

Justice for Wage Theft Series
VOLUME 3

CRYING OUT FOR JUSTICE:

*Wage Theft Against
Migrant Workers
during COVID-19*

ONE YEAR ON

An Analysis Report on Wage Theft
Cases Documented by MFA
Members and Partners



JUSTICE FOR
WAGE THEFT

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BACKGROUND

The Justice for Wage Theft Campaign began out of the efforts of civil society and trade unions to draw attention of states and employers to the grave violations of rights regarding migrant workers' wages and dues. Issues of constant wage theft and non-payment of compensation and dues have been consistently highlighted by civil society as a systemic problem within labour migration. However, the COVID-19 pandemic had aggravated its occurrence and made it visible. The pandemic further exposed underlying gaps in labour migration (particularly among temporary and contractual migrant workers) and the flawed foundations upon which such migration programs have been established.

For instance, the ILO Report commemorating the 10-year anniversary of the C189 mentions non-payment of wages and the closure of remittance services as major issues that continue to affect domestic workers and even more during COVID-19. (ILO, 2021). One Fair Wage's report on workers in the service sector showed that 35% of 238 tipped employees¹ experienced wage theft in the past year. The report highlighted a different form of wage theft where 'employers failed to make up the difference between the minimum wage and the tips received on top of the subminimum wage, or non-payment for overtime'.²

The surge in the number of wage theft cases reported during the pandemic bolstered the call of the Justice for Wage Theft campaign to reform redressal mechanisms and address the condition of millions of such workers whose wages have been unjustly withheld. To adequately address the issue, the establishment of an Urgent Justice Mechanism was initially advocated for. Subsequently the coalition released 4 more appeals focusing on actions to be taken by UN bodies, governments, and businesses to take concerted action in engaging with existing cases of wage theft and lack of justice.

As we move to the second year of the pandemic, we see that progress towards achieving justice for migrant workers has been slow and deliberate, and there have been some gains throughout the campaign. Through concerted efforts of civil society organisations in countries of origin and destination in engaging grievance redressal mechanisms and advocacy, states and employers have taken steps to ensure that the migrant workers receive their withheld wages. They have also, in some instances, attempted to address rights violations committed. However systemic changes that address root causes and foundational flaws are yet to be introduced or implemented.

At the outset, there have been better reporting efforts with respect to returnee or repatriated migrant workers and wage theft, among other concerns. For instance, Bangladeshi media reported regarding data maintained by Bureau of Manpower Employment and Training (BMET) on workers remigrating during COVID-19. More than 40,000 women migrant workers went abroad with jobs in the first eight months of 2021, with the demand for women domestic work increasing in Middle Eastern (ME) countries again. Among them, 27,472 went to the Kingdom of Saudi Arabia, 7,874 to Jordan, 3,667 workers to Oman. In

¹ The US Department of Labour defines a **tipped employee** as a worker that is engaged in an occupation in which he or she customarily and regularly receives more than \$30 per month in tips over wages.

² 34% of restaurant workers experienced more wage theft in 2021, OFW reports. Published Sept. 27, 2021 Aneurin Canham-Clyne

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2020, only 21,934 women migrated in comparison.³ Overall, roughly 485,893 Bangladeshi migrant workers were reported as having remigrated during 2021.⁴

Recent developments include efforts by countries of destination in addressing wage theft and labour complaints. Some countries of destinations such as Saudi Arabia, Qatar, Kuwait, Thailand, Singapore, and Australia have taken various degrees of actions, from setting up a multi-ministry task force and relevant laws, to courts ordering unpaid wages to be compensated to migrant workers. These reforms were based upon countries of destination needs to open their economies and countries of origin needs for markets of migrant labour demand – fulfilled through bilateral agreements and other coordination mechanisms.

However, there were not any significant coordination plans between countries to address systemic issues of temporary labour migration that were exposed during the pandemic. Despite the scale and extraordinary nature of the issues raised by the pandemic, there were barely any coordinated measures to organise extraordinary responses. For instance, countries did not institute specialised, necessary, simple procedures to ensure the monitoring and documentation of abuses experienced by migrant workers before they are repatriated, therefore workers returned home without any means to express their grievances, including issues of wage theft.

Below are some of the recent developments seen with respect to wage theft in countries of origin and destination.

Policy Changes

a. Saudi Arabia

- i. The new Labour Law is reported to allow for the transfer of the services of expatriate workers who want to switch jobs without the consent of their employers who fail to attend court sessions set for the amicable settlement of disputes. The ministry also grants work permit for the purpose of issuing final exit if residency visa (Iqama) is expired.⁵
- ii. Saudi Arabia also enacted a new regulation that allowed employers to unilaterally cut workers hours and wages for six months in 2021. (Migrant-Rights.org, 2021)

b. United Arab Emirates

- i. In the UAE, reports indicate that main and sub-contractors are shedding workforce due to losses, are without funds to pay off the gratuity, even among bigger construction firms and down the supply chain. Several workers face non-payment of wages and then termination without gratuity. As per the current laws, a company should cancel an employee's visa within a month or two and settle their end-of-service benefits on resignation/termination. Lawyers urged workers to not

³ '40 thousand Bangladesh women workers went abroad with jobs in 2020'. Retrieved 3 October 2021, from <https://thefinancialexpress.com.bd/trade/40-thousand-bangladesh-women-workers-went-abroad-with-jobs-in-2020-1633230775>

⁴ 'Migration of Bangladeshi expats likely increased 1.5 times in 2021'. (2021). Retrieved 30 December 2021 from <https://www.thedailystar.net/nrb/migration/news/migration-bangladeshi-expats-expected-rise-15-times-2022-2928991>

⁵ Khitam Al Amir, S. (2020). Saudi Arabia: 31m riyals in dues settled for heirs of deceased expat workers. Retrieved 2 December 2020, from <https://gulfnews.com/world/gulf/saudi/saudi-arabia-31m-riyals-in-dues-settled-for-heirs-of-deceased-expat-workers-1.75626064>

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wait for liquidators of the companies and file their cases before the Ministry of Labour to ensure the law is followed through judicial channels.⁶

- ii. UAE's resolution to stabilize private sector employment gave businesses a free hand on contract change. According to Ministerial resolution 279, companies affected by Covid-19 could 'reorganise the work structure'. (Migrant-Rights.org, 2021)
- iii. The UAE declared that it aims to fully utilize its remote litigation mechanism established early this year, looking to have more than 80 per cent of litigation occur remotely.¹²
- iv. The UAE also issued the Federal Decree-Law No. 33 of 2021 on the Regulation of Labour Relations, which comes into effect from February 2, 2022. It covers various aspects of the relationship between employers and employees in the private sector workforce. Article 13 of the decree titled 'Obligations of employer', lists all the duties companies need to fulfil and their responsibilities towards their employees. Article 13 also urges employers to not force the worker to 'leave the UAE after the end of the work relationship', among others. Article 25, regarding wage deduction, puts a cap on the maximum amount of salary that may be deducted at 50 per cent, if an employer has multiple reasons for the wage to be deducted.⁷ (See Appendix)

c. Qatar

- i. Last year, Qatar introduced non-discriminatory minimum wage as part of a major 'historic labour reform' programme. In addition to the minimum monthly basic wage of 1,000 Qatari riyals QR (275 USD), the new legislation stipulates that employers must pay allowances of at least QR 300 for food and QR 500 for housing, should employers not provide workers with these directly.
- ii. Qatar further worked upon enhancing monitoring across the board to detect violations, enacting swifter penalties, and strengthening the capacity of labour inspectors. Employers who pay their staff less than the minimum wage will face one-year in jail and QR 10,000 fine.⁸

d. Kuwait

Despite good efforts, COVID repercussions on businesses continued to affect operations and labour relations. Reports from Kuwait indicated that end of service benefits for expatriates had become a 'crisis point', irrespective of whether they lost their jobs due to Kuwaitization. Particularly among expatriates working for state agencies, the country's liquidity crisis has affected them receiving workplace benefits for several months. Meanwhile, the Ministry of Finance circulated budgetary rules to government agencies and demanded that each entity estimate in its draft budget the amounts of end of service benefits for expatriates and include them in the end-of-service compensation clause in each entity's draft budget. It further set a ceiling for the number of those whose services have been terminated.⁹

⁶ Manoj Nair, B. (2021). UAE's construction workforce gets caught up job losses, unpaid salary and gratuity . 14 June 2021, from <https://gulfnews.com/business/property/uaes-construction-workforce-gets-caught-up-job-losses-unpaid-salary-and-gratuity-1.1623641334413>

⁷ Huda Tabrez, L. (2021). New UAE Labour Law: When can my employer deduct my wages?. Retrieved 25 November 2021, from <https://gulfnews.com/living-in-uae/ask-us/new-uae-labour-law-when-can-my-employer-deduct-my-wages-1.1637847186119>

⁸ Ibrahim, Menatalla. 28 April 2021. Qatar swiftly intervenes to resolve salary issues after workers' protest. Doha News

⁹ 03 October 2021. Indemnity delays to expats at crisis point – Wait for months. Arab Times. https://www.arabtimesonline.com/news/indemnity-delays-to-expats-at-crisis-point-wait-for-months/?fbclid=IwAR3_F1aqtKugv9kJ-FQj90jzvVhh1f_2qVH8yh7rtWfQFPUUFwyQ3RDHEel

e. India

Through concerted action by civil society in countries of origin and destination, governments have responded through collaboration in rescue and reintegration efforts as well as policy decisions in measured steps. The Indian government for example, decided to restore the minimum referral wages for workers in the GCC that it had reduced months ago. For 10 months, the MRWs were adjusted downwards "to protect our employment in the Gulf". "As the labour market stabilized once more", the earlier MRW was made applicable. Telangana Gulf Workers Joint Action Committee led the movement and demanded abolition of circulars reducing the minimum wage. Telangana minister raised the issue to the Centre and a Public Interest Litigation was also filed in the state's High Court by civil society members.¹⁰

Case Management

f. Saudi Arabia

- i. The Ministry of Human Resources and Social Development in KSA recently settled claims worth 31 million riyals for the heirs of deceased expatriate workers through coordination with embassies of countries of origin.⁵
- ii. The MHRSD further helped a total of 29,573 workers get their wages worth SR54 million (\$1.4mn) that had been delayed for one month. The Crisis Management Department in the Riyadh region obliged 19 contracting companies to disburse unpaid wages of their workers, after meeting with representatives of the companies, examining the condition of workers, and working out a monthly action plan that included weekly visits and monthly updates.¹¹

g. United Arab Emirates

Abu Dhabi established a court to hear financial disputes involving claims of less than Dh500,000 (\$136,125) to free other courts for more serious matters. Abu Dhabi Judicial Department said labour disputes, claims for unpaid wages, and commercial and civil cases would be handled by the court. The fast-track system will pass judgments within 15 days of each case being registered.¹²

h. Qatar

Qatar saw the resolution of peaceful protests by security guards to demand an increase to their salary to meet the minimum wage set by the reformed labour law. The workers are all employees of European Security [EGSSCO], one of the largest security companies in Qatar, which failed to inform its workers of how their salaries would appear on their pay slips once the new minimum wage law was introduced. Authorities calmed concerns by the protesters, whose issues have now been addressed and resolved by all parties involved.⁸

¹⁰ Center restores minimum wage structure for Gulf workers. Retrieved 23 July 2021, from <https://newsmeter.in/world-nri-news/center-restores-minimum-wage-structure-for-gulf-workers-681053>

¹¹ MHRSD's intervention helps 29,573 workers to get delayed wages worth SR54 million. Saudi Gazette. November 01, 2021

¹² The National (2021). UAE to have 80% of litigation take place remotely by end of the year, Sheikh Mohammed says. Retrieved 21 June 2021 from <https://www.thenationalnews.com/uae/uae-to-have-80-of-litigation-take-place-remotely-by-end-of-the-year-sheikh-mohammed-says-1.1245288>

i. **Singapore**

MFA member HOME (Singapore) handled 274 cases involving issues with the salary declared on In-Principle Approval letters. Workers are offered a job with a significant monthly pay reflected in the IPA. However, employers declare a different and much lower amount to the Ministry of Manpower. MOM stated that it has received 560 false salary declaration complaints every year over a five-year period between 2015 and 2019 and that it took enforcement action against 950 employers for the same violation.¹³

j. **Malaysia**

In Malaysia, American tire manufacturer Goodyear Tire & Rubber Co (GTO) is facing accusations of unpaid wages, unlawful overtime, and threats to foreign workers at its Malaysian factory, according to court documents and complaints filed by workers. Workers were from Nepal, Myanmar, and India, and claimed \$1.21 million in unpaid wages. Malaysia's Labour Department said that Goodyear had been accused and fined of similar violations in 2020 as well as for wrongful salary deductions, excessive working hours and denying workers full access to their passports. Courts ruled in favour of the foreign workers and Goodyear was ordered to pay back wages and comply with the collective agreement.¹⁴

- k. Countries like **Kuwait and Bahrain** which have relatively more vocal and well-organized civil societies were able to better mobilize relief work within their own communities. In contrast, countries like Saudi Arabia or Oman were almost impossible to navigate for grassroots organizations and migrants alike. (Migrant-Rights.org, 2021)

With a dedicated website for Justice for Wage Theft (JWT) campaign, MFA members and partners have been active in documenting cases of wage theft received by them and their grassroots-level workers. The flagship report analysed the cases received in the documentation system in the year 2020. It further detailed the different forms of wage theft as well as difficulties with respect to collection and analysis of wage theft data. This report observed one-year of the wage theft campaign, looking at overall cases from the inception of the campaign till December 2021 and looked at ways forward for the campaign. It further intends to question current temporary labour migration regimes and calls for a reform of the legal system.

¹³ 24 May 2021. Kok Yufeng. Cases of false declaration of Singapore migrant workers' salaries rising, says NGO

¹⁴ 31 May 2021. EXCLUSIVE U.S. tyre maker Goodyear faces allegations of labour abuse in Malaysia. Mei Mei Chu, A. Ananthakshmi. Reuters

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CAMPAIGN MILESTONES: Sustaining Momentum

"It is notable that these are just a fraction of the actual numbers of migrant workers that suffer wage theft across the globe compared to actual numbers that go unreported and are invisible due to lack of documentation. Sector-wise and even gender-wise we may see under-representations in the data. The data we collected was only possible due to concerted efforts of our members and partners"

– William Gois, Regional Coordinator (MFA)

The Justice for Wage Theft is a campaign launched by a large coalition of civil society organizations and trade unions on June 1, 2020, appealing to governments to establish an "Urgent Justice Mechanism" that addresses the plight of millions of migrant workers whose wages have been unjustly withheld by their employers. Subsequently, four more appeals were issued focusing on actions to be taken by UN bodies, governments, and businesses to take concerted action in engaging with existing cases of wage theft and lack of justice as well as the creation and maintenance of effective mechanisms for continued progress. This section looks back at the past year of the campaign, recounting milestones of progress for the cause.

Since 2019, MFA members and partners have engaged with local and national governments to improve migrant worker protection during COVID-19 and with a view to improve future prospects. Efforts include, among others:

- **In Bangladesh**, a national consultation on research findings to promote access of migrant workers to the justice system was held, together with strong advocacy efforts for the inclusion of migrant workers in the Social Safety Net Program and to prevent discrimination and exploitation faced by migrant workers. At the regional level, organizations have been lobbying for the creation of a standard contract for migrant workers, which includes the provisions of wage protection and social protection.
- **In Singapore**, MFA partners have engaged, among others, with the Ministry of Manpower to learn about upcoming plans on the handling of the pandemic and to highlight concerns shared with them by migrant workers. These efforts led to the implementation of changes in the legislation improving the balance of power between employers and employees.
- **In Nepal**, organizations effectively engaged with global, regional, national and local level policy dialogues on safe labour migration and decent work and advocated for the ratification and transposition in national laws of relevant international instruments, such as the ILO Convention no. 189. Others in the country advocated for support on economic reintegration, for the implementation of policies to protect the economic security of migrant workers and the introduction of programs to educate and empower migrant workers, particularly women, on safe migration options.

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- In Indonesia, organizations worked with local governments to improve the delivery and management of services, providing support to migrant workers and prevent trafficking, work that is not reflected yet in advocacy efforts at the regional or national levels. Organizations also pushed policy makers to collect accurate data, to keep monitoring migrant workers' flows at the local level as well as to develop reintegration programs to empower returnees. (Migrant Forum in Asia, 2021)
- MFA and other non-governmental organisations also requested the creation of a Working Group to collaborate on sharing experiences and lessons learned about the impact of COVID-19 on migrants, migration and development through the **Global Forum on Migration and Development**.¹⁵ Among others, the Working Group should have contributed to the promotion of concrete partnerships among different actors to address the impact of pandemics on migration and development. Despite some initial efforts, however, works are now at a standstill (Migrant Forum in Asia, 2021)

¹⁵ <https://www.gfmd.org/gfmd-ad-hoc-working-group-impacts-covid-19-migrants-migration-and-development>

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FIGURE 1 MILESTONES OF THE JFWT CAMPAIGN**ENDORSEMENTS**

- 30 organizations and networks of civil society and trade unions and 1 prominent individual (Shahidul Haque, former foreign secretary of Bangladesh)
- Supported by NHRCs in Maldives, Nepal, and the Philippines
- In March 2021, the Interfaith Center for Corporate Responsibility (ICCR), a coalition of long-term institutional investors, formally endorsed the JFWT campaign voicing their support and urging companies to implement human rights due diligence in their supply chains and to support the campaign.
- The Parliamentarian Caucus in Bangladesh co-organized the GCM side event on wage theft and showed support to the campaign by raising the issue in parliament

BUILDING SOLIDARITY

- Partnered with IOM Regional Office (BKK) and the ILO with IOM Regional Office (BKK) and the ILO on data exchange on wage theft to engage their Rapid Assessments in different origin countries to assess the situation of repatriated migrants
- United Nations Network on Migration (Inter-Agency Working Group) took up the issue of non-payment of wages
- Partnership with the UK and Swiss governments on their Initiative, Call to Action on Remittances: Webinar on Unpaid Wages and Remittances
- Launched national wage theft reports in India with the Centre for Indian Migrant Studies (CIMS), and the International Institute of Migration and Development (IIMAD) as well as in Bangladesh with Refugee and Migratory Movement Research Unit (RMMRU)
- MFA and the Lawyers Beyond Borders (LBB) Network co-organized a webinar on “Alternatives to Dispute Settlements: Use of Technology in Accessing Justice for Migrant Workers”.

ADVOCACY

- National launch of the campaign to highlight the issue at the national level in India, Indonesia and the Philippines
- Organised 3 webinars to brainstorm on how governments, international organizations like the ILO, IOM, and WB, and the private sector can address the issue.
- As partners of the ILO in Global Media competition, MFA was able to incorporate the issue of non-payment of wages as a thematic issue to be taken up within the competition
- Facilitated participation of Nepal, Bangladesh, and Indonesia as well as a number of civil society organizations, trade unions and UN agencies in the Global Forum on Migration and Development (GFMD) Migration Lab Discussion Group on Wage Protection and Transnational Justice
- GFMD Side Event on Non-Payment of Wages
- GCM Regional Review of the Asia-Pacific–Side Event: Migrants, Wages, and the Pandemic: Where are We Now on the Issue of Wage Theft?
- Raised the issue of non-payment wages at the Abu Dhabi Dialogue Sessions – Senior Officials Meeting and Ministerial Consultation

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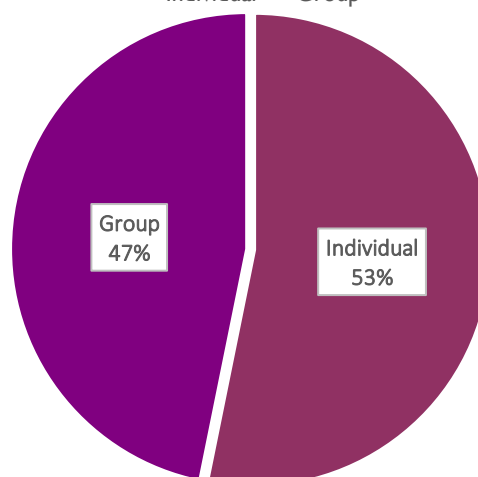
CAMPAIGN RECAP: Quick Stats

As of December 2021, the JFWT-Uwazi platform has recorded 2604 cases of wage theft across Asia. This includes cases registered from the launch of the campaign onwards.

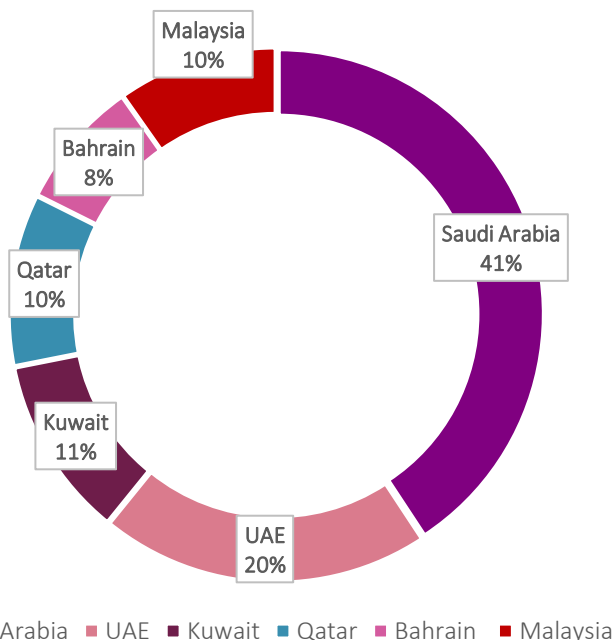
- > Of these, there were 50 group cases of 1219 people in total.
- > The size of each group case ranged from 159 to 203 victims.
- > Average number of victims per group case was around 24-25.
- > 26 group cases were filed by Nepali documenters while 11 group cases were filed from Indian documenters. Indonesian documenters recorded 7 group cases and documenters from the Philippines filed 6 group cases in total.

CASE TYPE

■ Individual ■ Group



COUNTRIES OF DESTINATION



Overall, the 5 **countries of origin** with the greatest number of cases registered include India (950 cases), Nepal (619), Bangladesh (436), Indonesia (429) and the Philippines (158).

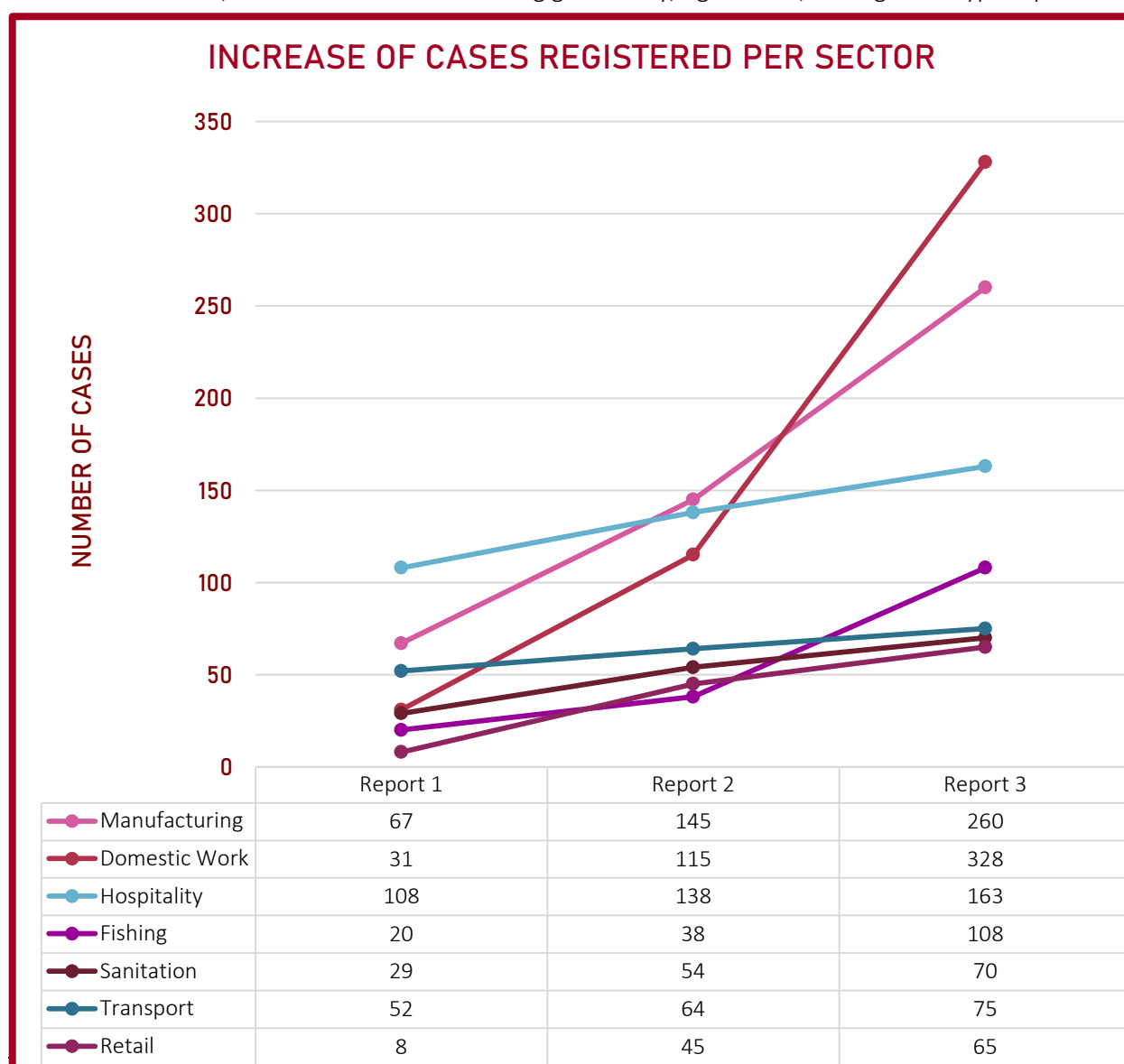
The 5 **countries of destination** with the highest number of cases reported include KSA (885 cases), UAE (437), Kuwait (240), Qatar (228), Malaysia (212) and Bahrain (171).

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Sectors

As noted in the two previous JWT reports, **the construction sector continued to account for the largest proportion of cases of wage theft among migrant workers at 1322 cases in total.** The cases increased from 657 during the reporting period of the previous report.

- > This is followed by 328 cases in domestic work (where female migrants were disproportionately affected), manufacturing sector at 260 cases, hospitality sector at 163 cases, office staff at 147 cases and the fishing sector at 108 cases.
- > Other sectors include transportation (75), sanitation (70), retail (65), 'other' occupations¹⁶ (30) and tradespersons (14), medical, agricultural, mining, plantation workers, etc.
- > We see that there has been significant improvement in engagement with the JFWT platform by MFA members from Report 1 and 2. Some sectors that have seen notable improvement in data collection include fishing, domestic work and construction.
- > Within the data, certain sectors such as the gig economy, agriculture, mining were typically



¹⁶ Workers in the gig economy (such as food delivery), beauty workers (hairdressers and salon workers), salespersons in small-scale grocery stores as well as unskilled labourers who are contractually employed etc.

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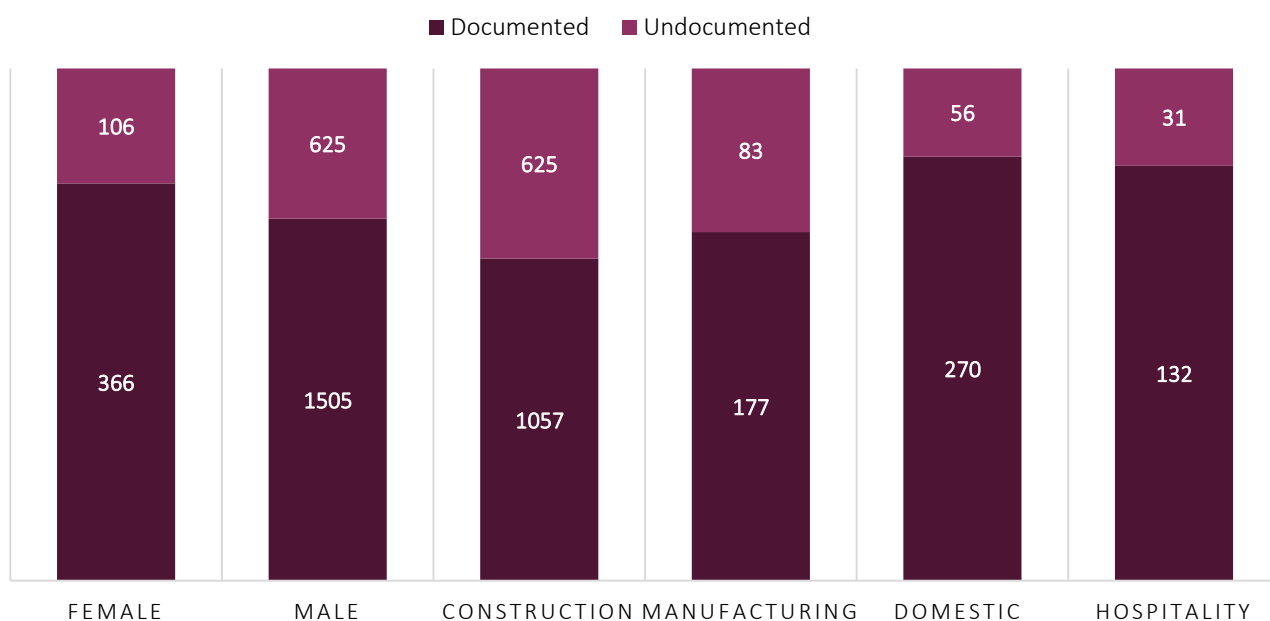
underrepresented. This was due to the lack of documentation on part of the workers, the seasonal and circular nature of certain migration patterns and the overall lack of formality of work within the sector. However, in global labour migration data, workers in these sectors are extremely vulnerable to wage theft.

Gender

On the JFWT platform, 2130 cases regarding wage theft were filed on behalf of male migrants and 474 on behalf of female migrant.

- > Female migrant workers were disproportionately represented within domestic work (304 out of 328 cases reported) and sanitation services (29).
- > Almost all cases reported in the construction sector were males and construction accounted for more than half of male migrants who experienced wage theft. All cases of the fishing sector were also males. Other prominent sectors included hospitality (138) and office staff (122).
- > Manufacturing sectors accounted for substantial number of cases for both males (179) and female (81) migrant workers.

DOCUMENTATION STATUS PER GENDER AND KEY SECTORS



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Documentation

With respect to documentation status, 731 cases were reported by undocumented migrants and 1871 by documented workers. **Despite improvements in data collection, the percentage of undocumented workers within total cases registered was seen as remaining consistent over the past year (around 30% of total cases).**

- > Documented workers that experienced wage theft were primarily within the construction sector (1057), followed by domestic work (270), Manufacturing (177), Hospitality (132) and Transportation (49).
- > Overall, construction accounted for the largest number of undocumented cases at 265, followed by office workers, fishing, manufacturing, and domestic work. Kuwait (180), KSA (119) and Cambodia (104) reported the largest number of undocumented workers that faced wage theft.
- > Out of 731 undocumented cases, Indonesia accounted for around 40% of cases. A group case of casino workers in Cambodia that faced trafficking and wage theft constituted the largest proportion among the Indonesian casework, followed by fishing and manufacturing sectors.
- > 29.3% of male migrant workers and 22% of females were undocumented when they faced wage theft. Among female migrant workers, domestic work reported the largest number of undocumented cases that experienced wage theft. Undocumented female migrant workers were from Indonesia (50), Bangladesh (31) and Nepal (18). The countries of destination that undocumented female migrants seemed most vulnerable to wage theft included Saudi Arabia (35) , Malaysia (18), and Lebanon.

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From MFA Partners (June-Dec 2021)

The below wage theft cases in the GCC and ASEAN region were collected by MFA members and partners in separate submissions. These figures included to the number of cases on the JFWT platform add up to 1,267 cases.

1. With the assistance of MFA partners, The High Commission of Bangladesh in Brunei Darussalam issued a letter in June 2021 to relevant ministries in Brunei regarding 49 cases of wage theft. 49 Bangladeshi workers from 4 different companies reported wage theft of a total amount of roughly \$237,220. Wage theft offenses included wage cuts, Sultan tax deduction from workers' salary, forged medical tests, no contract provided, confiscation of documents and reduced overtime pay, among others.
2. MFA partners in Kuwait engaged with the Indian Embassy to report a group case of 120 workers of one engineering and contracting company that experienced wage theft. Some workers had been working in the company for more than 25 years. Offences against the employees included
 - a. Fabrication of false absconding cases to deport employees without payment of dues
 - b. Non-renewal of visa
 - c. Pending monthly and leave salaries, end of service benefits, notice pay, air ticket costs, reimbursement of visa non-renewal fines
 - d. Fear and threat of retaliation in case of legal action by victims (only 16 employees filed cases in Kuwait)
3. With the assistance of MFA partners in Bahrain, 19 employees of a construction company signed a letter to the company president regarding non-payment of salaries and other benefits for a period of 4 months. The employees continued to stay at the camp but were not allowed to join work for more than a month. This was compounded by electricity and water cuts to the camp.
4. RMMRU reported 100 cases of wage theft from Bangladesh. Workers were from a variety of occupations such as hospitality, semi-skilled occupations, domestic work, and construction. 44 cases were from KSA, 19 from Kuwait, 14 from UAE and others from Oman, Qatar and Bahrain. 27 percent of cases were female returnees. Almost all workers that returned due to the pandemic have not received their end of service entitlements before leaving the destination country. Most workers were laid off by their employers without paying dues, while several others experienced undocumented status as well as sickness.
5. NNSM released a situational analysis of wage theft of Nepali migrant workers in June 2021. The study comprised 241 returnee migrants in which majority were male (69%) and larger segment of returnees were from the age group of 25-29 years (26%). Significant proportion of returnees were from Janajati (38%), married (78%) and with low educational status.
 - a. The highest proportions of returnees were from UAE (36.27%) followed by Saudi Arabia, Malaysia, Kuwait and Qatar.
 - b. About 78 per cent of the total returnee migrants were documented in which more females were undocumented than their male counterparts.
 - c. Nearly 63 per cent respondents had received payment as agreed, whereas 33 per cent returned empty-handed. The proportion of returnees who did not receive the agreed

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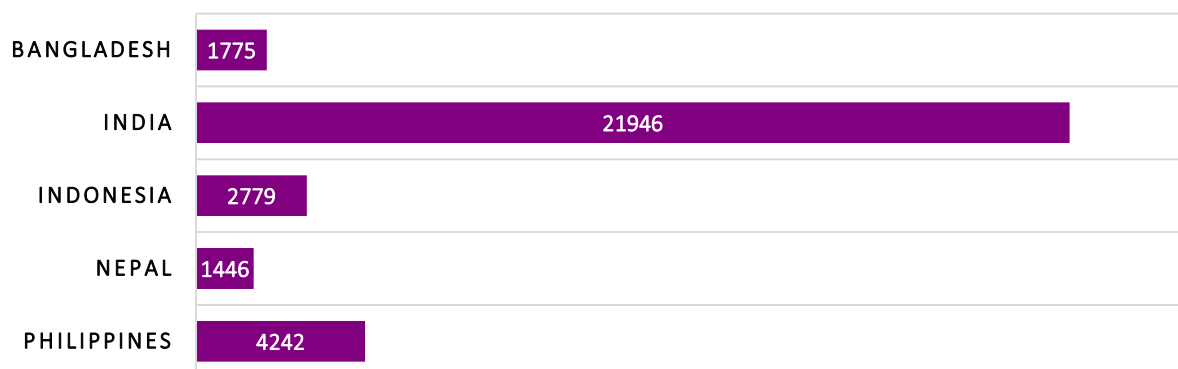
salary were 30-40% from destination countries such as Kuwait followed by Malaysia, Qatar, Oman, Saudi Arabia and the UAE.

- d. Out of total returnee migrants, 53 per cent were coerced to sign the settlement papers without receiving the dues before they left the country of destination.
 - e. Out of total returnees, 30% had experienced the reduction in salary by 90-100%. Of the total returnees, about 27% had given consent for salary reduction whereas remaining 73% did not give the consent.
 - f. Of the total returnee migrants who had been the victims of wage theft, only 17% had filed cases. 16% of the respondents who had been forced to sign on documents had filed cases.
6. NDWM (India) reported 13 cases (3 females and 10 males) returnees. They were employed mainly in construction and domestic work in Kuwait, Oman, Qatar and UAE.
 7. NNSM supported by Solidarity Center also received 402 cases of wage theft of Nepali returnees from India. The area of focus were towns along the Dokebazar-Gauriphanta Indo-Nepal border. Of the 381 returnees who reported their grievances of wage theft 20 were choosing to remigrate. All workers were noted as being undocumented. Sectors of work included construction, agriculture, hospitality, security, and odd informal jobs. 14 female migrants who reported wage theft were mostly engaged in domestic work.
 8. AMKAS supported by Solidarity Center received 46 cases from Nepalese returnees from UAE and Kuwait. All returnees experienced workplace abuse of excessive hours, different assigned duties, etc. and then eventual undocumented status. They were detained and were either deported or returned with the assistance of the Nepal embassy at the destination.
 9. Pourakhi reported 42 cases of wage theft by returnees that worked in sanitation, transport, manufacturing, and security. Countries of destination included UAE, Kingdom of Saudi Arabia, Qatar, Jordan, Algeria, and Kuwait. Most experienced non-payment of wages and were forced to buy their own return flight tickets. Several workers also mentioned that their employers refused to provide NOC (particularly in Qatar) to switch jobs.
 10. Kanlungan reported 2 cases of returnee domestic workers from Jordan and KSA. One worker did not receive her salary for 4 years. The other worker experienced non-renewal of visa, ill treatment, lack of medical attention, confiscation of documents, etc.

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WAGE THEFT ESTIMATES

AVERAGE WAGES LOST PER WORKER* (USD)



*based on cases registered on JFWT website

Country	Number of Workers	Total Amount of Wage Loss (USD)
Bangladesh (2 documenting teams)	79	116,526
	300	556,434
India (2 teams)	737	16,336,500
	8	20,915.50
Indonesia	408	1,133,980.87
Nepal	441	637,723
Philippines	99	420,690
Total Number of Workers: 2072		Total Amount: \$19,222,769

8 documenter organizations from 5 countries of origin received 2072 cases of wage theft where the amounts of wage loss were calculated with documentation proof (such as salary slip, company letter, etc.). **The total amount of wages and dues stolen from a little over 2000 workers was USD 19.2 million.**

- 745 Indian migrant workers reported a sum of USD 16.3 million as wages and dues lost during the pandemic. 408 Indonesians reported USD 1.1 million as wages lost. 441 Nepali migrants suffered wage theft to the tune of USD 637,000. 379 Bangladeshi workers lost a little more than USD 672,000. Finally, 99 Filipino migrants reported losing USD 420,000 by wage theft.

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- On average, 414 workers per group experienced wage theft. Each worker lost USD 9,277 worth of wages. India's large average could be explained by the large number of group cases involving long-term wage theft patterns.
- For the workers not included within these numbers, although their cases were with proof, the actual wages lost was not clear as they were not paid according to their contract or the victims themselves were unaware what their actual wages were supposed to be.

From the cases submitted by MFA partners (not on the JWT platform), the wages lost by 1,034 workers was estimated to be between USD 3.2 million to USD 6.0 million¹⁷. However, it is to be noted that these figures are extremely conservative estimates since they are only for wages lost (based upon a range of minimum wage standards between \$500-1000) and do not account for air ticket/repatriation costs, amounts stolen as part of insurance, notice pay, end-of-service benefits, visa non-renewal fines, etc. which these workers had to pay separately from their own pocket.

On the whole, we see that through the platform and submissions to MFA, 3,106 workers from 5 origin countries have been deprived of wages roughly estimated to be at least USD 25.2 million in wages alone. This means that one worker would have lost wages at a minimum average of \$7,217 for a period of 14 months.

The above data becomes even more significant when we consider that yearly remittances to countries of origin considered within this report per migrant average to roughly USD 4.5 billion. Although this would include both high-skilled and 'low-skilled' or low paid migrant workers from these countries, the impact upon the latter category of workers is far deeper.

As per the ILO study "The Migrant Pay Gap: Understanding Wage Differences Between Migrants and Nationals" (2020), migrant workers in high-income countries earn about 12.6 per cent less than nationals, on average, with low-skilled workers in particular earning 71 per cent less than nationals. Hence, one can only assume the impact that wage theft and its forms inflict upon low-skilled migrant workers, who already earn low wages (around \$400-600 per month as per cases on JWT platform) and have to contend with high costs of living that average out to roughly \$500 (See Appendix for more).

¹⁷ Note: For cases submitted by partners where the amount or time period is unavailable, it was estimated by setting the average salary of low-skilled workers as \$500 and calculating for an average period of 6 months, unless specified otherwise.

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Notable observations of the JWT India Report (August 2021) "*Empty-handed and Demoralized: New evidence of wage theft among Indian return migrants during COVID-19*" by Akhil CS, Irudaya Rajan

- India's response to the grievances of migrant workers was poor compared to other origin countries, especially regarding labour disputes. The number of unresolved cases in 2019 and 2020 alone was 6,988. This figure consists of cases only from the Gulf Cooperation Council (GCC) countries except the United Arab Emirates (UAE). Grievances included non-payment of wages and end of service benefits, contract violations, labour right violations, harassment at the workplace and confiscation of documents.
- Among returnees, 45.5% of the workers chose repatriation due to job loss, and 28.4% returned due to fear about the Corona virus. If we consider other reasons that indirectly led to job loss, such as expiry of the contract and compulsory repatriation, the figure would be more than 55% of the total returnees. These figures are in conformity with the data provided by the Government of Kerala. (<https://norkaroots.org/covid-services>)
- Among the people who lost jobs, most workers (30.18%) were asked to resign. Notably, 18.7% of the workers were advised to travel back home without paying their salaries, and a few workers (2.6%) were threatened with termination. Among these workers, only 12.79% received a favourable option of returning to home country with the wages and dues.
- 65.5% of the respondents who lost their jobs had spent more than two years at the destination. Among returnees, 30.3% who lost their jobs had work experience of more than ten years in the Gulf. More than 60 percentages (61.1%) of the workers who did not receive their wages and benefits had work experience in Gulf for more than five years. Moreover, most of them preferred to rush back home due to the fear of the virus as the COVID-19 cases in major destination countries were much higher than in India during the initial wave.
- Sustainable reintegration and facilitation of remigration: Among the victims of wage theft, people of working age preferred to emigrate for work. The most vulnerable returnees, such as low-skilled workers who crossed working age, and women domestic workers, preferred assistance from stakeholders for reintegration. Workers who preferred to remigrate were concerned about retaliation from the employers if they filed a legal complaint against wage theft. The massive cases of wage theft and other grievances among repatriated workers indicated that addressing and solving grievances of migrant workers need to be part of long-run, sustainable reintegration strategies. Regarding remigration, the stakeholders, including the government, should find avenues of co-operation with the destination countries to ensure the safety and well-being of the workers who fight legal battles with the employers.
- Access to grievance mechanisms and legal services: Among the 1,004 respondents who lost their jobs since March 2020, only 3.3% received advice about addressing non-payment of wages. Among the victims of wage theft, only 26% were aware of the MADAD platform, and 6% availed the helpline facilities provided by Indian missions, national and state governments to report their grievances on wage theft. Wage theft impacted migrants regardless of their class and skill set possessed. However, the class question will be relevant in the future because high-skilled and well-paid migrants had awareness about the issue, and most of them had issued powers of attorney to lawyers in the destination countries to approach the legal mechanism. Where the claim amounts were small, it was difficult to find lawyers who would take up the cases.
- Involvement of sub-national governments: Notably, the Kerala government's NORKA department set up a toll-free number and provided complaint forms to report wage theft cases. They received around 600 cases so far and forwarded these to the Indian missions in the Gulf (Rajan and Akhil 2021). Inadequate responses prompted NORKA-Roots to handover cases to NORKA lawyers in the destination countries. However, these efforts did not produce many successful results in the past year. The Andhra government via Andhra Pradesh Non-Resident Telugu (APNRT) society and Overseas Manpower Corporation (OMCAP) documented the information of returnee migrants to reintegrate workers into the domestic labour market and enhance remigration by sharing data with foreign employers. Such efforts might help the victims of wage theft in the state. However, the state and national governments are still reluctant to cooperate with the non-state stakeholders.

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Notable observations of JWT Bangladesh report (August 2021) "*Addressing systemic challenges of wage theft: Bangladeshi COVID returnees from the Gulf*" by C R Abrar, Inzumul Haque and Nazmul Haque (Refugee and Migratory Movements Research Unit)

A total of 1,160 returnee workers in 45 districts were interviewed by seven member organizations of Bangladesh Civil Society for Migrants (BCSM) .

- 33 percent of returnees were in the countries of destination for more than five years, and 40 percent between two to five years.
- As many as 74 percent respondents stated that they had to return home as their employers wanted them to do so. The rest 26 percent returned mainly for three reasons: availed amnesty, were sent from detention or opted to return home for fear of COVID-19. Termination from work (9.8 percent) and lack of employment (22.5 percent) were the two most important factors that contributed to their decision to return home.
- 15.2 percent reported that their visas had expired and their employers refused to extend them. In as many as 6.7 percent cases the employers cancelled the visas that were still valid. 1.5 percent of respondents noted they were in irregular status and as they were facing difficulty in securing employment, they availed the general amnesty offered by the government of the destination country. 8.4 percent of the returnee migrants stated that they were in detention prior to their repatriation that was organized by the host government.
- Lack of information was cited to be the single most important reason by the returnee migrants (35 percent) for not filing complaints. Fear of reprisal from the employers was cited by 24 percent as reason for not reporting. Another 20 percent of returnee migrants stated they did not file complaints as they had no reason to believe that their dues could be recovered. 10 percent felt that they did not want to jeopardize their hope to re-migrate to the country by filing such complaints. The rest 11 percent assigned a range of other reasons.

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FORGING A BETTER FUTURE

"The depth of the (COVID-19) crisis has left enterprises and workers "scarred", making a recovery more difficult.

Unemployment, underemployment, inactivity, and the rise in poverty have disrupted the work trajectories of millions... New behaviours adopted during the pandemic will negatively affect workers and firms in certain sectors and may persist afterwards to some extent.

For example, the increase in online purchases has disrupted the wholesale and retail sector, while the increase in telework arrangements could lead to a decrease in business travel...

The recovery of working hours will be dominated by the return of furloughed workers, rather than by the creation of new jobs. Enterprises will attempt mainly to raise working hours for furloughed workers before recruiting new workers...

Working hour and job losses have resulted in increased poverty and vulnerability in a region where social protection systems are weak..." – ILO (2021), World Employment and Social Outlook Trends 2021

The above quote provides very concerning prospects if the manner of operation of stakeholders continues to be based on existing foundations, proven to be unbalanced in the current context. The focus and energy of all must be directed towards 'Building Back Better'.

The previous Justice for Wage Theft reports sought to explain and observe the various dimensions of wage theft and its root causes. Wage theft is an umbrella term for a variety of wage and benefit-related violations committed against migrant workers by employers and recruiting agencies. Migrant workers, who commonly navigate multiple legal-policy frameworks in the country of origin, destination (and at times, in transit), found that during COVID-19, few mechanisms created to protect them worked in their favour. Their vulnerability and state (and employer) perceptions of the same, led to ad-hoc decision making. Civil society actors and international observers provided relief and support but further noted that existing international, bilateral, and national mechanisms of emergency support, grievance redressal, labour reforms, and of migrant protections were seldom used to guide such efforts as well.

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The issue of wage theft has been a persistent concern of civil society actors and partners but the gravity of the situation and the weakness in existing protection mechanisms was further exposed through accounts of returnees and repatriated migrant workers. While wage theft is rampant and documentation systems still develop, the Justice for Wage Theft campaign attempted to consolidate valid, documented claims of migrant workers across Asia and the world. When observing the attention given to the campaign and current developments in different countries (made possible through efforts of grassroots organisations), we must answer this question through realisation of an innate sense of justice and migrant-guided advocacy¹⁸.

The casework seen throughout the campaign teaches us certain lessons.

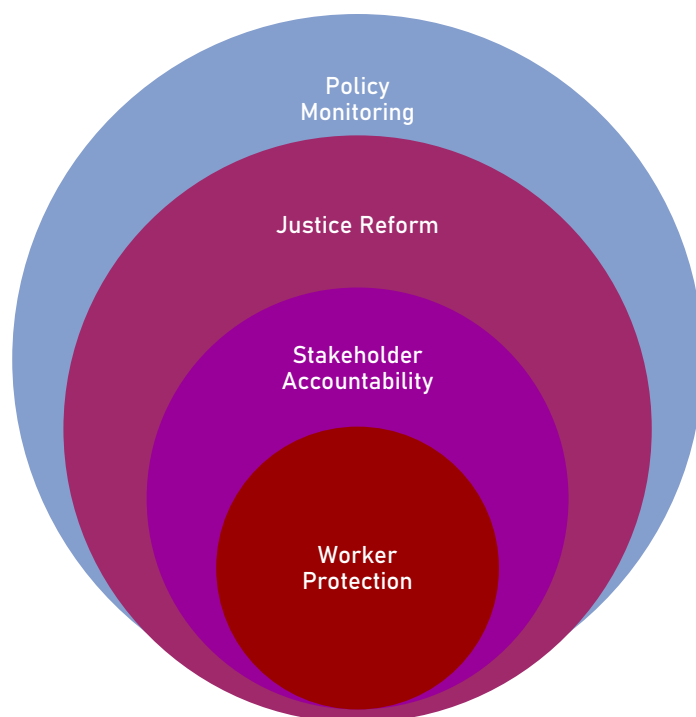
- ❖ Employers are equally responsible in their own self-regulation and responsible business bodies and the State need to consider measures in this regard.
- ❖ States require more intensive efforts to create a sense of accountability among its private sector employers regarding wage theft, arbitrary dismissal, and coercive/retaliatory tactics.¹⁹
- ❖ The casework has also clearly displayed that the excessive dependence upon temporary contractual labour has only increased vulnerabilities for countries of origin during periods of crises.
- ❖ Return and reintegration efforts have always been an afterthought and governments seldom earmarked resources for the same. Consequently, migrants, that were depended upon as contributors to their economy and social milieu, returned empty handed.
- ❖ As we see in several countries of origin and inflow into destination countries, it has triggered another round of remigration – this time in more desperate conditions.

Below is the structure of proposed actions to be taken to improve the situation and move away from wage theft through a long-term perspective of multi-stakeholder cooperation.

¹⁸ Refer to Justice for Wage Theft Appeal #2 Urgent Justice Mechanism for Repatriated Migrant Workers Now for more information on how this is possible.

¹⁹ Refer to Justice for Wage Theft Appeal #3 COVID-19: A Time for Businesses to Act Responsibly in Ensuring Justice for Migrant Workers for more information.

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POLICY MONITORING

I. Rethinking temporary labour migration:

When approaching temporary migration, particularly in situations where the migrant experiences a restrictive legal environment to truly access his rights, the migrant trades his 'freedoms' (of association, from discrimination, etc.) for increased opportunities of employment. His rights are essentially commodified temporarily, and such approaches are relevant to understanding global instruments that insist upon 'minimum' or 'core' rights for migrants. (Taran, 2009) For example, Article 54(1) in Part IV of the ICMW, applicable only to regular migrant workers, affords them equal treatment with nationals in respect of protection against dismissal and unemployment benefits. Furthermore, they are entitled to right to equality with nationals before courts and tribunals and the right to organize, connecting them to how migrant workers can realise their employment rights in practice. (Cholewinski R.)

Despite the implementation of the GCM, the ratification of ILO Conventions (which majority of destination countries have as yet not performed) and their non-application during the pandemic, it begs the question whether temporary labour migration regimes facilitate migrant and labour rights violations. If so, countries of origin need to take a long hard look at the costs of advocating for migration-led development that are dependent on migrants' wages and remittances. This discourse is essential to understand core issues within the phenomenon of wage theft – **assuming that labour migrants move only for wages and employment, how do migration and protection policies function in a situation where their main aim is not fulfilled?** It is imperative that countries of origin and destination seek to change the bases upon which temporary labour

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migration regimes are established and function. This requires moving towards foundational principles that actively do not commodify migrant labour, address root causes of inequality and injustice, and that is founded upon and works towards reformative rights-based migration governance.

II. Foundational rights of migrant labour

Based upon the four strategic pillars of the Decent Work Agenda (full and productive employment, rights at work, social protection, and the promotion of social dialogue), foundational rights would extend to rights to wages but also freedom of association and legal aid for all workers. Changes to temporary labour migration regimes need to actively propagate and promote principles espoused to deal with current issues such as wage theft and prevent future harm

- 1) **Rights at work:** Firstly, the focus of all stakeholders in building back better in ensuring lacunae regarding **access to such rights** are immediately addressed. For instance, addressing informality (which includes exclusion from labour and social security laws; lack of implementation or compliance with labour and social security laws; and insufficient or inadequate levels of legal protection. (ILO, 2021)) becomes essential to addressing pressing crises such as wage theft.
 - a. This would also mean **extension of such rights** to workers regardless of documentation status, nature of work (formal or informal), wage bracket, sector of work, etc. For domestic workers, for example, this may be in the form of targeting excessive working hours among live-in domestic workers by regulating overtime pay and compensatory rest and limiting payments in kind. (ILO, 2021)
 - b. Ensure labour law covers all migrant workers, particularly those in vulnerable occupations such as domestic work, seasonal agricultural migration. Those workers (including migrant workers) that are excluded from labour protections must be able to use civil law rather than labour law to bring claims for unpaid wages. (Migrant Justice Institute, 2021)
- 2) **Full and productive employment:** Secondly, few destination countries have addressed **minimum wages** for migrant workers (and issues with payment in kind such as food and stay for domestic workers). Wages are still dependent and determined by employers and depending on type of job, the wages (or essentially the workers 'price') is determined along the lines of the country of origin's leniency and protections they have placed for their migrant workers to be recruited. This leads to different wages for different nationalities, although they be performing the same duties and incur same living costs. While this is a pre-pandemic reality, moving forward and in view of the various progressive steps taken, the consideration for a non-discriminatory minimum wage dependent on each sector or labour force as a whole, is essential. (ILO, 2021)
- 3) **Promotion of social dialogue:** Thirdly, with respect to **freedom of association**, migrant workers deserve a seat at the bargaining table, particularly in destination countries where they are massively depended upon for low-skilled or low-wage jobs. Addressing migrant worker concerns through collective dialogue and action also facilitates the reform process for states, instead of 'putting out several different fires' as and when situations arise.
 - a. Migrant workers and their families are often excluded from policymaking that deeply affects their lives. **Enabling platforms** to voice their requirements is essential

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in both countries of origin and destination. This is with particular reference to future policy movements on reintegration efforts and recovery of wages and dues. *(Social protection is addressed under Worker Protection)*

III. Operational suggestions for policy reforms

Reform of temporary labour migration regimes and addressing seemingly persistent problems such as wage theft, irregularity, lack of social dialogue that have arisen out of misplaced principles and foundational bases, require concerted efforts from states to address the decent work agenda. Below are some operational suggestions for policy reform with respect to governance as well as return/repatriation efforts (in the context of the pandemic):

- **Migration Governance:**
 - As bilateral agreements and Memoranda of Understanding were largely ignored during the COVID-19 pandemic, new approaches to ensure the enforcement of bilateral agreements, especially during times of crisis, should be adopted.
 - Firewalls between labour and immigration enforcement agencies for secure reporting in labour courts, immigration status is irrelevant. (Migrant Justice Institute, 2021)
 - Immigration policies should be de-linked from a distinction in low- and high-skilled categorisations. As the pandemic showed us, low-skilled workers are essential for the survival of societies and their contribution to host societies are as important as the contribution of high-skilled migrants and native workers.²⁰
 - Contracts should have provisions to deal with emergency situations including those for ensuring compensation in cases termination of contract, premature or otherwise, and clearance of all dues before the worker is repatriated. Migrant workers whose jobs are terminated within a year of their employment and are forcibly returned to the countries of origin should be provided with special compensation packages to facilitate their reintegration. (Abrar, Haque, & Haque, 2021)
- **Return and Repatriation**
 - All dues must be cleared before repatriation. In case of inability of the employers to clear such dues before the return of the workers, documents should be issued by the employers that can be presented in courts for settlement. Provisions should be made so that the embassies can make claims on behalf of the workers who are repatriated to the countries of origin.
 - In case of involuntary repatriation of workers with valid contracts onus should be upon the employers to bear the full cost of repatriation including medical test. (Abrar, Haque, & Haque, 2021)

²⁰ <https://essentialforrecovery.org/>

JUSTICE REFORM

During the pandemic, MFA partners in Indonesia reported struggling to support migrant workers in filing complaints, for example, as authorities blamed circumstances for their inability to provide proper assistance; they also reported migrant workers facing more challenges accessing assistance in destination countries. MFA partners in Oman reported there was no operative dispute settlement system and thus no effective means to access justice for migrant workers. (Migrant Forum in Asia, 2021) Such issues have existed and have been highlighted before the pandemic as well by civil society and migrant communities in countries of origin and destination. Hence, a major focus of the Wage Theft campaign is to ensure reform of existing justice mechanisms and the flawed foundations of its creation, to accurately address wage theft and the conditions that perpetuate it.

- **Ad-hoc transnational justice mechanisms** should be created, particularly to address grievances of returned migrant workers who did not have the opportunity to submit their claims before leaving the country of destination.
 - Undertaking government-initiated investigations and prosecution of wage theft must be considered as part of strategic enforcement (Migrant Justice Institute, 2021). Another way is to have online labour courts to be extended to function transnationally for workers with legal claims of wage theft.
 - A specific timeframe within which relevant actors must process grievances should be defined and a dedicated, fast-track and easily accessible justice mechanism for migrant workers should be created in both sending and receiving countries. In addition, a universal migrant rights violation documentation system needs to be developed that explicitly addresses wage theft and conditions that perpetuate it.
 - Under bilateral and multilateral frameworks, governmental authorities should commit to processing migrant workers grievances effectively and expedite resolution processes. These resolutions should be approached considering the best interest of the migrant workers and challenge the power imbalances between employers and employees. When appropriate, national human rights institutions should be consulted before reaching a decision. (Migrant Forum in Asia, 2021)
 - A comprehensive coordination committee at the national and local levels should be created, with the aim to reform existing laws and policies and implement a migrant-friendly justice system. This committee should include members from non-governmental migrant organisations, to be involved at each stage of the process. (Migrant Forum in Asia, 2021)
 - Reform targets must be set at each of the three stages of the wage recovery process: lodging a wage claim or complaint; obtaining a determination against an employer for wages owed; and enforcing judgments and ensuring workers can collect payment. (Migrant Justice Institute, 2021)
- **Access to transnational justice** is thus also a priority and migrant workers, for example, should be able to give evidence from their home country. Establishing a fund at the missions or at the ministerial level to provide legal aid, as well as setting up a panel of lawyers to ensure free/affordable legal services for workers are helpful in this regard (CS & Rajan, 2021)
 - Anti-retaliation laws must be considered where employers are prohibited from firing, suspending or threatening workers of retaliatory action after the worker has filed a complaint at any grievance mechanism. Trade unions, migrant community associations may also be considered to represent or file complaints on behalf of workers in

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vulnerable situations such as undocumented, domestic workers, etc. to protect the worker's identity and help alleviate the fear of retaliation. For example, Qatar's new online platform for whistleblowers enables workers in the private sector as well as domestic workers to submit complaints without having to enter any personal identification information (Migrant Justice Institute, 2021)

- **Enforcing judgments** and ensuring workers can collect payment
 - Place the burden of proof on employers and create legal presumptions in workers' favor for wage claims (Migrant Justice Institute, 2021)
 - Allow multiple workers to bring grouped claims against an employer (Migrant Justice Institute, 2021)
 - Create meaningful commercial consequences for businesses that ignore wage judgments such as Labour migration registration and licensing consequences, and Rapid accrual of additional penalties to compel payment
 - Facilitate power of attorney procedure for the repatriated/returning workers at missions. (CS & Rajan, 2021)
 - Extend liability for wage payment beyond the direct employer - treats a host business as the direct employer of workers supplied by a labour provider, lead firms and principal contractors jointly liable for subcontractors' workers.
 - implementing joint and several liability against recruitment agencies (Migrant Justice Institute, 2021)

STAKEHOLDER ACCOUNTABILITY

Collective bargaining should be used to respond to conditions that perpetuate and uphold wage theft practices. For this, stakeholders need to consider bipartite and tripartite negotiations to focus on and address the issue of wage theft. Beyond this, there exist several actions stakeholders may consider in ensuring accountability of self and compliance by other actors to rights-based governance reform to address wage theft.

- **Governments of COO and COD:**
 - States need to develop fair, professionalized and rights-based mediation processes in which employers are compelled to participate. For instance, the Philippine Overseas Employment Administration (POEA) can remove the accreditation of foreign employers and suspend or revoke the licenses of recruitment agencies to facilitate compliance with approved settlements through the mandatory conciliation-mediation process. (Migrant Justice Institute, 2021)
 - Registration process following due diligence needs to be conducted by missions before workers are repatriated. If any unpaid wages and other benefits remain pending, then the missions should be permitted to take the power of attorney from the migrants and pursue settlements of claims subsequently. (Abrar, Haque, & Haque, 2021)
 - Establish government schemes and other funds to pay wages where the employer will not or cannot pay - government funds that can cover worker wage payments in the event an employer liquidates, and extend this coverage to migrant workers; extend coverage of insolvency funds to undocumented workers; Project bank accounts and swift dispute adjudication to release payments to subcontractors in

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large construction projects; Use of registration deposits to repay wages (Migrant Justice Institute, 2021)

- Establish a system under which the employer makes regular monthly payment of the Indemnity (end of service benefit) to the Social Insurance Organisation or similar body under the government in the country of destination so that the employer does not face the liquidity problem to pay the employees with long service and the employees get their dues automatically without waiting for the mercy of the employer.
 - Non payment of wages, non renewal of visa or any other breach of contract on the part of the employer should be considered as a valid legal ground for an employee to be eligible for local mobility (change of job to another employer) without the need to obtain the consent of the employer.
- **Private Sector :**
 - Companies should consider the consequences of lay-offs and other employment measures on the visa status of migrant workers and facilitate the transfer of workers to other employers in cases where this is possible, without withholding entitlements or levying any penalties. (Migrant Forum in Asia, 2021)
 - During the recovery period, companies should prioritise reinstating repatriated workers who lost their jobs due to the pandemic before carrying out any new recruitment. (Migrant Forum in Asia, 2021)
 - **Civil Society**
 - Engage migrant workers and local communities in addressing shortcomings of the current migration system, adopting an inclusive approach to avoid hostilities between host communities and returned migrant workers and offering support in the design of locally led solutions as well as representation in the definition of national legislation. (Migrant Forum in Asia, 2021)
 - In moving forward, it is important to leverage the positive force of the media, both print and digital, can be an effective tool for the sensitization of the public on the issue of wage theft and migrant workers' plights, and at the same time help raise awareness among migrant workers of their rights and available remedies against violations. (Migrant Forum in Asia, 2021)

WORKER PROTECTION

Provision of Social Protection

In 2019, the ILO's 100th year, the ILC adopted the Centenary Declaration for the Future of Work, which recognizes the continued relevance and centrality of decent work for all in shaping 'a fair, inclusive and secure future of work'. (Cholewinski R. , 2020) Social protection, being among the foundational pillars of decent work, was recognised as essential for medium to long term sustainable protection of migrant workers. However, social protection is barely provided in many destinations, with the responsibility of providing health insurance (the minimum level of protection accorded to migrant workers) placed upon the employer

The challenges of the pandemic showed that social protection, the most basic manner of protection provision, is one of the foremost services required during a crisis. Most migrant workers have temporary, contractual jobs which are already vulnerable and further compounded by other vulnerabilities such as status of documentation, conditions that perpetuate wage theft, restrictive labour rights, etc. As we continue to witness during the pandemic, immediate effects of wage cuts, job losses and deprivation of services are felt deeply and instantly upon migrant labour. Migrant workers who had spent a majority of their productive years in countries of destination were also found to return during period of crises empty handed without their end of service benefits, gratuity, compensation for arbitrary lay-offs, compounded earnings/savings, etc.

These systemic issues prevalent among all sections of migrant workers require sustainable solutions.

- Contributory or opt-out schemes (instead of opt-in) need to be considered for all migrant workers, in alignment with international conventions.
- For low-wage and informal migrants, the prospect of protection funds must be considered by destination countries.
- In addition, short-term (such as occupational injury, maternity and sickness) benefits may be easier to access for migrant workers than long-term (such as old-age pension) benefits as they depend on the current contributory capacity of the member.

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RECOMMENDATIONS

- ⇒ **Improve** accessibility of claims forums must be considered by state bodies
 - This includes provision of free interpreters and translation services and offering times and locations migrant workers can more easily attend, particularly for those living or working far from the capital where the principal forum is based. For example, Nepal has established decentralised locations at the district level for filing and mediation of claims, closer to migrant workers' places of residence.
 - Establishing Migrant Resource Centers in multiple locations in rural and urban areas are also to be considered. (Migrant Justice Institute, 2021)
 - Documentation of grievances of returnees should be collected at ports of arrival and departure. (CS & Rajan, 2021)
- ⇒ **Extend** Wage Protection Systems to vulnerable populations such as domestic workers and irregular migrants
 - These need to address opportunities for employer wage manipulation (such as miscalculation of overtime, end of service payments, annual leave payments or improper deductions) (Migrant Justice Institute, 2021)
 - Government assistance must be provided for undocumented workers to claim wages before deportation. (Migrant Justice Institute, 2021)
- ⇒ **Bolster** efforts among migrant community associations, civil society, and Missions to effectively use technological solutions to grievance redressal and legal mechanisms. Technology also needs to be developed for migrant use, particularly aiming at ease of access and accessibility.
 - Leverage technology solutions to review and monitor practices of recruitment agencies better. (Migrant Forum in Asia, 2021)
 - Enable workers to access recovered wages through banks in their home country by developing a transnational settlement distribution mechanism (Migrant Justice Institute, 2021)
 - Encourage all workers, especially those who found jobs through the 'visit visa route', to register with missions. The registration with missions helps the workers to file grievances.
- ⇒ **Adapt** inspection mechanisms to promote compliance in the sector, including by establishing the conditions under which labour inspectors may be granted access to household premises as the workplace of domestic workers (ILO, 2021)

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APPENDIX

UAE Federal Decree-Law No. 33 of 2021 on the Regulation of Labour Relations:

Art. 25 Deduction from the Wage

No wage deduction in the following cases:

- a. Recovery of loans granted to the worker, up to the maximum monthly deduction from the worker's wage stipulated after the written consent of the worker, without any interests.
- b. Reinstitution of over-payments made to the Worker, provided that no more than 20 per cent is deducted from the wage.
- c. Payments deducted for the calculation of contribution to schemes, pensions, and insurances.
- d. Worker's contributions to a provident fund.
- e. Payments towards any social project, privileges or other services provided by the employer, provided that the worker agrees in writing to contribute thereto.
- f. Deductions against violations committed under the establishment's sanctions bylaws approved by the Ministry, up to five per cent of the wage.
- g. Debts due as a result of court order, up to one quarter of the Worker's Wage, other than an awarded alimony, where it shall be permissible to deduct more than one quarter of the wage. In case of multiple debts, the amounts required to be paid shall be distributed on priority basis.
- h. Amounts necessary for repair of any harm caused by the worker, as a result of his error or violation of employer's instructions, and resulting in loss or destruction of, or damage to any tools, equipment, products or material belonging to the employer, provided that no more than five days' wage are deducted per month, and no amount in excess of this shall be deducted unless with approval of the competent court.

Article 13 Obligations of the Employer

1. Maintain worker files and records pursuant to the conditions, controls and procedures issued by decision of the Ministry, provided that such files and records are kept for a period of not less than two years following the date of end of service of the worker.
2. Not seize the official documents of the worker or force him to leave the UAE after the end of the work relationship.
3. Put in place internal work regulations, including work instructions, sanctions, promotions, benefits and other bylaws and internal regulations pursuant to the controls set by the Executive Regulations of this Decree-Law.
4. Provide an appropriate accommodation licensed by the competent entities for the worker in accordance with the rules, conditions and standards applicable in the UAE, or pay him a housing allowance in cash or include the same in the wage.

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5. Invest in developing skills of his workers and procure the minimum training and empowerment tools and programmes according to the provisions of this Decree Law and its Executive Regulations.
6. Provide the necessary means of protection for workers to protect them from the risks of work injuries and occupational diseases that can occur at work, ensure the provision of advice and guidance regulations, provide the appropriate training for workers to avoid such risks, and undertake a periodic assessment to ensure that all parties to the work observe the security and safety requirements, in accordance with the provisions of this Decree-Law and its Executive Regulations and the relevant legislation in force.
7. Take whatever measure is necessary to ensure that the worker is aware of his rights and obligations at work, using the means and methods appropriate to the nature of work and workers.
8. Bear healthcare costs in accordance with the legislation in force in the UAE.
9. Bear the costs of insurances, contributions and securities specified by the legislation in force.
10. Not allow the worker to be employed by others unless in compliance with the provisions of this Decree-Law.
11. Provide the worker, upon the latter's request at the expiry of the employment contract, with a free of charge end-of-service certificate, which shall specify the service commencement and end dates, the total period of service, the position or the nature of work performed, the last wage, and cause of end of the employment contract, provided that the certificate does not include anything which might harm the reputation of the worker or reduce his opportunities of finding a job.
12. Bear the cost of the worker's repatriation to his point of hire or to any other point that was mutually agreed upon, unless the worker joins another employer, or the employment contract is terminated for reasons due to the worker; in which case, the costs shall be borne by the latter.
13. Provide a safe and appropriate working environment.
14. Any other obligations prescribed by the provisions of this Decree-Law and its Executive Regulations or by decisions of the Cabinet or any other legislation in force in the UAE.²¹

²¹ Huda Tabrez, L. (2021). New UAE Labour Law: All the rules employers need to follow. Retrieved 2 December 2021, from https://gulfnews.com/living-in-uae/ask-us/new-uae-labour-law-all-the-rules-employers-need-to-follow-1.1638438107379?utm_source=piano&utm_medium=email&utm_campaign=13405&pnespid=sLd_UyZeNbkG36HOp269DJeSrR_3Ucdrc7O6yLFxvhFm17m.3_71LAjPTnTtQlBm4qR1sQ

Remittance Inflows to Countries of Origin

MIGRANT REMITTANCE INFLOWS (US\$ MILLION)	2020	2021E	MIGRANT STOCK (2020)	AVERAGE YEARLY REMITTANCE PER PERSON (US\$MN)
BANGLADESH	21,750	23,000	7,401,763	3,107
INDIA	83,149	87,000	17,869,492	4,868
INDONESIA	9,651	9,168	4,601,369	1,992
NEPAL	8,108	8,500	2,599,701	3,296
PHILIPPINES	34,913	36,240	6,094,307	5,946
SRI LANKA	7,140	6,700	1,960,025	3,418

(Source: KNOMAD (2021). Retrieved from <https://www.knomad.org/data/remittances>; International Migrant Stock by origin (2020) from UN-DESA)

Cost of Living at Countries of Destination

COUNTRY	ESTIMATED COST OF LIVING PER MONTH PER PERSON (US\$)
BAHRAIN	598.85
KUWAIT	497
KSA (RIYADH)	579.79
QATAR	625.85
UAE (DUBAI)	742
OMAN	533.18
MALAYSIA (KUALA LUMPUR)	358
BRUNEI DARUSSALAM	663.94

(Source: Numbeo. : Cost of Living Estimator. Estimated and adjusted for one person, excluding rent, including utilities)

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