



CALL FOR AN URGENT JUSTICE MECHANISM for Repatriated Migrant Workers

Justice Delayed is Justice Denied *States Must Act Now to Address Wage Theft for Migrant Workers*

On the 1st of June 2020, a large coalition of civil society organizations and trade unions released an urgent appeal calling for a transitional justice mechanism for migrant workers stranded and repatriated during the COVID-19 pandemic.

The appeal highlighted the urgent plight of migrant workers terminated from their jobs, stranded in countries of destination or forced to return home without receiving their wages, dues and benefits. Due to the absence of effective mechanisms to address wage theft even in normal times, during this extraordinary time of crisis more migrant workers have been unable to file complaints and register grievances. By focusing solely on facilitating (or forcing) return and repatriation and failing to address this systematic form of exploitation, countries of destination and origin have become complicit in exacerbating wage theft.

The pandemic has taken a bigger toll on migrant workers than what was foreseen. Although hundreds of thousands of migrant workers have already been repatriated, lockdowns and restrictions remain in place; many migrant workers are forced to live without jobs, without their earned wages, and remain stranded in countries of destination, waiting to be repatriated.

While the call to justice has resonated with various stakeholders, States have done little to address the issue with the urgency it demands in recognizing this as a major crisis in labour migration governance today.

Unprecedented times require extraordinary measures. It is a legal and moral imperative that States act now to fast track the dispensation of justice in cases of wage theft to prevent migrant workers from falling into a vicious cycle of debt, poverty and despair, and work towards long-term solutions to the common practice of wage theft against migrant workers.

Objective 6 of the Global Compact for Safe, Orderly and Regular Migration (GCM) clearly iterates that States must : *“Provide migrant workers engaged in remunerated and contractual labour with the same labour rights and protections extended to all workers in the respective sector, such as the rights to just and favourable conditions of work, to equal pay for work of equal value, to freedom of peaceful assembly and association, and to the highest attainable standard of physical and mental health, including through wage protection mechanisms, social dialogue and membership in trade unions”.*



We commend the action of some States in recognizing the need to ensure the protection of migrant workers during this time of crisis:

- The mobile court of **Abu Dhabi** has recently delivered 261 million Dirhams worth of unpaid wages to the doorstep of 26,000 workers in Abu Dhabi for grievances filed from January to June of 2020.
- The government of **Singapore** has set up a multi-ministry task force which includes the Manpower Ministry (MOM), to assure that in situations where migrant workers are not being paid their salaries, the Singaporean government must be alerted and informed so that they can approach employers to take up the matter as part of its commitment to ensure that employers exercise their due diligence in paying their workers.
- The **Philippines** has extended legal advice and assistance related to salary claims for displaced Overseas Filipino Workers (OFWs) in countries of destination whose contracts were terminated due to the pandemic;
- In response to Public Interest litigation (PIL), the Honorable High Court of **Kerala** drew attention to all national mechanisms that could address the issue of wage theft and called for their full utilization.
- **Qatar** has announced pioneering labour reforms including a minimum wage which when implemented will go a long way in ensuring the progress toward a decent work agenda. Qatar has also introduced a number of improvements to its Wage Protection System making it better at detecting additional violations such as wage deductions and contract violations as well as taking action against companies and employers violating the law.
- In **Kuwait**, the Public Authority of Manpower activated its website to register through an online portal complaints related to wage theft, passport confiscation and other labor matters of migrant workers and book appointments to follow-up with the assigned department.
- In July 2020, following an inquiry into wage theft in Queensland, **Australia**, the Queensland government introduced the Criminal Code and Other Legislation (Wage Theft) Amendment Bill 2020 (Bill) to combat wage theft.



We call upon more States to recognize the urgency of addressing wage theft and to take immediate and extraordinary measures and publicize them in order to resolve this issue before it grows out of proportion.

Online complaint procedures, task forces, mobile courts, speed resolution arbitration bodies, collective bargaining, and labour law reforms, are but a few examples of what needs to be done. It is also important to stress that whatever mechanisms put forward must fully take into consideration its accessibility for women, particularly domestic workers.

States must reiterate to employers that wage theft will not be tolerated and take steps to hold employers accountable through administrative, civil and criminal actions. Specifically, governments should be called on to provide inclusive solutions that address the conditions of domestic work and workers. Enforcement measures against employers will serve as a deterrent to wage theft practices.

We renew our call for States to set up sub-commissions at national level that look at the need for a reform of the justice system wherein migrant workers will not have to endure wage theft as the most significant recurring issue in any given year. We also appeal for the process of enabling the workers to give a power of attorney before they leave the country so that their claims for the statutory dues could be pursued in their absence as it becomes difficult to issue a power of attorney after they leave the country.

The United Nations Secretary-General has emphasized that we cannot go back to the failed policies that have resulted in the fragility we see around us - in healthcare systems, in social protection, in access to justice.

As Member States prepare for the Regional Reviews on the implementation of the GCM, we call upon all States to share the exemplary and extraordinary measures they have taken in addressing the concerns of migrant workers in the time of the COVID-19 pandemic and particularly around wage theft and access to justice.

As States come together in the GFMD 2020 preparatory process focusing on Governance of Labour Migration and Protection Gaps, we call upon all stakeholders to hold a dedicated discussion leading to the adoption of an action oriented resolution to address the issue of wage theft and access to justice.

We have heard too many stories of migrant workers and the impact of the COVID-19 Pandemic on their lives and livelihood. Listening Sessions must move towards transformative action or else we succumb to the paralysis of inaction, questioning our capacity to be able to respond in critical times.

We must act and act now to ensure justice for migrant workers.



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