



## Employment Law in Maldives...How Far Are We?

A Comparison between UK and Maldives

Civil Service Conference 2016

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## Constitution of Maldives 2008

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Separation of powers

Substantive fairness



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Fundamental rights

Procedural fairness

Independent commissions

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# Employment Act of Maldives 2008

Employment Tribunal



Labour Relations Authority

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Notice before dismissal

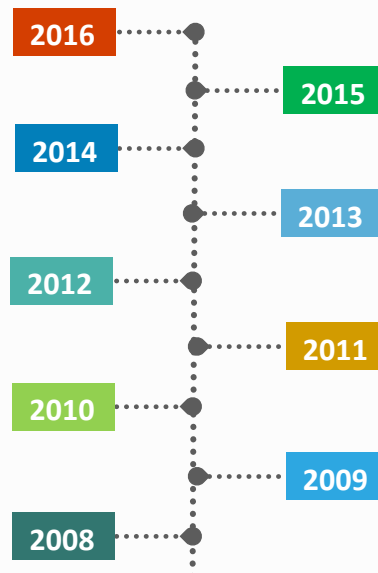
Qualifying Period

Employee rights

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## Prior to Employment Act of Maldives 2008

### No substantive justification prior to termination

- No job security
- Weak position of employees

### No general standard of procedural fairness upon dismissal / disciplinary action

- No specialized system of administration to interpret and enforce the legislation
- Easy access
- Speedy hearing

### No Employment Tribunal system

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### Only civil action to sue for damages

- Limited access to justice
- Limited remedies

### Two legislative attempts were made

- Official Kantha [Issues] Chapter 1 Act No. 1/68 (1968)
- Official Kanthah [Issues] Chapter 2 Act No 2/68 (1968)

1968

Still the power was vested on the president

07

## Employment law in UK

19th century - 1962	1963	1964	1965	1968
	contract of Employment Act 1963	(ILO) Recommendation No 119	Redundancy Payments Act 1965	Donovan Report
Termination is valid only by giving notice	statutory minimum notice periods	Termination should be backed by valid reason	redundancy payment	rights to lodge complain
		Procedural fairness		introduction of tribunals
		automatically unfair reasons for dismissal		changes to the remedies
				reasonableness of disciplinary reasons

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## Employment law in UK

1971	1979	1999	2002	2010
Industrial Relations Act 1971	Employment Protection (Consolidation) Act 1978Act	Employment Relations Act 1999	Employment Act 2002	
new legal rights to trade unions and individual workers	statutory test of fairness	Changed qualifying period from 2 year to 1 year	Limit access to tribunal	introduction to Alternative methods of Dispute Resolution
	Changed qualifying period from 1 year to 2 year	Maximum compensation limit	Strengthening dismissal and grievance procedures	tribunal fees
	ACAS	Fairness at work	Variations of awards for non-compliance	protected conversations
	Employment Appeal Tribunal		national statutory minimum wage	compromise agreements

# Practical difficulties in Maldives

## 1 The qualifying period is being stipulated as 2 years

- coincides with the reform taken by the conservative government of UK in 1985 and coalition government in 2010
- to remove perceptions of risk attached to taking on a new labour of staff and to give a reasonable time for the employers to evaluate the suitability which in turn would reduce the tribunal claims
- claimed as an indirect discrimination over to the vulnerable employees including women and young employees.

# Practical difficulties in Maldives

## 2 Overlap between the statutorily prescribed time duration for the expiry of limited term contracts,

- Inconsistencies in judicial decisions

*Ali Azim v ACC Moosa Nazim & others v GMR International Airport 195/VTR/2012 65/VTR/2011*

- legislation needs to confine to clarity

*A fixed term contract could be renewed, and the employee could be treated as if she or he was employed for a contract of indefinite duration with the full protection as a permanent employee.*

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## Practical difficulties in Maldives

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### Centered Employment tribunal

- No Access to Justice

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### Labor Relations Authority

- has limited power of observing the compliance with the Act
- Not independent

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### Employment tribunal decisions subjected to appeal for High Court

- delay to decide on employment disputes
- incur irrecoverable legal costs and loss of valuable working time
- Other cases decisions effect employment cases

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މަޢުލޫމާތު ދަތުރުދާރުގެ ފޮތް

1. މަޢުލޫމާތު ދަތުރުދާރުގެ ފޮތް ބަލާއިރު ފަތުރުދާރުގެ ފޮތް ބަލާއިރު

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## Recommendations

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### Establish Employment Appeal Tribunal

Supreme Court

Employment Appeal Tribunal

Employment Tribunal

Chaired by High court judge

Expertise from industrial relations

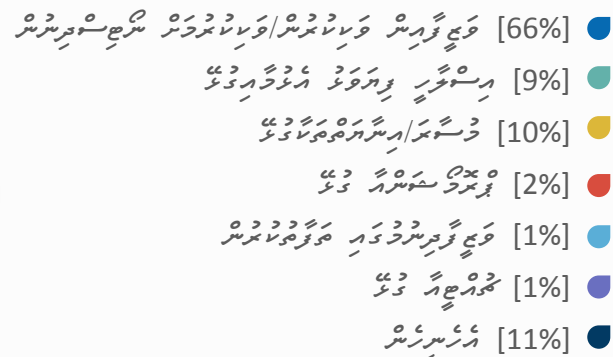
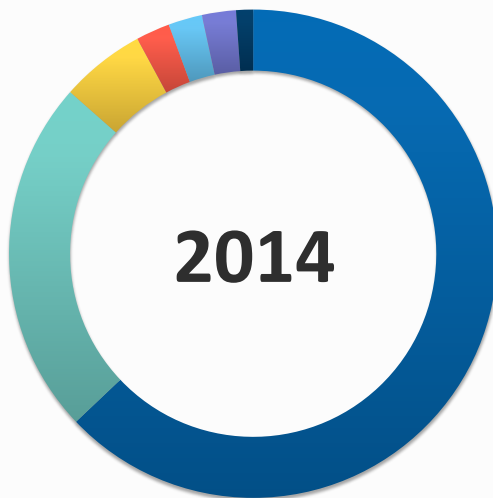
Other related fields

Same powers as high court

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# Recommendations

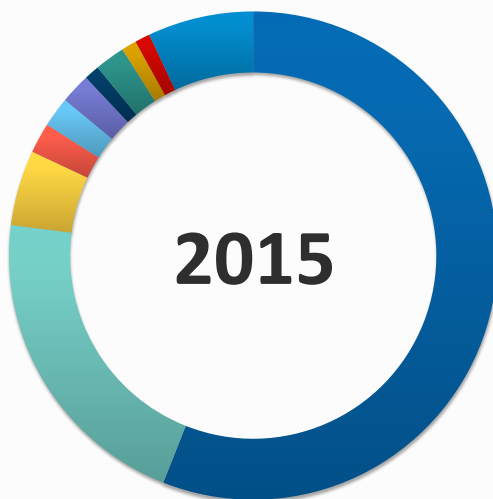
## 2 Introduction of tribunal fees



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# Recommendations

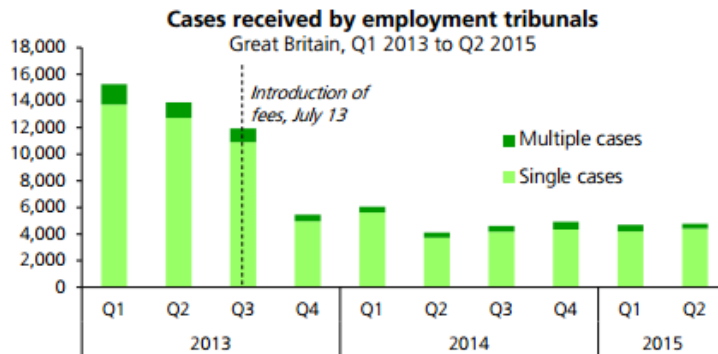
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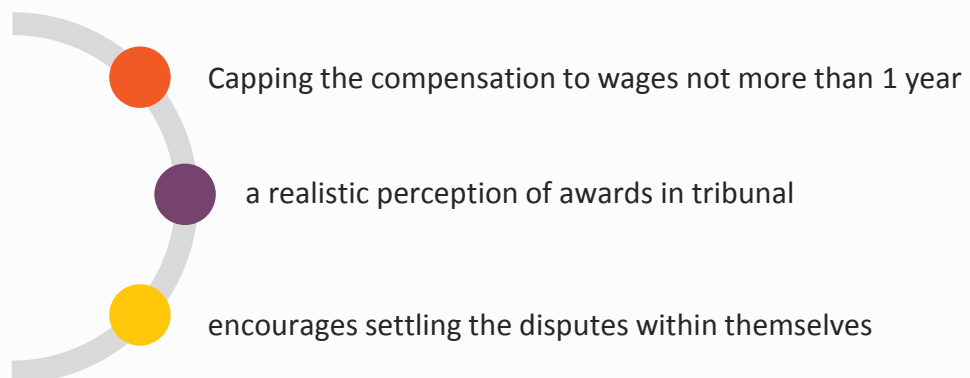
# Recommendations

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# Recommendations

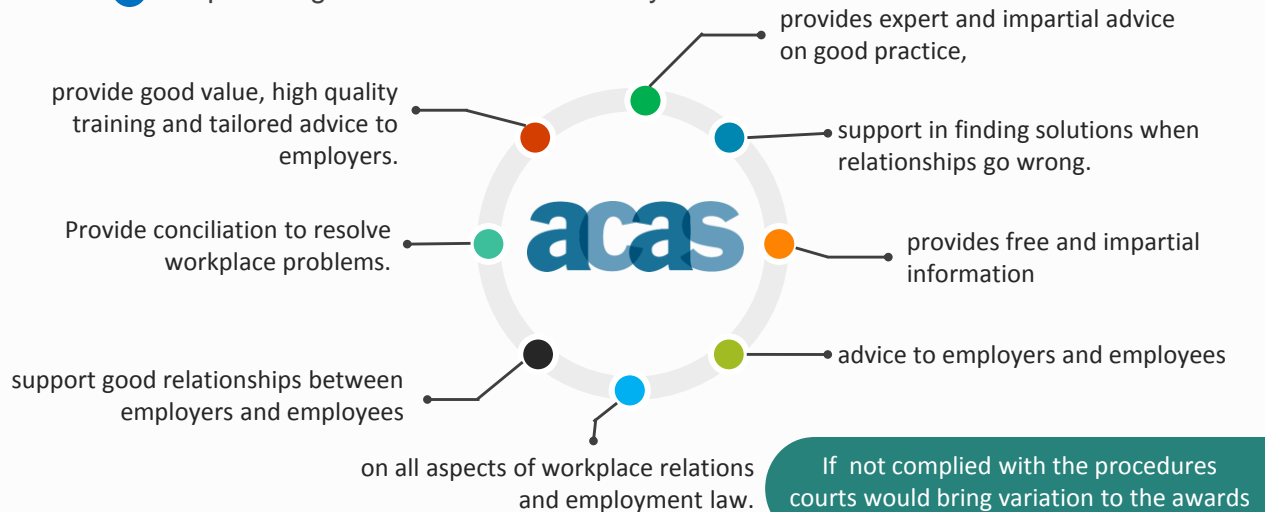
## 3 Maximum compensation limit



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# Recommendations

## 4 Empowering Labor Relations Authority



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# Recommendations

## 5 Alternative dispute resolution procedures



### Mediation

Rapid Settlements  
Mutually Satisfactory Outcomes  
Preservation of an Ongoing Relationship



### Compromise agreements

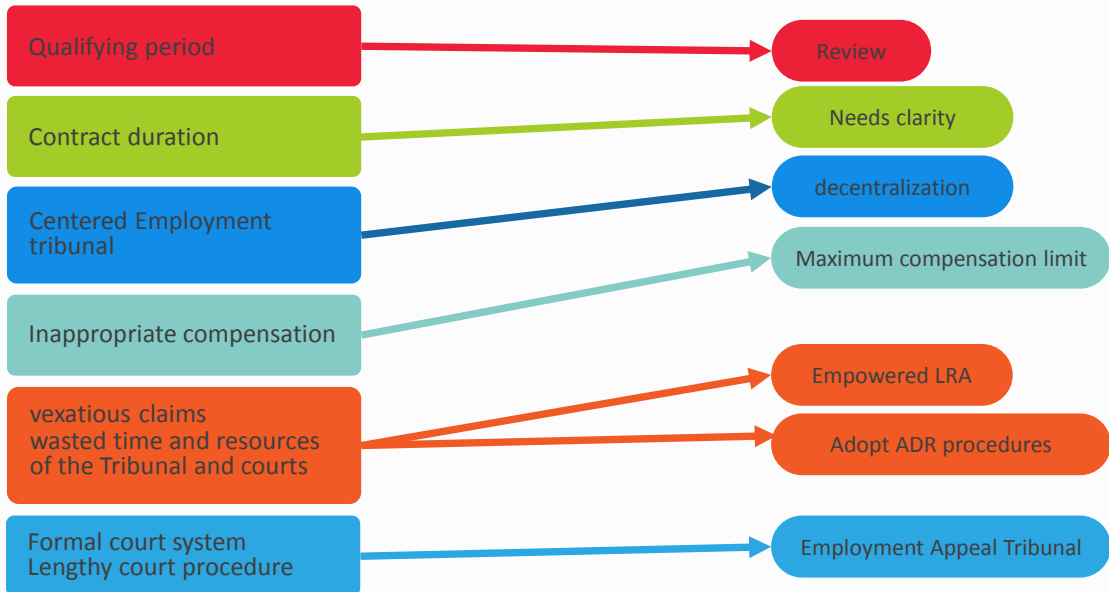
Can avoid court process  
Maintain good reputation  
Save cost and time



### Protected conversation

Informal  
Mutually Satisfactory Outcomes  
Cannot use for evidence at tribunal

## Summation



THANKYOU