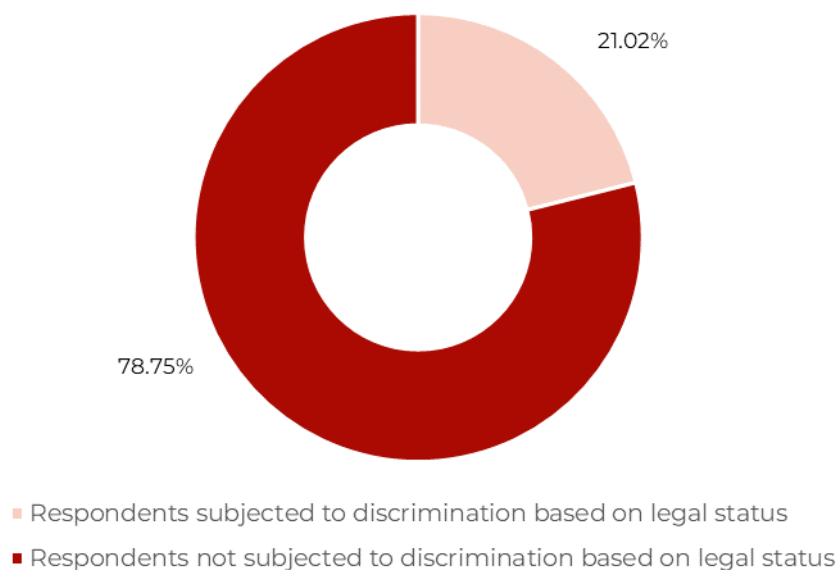
<sup>345</sup> Europäische Union (ed), *EU-MIDIS Data in Focus Report: Multiple Discrimination* (FRA 2010).

0.12% chose not to provide an answer regarding their experiences with nationality-based discrimination. This decision can be attributed to various factors, including concerns about personal privacy or discomfort when discussing such sensitive matters.

It is essential to consider that perceptions of discrimination can vary among individuals and that some respondents may not have been aware that they are being subjected to discriminatory treatment or have different interpretations of what qualifies as discrimination. It was also noted that when the term “discrimination” was used to pose questions, respondents quickly reported that they did not experience discrimination. However, upon hearing narrations by their peers about the discrimination they were subjected to, respondents were quick to agree and narrate similar experiences. They are also likely ambivalent about such experiences, as the migrant community has constantly been subjected to such discrimination.

### 10.7 Discrimination based on legal status

Subsequently, respondents were asked whether they were discriminated against based on their legal status. [Figure 10.2](#) depicts the collected data.



**Figure 10. 2: Discrimination based on legal status**

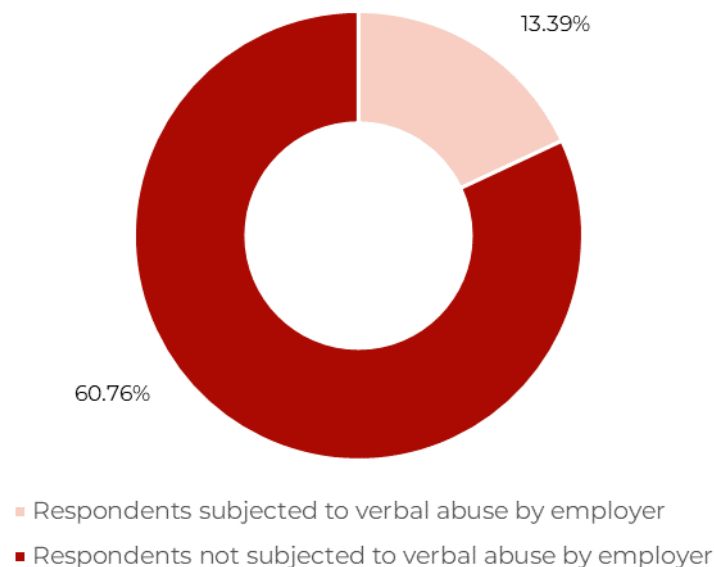
Of the 847 respondents, 21.02% reported experiencing discrimination based on their legal status. These respondents often narrated experiences where they were threatened with denunciation by authorities. Nevertheless, most respondents (78.75%) stated they did not experience such discrimination, while 0.12% opted not to respond. It is possible that these respondents may have been subjected to microaggressions and/or were ambivalent towards their experiences.

## 10.8 Discrimination and abuse in the workplace

Migrant workers have been subjected to physical and verbal abuse from employers and co-workers (specifically locals), leading to workplace tension, a lack of employee benefits compared to their local counterparts, and an unfair division of labour. To assess this, respondents were asked about whether they faced verbal and physical abuse from their employers and coworkers.

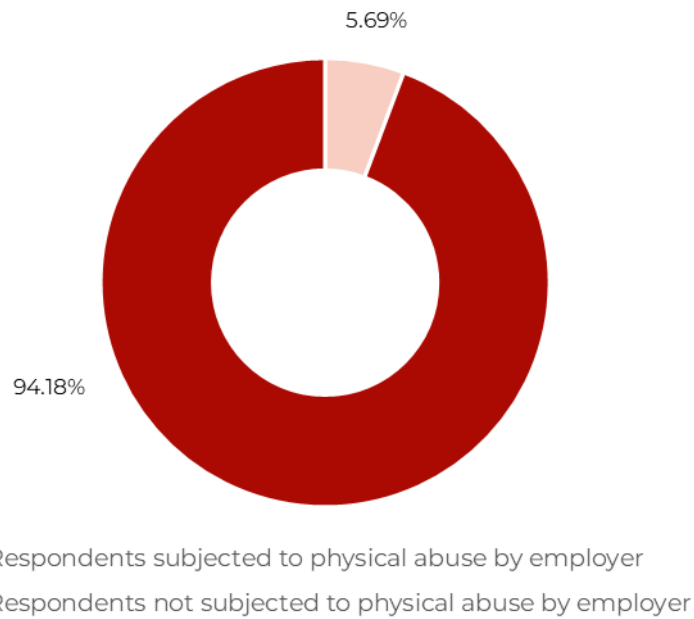
### 10.8.1 Employers

As previously discussed, negative sentiments and attitudes towards migrant workers are often expressed and reflected in how they address and talk to them, especially as authoritative figures. To understand the prevalence of abuse at the workplace by employers, respondents who reported working for employers (excluding those who reported being self-employed) were asked whether their employers verbally abused them. The results are illustrated in [Figure 10.3](#).



**Figure 10.3: Verbal abuse by employer**

When questioned regarding instances of verbal abuse from their employers, 0.13% of respondents chose not to provide an answer, while the majority of 60.76% of respondents reported not experiencing verbal abuse from employers. However, 13.39% of respondents reported verbal abuse from their employers. This could harm their job satisfaction, mental health, and work performance. The same respondents were further queried regarding their exposure to physical abuse from their employers, which is shown in [Figure 10.4](#).



**Figure 10. 4: Physical abuse from employer**

While 0.13% chose not to respond, a significant majority of 94.18% of respondents indicated that they had not been subjected to physical abuse in the workplace. Nevertheless, 5.69% of participants revealed they had endured physical abuse by their employers. These findings suggest that while physical abuse from employers is less prevalent than verbal abuse, it still affects many migrant workers. However, it is unclear whether respondents who reported being subjected to physical abuse had reported such incidents to the relevant authorities.

The collected data was then compounded and analysed to capture the prevalence of different types of abuse, indicating the percentage of respondents who were either only verbally or physically abused and those who were subjected to both types of abuse. It is presumed that the reception and perception of abuse significantly impacted the reporting. Figure 10.5 illustrates the abuse that respondents reported to depict these patterns.

Types of abuse	No. of respondents	%
Only verbal abuse from employer	78	10.32
Only physical abuse from employer	7	0.93
Verbal and physical abuse from employer	24	3.17
<b>Total</b>	<b>756</b>	<b>100</b>

**Table 10. 1: Physical and verbal abuse from employer**

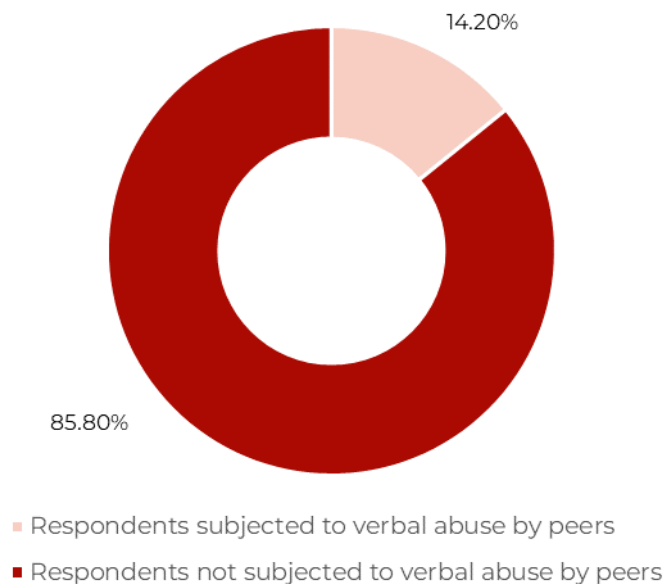
Overall, 10.32% of the 756 respondents considered for this component reported being subjected to only verbal abuse from their employer, whereas 0.93% of respondents said that their employer only physically abused them, and 3.17% said they experienced verbal and physical abuse

from their employers. However, it is improbable that an employer would resort to physical abuse without verbally abusing the employer.<sup>346</sup> This may imply that workers do not perceive verbal abuse from employers as actual abuse, and they might even consider themselves deserving of such berating or that employers have the right to criticise them, given their position.

This could indicate that respondents perceive abuse as such where it bypasses a certain threshold. While this threshold may vary from respondent to respondent, they likely do not consider microaggression to constitute verbal abuse.

### 10.8.2 Co-workers

Following this, respondents were asked about discrimination and abuse faced by them, subjected by their peers. All respondents were questioned on this aspect, as self-employed respondents may have also worked with others on different levels. The results obtained by asking respondents whether they experienced verbal abuse by employers are illustrated in [Figure 10.5](#).

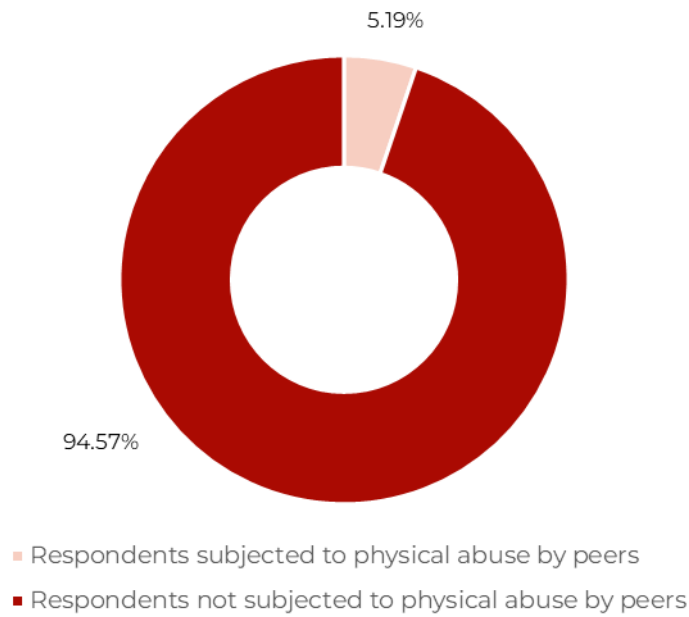


**Figure 10. 5: Verbal abuse by co-workers**

85.8% reported that they were not subjected to verbal abuse from their co-workers, while 14.2% of respondents disclosed that they had experienced such abuse. It is suggested that not all third parties react similarly, as how abuse is perceived impacts people differently.

Following this, respondents were asked whether they were subject to physical abuse from co-workers, of which the results are shown in [Figure 10.6](#).

<sup>346</sup> Kathy Bosch and M Bergen, 'The Influence of Supportive and Nonsupportive Persons in Helping Rural Women in Abusive Partner Relationships Become Free from Abuse' (2006) 21 *Journal of Family Violence* 311.



**Figure 10. 6: Physical abuse from co-workers**

While 0.24% preferred not to answer, a significant 94.57% of respondents indicated that they had not been subjected to physical abuse from their co-workers. However, 5.19% of participants responded that they had experienced physical abuse from co-workers. Although it is less prevalent than verbal abuse, physical abuse from co-workers concerns some migrant workers. It's also important to note that this number matches the percentage of respondents who said their employers had physically abused them.

Following this, the collected data was analysed to evaluate the percentage of respondents who reported being subjected to either verbal or physical abuse by their co-workers and those who reported being subject to both verbal and physical abuse. The analysed data is illustrated in [Table 10.2](#).

Types of abuse	No. of respondents	%
Only verbal abuse from co-workers	120	14.17%
Only physical abuse from co-workers	44	5.19%
Verbal and physical abuse from co-workers	16	1.90%
<b>Total</b>	<b>847</b>	<b>100</b>

**Table 10. 2: Verbal and physical abuse from coworkers**

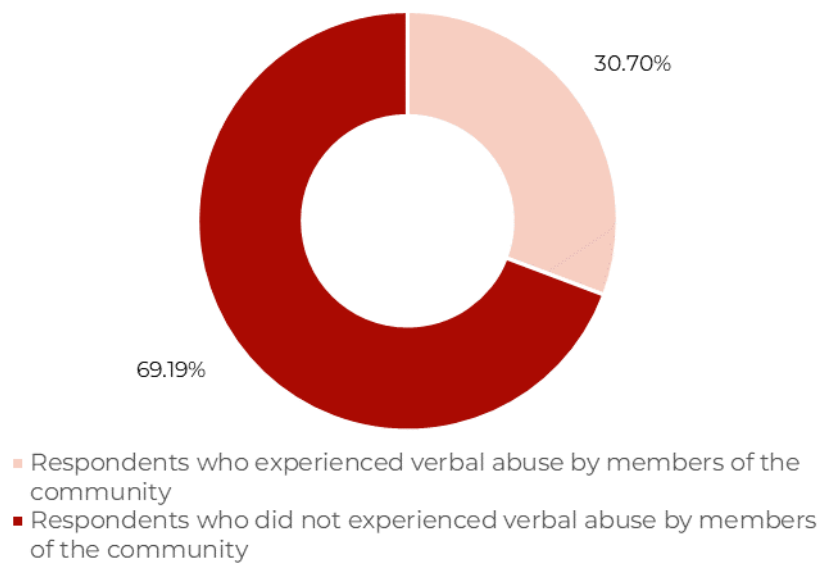
14.17% of respondents reported only verbal abuse from coworkers, while 5.19% reported only physical abuse. Only 1.90% of respondents reported being subject to both verbal and physical abuse from their co-workers. Similar to perceptions regarding abuse by employers, it is likely that workers do not perceive verbal abuse as actual abuse and may consider themselves in a position where they have to put up with such aggression.



Overall, abuse and aggression in the workplace lead to emotional exhaustion, which is considered a critical dimension of job burnout.<sup>347</sup> However, despite the high percentage of respondents who reported abuse in the workplace, 81.2% of respondents reported being satisfied with their working conditions.

## 10.9 Discrimination and abuse in the community

To capture the prevalence of instances where migrant workers are subjected to abuse within their community, respondents were initially asked whether they experienced verbal abuse from locals. **Figure 10.7** details the answers provided by respondents.



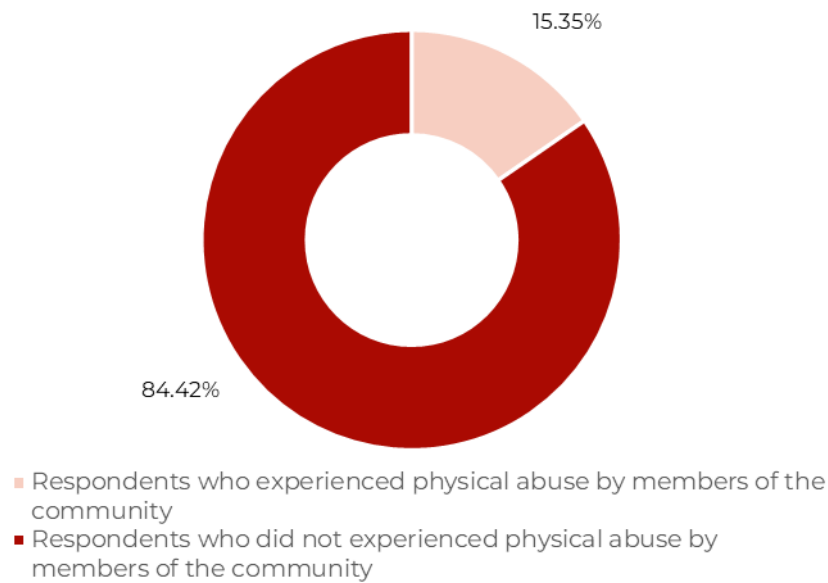
**Figure 10. 7: Verbal abuse from the community**

Out of the total respondents, 30.70% reported being subjected to verbal abuse from locals. The majority, constituting 69.19%, stated that they had not been subjected to such maltreatment. Only one respondent, equivalent to 0.12%, declined to answer the question. This highlights that many migrant workers may be exposed to verbal abuse from the community, which could adversely affect their well-being.

Subtle verbal abuse in the form of passing comments, name-calling, "jokes," gaslighting, and manipulation often goes unnoticed. Such practices were widely observed during data collection, as locals were apprehensive of enumerators interviewing migrant workers to the extent that enumerators were subjected to verbal abuse in carrying out their work.

<sup>347</sup> Alicia A Grandey, Julie H Kern and Michael R Frone, 'Verbal Abuse from Outsiders versus Insiders: Comparing Frequency, Impact on Emotional Exhaustion, and the Role of Emotional Labor.' (2007) 12 Journal of Occupational Health Psychology 63.

Subsequently, respondents were asked whether they were subjected to verbal abuse in the community. The resulted obtained are displayed in [Figure 10.8](#).



**Figure 10. 8: Physical abuse from the community**

While 0.24% of respondents chose not to answer, 84.42% responded that they had not encountered physical abuse from locals. However, the remaining 15.35% of respondents affirmed that they had been subjected to physical abuse by locals, emphasizing the prevalence of physical violence against migrant workers by locals as a significant issue.

As a culmination of the collected data, [Table 10.3](#) depicts the extent to which respondents were subjected to both verbal and physical abuse, in addition to indicating whether they were subjected to either verbal or physical abuse only.

Types of abuse	No. of respondents	%
Only verbal abuse from locals	260	30.70%
Only physical abuse from locals	130	15.35%
Verbal and physical abuse from locals	76	8.97%
<b>Total</b>	<b>847</b>	<b>100</b>

**Table 10. 3: Verbal and physical abuse from the community**

30.70% of respondents reported that they only experienced verbal abuse from locals, while 15.35% reported that they only experienced physical abuse. 8.97% reported being verbally and physically abused. Despite the disparity in the number of respondents who reported different types of abuse, it cannot be concluded that discriminatory practices are selectively ignored. It is essential to highlight that the data obtained for this research greatly depends on how individual migrant workers perceive discrimination.

## **10.10 Internalised discrimination**

The findings discussed in this chapter highlight the prevalence of discrimination and abuse faced by respondents. However, it should be noted that the narration of such experiences is reliant on the perception of discrimination and abuse by respondents, whereby respondents who did not perceive certain instances as discriminatory or abusive may have reported that they were not abused or discriminated against. Overall, this chapter indicates the precarity of migrant workers and how such biases shape the labour migration experience.

The literature emphasises the significance of correcting such biases and ideologies because it shows that societal and individual perceptions ultimately influence the creation and formulation of policies as well as their subsequent implementation. Hence, it should be questioned whether forethoughts and beliefs have had an impact on the formulation of a sponsorship arrangement that largely favours employers and businesses at the expense of the human rights and labour rights of migrant workers.



## 11: TRAFFICKING IN PERSONS

As contrasting views about migration exist within each society, understandings and opinions concerning recruitment, employment, housing, social protection, and providing other vital amenities for migrant workers are perceived differently throughout this discourse. Consequently, the meaning of decent work, forced labour, modern slavery, and trafficking in persons, how they manifest, and avenues for addressing these topics have been recurrent in academia and policy, particularly concerning the conceptualisation of free and unfree labour.

Therefore, there is a need to consider these topics from academic and policy perspectives when formulating and implementing laws. This requires the collection and maintenance of data on labour exploitation and trafficking. For instance, avenues for labour exploitation should be considered to formulate and implement policies that adequately advocate for freedom of labour, as it is directly related to how labour law is interpreted, and labour market operations are evaluated. This rejects the view that labour law is the sole principal remedy to exploitation, which stems from labour migration.<sup>348</sup>

It has been determined that several thousand documented and undocumented people can be considered victims of trafficking, forced labour, fraudulent recruitment, and debt bondage. Despite the framework enacted to govern labour migration and prevent trafficking in persons, the Maldives has been identified as a destination, transit, and source country for human trafficking and forced labour. Efforts to combat human trafficking by the government have been persistent in meeting international standards for eliminating human trafficking.

### 11.1 Definition of trafficking

The Palermo Protocol provides the internationally recognised definition of human trafficking as “the recruitment, transportation, transfer, harbouring, or receipt of persons, using threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation”. Forced labour is considered a subset of exploitation and, therefore, an outcome or purpose of trafficking.

#### 11.1.1 Elements of Trafficking

Based on this definition, the United Nations Office on Drugs and Crime [UNODC] breaks down the elements of trafficking into three key components: the act (what is done), the means (how

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<sup>348</sup> Judy Fudge, ‘Modern Slavery, Unfree Labour and the Labour Market: The Social Dynamics of Legal Characterization’ (2018) 27 *Social & Legal Studies* 414.

it is done), and the purpose (why it is done).<sup>349</sup> The presence of the constituent elements as below should be proven in line with the relevant local legislation(s) to establish trafficking in persons.

The Act	The Means	The Purpose
Recruitment	Threat or use of force	Exploitation including,
Transportation	Coercion	Prostitution of others
Transfer	Abduction	Sexual exploitation
Harbouring	Fraud	Forced labour
Receipt of persons	Deception	Slavery or similar practices
	Abuse of power or vulnerability	Removal of organs
	Giving payments or benefits	Other types of exploitation

**Table 11.1: Elements and components of trafficking as per UNODC**

The definition is elaborated and broken down as illustrated in Table 11.1 to provide consistency and consensus around the issue and to aid in the prevention, protection, and prosecution of trafficking and related offences.<sup>350</sup> To ensure clarity, Article 5 of the Palermo Protocol requires State Parties to criminalise trafficking under domestic legislation, with reference to the definition provided, to give effect to the concepts contained in the Protocol. Consequently, the Protocol sets a minimum standard for addressing trafficking in persons to be considered in drafting, enacting, and implementing domestic laws. The three principal purposes of the Protocol are to work towards the prevention and combating of trafficking in persons, to provide protection and support for victims of trafficking, and to prosecute offenders, referred to as the “3-P Paradigm,” which acts as the framework based on which approaches and efforts related to anti-trafficking are assessed.

## 11.2 Efforts by the State to combat trafficking

The Maldives cemented its commitment to prevent and criminalise human trafficking acts by adopting the Prevention of Human Trafficking Act, which provides specific penalties, adopts appropriate investigations and provides solid guidelines for protection and assistance to victims and potential victims. It also provides guidelines for prosecution and enables collaboration with other parties that work towards preventing human trafficking. The trafficking in persons report, published by the US Department of State, was utilised in the absence of accurate data published by the State.

## 11.3 Trafficking in Persons Report

The TIP report ranks States on one of the four tiers—Tier 1, Tier 2, Tier 2 Watch List, and Tier 3—based on data gathered by the US State Department from various parties and stakeholders and

<sup>349</sup> United Nations Office on Drugs and Crime (UNODC), *Toolkit to Combat Trafficking in Persons - Global Programme against Trafficking in Human Beings* (United Nations Office on Drugs and Crime, 2008) <[https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375\\_Ebook\[1\].pdf](https://www.unodc.org/documents/human-trafficking/Toolkit-files/07-89375_Ebook[1].pdf)>.

<sup>350</sup> *ibid.*

provides information on the efforts made by the various governments to combat human trafficking in their respective countries. Tier 1 indicates that the State has made sufficient efforts to address the issue; Tier 2 entails that sufficient effort is not made by the State, Tier 2 Watchlist indicates that sufficient efforts were not made by State, but that it is making significant efforts to comply; and Tier 3 indicates the least compliance. The Tier 2 watch list is usually a warning for inaction, and a country usually stays on the watch list for two years before they are downgraded to Tier 3. States that do not meet the minimum requirements to eliminate trafficking and are observed not to make concerted efforts to do so are ranked at Tier 3. Countries that are downgraded to Tier 3 may be subjected to restrictions on foreign assistance, where it may be determined not to provide non-humanitarian, non-trade-related foreign assistance by the US government and the International Monetary Fund.<sup>351</sup>

While the Maldives had been covered under the TIP report since before 2018, the recent five-year period shall be considered for this discussion. The rankings, as determined by analysing the State's prevention, protection, and prosecution efforts, were further scrutinised to provide a comprehensive overview of the current situation. **Table 11.2** provides an overview of the key factors considered in determining the rank of the Maldives.

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<sup>351</sup> Brianna Gehring, 'What Is the Trafficking in Persons Report?' (*Human Trafficking Institute*, 19 July 2022) <<https://traffickinginstitute.org/what-is-the-trafficking-in-persons-report/>> accessed 3 March 2024.

Year	Status	Reason
2018	Tier 2 Watch List	Inadequate proactive identification of victims due to lack of SOPs
		A sharp decrease of the government's investigation on possible trafficking cases due to poor victim identification efforts
		Lack of trafficking victims' protection services such as access to psycho-social support, interpreters, and dedicated shelter
2019	Tier 2 Watch List	Failure to boost the momentum of national anti-trafficking efforts
		Lack of regular meetings held by the NAHTSC
		Definition of Human trafficking in the local trafficking law did not confirm to the 2000 UN TIP protocol
2020	Tier 2 Watch List	Failure to hold employees or recruitment agencies accountable
		Continued to erroneously consider trafficking to be a crime only involving migrant workers and failed to properly investigate or charge cases involving Maldivian Nationals
2021	Tier 2	The government only identified two victims during the reporting period, despite continued reports of trafficking indicators among migrant workers
		Arrested some possible victims without screening them for trafficking indicators
		Did not hold employers or recruitment agencies accountable despite sustained reports of labour violations
		Failure to investigate properly or charge cases involving Maldivian nationals, as they consider human trafficking as a crime involving only migrant workers
2022	Tier 2	The government's trafficking investigations decreased, with no reported convictions for two consecutive years.
		Efforts to identify and protect human trafficking victims remained weak, with officials identifying only a small number of victims.
		The government's completed shelter for trafficking victims is inoperable, leaving survivors without a support facility.
		The government lacks official SOPs to refer trafficking victims to support services, and it struggles to identify indicators of trafficking among the migrant worker population or consistently screen potential victims.
		Despite reports of labour violations, the government failed to hold employers or recruitment agencies accountable by filing any charges.

**Table 11. 2: Rankings of Maldives by the US DoS TIP Reports from 2018 to 2022**

Following this, the State's prevention, protection, and prosecution efforts are discussed to provide a more detailed overview.

### 11.3.1 Prevention

Preventative efforts by the State were guided and increased by the amendment to the PHTA, which streamlined the definition of trafficking provided by local legislation with that provided in the 2000 UN TIP Protocol. Efforts were initially concentrated on reducing and curbing fraudulent



recruitment practices by initiating a pre-departure screening system in 2018. This system required Bangladeshi recruitment agencies to register with the system to agree to standard wages and safety conditions by establishing electronic contracts with migrant workers. Although this contributed significantly to the diminishing number of fraudulent jobs offers, it was observed that employers continued to amend or provide new contracts for employees post-migration.<sup>352</sup>

However, a cap on the number of unskilled workers was imposed during this time. As the number of Bangladeshi workers exceeded the specified amount, further recruitment was halted, which was assumed to have contributed to prevention efforts. However, workers continued to migrate on tourist visas for employment, consequently making it increasingly difficult to monitor migration, which fostered irregular migration.

On a broader scale, changes were brought to the stakeholder framework, most notably with the transfer of portfolios from MED to MoD, resulting in lingering confusion between agencies regarding their roles. As prevention of trafficking is closely related to monitoring and governance of labour migration, the importance of focusing on this aspect has continued to be highlighted. The lack of coordination between MED and LRA was noted as a significant barrier to this, particularly in curbing exploitative and fraudulent practices to penalise those who violate labour rights and human rights.<sup>353</sup> A major factor contributing to this was the lack of resources, staff, and training.<sup>354</sup> As such, although the national anti-trafficking hotline was established to identify trafficking situations proactively, it was noted that it received a few calls that did not result in investigations or referrals to services.<sup>355</sup>

The NAHTSC was composed of key senior stakeholders. A distinct office for the ATO was established under the MoD to contribute to coordination efforts and streamline approaches utilised by the State. The NAHTSC created an action plan to raise awareness and streamline prevention efforts. However, the Action Plan was not adequately implemented due to insufficient systematic efforts to raise awareness about trafficking and reporting mechanisms.<sup>356</sup> The key agencies involved also formulate a multi-agency collaboration mechanism to ensure timely action and coordination.

### 11.3.2 Protection

A standard operating procedure [SOP] for identifying, protecting, and referring victims was not officially adopted until 2020. It was reported that MPS had disseminated the victim identification

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<sup>352</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, '2018 Trafficking in Persons Report: Maldives' (Department Of State The Office of Website Management, Bureau of Public Affairs 2019) Report.

<sup>353</sup> Department of State. The Office of Website Management, '2021 Trafficking in Persons Report: Maldives' (n 249).

<sup>354</sup> Bureau of Public Affairs Department of State. The Office of Website Management, '2020 Trafficking in Persons Report: Maldives' (Department of State The Office of Website Management, Bureau of Public Affairs 2021) Report.

<sup>355</sup> Department Of State. The Office of Website Management, '2018 Trafficking in Persons Report: Maldives' (n 363).

<sup>356</sup> Bureau of Public Affairs Department Of State. The Office of Website Management, '2019 Trafficking in Persons Report: Maldives' (Department Of State The Office of Website Management, Bureau of Public Affairs 2020) Report.

SOP to agencies after adoption, although agencies did not uniformly employ it.<sup>357</sup> However, the SOP was not shared with organisations acting as first responders, such as the PILC, MRC and TM.<sup>358</sup> The lack of awareness and uniformity in victim identification resulted in the deportation of potential victims without proper investigation and prosecution. Consequently, it was reported that victims might have been arrested and detained in contravention of victim identification, protection, and reintegration SOPs and denied services in contravention of access to shelter and victim service obligations under the PHTA Act. It was further noted that although a formal SOP for victim identification was utilised, additional SOPs, such as procedures for referring identified victims to care, are yet to be developed.

As a result, statistics of victim identification is inconsequential, even if records include victims who came forward and identified themselves. This highlights the importance of raising awareness among the migrant community, enhancing confidential reporting mechanisms, and increasing coordination among stakeholders to facilitate victim identification through first-response organisations such as LRA, MI, MRC, PILC, and TM in the Maldives. It was also noted that identified victims received limited assistance, lacking critical services such as psychosocial support and translations. Budget constraints have prevented the government from constructing and operating a shelter for trafficking victims since 2014. It should be noted that earlier US TIP reports had indicated the existence of a shelter<sup>359</sup> however, due to conflicts within government agencies, the shelter that was initially identified could not be utilised when needed. Consequently, victims were housed in guesthouses with protection details.

Although MI conducted raids on undocumented workers, they did not identify any trafficking victims among them, focusing instead solely on the legal status, i.e., the status or existence of a work permit. It was also noted that some of the workers deported subsequently were not referred to the MPS for screening. Similarly, though the latest regularisation programme and voluntary departure programme were initiated during this period, those enrolled were not screened for indicators of trafficking.

### 11.3.3 Prosecution

Overall, anti-trafficking law enforcement remained low despite MPS elevating the anti-trafficking unit to a department. As a result, few cases were sent to the PGO for prosecution, and even fewer convictions were secured. The MPS generally collects statistics related to human trafficking. [Table 11.3](#) lists the statistics provided by MPS of human trafficking cases in the Maldives.

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<sup>357</sup> Department of State. The Office of Website Management, '2022 Trafficking in Persons Report: Maldives' (n 40).

<sup>358</sup> Stakeholder Conference on Labour Migration within the Bangladesh-Maldives Corridor (Male', Maldives, 16 Nov 2022)

<sup>359</sup> Department of State. The Office of Website Management, '2022 Trafficking in Persons Report: Maldives' (n 40).

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
<b>Cases submitted</b>	2	5	3	6	0	0	1	1	2	3
<b>Cases investigated</b>	2	5	3	6	0	0	1	1	2	2
<b>Cases sent to PGO</b>	1	0	0	5	0	0	1	1	1	1

**Table 11. 3: Cases related to human trafficking in the Maldives**

Although convictions made pursuant to existing laws have increased (albeit inconsistently), it is not proportionate to the size of the phenomenon, which continues to expand. It has been reported that conviction rates remain low across the globe, indicating that States are often ill-equipped to handle issues related to trafficking.<sup>360</sup> Coupled with this, research and surveys on TIPs and migrant living conditions also remain limited. Hence, the overall understanding of the gravity of this issue is downplayed due to a lack of data.

Lack of awareness and inadequate training and resources further contribute to this, as though indicators of trafficking, such as the retention of passports by private employers and ministries, were noted, investigations were not carried out accordingly. Therefore, there were no prosecutions. It was also highlighted that traffickers with government connections operated with impunity, often tipping off officials before raids,<sup>361</sup> making it increasingly difficult to note the prevalence of indicators. Corruption and complicity in trafficking among officials remained a critical concern. Interagency coordination is crucial to overcoming these challenges. However, efforts to coordinate and harmonise across agencies remained low and continued to be highlighted as a cause for concern.

## 11.4 Barriers to combating trafficking

It is challenging to identify trafficking, making it difficult to assess how many people are affected. Although indicators of trafficking are noticed in reported cases of labour exploitation and forced labour, investigations and studies are yet to be conducted to understand the prevailing trends, routes, and gains of traffickers in the Maldives. This is essential to figuring out the crime's perpetrators and understanding the overall functioning of this phenomenon.

<sup>360</sup> United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons 2009: Human Trafficking: A Crime That Shames Us All* (United Nations 2009) <<https://www.un-ilibrary.org/content/books/9789213626795>> accessed 3 March 2024.

<sup>361</sup> Department Of State. The Office of Website Management, '2018 Trafficking in Persons Report: Maldives' (n 363).

## PREVALENCE OF TRAFFICKING IN THE MALDIVES

In the absence of statistics and data published or shared by stakeholders, this study discusses the data collected and analysed in previous chapters in light of the elements of trafficking, with reference to the detailed definition of trafficking. The insight provided by the data is intended to shed light on the prevalence of trafficking in the Maldives, particularly within the Bangladesh-Maldives labour corridor.

### 11.5 The act

This element includes what is done, such as the recruitment, transportation, transfer, harbouring, or receipt of persons. Labour recruiters, or those who facilitate employment for migrant workers, have been considered one of the main facilitators of human trafficking. Therefore, as the target population of this study consists of Bangladeshi migrant workers in the Maldives, the consideration also extends to the transportation of individuals across borders after their recruitment, which their employers or recruiters facilitate. This consequently establishes the Act element. Anecdotal information further depicted that some workers were harboured, isolated, confined, or monitored in certain instances.

### 11.6 The means

This component serves as an example of how trafficking occurs, including threats or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the provision of payments or benefits to a person in control of the victim. Out of these factors, coercive, deceptive, and fraudulent means are prevalent in the acquired data. Coercion includes threats of harm, physical restraint, psychological manipulation, and document confiscation, as well as the shame and fear invoked by threats, including threats of denunciation to authorities.

The findings of this study depict that retention of identification documents remains common, as 70.50% reported that their passports had been retained (Figure 7.4). This remains one of the most prevalent forms of coercion and abuse of power, as the movement of workers is restricted, often preventing them from seeking help, which in turn entraps them in situations of labour exploitation or forced labour.<sup>362</sup>

The respondents' reports of verbal and physical abuse also suggest that they are subjected to abuse of power, as 13.39% of respondents reported verbal abuse from their employer (Figure 10.3), while 5.69% reported physical abuse (Figure 10.4), of which 3.17% reported verbal and physical abuse (Table 10.1), indicating that labour may have been extorted through such means.

Furthermore, vulnerabilities are compounded as the likelihood of debt bondage remains prevalent as recruitment fees remain high, as the median cost was calculated at USD 2,000 (Figure

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<sup>362</sup> International Labour Organisation, *Combating Forced Labour* (n 306).

6.5), with 93.15% of respondents reporting that they had to pay recruitment fees (Figure 6.2). 51.36% of respondents reported taking loans from different parties (Figure 6.7) to pay the accrued fees. An accurate depiction of the prevalence of debt bondage could not be assessed from the collected data as it does not indicate whether respondents borrowed loans from the parties to which they owed money. However, this possibility is highlighted with reference to the sponsorship arrangement, factoring in the prevalence of quota trading and the shifting of employment. Consequently, employers or agents may “loan” migrant labour to other employers on the condition that they work off the debt they owe to the initial employer or agent, thus fostering debt bondage. The commonality of this could be indicative of why quota trading is a common practice within the Maldivian foreign labour market.

Irrespective of the channels through which money is borrowed and parties to which debt is to be paid, the findings depict that respondents would have to work an estimated 4.74 months to pay off the money borrowed to cover the median recruitment fee, if they spend their entire paycheck to pay off the debt and provided that they are regularly compensated (Table 6.5). However, as it is extremely unlikely that they will be able to spend all their earnings to keep up with debt payments, compounded interest resulting from the increasing duration it takes workers to pay off their debts would further exacerbate this issue.

Additional factors, such as deductions and wage manipulations, also contribute to this and remain prevalent, as 70.9% of respondents who reported working additional hours reported that they were not compensated for additional work (Figure 8.6 and Figure 8.7). Furthermore, 6.97% reported that their employers deducted from their salary to pay for accommodation and food expenses (Figure 8.8), 8.97% reported penalty deductions (Figure 8.9), and 31.76% reported payment delays (Figure 8.10). 5.08% of respondents also reported that their employers paid their salaries to third parties (Figure 8.11), making it difficult to access payments, while 5.55% stated that their employers controlled their spending (Figure 8.12). The discussed data further indicates coercion.

As such, given that the working conditions of workers and coercive labour contribute to fraudulent and deceptive recruitment practices in the case of Bangladeshi migrant workers residing in the Maldives, anti-trafficking efforts largely focus on governing recruitment supply chains. However, in the absence of statistics provided by agencies on channels through which victims of trafficking migrated to the Maldives, the relationship between recruitment supply chains, recruiters, and trafficking in persons remains unestablished. In the absence of this, Figure 6.1 provides insight into how respondents to this study were recruited. However, the collected data does not depict whether respondents were recruited via informal channels, as the legislative framework does not restrict the recruitment of migrant workers to recruitment agencies only.

Despite the noted shortcomings, the gathered data indicated deceptive and fraudulent recruitment practices, as 47.82% of respondents reported that they were not given the same job as promised (Figure 6.8), 57.02% of respondents stated they were not made to work for the same employer as promised (Figure 6.9), and 53.96% of respondents reported they did not receive the salary

they were promised (Figure 6.10). Additionally, 70.60% of respondents disclosed that they were not provided with employment agreements (Figure 6.11), while 33.33% of respondents who were provided with agreements stated that they did not understand the agreement's contents (Figure 6.12).

## 11.7 The purpose

This element indicates the “why” factor. This study, with reference to its scope, focuses solely on forced labour and labour exploitation as the outcome of trafficking. Therefore, where the afore-detailed elements are utilised to exploit a person to perform labour, the purpose would amount to labour exploitation by way of forced labour. The earlier factors result in compounded labour violations, such as excessive working hours, working days, low compensations, deductions, and wage manipulations. Labour exploitation and forced labour practices are evidenced by data depicting abuse of vulnerability, deception, restriction of movement, isolation, physical violence, intimidation and threats, retention of identification documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime, which are discussed in the following chapter.

Therefore, the importance of increasing screening for trafficking in persons among migrant workers in the Maldives, particularly in the Bangladeshi-Maldives labour corridor, is highlighted. However, as the data only depicts an overall picture based on the culmination of the experiences of all the respondents to this study, individuals would have to be screened to establish trafficking as per the legislative framework, a guide for which is provided by the MPS, in line with the International Labour Office's formulated Operational Indicators on Trafficking in Human Beings, which provides sets of operational indicators that are intended to act as a soft law to alleviate some of the persisting issues with the way trafficking is interpreted in terms of the Protocol.

Furthermore, it should be considered that trafficking for forced labour includes a variety of different methods of exploitation, victim profiles, and economic sectors. This form of trafficking is characterised by its infiltration into the legal economy and its normalisation by the way it is presented in daily lives and occurrences within the community. As such, it is not necessary for traffickers involved in this form of exploitation to work underground in illicit markets, as they instead opt for officially registered companies and operate viably within the broader economy, whereby exploitative practices are passed off as initiatives to increase profits.

## **12: LABOUR EXPLOITATION AND FORCED LABOUR**

The framework and mechanisms established to govern labour migration and prevent exploitative practices, including trafficking of persons, work to eradicate modern slavery practices such as forced labour. However, such practices continue to persist despite and because of the established systems. Additional vulnerabilities, such as the socioeconomic status of workers, and social issues, such as prevailing racism and xenophobia, further compound these situations. Such extraneous and contributing factors often indicate that workers who fall victim to such situations may often find themselves trapped and unable to escape. Thus, this highlights the importance of identifying such exploitation.

However, because of the evolution of labour markets and globalisation, forced labour and labour exploitation continue to manifest in different forms, which makes it difficult to pinpoint or identify instances in which workers are subjected to it, therefore making it increasingly difficult to combat. Therefore, the findings of this study are intended to demonstrate different ways in which exploitative, forced labour practices manifest themselves in the Maldivian labour market.

### **DECENT WORK AND FORCED LABOUR**

The culmination of experiences conveyed from the data analysed for this study explains that there is a continuum of experiences, ranging from minor to major violations, which sometimes amount to extreme exploitation in the form of forced labour. With reference to the continuum analogy, forced labour is considered the antithesis of decent work; these concepts must be understood initially before considering the plethora of experiences that fall in between. It should be noted that instances that may not fall under the scope of trafficking in persons may still include exploitative conduct.

#### **12.1 Decent work**

The ILO defines decent work as productive work under conditions of freedom, equity, security, and human dignity,<sup>363</sup> which is reflected in the 2030 Agenda for Sustainable Development Goals, specifically Goal 8 (decent work and economic growth). The targets of this SDG consider the importance of using a “decent work” lens in perceiving international labour migration, focusing on the correlation between employment and migration. Thus, it highlights the need to move beyond

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<sup>363</sup> ‘The Work in Freedom Handbook: A Critical Glossary of Terms Relating to Freedom and Unfreedom in the World of Work.’ (2021) Report <[http://www.ilo.org/newdelhi/whatwedo/publications/WCMS\\_800250/lang-en/index.htm](http://www.ilo.org/newdelhi/whatwedo/publications/WCMS_800250/lang-en/index.htm)> accessed 24 July 2023.

the one-dimensional approach of viewing labour policies solely to achieve decent work and address the few recognised major labour rights violations.

## 12.2 Forced labour

The concept of “modern slavery” encompasses situations of exploitation a person is subjected to and unable to leave due to coercion,<sup>364</sup> of which forced labour or compulsory labour is a sub-category defined to include “all work or service exacted from any person under the menace of a penalty and which the person has not entered into of his or her own free will”.<sup>365</sup> Table 12.1 includes an expanded definition of forced labour to grasp a more comprehensive understanding of the concept.

Key term	Definition
All work or service	This includes all types of work, including legal, illegal, formal, and informal employment, irrespective of service, industry, or occupation.
Any person	This entails that such situations apply universally, without regard to age, nationality, or legal status.
Menace of penalty	This refers not only to penal sanctions but also to the loss or infringement of human rights and freedoms. As such, this may take physical and/or psychological forms and may include isolation, intimidation, retention of identity documents, withholding of wages, debt bondage, deception, excessive overtime, abusive working and living conditions, restriction of movement, and abuse of vulnerability.
Work or service undertaken involuntarily (without free will)	Where workers cannot revoke their consent to be engaged in employment due to fear of or threat of penalty, such situations may constitute forced labour.

**Table 12. 1: Expanded definition of forced labour**

As such, elements of forced labour sometimes constitute criminal offences and violations of fundamental human rights. This could involve forcing persons to work, subject to severe deprivations, which sometimes take the form of physical violence and abuse and may also include restricting the freedom of movement of workers, imprisoning them, withholding wages and identity documents, and entangling workers in debt to force them to commit to unfavourable working conditions. Therefore, forced labour and trafficking, although linked, are two distinct concepts. Although forced labour can take on many forms that may result from trafficking or irregular migration, it is not restrictive to such occurrences, as it is identified as one of the many possible outcomes of trafficking.

<sup>364</sup> ‘Global Estimates of Modern Slavery: Forced Labour and Forced Marriage’ (2022) Report <[http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_854733/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm)> accessed 17 July 2023.

<sup>365</sup> Convention C029 - Forced Labour Convention, 1930 (No. 29) 1930 (C).



### 12.3 ILO indicators of forced labour

The ILO indicators of forced labour, derived from theoretical and practical experiences and structured based on the definition of forced labour, provide insight into factors pointing to the possible existence of a forced labour situation. The indicators include abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime,<sup>366</sup> the definitions of which are provided in [Table 12.2](#).

Indicator	Definition
Abuse of vulnerability	This indicator is considered present where “another person intentionally uses an individual's personal, situational, or circumstantial vulnerability, or otherwise takes advantage of it, to recruit, transport, transfer, harbour, or receive that individual to exploit him or her,” and “the individual believes that submitting to the will of the abuser is the only real or acceptable option available,” and it is established that “that belief is reasonable in the circumstances”.
Deception	The failure to deliver what was promised or situations that disable a worker from providing free and informed consent could establish the presence of this indicator. This is often observed when workers are falsely promised good working conditions, housing and living conditions, the acquisition of regular migration status, job location, or the employer's identity.
Restriction of movement	Those subjected to exploitative labour practices may be restricted to their workplaces or accommodations or may be guarded to prevent them from escaping at work or while being transported. This could include workers who cannot freely enter and exit their work premises or accommodations. Restriction of movement is recognised as a strong indicator of forced labour. This is sometimes employed by using surveillance cameras and guards and requiring workers to be accompanied when they leave the worksite.
Isolation	Victims of forced labour may also be isolated in remote areas, which prevents them from staying in contact with the outside world. This may include instances where worksites are far from habitation, or workers are not provided with means of transportation to travel to habitable locations. This may also be present where workers are isolated in populated areas, restricted to certain areas, or where communication with the outside world is cut off to prevent them from seeking help. This indicator is also present where employees work for unregistered, unauthorised informal businesses, which makes it challenging for inspection bodies and law enforcement agencies to monitor business operations and working conditions.
Physical and sexual violence	Where workers, their family members, or close associates are subjected to physical or sexual violence, it is considered an indicator of forced labour. Violence may be used to force workers to assume tasks that they would not do under normal circumstances. As such, this is considered a strong indicator of forced labour.

<sup>366</sup> International Labour Organisation, ‘ILO Indicators of Forced Labour’.

Intimidation and threats	Threats and intimidation may follow physical or sexual violence, which could include the threat of denunciation to authorities, loss of wages or access to housing, further worsening of working conditions, or withdrawal of privileges. Insulting and undermining workers also constitutes a form of intimidation or threat, which increases their sense of vulnerability.
Retention of identification documents	Where employers retain identity documents or other personal, valuable possessions, it may be considered an indicator of forced labour where workers cannot access these items on demand or feel they cannot leave their employment without risking the loss of these items. Although retaining documents does not constitute forced labour in and of itself, an indicator of forced labour could be established where the purpose of retention is to restrict workers.
Withholding of wages	Withholding wages by employers may result in workers feeling obliged to remain with abusive employers, awaiting wages owed to them. However, irregular, or delayed payments in and of themselves do not automatically imply a forced labour situation unless it is established that wages are systematically and deliberately withheld to compel workers to remain or deny them the opportunity to change their employer. <sup>367</sup>
Debt bondage	Debt bondage reflects an imbalance in power between the worker-debtor and the employer-creditor. This indicator is considered present when workers are bound to the employer for an unspecified period and required to work off incurred debt.
Abusive working conditions	Where workers are made to endure working and living conditions that they would not freely accept, beyond the limits prescribed by law and international standards, they may be subjected to forced labour. This may include being subjected to work under degrading or hazardous conditions. Those who are subjected to forced labour may also be subjected to substandard living conditions, because of which they are forced to live in overcrowded, unsafe, and unhealthy conditions. However, the existence of such conditions itself does not prove forced labour. Instead, it should be considered an “alert” to the possible existence of coercion, preventing workers from leaving their jobs.
Excessive overtime	This indicator is considered present when workers are required to work excessive hours beyond the limits prescribed by national laws or collective agreements, coupled with a threat of dismissal or instances where workers are required to work as much as possible to earn the minimum wage, to be considered a forced labour situation. This could include being denied breaks and off days, being required to take shifts or fulfil the hours of colleagues who are absent or being required to always be on call.

**Table 12. 2: Indicators of Forced Labour**

## PREVALENCE OF INDICATORS OF FORCED LABOUR

The prevalence of these indicators at a local level remains unaccounted for, as local statistics on forced labour and other forms of exploitation are severely lacking for several reasons, such as the lack of recognition of forms of labour exploitation, cohesion across stakeholders, and published data. The collected data and the analyses described and explained in previous chapters were further analysed regarding the ILO indicators to assess the prevalence of forced labour and exploitative practices identified in this study.

<sup>367</sup> *ibid.*

It should be noted that the presence of forced labour must be established on a case-by-case basis. This section only provides insight into the likelihood of prevalence to establish the need for further research, targeted policy implementation, and monitoring. While the presence of a single indicator may indicate forced labour practices in some instances, several indicators may need to be established in other cases to point to a case of forced labour.

## 12.4 Abuse of vulnerability

The findings of this study indicate that workers may find themselves in vulnerable situations arising from or related to reasons attributed to their migration. The commonality of hiring through unregistered and unregulated channels and the complexity of recruitment supply chains make vulnerabilities worse. This indicator also presents itself when an employer, sponsor, or third party, such as recruitment actors, takes advantage of workers' vulnerabilities, such as the language barrier, unfamiliarity, or unawareness of local laws and regulations.

However, abuse resulting from the exacerbation of vulnerabilities must be assessed on a case-by-case basis, as it would be difficult to establish causation to determine whether the exploitation resulted from abuse of vulnerability. Indicating that establishing the vulnerable status of workers alone is insufficient to establish abuse of vulnerability. Considering this, the following findings, as discussed, could indicate the likelihood of the prevalence of these indicators.

As workers continue to be sourced from unregulated recruitment channels, they are susceptible to different vulnerabilities. Concurrently, vulnerabilities also arise from deceptive recruitment practices, as 47.82% of respondents reported that they were not given the same job promised before migration (Figure 6.8), while 57.02% stated that they were not made to work for the same employer as promised (Figure 6.9), and 53.96% of respondents reported not receiving the same salary they were promised (Figure 6.10). Such deceptive practices result in the exacerbation of vulnerabilities that can be exploited or abused post-migration. Employer-provided or facilitated accommodation arrangements further contribute to this, as workers remain dependent on their employers for accommodation, as 72.37% of respondents reported that their employers facilitated their accommodation (Figure 6.13).

Additionally, a lack of clarity and security as to the terms of their contract is likely for 70.44% of respondents who reported that they were not provided with employment agreements (Figure 6.11). It was evident that the language barrier posed challenges, as the collected data establishes that unfamiliarity with the local language adds to workers' vulnerability. For instance, as depicted in Figure 6.12, 33.33% of respondents provided with employment agreements did not understand their contents, indicating their vulnerable status, which, if exploited to extort more labour, would amount to abuse of vulnerability.

Furthermore, how respondents perceive deception is a contributing factor, as less than half of the respondents (47.11%) reported feeling deceived (Figure 6.15) despite the data provided. It should be noted that where respondents do not feel deceived, they are less likely to consider that their

vulnerabilities arising from deception could be exploited, consequently exacerbating their vulnerabilities, and increasing the likelihood of abuse of those vulnerabilities.

The sponsorship system resulting from the legislative framework governing labour migration in the Maldives further adds to the vulnerabilities of workers post-migration, as the legal statuses of workers are tied to their employers. The framework requires employers to facilitate the procurement of work visas and permits and maintain their validity for their migrant employees throughout their employment. In contravention of this, 21.25% of respondents reported migrating on tourist visas (Table 7.1), indicating that they entered the country irregularly and, therefore, would remain undocumented. Although most respondents (71.31%) reported that they migrated through legal channels (Table 7.1), they likely became undocumented post-migration, as the collected data depicts that 60.09% of respondents are likely undocumented (Figure 7.3).

Literature indicates that the vulnerabilities arising from irregular legal status could be exploited. It is possible that migrant workers are not aware of their legal status to identify exploitation and abuse of such vulnerabilities, making it difficult for them to identify exploitation resulting from abuse of their legal status.

## 12.5 Deception

The prevalence of deception, as reported by respondents to this study, factoring in their perception as well as additional factors or reports that may indicate being subject to deceptive practices, was factored into evaluating this indicator.

Table 7.1 illustrates that 21.25% of respondents migrated through irregular channels, occupying tourist visas. Although the collected data does not account for whether respondents knew they would be migrating through irregular channels before migration, it was noticed that respondents were under the impression that tourist visas were referred to as “open visas,” which provided them with the liberty to be self-employed or change employers, essentially avoiding the sponsorship arrangement in place. It could be deduced that this misled belief is one of the reasons why some respondents reported having opted for this type of visa instead of acquiring work visas, as they believed obtaining a work visa would constrict their autonomy.

It was found that, as most respondents migrated to the Maldives through legal channels (71.31%) (Table 7.1), most respondents (55.99%) became undocumented post-migration (Figure 7.6). Such instances related to migration and the legal statuses of respondents connote that deception was involved. However, the respondent’s awareness of their legal status should be factored in to determine whether they were deceived.

Deception is further indicated by Figure 6.8, which shows that 47.82% of respondents did not get the promised job, and Figure 6.9, which shows that 57.02% did not work for the same employer as promised, whereas Figure 6.10 shows that 53.96% did not get the same salary. This shows how common deception related to employment is, highlighting the importance of factoring in

perceptions of deception, as despite the prevalence of deception, 47.11% of respondents reported that they did not feel deceived (Figure 6.15). This provides insight into possible reasons why such violations are not often flagged.

## 12.6 Restriction of movement

The data collected for this study does not capture whether the movement of respondents was restricted. However, observations were made through data collection on instances where workers were confined to specific spaces, guarded, and often accompanied by supervisors. Similarly, incidents of restrictions on the movement of workers are not widely reported in the Maldives. However, cases such as *Hu Xian Nan v. Beijing Urban Construction Group Co., Ltd.*<sup>368</sup> indicate that this must be further investigated locally.

## 12.7 Isolation

Regardless of whether workers have access to their identification documents, such as passports, those employed on uninhabited, remote islands are often not allowed to travel out of the island without permission from the employer, which is not often granted. This is easily facilitated due to the geographic dispersion of the country and the booming tourism sector, where construction sites are often located on remote islands that are being developed as tourist resorts. Worksites are often far from habitation with no means of transportation available. The prevalence of such issues can be observed in cases such as *Arif Hossain and 43 others v. R.I.X Pvt Ltd.*<sup>369</sup>

## 12.8 Physical violence

This study also observed that workers are sometimes subjected to physical violence, which is used to force workers to perform additional tasks and is considered a strong indicator of forced labour. It was found that 5.69% of respondents who were working for employers had to suffer physical abuse at their hands (Figure 10.4), whereas 5.19% were subjected to physical abuse from co-workers (Figure 10.6).

## 12.9 Intimidation and threats

It was noted that respondents who reported physical abuse were also more likely to report verbal abuse. As noted, this could indicate that respondents are more likely to perceive abuse as such when it passes a certain threshold, indicating that they may not perceive microaggressions as intimidation or threats. This likely impacts reports of verbal abuse, indicating that relying on self-reporting may not be practical.

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<sup>368</sup> *Hu Xian Nan v Beijing Urban Construction Group Co Ltd* (Employment Tribunal).

<sup>369</sup> *Arif Hossain and 43 others v RIX Pvt Ltd* [2020] 164/VTR/2022 (Employment Tribunal).

13.39% of respondents working for employers reported that they were subjected to verbal abuse from their employers (Figure 10.3), while 14.2% reported that they were subjected to verbal abuse from their coworkers (Figure 10.5). However, to what extent verbal abuse included threats of denunciation or threats to impose bad or worse working conditions is unclear.

## 12.10 Retention of identification documents

The data collected for this study indicates that the retention of passports is a common practice within the Maldivian foreign labour market. It was found that the passports of 70.50% of respondents had been retained (Figure 7.4). This is concerning as passports are required to access essential services such as healthcare and external and internal migration.

Workers who do not have passports are more likely to be stuck in destination countries as documents are required to travel back to their home country. Although a repatriation mechanism is established, workers do not often register to repatriate as they are often unaware of the process. Furthermore, given the geographical dispersion of the country and how local transport is arranged, workers who do not have identification documents may be prevented from leaving the island they reside on, which could pose many issues as some islands may not have services such as adequate healthcare or other necessities workers may require, which makes it particularly difficult for workers to pursue legal action, file complaints, and consequently, is a barrier to accessing justice.

## 12.11 Withholding of wages

The information gathered for this study shows that deductions and wage manipulation are common, as 31.76% of respondents reported not receiving regular compensation from employers (Figure 8.10), while 8.97% reported being subject to deductions as a form of penalty (Figure 8.9). Furthermore, 36.48% of workers reported they were asked to do additional work (Figure 8.6), for which 70.87% were not paid (Figure 8.7). However, this does not automatically imply the existence of a forced labour situation and is only indicative of labour exploitation. Forced labour requires wages to be systematically and deliberately withheld to compel workers to remain or deny them the option to change employment.

However, it should be noted that the findings of this study point towards the likelihood of systematic, deliberate withholding of wages, as the prevalence of such situations continues to rise because workers are tied to their employers through the migration mechanism, whereby workers are obligated to remain with abusive employers despite not being compensated for their work or being subjected to irregular or delayed payments.

## 12.12 Debt bondage

As discussed, bonded labour arises through complex, interlinked factors, which are further exacerbated by existing vulnerabilities such as the socioeconomic status of workers, social exclusion, discrimination, particularly lack of access to information, and employer monopolies on local financial

and labour markets. It is common for labourers to work often to pay off incurred or inherited debt, which arises from wage advances, loans to cover recruitment, the cost of transport, living expenses, or medical costs.<sup>370</sup> The compounding of such debt may lead to debt bondage or bonded labour, reflecting an imbalance in power between the debtor and the creditor, which highlights the dominance of social elites, such as recruitment actors, in dictating the terms of economic transactions between themselves and workers, often resulting in social control and subordination of workers.<sup>371</sup>

This study also shows that the Maldivian labour migration market is characterised by high recruitment fees, which require workers to borrow through formal and informal channels, which compels them to continue working in bad conditions to repay their loans. Consequently, a significant proportion of the migrant population could be subject to debt bondage. Figure 4.4 illustrates that 93.15% of respondents had to pay recruitment fees to finance (Figure 6.2), most of which (61.75%) were paid to agents, 13.58% to recruitment agencies, and 9.56% to businesses (Figure 6.4). It was also found that recruitment fees were often paid to recruitment facilitators, as illustrated in Table 6.2.

Most respondents reported being compelled to borrow loans through formal and informal channels, whereby 26.60% reported having borrowed loans from financial institutions, 22.40% borrowed from family or friends, and only 25.30% utilised their savings (Figure 6.7). Overall, 53.16% reported having borrowed from different parties, indicating that interests accumulated would vary, as debt from family or friends might have low-interest obligations, while borrowing from formal channels may have incurred higher interest rates. Where debt was owed to their employers, and workers were required to work off their debt, they would be subject to debt bondage.

The law regulating labour migration prohibits shifting recruitment costs to workers, estimated at USD 2,795.42 (MVR 43,105.37), as illustrated in Table 6.1. To cover this cost, workers were charged a median amount of USD 2,000 (MVR 30,840) (Figure 6.5). It was found that 36.60% of respondents paid below the median value, whereas 43.80% paid above the median value. This further exacerbates workers' vulnerabilities and increases the power imbalance between workers and their employers in favour of employers, facilitating room for exploiting workers and, in some instances, forced labour.

## 12.13 Abusive working and living conditions

As previously detailed, respondents were subjected to wage manipulations and deductions. As such, while 36.48% were required to perform additional work, 70.86% of these respondents were not compensated for the additional work performed (Figures 8.6 and 8.7). Meanwhile, 6.97% of respondents reported deductions made contravening laws for the provision of accommodation (Figure 8.8), and deductions made as a penalty were reported by 8.97% (Figure 8.9). 31.76% of

<sup>370</sup> International Labour Organisation, 'ILO Indicators of Forced Labour' (n 377).

<sup>371</sup> Premchander Smita, V Prameela and M Chidambaranathan, 'Prevention and Elimination of Bonded Labour: The Potential and Limits of Microfinance-Led Approaches' (2015) Report <[https://www.ilo.org/empent/Publications/WCMS\\_334875/lang--en/index.htm](https://www.ilo.org/empent/Publications/WCMS_334875/lang--en/index.htm)> accessed 20 April 2024.

respondents reported payment delays (Figure 8.10), 5.08% claimed that their employers paid their salaries to third parties (Figure 8.11), and 5.55% claimed that their employers had control over their spending (Figure 8.12).

Furthermore, the findings indicate that workers are not adequately provided with safety guidelines and gear, as 27.04% of respondents reported they were not provided with PPEs (Figure 9.3), while 32.70% reported not being provided with safety guidelines (Figure 9.4). This is also apparent from newspaper articles that reported OSH-related workplace incidents, including accommodation facilities. As is frequently reported in the media and literature, workers may also be subjected to substandard living conditions and forced to reside in overcrowded, unsanitary environments devoid of privacy.

The rise in reported cases of labour violations with indicators of forced labour proves that the current resources, inspections, mechanisms, and remediation are inadequate, and penalties imposed are insufficient to deter violations. It is thematically discussed that Bangladeshi workers in the construction industry and female workers engaged in domestic work are particularly vulnerable to forced labour practices. However, such cases remain un-investigated.<sup>372</sup>

## 12.14 Excessive overtime

It is unclear to what extent overtime constitutes abusive working conditions without a local law that dictates the maximum hours. However, this study discovered that many respondents put in more than the ILO-allowed 10 hours of overtime each week. 62.22% of those surveyed worked 10 to 12 hours daily (Figure 8.1), and 25.27% had to work seven days a week (Figure 8.2). As such, 73.91% of respondents reported working more than 54 hours per week, contravening the Employment Act and international standards (Figure 8.3).

## THE SPECTRUM OF EXPERIENCES

Although it is difficult to assess the extent to which respondents in this study are subjected to forced labour, it is evident that varying forms of labour exploitation remain prevalent. While the culmination of such experiences could amount to forced labour, victims should not have to be “sufficiently exploited” before they are afforded remedies and protection.

The lack of clear lines and definitions for different levels of exploitation makes it even harder to make laws and policies that address common problems and enforce existing laws. In some instances, the interventions in place backfire by motivating further exploitation and exacerbating vulnerabilities. The absence of a framework that caters to different levels of exploitation entails that sufficient protection is not provided for victims, prevention efforts are not cohesive, and prosecution levels remain low. Even where they are prosecuted, they face minimal punishment due to political factors. Despite the rise in cases of forced labour in the country, perpetrators remain unprosecuted,

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<sup>372</sup> United States Bureau of Democracy, Human Rights and Labor (n 256).



unpenalized, or punished due to inadequate legislative frameworks, ineffective monitoring mechanisms, and poor law enforcement.

This highlights the need to move beyond the one-dimensional approach of viewing labour policies solely to achieve decent work and address the few recognised major labour rights violations. The findings of this study corroborate this, as it is evident that exploitative labour practises and poor regulatory and implementation mechanisms vastly undermine the experiences of migrant workers. For these reasons, the efficacy of adopted policies has been questioned, as lenience towards contraventions is highlighted to the extent where it has been argued that the State is complicit in producing precarious and unfree labour.<sup>373</sup>

The data collected, analysed, and discussed thus far in terms of existing literature and the labour migration framework and mechanism indicate that the relationship between migration, precarious employment, and unfree labour is complex. As different factors lead to precarity, forming avenues for exploitation, and the imposition of unfree labour conditions. This is understood as the antithesis of free labour, defined to constitute “relations of production where direct political or legal compulsion is used to acquire and exploit labour power”.<sup>374</sup> The findings of this study points to a wide spectrum of experiences among the Bangladeshi migrant workers of Maldives.



**Figure 12. 1: Continuum of free and unfree labour**

As illustrated above, free, and unfree labour exist on opposing ends of the spectrum, indicating that several situations could fall between free and unfree labour. The range of experiences reported by respondents to this study, as previously detailed, alludes to the existence of a continuum of free and unfree labour. Their experiences must be visualised and considered as a range to adequately address the discussed issues and challenges faced by the migrant community. The continuum analogy regarding decent work and forced labour was further detailed by Skrivankova to include the ILO's definition of decent work on one end and forced labour on the opposite end.<sup>375</sup>

<sup>373</sup> Stakeholder Conference on Labour Migration within the Bangladesh-Maldives Corridor (Male', Maldives, 16 Nov 2022)

<sup>374</sup> Clifford J Jansen and Vic Satzewich, 'Racism and the Incorporation of Foreign Labour' (1993) 18 Canadian Journal of Sociology / Cahiers canadiens de sociologie 467.

<sup>375</sup> Beate Andrees, *Forced Labour and Trafficking in Europe: How People Are Trapped in, Live through and Come Out* (ILO Geneva, Switzerland 2008); Klara Skrivankova, 'Between Decent Work and Forced Labour: Examining the Continuum of Exploitation' [2010] York: Joseph Rowntree Foundation; Sam Scott, 'Labour Exploitation and Work-Based Harm' (*Cambridge Core*, April 2017) <<https://www.cambridge.org/core/books/labour-exploitation-and-workbased-harm/3F53FEC0E8BFAA97619183C70B5ED5D3>> accessed 23 November 2022.



**Figure 12.2: The continuum of labour exploitation**

This analogy encapsulates the changing reality of work situations, various forms of exploitation, and how they can be addressed. The range diminishes the assumption that all other things, or the in-between, are equal. The space between the two extreme ends is occupied with situations that do not comply with the principles of decent work, initially including benign forms of exploitation, with an increase in severity as it draws towards the opposing end.

This highlights the need for appropriate labour market interventions and remedies without creating a “hierarchy of suffering” that categorises people into “deserving” and “undeserving” groups,<sup>376</sup> which would assist in describing the complexities of exploitation. Thus, neglecting the binary values imposed on these experiences. This depiction leaves room to illustrate areas of interventions and remedies provided for and by policy and legislation regarding criminal law, labour law, and a combination of both. As a result, the continuum helps decide the solutions different areas of law offer for various forms of exploitation.

The importance of conceptualising the dyads as a continuum is further corroborated by the findings of this study, as it is evident that exploitative labour practices and poor regulatory and implementation mechanisms vastly undermine the experiences of migrant workers. As decent work and trafficking cannot correlate, the purpose of trafficking is achieved through a series of exploitative practices, which, in their extreme form, present as forced labour. Hence, there is a gap between the initialization of the trafficking process and the outcome of forced labour. Therefore, the highlighted fraudulent, deceptive, or exploitative practices as detailed and highlighted by this study were consequently assessed in terms of forced labour and trafficking in persons.

<sup>376</sup> Skrivankova (n 386).

## 13: CONCLUSION

Discourses related to labour migration, trafficking, and the migrant population residing in the Maldives have been and continue to be centred less around the contributions of migrant workers to the local economy and more on the disruptions caused by workers from a socio-economic standpoint. As a result of these negative sentiments, the formulation of policies and their implementation are characterised by discriminatory and prejudiced biases, on which the issues and challenges faced by migrant workers in the Maldives are based.

This study provides baseline insight into the vulnerabilities and pathways to exploitation of Bangladeshi migrant workers residing in the Maldives, with reference to the legislative and institutional mechanisms and the resulting labour migration management system. As such, the conceptualisation, emergence, and exacerbation of the plights of migrant workers are discussed with identified, detailed laws, policies, their implementation, and subsequent practices concerning the key thematic areas related to the recruitment of workers, their legal statuses, working conditions, occupational safety, health and industrial action, and discrimination.

As the migration journey and its outcome are often shaped before the migration process begins, the recruitment of workers was initially explored as literature depicts the challenges workers face at the initial stage, stemming from unregulated recruitment channels that give rise to ungovernable recruitment supply chains. This, in turn, fosters the charging of abhorrent recruitment fees, to finance which workers are often compelled to borrow money from formal and informal channels, thus forcing workers into situations of debt, which at times take the form of debt bondage, through which workers are required to work off the debts owed. At times, workers withstand precarious routes of recruitment and the illegal charging of recruitment fees under the false guise of securing jobs that do not exist, as workers are often made to work for different employers, assuming jobs aside from those that were promised for wages lower than those that were promised, with undetermined scope and terms of employment in contravention of established migration and employment standards.

Given the relationship between employers and their migrant employees and the imbalance of power resulting from the labour migration framework and mechanism, the channels through which workers are recruited and, subsequently, the visas and permits occupied ultimately determine the legal statuses of workers. The commodification of labour, and in turn, migrant workers, have created and fostered a network through which workers are traded among employers and are often either threatened with denunciation to authorities or reported to authorities for violations of labour migration laws committed either by employers as employers or in response to oppression or retaliation by employers.

This, in turn, provides employers with avenues for exploiting labour from migrant workers, as workers are reliant on their employers to maintain their legal statuses. Consequently, workers are often subjected to precarious labour standards and are forced to work hours beyond those specified

by local law and international guidelines without rest days, for which they are not additionally compensated. Furthermore, the overall salary compensation is insufficient for establishing or leading a quality life, even where workers are paid regularly. As deductions and wage manipulations such as wage theft continue to be reported by workers in the Bangladesh-Maldives labour corridor, many workers are not provided with their salaries for months or at all, where legal action is not sought. Literature and secondary data collected for this study depict that workers are often hesitant to seek legal redress owing to their vulnerabilities and other factors, such as their perception.

This provides additional leeway for employers to subject workers to harsher working conditions, particularly in the absence of an Occupational Safety and Health Act, because of which OSH incidents involving migrant workers continue to be frequently reported. The lack of an Industrial Relations Act, which offers informal channels for resolving disputes and addressing problems that arise in the workplace, further exacerbates their situation. The study highlights the susceptibility of the current framework to both explicit and implicit biases, which, when put into practice, lead to discriminatory procedures, and subsequently influence the labour migration experiences of migrant workers. As discrimination against migrant workers continues to be pervasive in their workplaces and communities based on their race, nationality, and legal status, it is additionally argued that the inherent prejudices and beliefs of the public reflect discriminatory policies and their implementation.

Following this, the range of experiences reported by workers was considered in terms of a continuum of labour exploitation, with the decent work principles put forth by the ILO at one end and forced labour being considered at the other end. Underpinned by a human rights-based approach, this study rejects the idea that the experiences of workers who fall across the continuum without being classified at either end are all equal. Thus, negating the need for a “hierarchy of suffering” for workers' experiences to be validated through the eyes of the law, policy implementation, and politics throughout different stages across different actors such as the State, CSOs, and the general community.

With reference to the described population of Bangladeshi migrant workers in the Maldives, coupled with the prevalences and exacerbations highlighted by this study, the need to address and remedy these concerns remains pressing. The findings of this study are intended to contribute to formulating and amending policies and their consequent implementation and adopt a rights-based perspective in monitoring, managing, and evaluating the labour migration mechanism in the Maldives.

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